No. 12995

Supreme Court of Illinois

A
Cornwall

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vs.

A
Cornwall

71641 7

Solomon S Cornwall
Plaintiff in Error
vs
Leonard B Cornwall
Defendant in Error

In the Supreme Court
April Term 1859

And the said Plaintiff in Error comes and says that in the record proceedings and in the rendition of Judgement in the above cause manifest Error has intervened to his prejudice & ~~Oppression~~ of Error ~~hath~~ shows to the Court here the following.

1. The Court below erred in rendering a decree for the defendant in Error.
2. The Court below erred in not rendering a decree in favor of the plaintiff in error.
3. The court admitted improper evidence on part of appellee.
4. The Court erred in not sustaining exceptions on part of appellee
5. The Errors

For which and other reasons the Plaintiffs pray that said decree

may be reversed cancelled set aside & wholly for
naught esteemed

Johnson & Holmes
Jno Pope & Evans

And now comes the Appellee & says that

Be it remembered That heretofore to wit: on the eighth 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 the Circuit Court in and for the County of Peoria in the State of Illinois a Bill in Chancery wherein Leonard B. Cornwell is complainant and Solomon S. Cornwell is defendant which said Bill & Precipe for Summons together with certain Exhibits are in the words & figures following to wit:

Bill

"In the Circuit court of Peoria County
May Term A. D. 1856
To the Hon Judge of the Sixteenth Judicial Circuit
Court of the State of Illinois In Chancery Sitting

Humbly Complaining Sheweth unto Your Honor Your Orator Leonard B. Cornwell of the County of Peoria in the State of Illinois That some time in the Spring of the Year A. D. 1839 Your Orator and one Solmon S. Cornwall who is a brother of Your Orator made and entered into an arrangement or contract by parol to form a partnership and become jointly interested in the purchase of farming lands in the County of Peoria aforesaid, and in cultivating farming and improving such lands for their joint and mutual benefit, each agreeing to furnish half the money and pay one half the expenses of such purchases cultivation farming and improvements and to ~~share~~ share equally in the profits and benefits and products of the same

That under and in pursuance of the said Contract and arrangement they purchased with funds

furnished in equal proportions by each the following described real estate to wit:

The South East quarter of Section Twenty One Eleven (11) North Six (6) East of the fourth principal Meridian

The South West quarter of the same Section Township and Range - And the West half of the South East quarter of Section number Twenty Eight of the same Township and Range

That the South West quarter above mentioned was purchased of John Dukes who owned the patent title to the same on the 10th day of July A. D. 1839 and the title thereto taken in the name of the said Solomon S. Cornwall; for the sum of one Hundred and ten dollars and Your Orator furnished Ninety dollars of the purchase Money and said Solomon the residue which said sums were severally allowed to each in a subsequent settlement of the advances and disbursements & expenses of the parties made in manner as is hereinafter stated.

And Your Orator further Charges that on the eighteenth day of November A. D. 1848 they purchased and paid for in equal parts between them as allowed & settled in their said settlement aforesaid; from one Morris Ketchum the South East quarter of said Section twenty One before described for the sum of two Hundred and Seventy five dollars, and the title thereto was taken in the name of Your Orator the said Leonard B. Cornwell

A Copy of the deed of conveyance from the said John Dukes to the said Solomon S. Cornwell marked "A"

And Also a Copy of the said deed from the said Morris Ketchum to the said Leonard D. Cornwell Your Orator Marked "B" Are herewith filed and Made part of this bill

And Your Orator further Charges that on the 31st day of August A. D. 1839, they purchased at the land office in Quincy, Illinois the West half of the South East quarter of Section Number Twenty Eight in township Eleven (11) North of Range Six (6) East aforesaid for the sum of Ninety Seven dollars and ninety five cents and that your Orator advanced to the said Solomon fifty dollars part of the Money with which to enter the said land, and that with said Money and, and with his own money he did enter said tract of land for the joint benefit of him the said Solomon and Your Orator, and took the Receivers receipt for the same in his own name A Copy of the said receipt Marked "E" is hereto attached and Made part of this bill

And Your Orator further Charges that on the 31st day of August A. D. 1839, they purchased at the land office in Quincy, Illinois the West half of the South East quarter of Section number Twenty Eight in township Eleven (11) North of Range Six (6) East aforesaid for the sum of ninety seven dollars and ninety five cents and that Your Orator advanced to the said Solomon fifty dollars part of the money with

which to enter the said land, and that with said money and, and with his own money he did enter said tract of land for the joint benefit of him the said Solomon and your Orator, and took the Receivers receipt for the same in his own name A Copy of the said Receipt Marked "A" is hereto attached and made part of this bill.

And Your Orator further charges that all of the lands before described the title to which was taken in the name of Your Orator was held in trust by your Orator for the joint benefit of himself and the said Solomon; and all those before described the title to which was taken in the name of the said Solomon D. Cornwell was held in trust by him for the joint benefit of himself and Your Orator.

And Your Orator further charges that at and about the times said purchases were severally made and after the same were made at various times and places and on divers and sundry occasions the said Solomon stated and admitted to various persons that said real estate was so purchased for the joint benefit of himself and Your Orator and with their joint funds, and that the same with the proceeds, rent profits and products thereof and every part were the joint property of himself and Your Orator and the titles thereto held by each in trust and for the mutual and joint benefit of said Solomon and Your Orator.

And Your Orator further Charges that shortly after the purchase of the said first Mentioned tract of land in the Year 1839 or 1840. Your Orator and the said Solomon Commenced making improvements on the said tract of land, and from that time they Continued by themselves and tenants to improve, occupy and cultivate the same and also the South East quarter (after the purchase thereof) until some time in the year A. D. 1851. That during all that time they farmed improved, cultivated and enjoyed the said lands as joint owners and tenants in Common, and as such joint owners and tenants in Common, they raised, had, bought and possessed and sold and received pay for large quantities of grain and produce Cattle, Horses Sheep, Hogs and stock; each furnishing or being under obligation to furnish his equal proportion of all the costs and expenses of the purchase of said land, and of all the costs and expenses of cultivating improving and Carrying on the business of farming aforesaid on the same.

And Your Orator further Charges that during the time Your Orator and the said Solomon were in partnership and Carrying on the business of farming as aforesaid they sold large quantities of grain Cattle stock Horses and produce, and other things the property of said firm to various persons on credit and took their notes therefor ~~therefor~~ payable to said S. S. Cornwell & Your Orator and which said notes Your Orator was

and Charges Amounted to at least the Sum of Seven Hundred dollars, and which Said notes were the property of the Said Copartnership

That Among Said notes was one of about $60.00 given by Ezra Adams which has been paid to Said Solomon, Another of about $70.00 given by Caleb Alford, and which has also been paid to Said Solomon, and one against Uriah Lock of about $20.00 and one against Edmund Blakesley of about $70.00 and one against John Reeves of about $25.00 And others against various person whom Your Orator cannot now Remember, and he has no means of ascertaining the exact numbers and amounts of the Said notes The Same having been left in the hands and possession of the Said Solomon for collection on the Same day of the Settlement of accounts between the Parties as hereinafter stated; who undertook to account to Your Orator for his proportion of the amount Collected whenever the Same were received by him

Your Orator has no positive knowledge whether the residue of the Said notes have been collected, but the makers of Said notes were all Solvent at the time, and he has no doubt they have all or nearly all been paid to the Said Solomon

Your Orator further states that except the Sum of about thirty one dollars and twenty four cents which Your Orator has collected of Said notes, no part thereof or of the money collected on the Same has ever been paid to Your Orator, and the Said Solomon

wholly neglects and refuses to account to your Orator for any portion of said notes, or the Money collected thereon by him.

And Your Orator further Charges that during the existence of their said Copartnership and joint interest in the purchase of said lands and during the Continuance of their farming business aforesaid, a certain Book was kept by the said Solomon in which was Made entries by said Solomon of all moneys advanced by each party towards the purchase of said lands and of all expenses incurred in attending to the purchase of the same and of moneys paid out by each for improvements and of produce and other things sold by said Solomon the product of the said farm

And particularly Your Orator remembers to have seen set down in said book as a credit to him Your Orator the fifty dollars advanced by him to said Solomon to purchase the said West half of the South East quarter of Section twenty eight aforesaid and also the amount advanced by said Solomon, and his expenses to Quincy to enter and purchase said lands were credited to him the said Solomon. Said Book also contains items of credit to the said Solomon for various taxes paid by him on the said lands and which on settlements made between the parties were divided and one half paid by or charged to Your Orator

And Your Orator further Charges that he and the said Solomon have several times and usually once once a Year settled by said book their accounts, advances and expenses aforesaid during the existence of the said Copartnership, and has often seen the entries aforesaid made on said Book, And your Orator Charges that the entries aforesaid in said Book and other entries in the same are evidence in his behalf pertinent to the issue in this cause, and that the said book is in the custody and possession of the said Solomon, who is hereby notified to produce and file the same in this Cause; and your Orator asks and prays that he may be compelled so to do

And Your Orator further charges that sometime about the month of December A.D. 1851 Your Orator and the said Solomon made a settlement of all their accounts between them relating to the personal assets of the said Copartnership for advances expenses &c made done or incurred by each for the purchase of the said lands and all matters and transactions and things growing out of the same — Except that their notes before mentioned against sundry persons were not divided, but left with said Solomon to collect as aforesaid and pay over the one half of the same to your Orator, upon which said settlement the said Solomon was indebted to your Orator in a sum exceeding five hundred dollars

And for which he gave his note to your Orator and which he has since taken up and paid. The precise amount of which Your Orator cannot state

And your Orator further charges that about one Year previous to such settlement made as aforesaid it was agreed between the parties that each should retain the quarter section of land which had been purchased and the title to which was held in his name; and since that time each have so kept possessed and occupied severally the said quarter sections of land so purchased in the name of each, And it was further agreed that the eighty acre tract aforesaid should be equally divided between the parties by a North and South line, your Orator to have the one and said Solomon the other, and your Orator offered said Solomon his choice of said division provided he would immediately make the same, which the said Solomon then neglected and ever since has neglected to do

And your Orator further charges that being the equitable owner of the undivided half of the said eighty acre tract of land he was then and still is as he is advised entitled to a conveyance of the same from the said Solomon

And being so entitled your Orator being desirous of having all matters amicably adjusted and settled between him and said Solomon the prepared a deed from the said Solomon to him for the undivided half of the said tract and caused the same

on the 22nd day of August A.D. 1854 to be presented to the said Solomon who was then and there requested to sign and execute the same which he the said Solomon then and there did and ever since that time has wholly neglected and refused to do, The said deed (marked "III") is hereto attached and made part of this bill

And your Orator further charges that since the purchase of the said land last aforesaid said Solomon has cut, carried away and converted to his own use a large quantity of timber and trees which were standing and growing upon the said land amounting as he believes in value to the sum of one hundred dollars or more The precise value is unknown to your Orator, for which your Orator is entitled to an account from the said Solomon,

And your Orator charges that the said Solomon in Justice and Equity ought to convey to your Orator the undivided half of the tract of land being the eighty acre tract of land last before described to wit the undivided half of the West half of the South East quarter of Section numbered Twenty Eight (28) in township number Eleven (11) North of Range Six (6) East in the County of Peoria – and that in Justice and equity said Solomon ought to ~~receive~~ account to your Orator for the one half of the notes aforesaid by him received for Collection as aforesaid, and for the timber and lumber so by him taken from the land aforesaid and converted to his own use, All which the said Solomon though often requested has refused to do,

And Your Orator charges that the actings and doings of the said Solomon in this behalf are contrary to equity and good conscience and tend to the manifest wrong and injury of Your Orator in the premises

Your Orator therefore prays that the said Solomon may be made defendant to this bill that he may answer the same and each and every charge and allegation thereof fully and particularly but not upon his oath the oath of the said defendant being hereby waived That a decree may be made and entered Compelling the said defendant to account for the said notes so received by him for collection being the joint property of complainant and defendant and also for the timber and lumber taken by him from said land and appropriated to his own use, and that upon the final hearing of this cause the said defendant may be decreed to pay to your Orator such sum of money as shall be found due upon such accounting and that he may also be decreed to convey to your Orator in fee simple clear of all incumbrances the said undivided half of the West half of the South East quarter of Section numbered Twenty Eight in Township No Eleven North of Range Six, in the County of Peoria & State of Illinois aforesaid

And that Your Orator may have such other and further relief as to justice and equity appertain and they will pray &c.

Purple & Pratt
Compts Solicitors

State of Illinois } ss.
Peoria County, } L. B. Cornwall being duly sworn according to law doth depose and say that the statements made by him in the foregoing bill of complaint in relation to the Book of accounts between the parties in said bill mentioned are true in substance and that said book contains evidence material for this complainant and pertinent to the issue in this case cause and material to and for this complainant, and that said book is in the possession and custody or under the control of the said defendant He therefore prays for an order that the said Defendant be compelled to produce and file said book to be used as evidence in this cause

L. B. Cornwell

Subscribed & Sworn to before me
this 8th Apl 1856. N. H. Purple Notary Public
Peoria City Ills

Precipe

Leonard B. Cornwell } In the Circuit Court
vs } of Peoria County
Solomon L. Cornwell } Illinois.
May Term 1856

Issue Summons against Defendant in the above Cause returnable to next Term

Purple & Pratt
for Compt

Jacob Gale Esq Clerk
Filed 8 1856.

(E.)

(Sec. 15.974) Receivers Office Quincy Ills.
31st August 1839

Rec'd from Solomon S. Cornwall of Peoria County Illinois the sum of ninety seven dollars and ninety five cents being in full payment for the west half of South East quarter of Section No. twenty eight in township No Eleven North of the base line of Range No Six East of the fourth Principal Meridian containing Seventy eight acres and 36/100 of an acre at the rate of one dollar and twenty five cents per acre

$97.95

Saml Leech

This Indenture Made this tenth day of July in the year of our Lord one thousand eight hundred and thirty nine between John Dukes of Peoria County and State of Illinois of the first part and Solomon S. Cornwell of Peoria County in the State of Illinois of the second part, Witnesseth, That the said party of the first part for and in consideration of the sum of one hundred and ten dollars paid by the said party of the second part the receipt of which is hereby acknowledged do by these presents Grant, bargain and sell remise release, convey and confirm unto the said party of the

of the second part his heirs and assigns one certain tract or parcel of land situated in the Military District County of Peoria in the State of Illinois and known and designated on the plat of the United States Surveyor of lands as being the South West quarter of Section Twenty One Eleven North and Six East of the fourth principal meridian containing one hundred and sixty Acres More or less being the same tract patented to Benjamin Church on the twenty second day of July eighteen hundred and eighteen Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining To have and to hold the said premises as above described with the appurtenances unto the said party of the second part his heirs and assigns forever. And the said party of the first part for himself and his heirs do hereby covenant and agree to and with the said party of the second part his heirs and assigns that himself is well seized of the premises above conveyed as of a good and indefeasible estate in fee simple and has good right to sell and convey the same in manner and form as aforesaid and that the above bargained premises is in the quiet and peaceible possession of the party of the second part his heirs or assigns against the claim of all persons whomsoever will forever warrant and defend excepting the claim or title for the non payment of taxes

In Testimony Whereof the said party of the

first part has hereunto set his hand and seal the day and year first above written signed sealed and delivered in presence of R L Armstrong. W P Blanchard

State of Illinois }
Peoria County } ss. I William P. Blanchard Justice of the Peace in and for said county, do certify that on this day appeared before me John Dukes whose name appears signed to the foregoing deed of conveyance and who is personally known to me to be the identical person who signed the same and acknowledged that he had executed the same as his voluntary act and deed for the uses and purposes therein expressed. Given under my hand and seal at this 10th day of July 1839 William P. Blanchard

(A)

(B)

This Indenture made the eighteenth day of November in the Year of our Lord one thousand eight hundred and forty eight between Morris Ketchum of the City County & State of New York and Margaret his wife parties of the first part and Leonard B. Caswell of Peoria County and State of Illinois party of the second part part witnesseth, that the said parties of the first part for and in consideration of the sum of two hundred and seventy five 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 ensealing 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 that certain lot, tract, piece or parcel of land situate lying and being in the County of Peoria & State of Illinois known and described as the South East quarter of Section Twenty One (21) in Township Eleven (11) North of Range Six (6) East of the Fourth principal Meridian containing One hundred and sixty acres be the same more or less. Together with all and singular the tenaments hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions remainder and remainders, rents issues and profits thereof; and also, all the estate, right, title, interest, dower, right of dower property, possession claim and demand whatsoever as well in law as in equity of the said parties of the first part of in or to the above described premises and every part and parcel thereof. 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 Morris Ketchum for himself his heirs executors and administrators doth hereby covenant promise and agree to and with the said party of the second part his heirs and assigns that he hath not made done committed executed or suffered any act or thing or things whatsoever whereby or by means

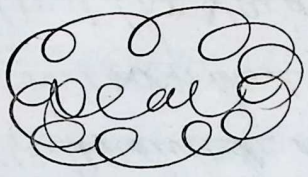
thereof. the above mentioned and described premises or any part or parcel thereof, now are or at any time hereafter shall or may be impeached charged or incumbered in any manner or way whatever. In witness whereof the said parties of the first part have hereunto set their hands and seals the day and year first above written

Morris Ketchum (Seal)
Margaret Ketchum (Seal)

Sealed and delivered
in presence of
Stanley H. Fleetwood.

State of New York
City and County of New York } Be it remembered that on this twenty first day of December Anno domini eighteen Hundred and forty eight before me Stanley H. Fleetwood a Commissioner for said County and State appointed by the Governor of the State of Illinois to take acknowledgments of deeds and other instruments of writing to be used or recorded in the said State of Illinois appeared Morris Ketchum & Margaret Ketchum his wife who are to me personally known to be the real persons described and who executed the within and foregoing deed of conveyance and severally acknowledged that they had executed the same for the uses and purposes therein described and expressed and the said Margaret on a separate examination apart from her said husband being by me made acquainted with the contents of said deed acknowledged that she executed the same and relinquished her dower and thirds to the lands and

Covenants thereby Conveyed freely and voluntary and without Compulsion from her said husband and wishes not to retract. In Witness whereof I have hereunto subscribed my name and affixed my official Seal the day and year last above written.



S. M. Fleetwood
Commissioner
for Illinois

(III)

This Indenture, Made this twenty first day of August in the Year of our Lord one thousand eight hundred and fifty four between Solomon S. Cornwell and Emily Cornwell of the first part and Leonard B. Cornwell of the second part, Witnesseth, that the said parties of the first part, for and in consideration of the sum of fifty 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 ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, have remised, released, sold and forever quit claimed and by these presents do remise, release, sell, and forever quit claim, unto the said party of the second part, and to his heirs and assigns forever all of an undivided half of the West Half of the South East quarter of section numbered twenty Eight (28) in township No Eleven (11) North of Range

Proceedings in Chancery in the Circuit Court at a term thereof begun and held at the Court house in the City of Peoria, in and for the County of Peoria, in the State of Illinois, on the Second Monday in the month of May in the Year of our Lord one thousand eight hundred and fifty six, it being the twelfth day of said month. The Honorable Jacob Gale, Judge of the Sixteenth Judicial Circuit in the State of Illinois presiding, to wit:

Monday June 2nd A. D. 1856

Leonard D. Cornwell

vs

Solomon S. Cornwell

For conveyance

This day came the complainant by Norman H. Purple his Solicitor and on his motion it is ordered that the defendant file his answer to the complainants bill of complaint herein by the first day of July next.

And afterwards to wit; on the fourth day of September A. D. 1856 there was filed in the office of the Clerk of said Court in said cause the Answer of the defendant in the words and figures following, to wit:

"Leonard D. Cornell
vs
Solomon S. Cornwell

Circuit Court
Peoria County
Sept. Term 1856

The Separate Answer of said defendant Solomon S. Cornwell to the Bill of complaint of said Complainant filed herein reserving to himself all advantages of the imperfections &c of said Answer unto said Bill says=

that he never made or entered into any Arrangement with said Complainant to purchase land in said County or in the cultivation & improvement for their mutual benefit & totally denies said allegation in every particular

This respondent further answering says that it is untrue that the said Complainant & defendant purchased any lands in partnership at any time & denies that any such purchase or purchases was or were made

This respondent also denies that he in connection with said Complainant purchased land at the Quincy Land Office in said State, or that said complainant ever furnished any funds to this respondent to purchase any lands,

This respondent further denies that he had any Conveyances to him of any land in which said Complainant had or has any interest in any way whatever.

This respondent further answering says that it is not true that he ever admitted to any person or persons that he ever purchased any real estate for the joint benefit of said Complainant and this respondent & with their joint funds, or that the rents & proceeds arising out of the same should be joint property of himself & said defendant or that he held the title to any lands in trust for himself & said Complainant,

This respondent further says it is not true that they ever cultivated the first mentioned tract of land as joint owners & tenants in Common as is charged in said Bill & denies said allegation in every particular.

This Respondent further says that he does not owe the said Complainant any sum of money, nor any other thing nor was he in any manner indebted to said Lemard B. Cornwell at the time of filing said bill & he also denies that he ever took or had in his possession any note or notes of against any persons in which said complainant was or is interested in any manner

This Respondent further answering says that he has not nor never has had any account book in which the accounts of the said Complainant & this Respondent were kept, or in which said complainant is interested.

This Respondent further says that he did have a settlement with said Complainant & that they fully settled up all demands that they then had between them, but what was the date of settlement he cannot say — whether it was the time mentioned by Complainant but this Respondent denies that anything was left unsettled as is charged by Complainant

This Respondent further says that it is not true that he agreed that said Complainant should occupy & take possession of any tract of land or that the eighty acre tract aforesaid should be equally divided between said Complainant & this Respondent

This Respondent further says that it is not true that said Complainant ever tendered any deed or deeds to this Respondent to execute for any land or any interest therein to said Complainant.

This Respondent further answering says that he denies all and singular the allegations & charges in said Bill, not Specifically denied or admitted before in this his answer.

And Now having fully answered herein, he prays to be discharged with his costs in this behalf expended

Solomon S. Cornwell
By Johnson & Blakeley
his Solicitors.

And afterwards to wit, on the Seventeenth day of November A. D. 1856 there was filed in the office of the clerk of said court in said cause an Additional answer of said defendant in the words and figures following, to wit:

"Leonard S. Cornwall
vs
Solomon S. Cornwall
} Circuit Court
Peoria County
November Term A.D. 1856

The answer of the said Solomon S. Cornwall defendant - to the bill of the said complainant filed herein Saving and reserving all and all Manner of advantage on account of the many imperfections inconsistencies and defects in said bill Answering Saith.

That it is true that himself and defendant were connected in the purchase and improvement of lands as stated in said bill or nearly as therein stated - That the two quarter Sections were purchased on joint account as therein stated - and the titles to the same were taken as therein stated - That the eighty acre tract in said bill mentioned was originally purchased by this defendant for himself and on his own account

and that he borrowed some part of the purchase money of the Orator where with to purchase said eighty is true — and the title was taken to himself, but sometime afterwards and within a few months of the said purchase the said Orator requested this said defendant to let this parcel of land also be Company property — and this defendant agreed to do so and this defendant had no doubt the Orator on a subsequent settlement paid his portion as an equal purchaser and owner of said land but the title was never changed from this defendant nor was any writing or memorandum of said agreement made at the time of said settlement or at any other time — Deft has no doubt he did between the time last spoken of and the final settlement hereinafter mentioned — admit that said lands in said bill mentioned were owned in Company — as such was the fact during that time This defendant further admits that they improved said quarter sections of land together or in company as stated in stated in said bill — except that this defendant did nearly all the work of improving said land and the said defendant Orator shared in the avails — that during said time they did sell divers and sundry horses Cattle hogs grain &c and took notes and had account at various times to what amount at any one time defendant does not know — but said notes and accounts were the property of said partnership —

Defendant also admits that among the note so taken by said partnership was a note of seventy dollars, signed by Caleb Alford — one against Ezra Adams for sixty dollars

one of Uriah Leach Lock of twenty dollars one against Edmund Blakesly of seventy dollars and one against John Reeves of twenty five dollars – and there were also two other notes one against Charles Caswell for about sixty five dollars – and one against I Buck for about fifty dollars also one against Lynch for about five dollars – and one for about twenty dollars against Heyer – If there were other notes than those above mentioned defendant does not know it – At the time of the final settlement between said parties – what remained of said notes were left with this defendant and some of them have been paid and this defendant has ever been ready and willing to pay Orator his proportion of the same and defendant says in relation to said notes – that the said note of Ezra Adams was paid before the final settlement between Orator and defendant which took place on the third day of January A.D. 1852 and was allowed settled and accounted for on said settlement Caleb Alfords note was only thirty seven dollars and forty two cents – and thirteen dollars and forty two cents of that amount was paid before and included in said settlement and the ballance $27.10 paid since said settlement The note against Uriah Leach was paid before said settlement and was accounted for in the same The note of E Blakesly was also signed by John Reeves of which note twelve dollars was paid to Orator before said settlement – and accounted for – and forty five dollars was paid this defendant before said settlement and accounted for at said said settlement –

and only the sum of five dollars and fifty cents ~~cents~~ has been paid said defendant since said settlement on said note The note against I Buck is not collectable and not collected and the note against Lynch – has as defendant is informed and believes ~~bee~~ ben all or nearly all paid to the Orator – The note against Charles Caswell was paid as follows thirty dollars and thirty three cents to the Orator and thirty six dollars to this defendant – This defendant has also received on the note against B. F. Keyer twenty one dollars and twenty eight cents – and this defendant has ever been ready and willing to account for said sums or for the Orators proportion of them and never has refused to account – And the Orator has never called for such an account or asked it of this defendant –

Since said settlement this defendant has paid out of said funds for the company benefit

For repair of Reaper	$3.76
Paid for Reckle driver	„ .50
„ Sheeting for do	„ .20
„ Paid for for thrashing Allyson	3.00
„ Paid Caswell	„ .50
„ Paid for work on road for Orator	1„ 44
Paid cato on Caswell note	1.50
Paid atty on same	2„00
Hire of Reef two days on Can	2„00

This defendant further answering ~~Says~~ Saith that the Orator and this defendant did not settle in the fall of 1851 as stated in said bill – but did make a final settlement

of all their matters on the third day of January A.D. 1852 except the said notes not then collected and which were not ~~then~~ divided — That this defendant was not found indebted to said plaintiff at that time in the sum of five hundred dollars as stated in said bill but in the sum and in the manner hereinafter stated It is not true that some two years ~~&~~ before said settlement it had been agreed by Orator and ~~or~~ defendant that the Orator should have the quarter section of land the title to which was in his name and this defendant the quarter which stood in his name as stated in said bill — and that the said eighty acres should be equally divided between them — but each of said parties occupied the quarter which has since become his property — and the said eighty acres unoccupied — But in the fall of 1851 and before said settlement and after several partial attempts to settle their matters — and after this defendant had expressly and repeatedly notified the Orator that he would no longer be connected with him in business the said Orator made a proposition that each should keep the quarter section which stood in his name and divide the Eighty and that defendant should pay the Orator two hundred and fifty dollars and their accounts should also be adjusted — This proposition was after some little delay accepted by this defendant for the sake of a settlement of a disagreeable affair — but when the defendant accepted the Orator refused to abide by the offer — Orator then offered the same division and this defendant pay him three hundred and fifty dollars

and divide the eighty — and this defendant after some delay and for the same reasons which induced him to accept the first proposition — concluded to accept the proposition and so notified the Orator — when the Orator again refused to abide by the proposition The Orator then made a further proposition — that each should keep the quarter of land which stood in his name and the eighty should be all the property of this defendant as the title then stood — and that this defendant should pay the Orator five hundred dollars and their other accounts should be adjusted and arranged This proposition this defendant accepted and on the said third day of January A D 1852 the Orator and this defendant made ~~after~~ a full settlement of all their accounts and
1 affairs upon the terms aforesaid and on the adjustment of their accounts including said sum of five hundred dollars it was found that this defendant was indebted to the Orator in the sum of three hundred and forty two dollars and sixty two cents only — for which this defendant gave his note payable on or before the first day of Janey A D 1853 which he has since paid to Orator and taken up and which he will offer in evidence on the trial of this cause — No writing was made about said quarter sections or said eighty acres of land as the titles then stood as they were to stand by said settlement and no writing was deemed necessary by either party and this defendant says it was not agreed in said settlement to divide said eighty acres of land but expressly the contrary — that is not to divide it — and that the said Orator is not the equitable owner of one half of said eighty acres of land or any

part thereof — This defendant further says until long after he had paid said note — and some years after said settlement he heard from the said Orator no question or claim of his title to the whole of said eighty acres of land — and that the claim now sett up by Orator to half of said land is unjust unequitable and dishonest —

This defendant says it is true that sometime in the latter part of 1854 or 1855 the said Orator either sent or offered the deed of one half of the said land for this defendant — sign, which was the first intimation that this defendant had that the Orator intended to make so wrongful and dishonest a claim, and that this defendant did refuse to sign said deed — and would have been no more surprised had the Orator requested him to give up possession of his farm also —

This defendant further says there is not and has been on said eighty acres of land twenty dollars worth of timber at any time — that up to said settlement either party had used from it as he pleased but to a very trifling amount — that the Orator made use of a few rails and posts which this defendant had got out for himself with his own labor and without account but the Orator had before that appropriated so much of the avails of defendant labor that defendant had got used to it and submitted to this small appropriation — and that since said settlement this defendant has cut from said eighty acres of land twenty fence trees only worth not twenty dollars and which this defendant had a right to cut and use the said land being his own

premises and without accounting to the Orator
And further Answering this defendant says he has
always been ready to account with said Orator for
any Money in his Hands collected on said notes—
and has often offered and requested the Orator to settle
with him ~~what the~~ which the Orator has declined—
and that he is still ready to account as aforesaid—
1 And having fully answered he prays to be hence dis—
charged and for his costs
Johnson & Blakely Solomon S. Cornwall
Solicitors for Deft.

Proceedings in Chancery in the Circuit Court at a term
thereof begun and held at the Court house in the City of Peoria
within and for the County of Peoria and State of Illinois on
the third Monday of the Month of November in the year of
7 our Lord one thousand eight Hundred and fifty six,
it being the Seventeenth day of said month.
The Honorable Elisha M. Powell judge of the Sixteenth
judicial circuit in the State of Illinois presiding,
to wit:

Tuesday November 18th 1856

Leonard D. Cornwell

vs For Conveyance &c

Solomon S. Cornwell

This day came the defendant by
1 E. G. Johnson his Solicitor and on his motion leave is
given him to file an additional Answer

And on the same day to wit: on the eighteenth day of November A.D. 1856 there was filed in the office of the clerk of said Court in said cause the Replication of the Complainant to the Answers of the defendant herein in the words following — to wit:

"Leonard B. Cornwall
vs
Solomon Cornwall } In Chancery

The Replication of the Complainant to the defendants Answers filed herein, said Complainant for replication to said answers, says that he will aver and maintain his said Bill to be true, certain and sufficient and that the said defendants answers are untrue uncertain and insufficient &c Wherefore he prays as in and by his said Bill he has prayed.

Purple & Pratt
for Compt."

And afterwards to wit: on the third day of February A.D. 1857 there was filed in the office of the clerk of said Court in said cause the Replication of the Complainant to the answers of the defendant herein in the words following, to wit:

Leonard B. Cornwall
vs
Solomon Cornwall } Circuit Court of Peoria County
Chancery.

And now comes the Complainant and says that he will aver and maintain his said Bill

to be true Certain & sufficient and that the said defendants Answers are untrue uncertain & insufficient &c Wherefore he prays as in and by said bill he has prayed &c.

Purple & Pratt
for Compt."

And afterwards to wit: on the fourth day of March A.D. 1857 there was filed in the office of the clerk of said Court in said cause An Affidavit of the Complainant, the Motion of the complainant and a Notice to the said defendant or his attorney in the words & figures following, to wit:

Affidavit

"State of Illinois } ss
Peoria County } Leonard P. Cornwall the Complainant in a suit in Chancery in which Solomon S. Cornwall is defendant in Chancery in the Circuit Court of Peoria County being sworn says, that the said defendant during their partnership as stated in the Complainants bill kept a book of accounts in which was entered among other things moneys advanced by complainant for the purchase of their partnership lands and for payment of taxes by him &c &c, and that said book contains evidence as he believes pertinent to the issue and material to the rights and interests of the complainant and he believes said Book is still is in the power and possession of the said Defendant & further said not.

Leonard P. Cornwell

Sworn to before me this 28th Feb. 1857
S. W. Purple Notary Public Peoria City Illo"

Motion

"Compt enters a motion that the defendant be required to produce the book mentioned in the above affidavit to be used as evidence in the said suit

Purple & Pratt for Compt."

Notice

"Leonard B. Cornwell
vs
Solomon S. Cornwell } Peoria Circuit Court
In Chancery.

To Solomon S. Cornwell or E. G. Johnson Esq his attorney

You are notified to produce & file in Court to be used as evidence in this case the Book Kept by You referred to in the Bill of Complaint in this cause in which was kept by You the account of Your partnership affairs and of money paid by you & Complainant on account of the purchase of land & payment of taxes &c &c and that a motion for a rule for for the production of said book will be made on Monday next in the Circuit Court of Peoria Co.

Feb. 28. 1857 Purple & Pratt
Compts Attys

Received a Copy
Feb. 28. 1857 E. G. Johnson."

Proceedings in Chancery before the Circuit Court at a term thereof begun and held at the Court House in the City of Peoria, in and for the County of Peoria on the first Monday in the Month of March in the Year of our Lord one thousand

eight Hundred and fifty Seven, it being the Second day of said Month. The Honorable Elihu B. Powell judge of the Sixteenth judicial Circuit of the State of Illinois, presiding to wit

Wednesday Morning March 4th 1857

Leonard D. Cornwell

vs

Solomon S. Cornwell

March Term 1857

And now on this day this cause came on to be heard upon the Motion of the Complainant Herein and on Consideration thereof, the Court being fully advised in the premises. It is ordered, adjudged and decreed by the Court that the said defendant do on or before Wednesday of the second week of the present term of this Court produce and file in Court for the inspection of the complainant Herein and for the purposes of evidence Herein the original book of account kept by said defendant during the partnership between the complainant and defendant in which was entered among other things Moneys advanced by Complainant for the purchase of their partnership lands & for payment of taxes by him &c &c

And it is further ordered adjudged and decreed by the Court that said defendant be served with a copy of this order

And afterwards to wit: on the sixteenth day of November A.D. 1857 there was filed in the office of the clerk of said court in said cause the deposition of Flory Keller, John Reves, Henry C. Calhoun and E. A. Cornwell in the words and figures following, to wit:

"Leonard B. Cornwell vs Solomon S. Cornwell } In the Circuit Court of Peoria County In Chancery

Flora Keller being first duly sworn according to law deposeth and saith I know the parties to this suit— have known them about six years. I have worked on a farm of theirs, rented a farm from both of them for three years ending in the Spring of 1853. The last year I rented from Solomon S. Cornwell — had no written lease, only verbal, The first two years I was the tenant of both of them, The last year Solomon attended one quarter and Leonard the other quarter — both Prairie quarters — I only rented or farmed on eighty of one of the quarters — ~~During the last year~~ During the last year I was on the land Solomon told me that they both owned the eighty of timber together while I was tenant of Solomon S. Cornwell he told me this. Solomon never told me any thing about the trade he made with his brother about the division of the property, except what he told me about the timber

Cross examination

He told me (that is Solomon Cornwell – in the fall of 1852 – late in the fall – cannot tell what month it was. There was no one present but I and him – that he did not own all the timber, that Leonard owned part of it. – I was down there with my own wagon for wood. I had never been there before or afterwards for wood. Don't know what time in the fall it was but the corn was nearly gathered. I cannot tell what time they gathered corn. I never talked to any body or told any body what I knew about this land till this morning and that was to Leonard B. Cornwell

On Chief

There had been a little snow before the conversation, but there was none on the ground at the time, it was a freezing weather. The conversation was after Leonard B. Cornwell moved to Peoria

his
Flory + Keller
mark

Witness
L G. Pratt

John Reeves being first duly sworn according to law says – I know the parties – have known them about 10 years. The Cornwells held notes against me, one note payable to S.S. & L B. Cornwell for $11, dated as much as six years ago – or it might be seven years – I paid that note to Solomon S. Cornwell. I left the note with him; he said he wanted it till him and Leonard

settled. This was about three years ago – after Leonard moved to Peoria, the last payment was $5 or 6 $ – I think I made two payments on the note made the first about one year before the last payment. I paid the note with interest, the other note was one that I and ~~Edward~~ Edmund Blakesley gave for seed wheat to S. S & L B. Cornwell – dated in the fall of 1850 & was given for about $90.00 – I paid Solomon one half of it and he told me that Blakesley had paid the other half – this was after Leonard came to Peoria I think. I dont remember that I took up the note – I think it was left with S. S. Cornwell

Cross Ex. I paid my half by way of a note in favor of the School fund and Solomon Cornwell was treasurer at the time

John Reed

Henry C. Calhoun being first duly sworn deposeth and saith I have known the parties six or seven years – I know an eighty of timber claimed by the parties it is the West half of the South East of Twenty Eight 11 N. 6. E. I do not know of any other eighty of timber that they claim, I do not know that Solomon ever cut timber on that eighty – I saw two or three men cutting timber who were working for Solomon – It was in the winter of 1855 & 1856 I saw them cutting timber. Leonard B Cornwell was then living in Peoria, in the absence

of L B. Cornwell – Solomon P. Cornwell acted as owner of it – It is mere guess – but I should think ~~there~~ there were thirty trees or over that cut on the land – say from thirty to forty – not less than thirty and I dont think there were quite forty – I should think the trees that were cut would average two dollars a piece

Cross Ex

I dont know that Solomon cut any timber on the eighty except what he told me himself – and what I saw men do who were at work for Solomon He (Solomon) told me that he did not deny cutting the timber and that he had stated it in his answer. I saw the men in Solomons employ cutting three trees or more – I never saw any person hauling or cutting trees except his own – ~~There~~ we there were other trees cut there but I didnt see them cut them and I dont think they did cut them & I dont know who did cut them. I saw the wood at L B. Cornwells place – at the door of his tenant Hiram Phelps I saw parts of the tops of more than one or two – I saw the body of one tree a hollow tree, a good sized tree and parts of the tops of several others. Solomon made frequent inquiry in relation to person cutting timber on the land. I think that Solomon used about thirty ~~the~~ trees – some of them for fencing posts and some of them was hauled home just the right feet cut and some for sawing timber. There was other land adjoining this piece that Solomon claimed

objected to by Pfff

Objected to by Pfff

that had timber on it. I dont know exactly where the line between these two pieces of land was

Henry E. Calhoun

E. A. Cornwell being first duly sworn deposeth and saith I know the parties to this suit. I resided in 1852 — in January in Stark Co. — in Febrary 1852. I came to Peoria County to L B. Cornwell's premises near Princeville I remained there till the Spring of 1854, and then moved to the place of S. S. Cornwell in the Spring of 1854 and remained there till the Spring of 1855 — and then moved to the City of Peoria. I understood from both parties that there had been a settlement made between them either in December, 1851 — or in January, 1852 — This was the settlement of a account between them. The land was to be equally divided between them and Leonard had the East forty and Solomon the ~~East~~ West forty — of the 80 of timber, and the west 160 of Praire was Solomons and the east 160 of Praire was to be Leonards and Solomon was to give him $500 to make the East quarter as good as the West quarter — that is to make the improvements as good. I learned this from both parties and Solomon has told me since it was not the way — There has been timber cut on this 80 acres — I cut it for S. S. Cornwell — some hewing timber for a House — and some posts and cut logs for

Posts that were hauled to the house of S.S. Cornwell, We cut big trees and little trees — we may have cut thirty or fifty trees big & little I cant tell — Brady was cutting at the same ~~time~~ time for S.S. Cornwell and also another man was cutting for him. The timber cut was ~~worth~~ long from $2 to $3 a peice. S.S. Cornwell showed the N.W. & N.W. Corner of the 80 acres of timber, and they both showed me the East line of the same — joining the Riggs quarter and the timber that we ~~cut~~ cut was off from this same 80 acres.

Cross Ex.

Int by dept. Have you had any Conversation with Leonard and Denit Cain or either of them about this case at any time, during the last Summer

Ans I thinks I talked with them or they talked with me about it

Int 2 Did you state to them or either of them that Solomon had better be careful how he swore about your character for truth and veracity in the trial of the People vs Peet and Dunlow, or words to that effect — for that you could swear a thousand dollars out of ~~his~~ his pocket or in it, or words to that effect

+ This question objected to by Mr Goff

Ans I dont think I ever did in them words

Int Did the Conversation You Had with the said Cain about this Matter — above alluded to take place in the Summer of 1857 about the time of said Criminal Trial — on the premises of the said defendant on Sunday and never defendants Granary

objected to by Defts

Ans Not in these words

What did You Say to the said Cain at the time and place aforesaid about swearing a thousand dollars into defendants pocket or out of his (defendants) pocket

Ans It was at the time there was a Criminal case to be tried against Peet for perjury — I was a witness on that case. Leonard Cain said that the Major said — that is Solomon — that I had sworn to a lie about a twenty dollar gold piece and that he Solomon, if obliged to, would swear to it — but he was going to Henry next Morning, that Solomon said I had cheated him out of his five or six Hundred dollars — and then I said like this — as near as I can recollect — I said that I supposed that Leonard could not prove by any one else in regard to that timber land except myself — and that it would make a difference of about one thousand dollars in the suit — and I would be damned if I would swear to go into Court

Question— Have you stated to E. G Johnson or any other person in the said Johnsons office in March A D 1857 that Leonard B. Cornwall was in the wrong in this case in claiming one half of said timber land— that you knew he was not to have it in the settlement— that you had heard Leonard say after the settlement between ~~you~~ him and his brother Solomon that— he Leonard might just as well have got the half of that timber land out of Solomon in the settlement ~~as not~~ as not to have got it— and he was sorry he did not do so— and did you not say at the same time— that after the settlement you was present at the said Leonard Cornwalls house— when a man he had sent for wood came back to him and reported to Leonard Cornwall that Solomon had forbid the man from getting wood on the timber land in controversy because the land was his, Solomons and that Leonard said the man must go for the wood on to another piece of timber land which Solomon did ~~not~~ not own— or words to that effect— and did you not come into the said office voluntarily and make said statement

Ans I had some such talk there with Mr Johnson the Counsel for deft— I don't recollect that I mentioned voluntarily and made the statment in regard to Dicky Leonard sent him down there ~~for wood~~ for wood & when Johnson asked me the questions I answered)

Question Did you make the statement about the wood as stated in the foregoing question — and if so who was the man sent for wood — and was the statement true

Ans I said that Dicky came to Lenard and said that Solomon drove him off that timber land, and ~~And~~ said that Solomon said he was not going to give wood for Lenard to burn and Lenard sent him to another quarter and he guessed Solomon did not own that — that he did not want to chop any green timber

Question Did you at the time and place aforesaid say anything about that he did not want to chop any green timber,,

Ans I dont recollect that I did, but the understanding was that he did not want to chop green timber any place

In Chief —

Solomon talked to me last summer about Kansas, he was talking about this trial at Poniceville about in April as near as I can recollect — He supposed this trial would come off at the next ~~Court~~ term of the Court — and said that if I would go to Kansas he would give me a quarter section of land he wanted to go in June and

wanted me to go with him, that he was going to buy some land for himself and would give me a quarter, that was all the conversation about it I told him in that conversation that I would or should not be a witness in this trial The conversation with Mr Johnson was from what Solomon had told me

Cross Ex.

Ques At what place did the conversation at Princeville occur and who was present?

Ans. It occurred at Mr Bristols blacksmithshop in Princeville and no one was present but ourselves

Ques Did Solomon say that he didn't want to go to Kansas till after this trial with Leonard?

Ans. He supposed the trial would come off at the next term and that he didn't want to go till after corn planting

Ques Did you not say to him on that occasion that you had money enough to enter an eighty and wished to enter it, and did he not say he would lend you money enough to enter another eighty if he could spare the money & give you time to pay for it

And I told him I had money enough to enter an eighty and wished to do it if I did not go into making Fanning Mills — he said he would give me a quarter and said nothing about me paying him back

E. F. Cornwell

Elon Keller, John Rees, Henry C. Calhoun and E. F. Cornwell claim their attendance as wit: before Magistrate taking depositions — at one dollar per day each 2 days $8.00
Ezra Adams one day ——— 1.00

State of Illinois } ss.
Peoria County }

I James M Cunningham a Police Magistrate of the City of Peoria do hereby certify that the foregoing depositions were sworn and signed by the said deponants at the office of Purple & Pratt in the City of Peoria in said County on the 13 & 14 days of November 1857 — witness my hand and seal this 14 day of November 1857

Jas M Cunningham
Police Magistrate (Seal)

Magistrates fee for taking depositions $5.60

Proceedings in Chancery before the Circuit Court at a term thereof begun and held at the Court house in the City of Peoria, in and for the County of Peoria, State of Illinois, on the third Monday in the Month of November in the Year of our Lord one thousand eight hundred and fifty Seven, it being the Nineteenth day of said Month. Present-the Honorable Elihu N. Powell Judge of the 16th Judicial Circuit of the State of Illinois. Francis R. Smith, Sheriff and Enoch P. Sloan, Clerk, to wit;

Tuesday 29th December 1857

Leonard B. Cornwell

vs

Solomon S. Cornwell

For Conveyance.

By Agreement of parties it is Ordered that this Cause be continued to the next term of this Court.

And afterwards to wit; on the eighteenth day of March A. D. 1858 there was filed in the office of the clerk of said Court in said cause

$2,25 On or before the first day of Oct. 1850 I promise to pay to S. S. & L. B. Cornwell or order two dollars and twenty five cents with interest. April 5, 1850

John Reed

Paid by Harvest labor

$1.05 Due S. S. & L B. Cornwell for value Rec'd Seven
dollars and five cents
Princeville April 15th 1850

[redacted]

Paid by Harvest Labor

$342.62 On or before the first day of January 1853
I promise to pay L B. Cornwell three hundred
and forty two dollars and sixty two cts as per
settlment Made this day
Jany 3. 1852 [redacted]

[ ]

$68.42 Recd, Jany 3rd 1852 on the within one Note
against Ebenezer Russel for Sixty eight
dollars and forty two cents
$25.00 Recd Sept. 13th 1852 on the within Twenty five Dolls,

On the same day to wit: on the eighteenth day of March
A. D. 1858 there was filed in the office of the clerk of said court
in said cause a Motion of the defendant in the words &
figures following, to wit:

"L. B. Cornwall } Peoria County Circuit Court
vs. } March Term 1858
S. S. Cornwall } In Chancery.

Deft moves that so much of the deposition of Ethan
A. Cornwall in said case taken on behalf of
Plaintiff as relates to conversations of Plaintiff

and defendant about the division of the land in question be suppressed because it seeks to prove by parol testimony the title to land — and because it tends to contradict vary or alter by parol evidence the term and effect of a written agreement of settlement between the said matters in relation to the same subject matter

by his Solicitor
C. G. Johnson "

Leonard B. Cornwell
vs
Solomon S. Cornwell

In Chancery

Evidence taken in open court

John Reves

Being first duly sworn says:—
I am the John Reves who gave deposition in this case— The notes I gave for corn and oats, I alluded to in that deposition. I gave said notes to Solomon & Leonard B. Cornwell. The notes, one of them was for eleven dollars the other I dont remember amount of, I do not remember the time when notes were given. The notes shown me look like my writing — I dont know positively — I never gave any others. I paid one of them, the smallest one, to Leonard, or part of it.

I let him have beforehand. That was the fall before or the fall he Leonard moved to Peoria. I paid part of the notes in Harvest labor I think — not positive — paid some to Solomon on notes about 3 years ago about 3 or 4 dollars dont remember certain the amount — The notes shown me are the ones I alluded to in deposition — The 3 or 4 dollars I paid was paid to Solomon S. Cornwell. This last payment was made since the Spring of 1852. The note I signed with Blakely — I dont remember the sum of — I know what my half ~~cost~~ cost me — The date of the note was about the fall of 1850. I paid my half of said note by giving my note to School treasurer, payable to School trustees I suppose. This note is not yet paid — The date of said note is October 15 1851. I think Solomon told me at the time I gave my note that Blakely had paid his part

Cross Examined

I gave my note to School trustees for 45 ~~4~~ my half. Solomon said there was money in treasury he could get and if I would give my note I could get more time on it. I paid him no money that I remember of. He did not give me the Blakely note, think the conversation about Blakely paying his half occured at the time stated. I have paid none but interest on said note — paid interest to Solomon S. Cornwell

and Moody, Interest was to be paid in advance
I know I paid Solomon some interest and have
paid all the interest, at 10 per ct.

(In Chief)
I paid said interest to Solomon as School treasurer,
I dont know whether the interest was counted
up or not.

Flora Keller

I am the Flora Keller who gave
deposition in this case.

Question. Have you a distinct recollection of the time
alluded to in said deposition when you had
a conversation with defendant about the owner-
ship of the timber eighty? Answer I have not-
I cannot tell whether Leonard lived in a
log house or not when conversation was had-
I lived there 3 Years at one time I have no
means of knowing at what time in said three
years said conversation was had. I dont think
Leonard moved out of the log house on to his
own farm in 1851 — I lived in the same house
the three years I lived with the Connwells

Cross Ex.

I stated in my deposition that the conversation I
had with Solomon Connwell about the eighty acres
that was after Leonard had moved to Peoria as I thought
I thought so then. Do you think so now? I do

Ques—

Have you not thought since the deposition was given that you was mistaken about the time?

Answer— Yes — I now think I may be mistaken about the time —

Leonard C Kane

I know one of the parties to this suit— know both by name— not acquainted with Leonard I know Nethan A Cornwell. I had several conversations with him. One conversation with him near Solomons Graveny — dont know what month — I guess it was in June 1857 — not positive. He came up there with the Doctor and they came in and Ethan invited me and my brother out, said he wanted to speak with us + he asked if Solomon was going down to attend the suit in Princeville. We told him that Solomon L. Cornwell said he wasnt going. He wanted to know why, and I told him that Solomon said he would have to swear against him and that he didnt want to do it, that he was a brother of his. He (Ethan) said that Solomon could do just as he liked about it He said that if he would go down there and do the fare thing with him that he would do the same with him, he said something like this I do not remember exactly —

He said that he owed me a thousand dollars in his pocket or a thousand dollars out like a daisy dam, in this suit. I think he worded it in this way. He spoke of the suit. He said more but I don't recollect more. He spoke to me several times about it."

Proceedings in Chancery in the Circuit Court at a term thereof began and held at the Court house in the City of Peoria, in and for the County of Peoria and State of Illinois on the first Monday in the Month of March in the Year of our Lord one thousand eight hundred and fifty eight (it being on the first day of said Month) the Honorable Elisha N. Powell Judge of the Sixteenth Judicial Circuit of said State presiding: to wit:

Thursday March 18th 1858

Leonard B. Cornwell

vs For Conveyance

Solomon S. Cornwell

This day this cause came on to be heard upon the bill, Answer, Replication, exhibits and evidence taken by depositions and in open Court and the same was argued by Counsel, and the Court not being sufficiently advised took time to consider

Proceedings in Vacation after the March term A.D. 1858 of the Circuit Court in and for the County of Peoria and State of Illinois in Chancery before the Honorable Elisha N. Powell Judge of the Sixteenth Judicial Circuit of the State of Illinois at his Chambers in the City of Peoria to wit—

—March 26th 1858—

Leonard D. Cornwell

vs

Solomon S. Cornwell

For Conveyance & account

This day this cause came on to be heard upon the Bill, Answer, Replication, Exhibits and Evidence taken by depositions and in open Court, and the same argued by Counsel, and the Court not being sufficiently advised took time to consider.

And now at this day, to wit the 26th day of March A.D. 1858 being in the Vacation after the March term of said court, the Court being fully advised in the premises, doth order, adjudge and decree that the said Complainant be and he is hereby confirmed in and to the right and title of the South East Quarter of Section twenty one (21) in Township Eleven (11) North of Range Six East of the fourth principal Meridian in Peoria County, and that the said defendant Solomon S. Cornwell be and he is hereby confirmed in and to the right and title of the South West Quarter of Section Twenty One (21) in the same Township and Range aforesaid.

And that they and each of them severally have held & enjoy the same in their own right in fee simple forever.
And it is further ordered, adjudged and decreed, that within the space of twenty days from the date of this decree the said defendant make execute and deliver to the complainant a deed in fee simple with covenants of warranty against all incumbrances, done or suffered by him of the equal ~~undivided~~ undivided half part of the West half of the South East quarter of Section number Twenty Eight (28) in Township Eleven (11) North of Range Six (6) East of the fourth principal Meridian in Peoria County aforesaid, and that in default of his making the same that Henry B Hopkins the Master in Chancery of this Court be and he is hereby appointed a Commissioner to make and execute ~~a~~ said deed for and on behalf of the said Solomon S. Cornwell,
And it further appearing to said Court, that the said defendant upon a full and fair statement of the accounts between the parties is justly indebted to the complainant in the sum of eighty three dollars and thirty four cents of $83.34 on account of money collected by him belonging to complainant and defendant and on account of timber cut and used by him from the said West half of the South East quarter of Section No (28) 11 N. 6. E. aforesaid,
It is ordered adjudged and decreed that the said defendant pay the same to complainant within twenty days from the date of this decree - and that in

default thereof that execution issue therefor as in cases of Judgments at law. It is further ordered, adjudged and decreed that the complainant recover his costs in this suit and that execution issue therefor —

March 27th 1858

Leonard B. Cornwell

vs

Solomon S. Cornwell

For Conveyance & account

This day came the said defendant and prays an appeal to the Supreme Court which is allowed on the said defendant entering into bond in the sum of five hundred dollars with Elbridge G. Johnson as security conditioned according to law, to be filed in said cause within twenty days —

And afterwards to wit: on the ~~said~~ fifteenth day of April A. D. 1858 there filed in the office of the clerk of said Court in said cause an appeal bond in the words and figures following, to wit:

"Know all Men by these presents that we Solomon S. Cornwall and Elbridge G. Johnson are held and firmly bound unto Leonard B. Cornwall in the sum of five hundred dollars for the payment of which sum well and truly to be made to the said Leonard B. Cornwall his executors, administrators and assigns we bind ourselves and each of us himself

our and each of our heirs executors administrators and assigns firmly by these presents

Signed with our hands and sealed with our seals and dated this fifteenth day of April A.D. 1858.

The Condition of the above obligation is such, that whereas at and during the March Term of the Circuit Court of Peoria County A.D 1858 the said Leonard B. Cornwall recovered and obtained a decree in his favor against the said Solomon S. Cornwall in a proceeding in Chancery being a bill for a conveyance and for an account in favor of the said Leonard B. Cornwall against the said Solomon S. Cornwall as prayed for in said bill from which decree the said Solomon S. Cornwall has taken an appeal to the Supreme Court

Now therefore if the said Solomon S. Cornwall shall well and truly prosecute his said appeal and shall pay all costs and damages and shall perform and keep the said decree in case the same shall be affirmed ~~or~~ and said appeal dismissed then this obligation to be null and void otherwise to be and remain in full force and effect.—

Solomon S. Cornwell Seal

Elbridge G. Johnson Seal

State of Illinois } ss.
County of Peoria }

I Enoch P. Sloan clerk of the Circuit Court in and for the County of Peoria in the State of Illinois do hereby certify that the foregoing is a true & correct transcript from the Records and files in my office in a suit entitled Leonard D. Cornwell against Solomon S. Cornwell.

In witness whereof, I have hereto set my hand and affix the Seal of said court at office this fifth day of April in the year of our Lord one thousand eight hundred and fifty nine.

Enoch P Sloan, clerk

~~1851~~ 39.

Solomon L. Cornwell

vs

Leonard B. Cornwell

Record & assgt.

of Errors

Filed April 18. 1859

L. Leland

Clerk.

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