

8461

No. \_\_\_\_\_

# Supreme Court of Illinois

Elizabeth J. McFarland et al

---

vs.

Emily J. Conlee et al

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71641  7



1  
Page 1  
Be it remembered that at a regular Term of the Circuit  
Court of Washington County begun & holden at the Court  
house in Nashville on the 2<sup>nd</sup> Monday of April A.D. 1866  
There were present Silas Le Bryan Judge and presiding  
of Perry Johnson States Attorney James W. Sawyer  
Sheriff and John A. Vernon Clerk all officers of said  
court. present & holding said court, The following orders were  
made in the following cause to wit,

Emily J. Conlie & A. J. Conlie. } Bill in Chancery to enforce Trust  
vs } & for relief. And now April 9<sup>th</sup>

Elizabeth M. Farland & Wm. M. Farland } Come complainants per Hays & Hos-  
mer their Attys & defendants etc. make it to answer by 1<sup>st</sup> Fri-  
day. April 10 and now comes said defts by Durham  
Atty & demur to said Compts Bill and the Court on considera-  
tion sustains said demurrer and gives said Compts  
leave to amend their Bill.

And said defts are ruled to answer by  
1<sup>st</sup> Friday. April 12<sup>th</sup> leave to file a Cross Bill.  
and this cause is set for hearing and is  
continued

Heretofore to wit on the 29<sup>th</sup> day of March 1866 the  
following Bill in Chancery was filed in said cause  
Emily J. Conlie } In Washington Circuit  
& Andrew J. Conlie } Court April Term 1866  
vs } Bill in Chancery for  
Elizabeth M. Farland } Relief -  
& William M. Farland }

ES-11



Page 2 To the Honorable Silas T. Bryan, Judge of the  
2<sup>nd</sup> Judicial Circuit in the State of Illinois  
presiding & holding court in Washington County  
in said Circuit. In Chancery sitting your  
Orators Emily J. Leonic & Andrew Leonic her  
husband humbly praying would most  
respectfully represent & shew that in Cold-  
well County State of Kentucky one Gilbert  
S Hinds was appointed Guardian of your  
Oratrix about the year 1855. she then being  
a minor by the name of Emily J. Bledson  
That said Gilbert S Hinds as Guardian  
as aforesaid received into his hands as  
Guardian at the time of his appointment  
the sum of \$200.<sup>00</sup>. That afterwards about  
the year 1858 said Hinds removed to Washing-  
ton County Illinois & purchased in Rich-  
mond Illinois the following real Estate to wit- Lots  
seven and eight (7 & 8) Block four (4) & Lots 2  
Block 3 in Town addition to Rich-  
mond Washington  
County Illinois & took a bond for a deed to the  
same when paid for and went in & built on  
said real estate a brick house, That said Hinds  
expended & used in the purchase of said real  
estate & building of said house the money he  
had received as Guardian as aforesaid  
& the interest accumulated thereon, in all three  
hundred dollars. That said Hinds died



Page 2 intestate in said County of Washington Wm  
H. Logan Administered upon his said Estate  
That in the year 1860 Alexander Shipley  
was appointed Guardian of your oratrix &  
as such filed ~~that~~ allowed against the estate  
of said Hinds on the 19<sup>th</sup> day of June 1860, \$233.78  
in favor of your oratrix by the Probate Court  
of said County of Washington the amount  
found due your oratrix per said Hinds her  
former Guardian. That said Hinds left at  
his decease a widow named Elizabeth Hinds  
That said Elizabeth Hinds after the death of  
her husband paid \$20 to said Lowe the  
balance due for said real estate & said Lowe  
made a deed conveying to said Elizabeth said  
real estate & took up the bond aforesaid That  
afterwards said Elizabeth married & is now  
the wife of Wm McFarland. That afterwards  
in the year 1861 said Wm McFarland &  
Elizabeth McFarland conveyed said  
real estate to one Andrew Hooper & said Hooper  
in consideration thereof & in exchange therefor  
caused to be conveyed by one John Stephens to  
said Elizabeth the following real estate to wit  
Lot 11 in Block 14 in Shipley & Barber's addition  
to Richview Washington County Illinois. That  
said Elizabeth well knew before the death of her  
husband said Gilbert S Hinds that he had  
invested the money of your oratrix in



Page 3 intestate in said County of Washington W<sup>m</sup>  
H. Logan Administered upon his said Estate  
That in the year 1860 Alexander Shipley  
was appointed Guardian of your oratrix &  
as such filed ~~that~~ allowed against the estate  
of said Hinds on the 19<sup>th</sup> day of June 1860 \$233.78  
in favor of your oratrix by the Probate Court  
of said County of Washington the amount  
found due your Oratrix per said Hinds her  
former Guardian. That said Hinds left at  
his decease a widow named Elizabeth Hinds  
That said Elizabeth Hinds after the death of  
her husband paid \$20 to said Love the  
balance due for said real estate & said Love  
made a deed conveying to said Elizabeth said  
real estate & took up the bond aforesaid That  
afterwards said Elizabeth married & is now  
the wife of W<sup>m</sup> McFarland. That afterwards  
in the year 1861 said W<sup>m</sup> McFarland &  
Elizabeth J McFarland conveyed said  
real estate to one Andrew Hooper & said Hooper  
in consideration thereof & in exchange therefor  
caused to be conveyed by one John Stephens to  
said Elizabeth the following real estate to wit  
Lot 11 in Block 14 in Shipley & Barber's addition  
to Richview Washington County Illinois. That  
said Elizabeth well knew before the death of her  
husband said Gilbert S Hinds that he had  
invested the money of your Oratrix in



in the purchase of said real estate & improve-  
ment thereof as aforesaid & since the death  
of said Hinds & at the time & after taking  
said deed per said Love in her own name  
as aforesaid & whilst a widow promised your  
oratrix to pay your oratrix what was due  
your oratrix per said Hinds as her share  
drawn but has up to the present time failed  
& neglected to do so although frequently requested  
to do so. That said Hinds estate was & is intestate  
& your oratrix has never received any thing of  
her allowance aforesaid against said estate  
that on the day of 186 as your orator &  
oratrix are informed said Elizabeth McFarland  
conveyed by deed said real estate by her per  
said Hooper to her said Husband Wm. McF.  
Farland for no valuable consideration that  
said Wm. McF. Farland well has known even  
since he married said Elizabeth that your  
oratrix has an equitable claim upon said  
real estate on account of the investment of  
her money therein as aforesaid. That on the  
22<sup>nd</sup> day of August 1864 your oratrix &  
your orator Andrew & Corbie were married in  
said County of Washington and that your  
oratrix was 18 years of age 21<sup>st</sup> April,  
1863. Wherefore as your oratrix & orator are  
without an adequate remedy at Law they pray



that the people's most gracious writ of subpoena  
may issue requesting said W<sup>m</sup> & Elizabeth  
McFarland who are made defendants to this  
bill to appear and answer this bill not under  
oath their oath's being expressly waived & that  
an account may be taken to ascertain the  
amount due youratrix from her former  
guardians Gilbert S Hinds & interest in the  
real estate as aforesaid & that the amounts  
due be declared a lien upon said real  
estate conveyed by said Haps to said  
defendant Elizabeth McFarland and  
that said defendants be ordered to pay the same  
to youratrix by a day certain to be fixed  
by your Honor & in default of such payment  
that real estate be sold by the master &  
youratrix paid out of the proceeds of  
such sale the amount due youratrix  
and make such other & further order as seemeth just  
in the premises & thus will ever pray &c.

May 2nd Thomas,

Solicitors, Pro Comp<sup>ts</sup>.

On the 29<sup>th</sup> day of March A D 1866 the following  
summons was issued in said cause in said Court.  
State of Illinois vs The People of the State of Illinois  
Washington County To the Sheriff of said county Greeting:  
We command you to summon Elizabeth McFarland &  
Wm McFarland if to be found in your county to appear  
before the Circuit Court of said county on the first day



of the next term thereof to be holden at the Court house in Nashville on the 2<sup>d</sup> Monday in the month of April next to answer to a Bill of Complaint filed in our said Court on the Chancery side thereof against them by Lemuel J. Bonlee and Andrew J. Bonlee to subject certain real estate to payment of a claim & for relief & further to do and receive whatever the said Court may then and there consider in this behalf and hereof make due return to our said Court as the law directs.

Circuit Court } Witness John A. Bernor Clerk of our said  
Seal of Washington } Circuit Court and the Judicial Seal  
Co. Illinois } hereof at Nashville this 29<sup>th</sup> day of March  
50 cent Int. rev } A.D. 1866,  
Stamp cancelled } John A. Bernor, Clerk

On the back of said summons are the following indorsements,

1<sup>st</sup>. "I appoint John W. Perrin Special Bailiff & authorize him as such to serve this writ. This March 29<sup>th</sup> 1866. J. H. Sawyer Sheriff of Washington Co., Illinois"

2<sup>d</sup>. Served the within by reading and delivering a copy of the same to the within named Elizabeth M<sup>rs</sup> Farland and William M<sup>r</sup> Farland, March 30<sup>th</sup> 1866

J. H. Sawyer Sheriff  
By John W. Perrin Special Bailiff

On the 9<sup>th</sup> day of April 1866 the following Demurrer was filed in said cause,



Page 7 Elizabeth McFarland & } To the April Term of the Wash  
 William McFarland } ington County Circuit A.D.  
 ats } 1866 In Chancery.  
 Emily J. Conlee & } And the said defendants  
 Andrew J. Conlee } by their Attorney J. M. Durham  
 comes and defends the wrong and injury when &c  
 and said that the complainants Bill and the matters  
 and things therein contained in the manner and  
 form therein set forth are not sufficient in law  
 for the said complainant to have or maintain  
 their aforesaid action thereof against them the said  
 defendants and they the said defendants are not in law  
 bound to answer the same and this they are ready to  
 verify, wherefore they pray judgment &c  
 J. M. Durham  
 Solicitor for Complt.

On the 12<sup>th</sup> day of April 1866 the following answer was filed in said cause.

Emily J. Conlee } In the Washington County  
 Et Al. Vs } Circuit Court To the April Term  
 Elizabeth Conlee } thereof A.D. 1866  
 Bill in Chancery

The answer of Defendants  
 To the Hon. Silas S. Bryan Judge &c &c  
 The joint answer of Elizabeth McFarland &  
 William McFarland who reserving & saving  
 all manner of errors & defects in complain-  
 ants Bill of complaint for answer



says - That the allegation in Complainant's Bill That Gilbert S Hinds dec. was in his lifetime in the State of Kentucky appointed Guardian of Complainant Emily J Condie is wholly untrue & defendant states the truth to be that the said Hinds never was at any place or time appointed Guardian of the said Complainant -

That the allegation in Complainant's Bill that two hundred dollars was put into the hands of the said Gilbert S Hinds dec. as the Guardian of the said Complainant is wholly untrue but defendant states the truth to be that defendant

Elizabeth McFarland & the said Gilbert Hinds was in his lifetime about the year A.D. 1852 intermarried & the said Complainant

Emily J Condie was a minor of six or seven years old & was left in the care of your respondent Elizabeth McFarland & her said husband & the sum of about \$150, dollars was put into their hands for the purpose to pay them for the care & nurture & education of the said Complainant

210 & that while so living with them she was not to render any service of value she lived with them & was fed clothed & educated for about the term of seven years & the above sum was all the



recompenses that was ever paid to them  
That is true a claim was probated against  
the estate of the said Hinds by Shipley as  
the Guardian of the said complainant-  
(Emily J) but as the exact amount they are  
unable to state but state truth to be that  
the above claim is unjust & unequitable &  
ought not in law nor in equity to be allow-  
ed against the said Estate. That the alle-  
gation in Complainant's Bill that the sum  
of three hundred dollars of the purchase money  
or thereabouts for the real estate in complainant's  
Bill was paid by Gilbert S Hinds of & with  
the money of Emily J Bentie his word is  
utterly & totally untrue & misstatement of  
facts & a misde of language & the said Respon-  
dents state the truth to be that every part of  
the purchase money for the same was paid  
by respondent Elizabeth McFarland out of  
her own private & individual money &  
that too after a right to complete the purchase  
contract made by the said Gilbert S Hinds  
dec - was forfeited & long after his death  
That the allegation that Respondent con-  
veyed the said Real Estate to one Andrew  
Hooper is true but that part of the allegation  
that Respondents conveyed to him with-  
out consideration is untrue & that part of the  
same allegation that the said Hooper



reconveyed to respondents is also untrue  
Page 10 + Respondents state the truth to be  
that they conveyed the said real estate  
to the said Hooper for a valuable consideration  
+ in good faith + that he lives on the same  
+ should have been made a party to this  
Bill. Your respondents deny that  
either of them ever had any knowledge  
of any part of the money paid into the hands  
of the said Hoops for the purpose mentioned  
in this answer or any other purpose was paid  
by the said Gilbert & Hurdle dec for the  
said real estate or that the same was  
improved by the said Hurdle with the  
money of the said Emily & Corrie  
Your respondents further show that  
one William Logan is the administra-  
tor of the said Gilbert & Hurdle dec +  
renders this. Your respondents  
further state the truth to be that de-  
fendant Elizabeth McFarland was before she  
was intermarried with defendant William  
McFarland the widow at law on part of the  
said Gilbert & Hurdle dec + as such widow  
was entitled her share in the estate of  
the said Gilbert & Hurdle deceased as  
such widow + being so entitled the  
claim of said Emily & Corrie is  
unjust + should not be allowed for the



reason above shown, That the allegation in the complainants Bill that the estate of Gilbert-Hinds dec - is insolvent - is positively untrue. And for further plea in the respondents say that complainants Bill so far as the allegation of the same relates to the money paid for the real estate in question is not showing how much the improvements were made on the same & not show how much was paid for the said real estate are insufficient in law & that respondents are not bound by the laws of the land to answer the same & all of which respondents are ready to verify wherefore they pray judgement whether they are bound to answer the same & having the full answer the said respondents ask to be discharged with their reason cost -

J M Durham  
Solicitor for Defendants

On the 3<sup>d</sup> day of May 1866 the following replication was filed in said cause

|                                        |   |                     |
|----------------------------------------|---|---------------------|
| Emily J Leoulee et al                  | } | In Washington       |
| vs                                     |   | Circuit Court April |
| Elizabeth M <sup>c</sup> Farland et al | } | Term A D 1866.      |
|                                        |   | Replication.        |

Now comes Complainants saving & reserving &c



and says by way of Replication that the answer of said defendants is evasive uncertain and untrue that the matters and things set forth in their plaintiffs Bill are certain and true all of which they are ready to verify and humbly pray as in and by said Bill they have already prayed

Yeay & Hosmer  
Sols's

On the 4<sup>th</sup> day of September 1866 the following was filed in said cause,

W<sup>m</sup> M Logan Admr of Estate of G. S. Heinds dec'd Dr to Emily of Bledsoe by her Guardian Alex P Shipley,

|              |                                                       |           |
|--------------|-------------------------------------------------------|-----------|
| 1st Aug 1857 | To money had & rec'd                                  | \$ 300.00 |
| " " "        | To money had & rec'd as Guardian of said Emily        | \$ 300.00 |
| " " "        | To ballance due from said Heinds as Guardian of Emily | \$ 300.00 |
| " " "        | To ballance due on Settlement                         | \$ 300.00 |

On the back cover of is the following Indorsement  
 Emily of Bledsoe, Acpt }  
 vs } Filed for allowance  
 Estate of G S Heinds } April 16. 1866. S. C. Page, Clk.

On the 4<sup>th</sup> day of September 1866 the following was filed in said cause,

I do hereby certify that Emily of Bledsoe by her Guardian A. P. Shipley was allowed \$ 233.78



P 13  
against estate of G S Hinds dec'd April 16<sup>th</sup> 1860  
by Co. Court of Washington Co, Ills for Probate  
Business as appears by the records of said Court  
Witness my hand and seal of said Court this May 3<sup>d</sup>  
1866, Washington County, Y B Needles  
Court Illinois  
Seal

On the 4<sup>th</sup> day of September 1866, the following was  
filed in said cause.

State of Kentucky Caldwell  
County I James L Weller Clerk  
of the Caldwell County Court hereby  
certify that G. S. Hinds as guardian of  
Emily J Bledsoe did on the 3<sup>d</sup> day of  
May 1856 make a settlement as such  
guardian stating that he had received  
the sum of two hundred and eighty six  
dollars & 18 cents (\$286.18) and that he  
had paid out of said sum of \$286.18  
the sum of ninety seven dollars and  
seventeen cents (\$97.17) leaving still a bal-  
ance in his hands as per settlement  
on the 3<sup>d</sup> May 1856, the sum of one hun-  
dred and eighty nine dollars and one  
cent \$189.01 all of which appears upon the  
records of said Court In testimony whereof  
I have hereunto set my hand & affixed my  
my seal at office in Princeton this 16<sup>th</sup> day of  
May 1866. James L Weller Clerk  
By W E Mitcheson S. C.



8 14

State of Kentucky }  
Baldwell County }

I, J. N. Turner Sole and Presiding Judge  
of the Baldwin County Court do hereby  
certify that on the 11<sup>th</sup> day of May 1860 James  
K. Weller was clerk of said Court & that W. E.  
Mitchelson was Deputy clerk of said Court  
under said Weller and that the signature to  
the foregoing certificate is genuine and  
the attestation of said certificate in due  
form of law, Given under my hand  
this 17<sup>th</sup> day of July 1860

J. N. Turner Jfccc

On the 5<sup>th</sup> day of September 1860 the following  
depositions were filed in said Cause

State of Illinois }

Washington County }

Emily J. Conlie Et al  
vs

In the Washington Circuit  
Court

Elizabeth McFarland Et al } Bill in Chancery  
Depositions in the above entitled Cause taken  
before Henry J. Sumner a Justice of the Peace by  
Consent of the Parties without notice July  
9<sup>th</sup> 1860 at the office of said Justice in  
Nashville Washington County Ill.

1 folio

Present Hay and Hosmer Sols for Plaintiff  
James M. Durham Esq solr for defendant  
Depositions for Plt's



C 15

The Plaintiff introduced George Lowe who being duly sworn according to law deposes as follows

"I am acquainted with the parties in this suit. I know Gilbert S Hinds in his life time

I sold to <sup>said</sup> Hinds in his lifetime lots 7 & 8 in block number four and lot number two in block number 3 in George Lowe's addition to Richview in Washington County Illinois. I sold these lots in 1857 to said Hinds on credit; gave a bond for a deed & took his notes for two hundred dollars more or less deed to be made when notes were paid before the notes were paid said Hinds died. I was paid for the lots but how I do not recollect. Mrs Hinds came and paid me the money and I made her a deed March 12, 1858 and I took up the bond at that time. My impression is that Mr Hinds did not pay me anything. but I am not positive as to that. Mrs McFarland the deft in this case was the widow of said Hinds,

2 folio

3 folio

There was a brick house built on these lots by Mr Hinds in his life time said house was built on lot no-8. Mr Hinds was living in the house when he died. do not know that he fenced the lots. I should think the house built by said Hinds would cost between five hundred and eight hundred dollars or thereabouts at that time as things were then. I do not know that Mr Hinds in his



4th f

life had money from Mrs Leonic as  
guardian, never heard anything said  
about it. (Cross examined by Mr Durham  
Ex in chf resumed) Mr W<sup>m</sup> M Logan took the  
bond at the time the notes were paid &  
I have not seen it since. My impression  
is that I sold the property spoken about  
one year before I made the deed above  
mentioned

Subscribed & sworn George Lowe  
to before me this 9th day  
of July 1866

Henry Sumner J.P.

5th f

The Plff next introduced Andrew Hooper who  
being sworn deposes as follows, "I know the  
parties to this suit - did not know Gilbert  
& Hinds dec'd. I bought the lots spoken of by  
George Lowe in his deposition from the widow  
Hinds now Mrs McFurland left in this case,  
and had conveyed to her in payment thereof  
lot no eleven in Black motts in Shipleys & Barkers  
addition to Richards in Washington County &  
State of Illinois. The Deft's live on said  
last mentioned property at the present. (Cross  
exam by Mr Durham) I am the owner of  
the property conveyed by George Lowe to  
Mrs Hinds. I am now in occupation of  
the same ( ) knew nothing of any liens



P 15  
in favor of anyone on said property when I  
purchased it. I bought this property in  
January 1861, & made the deed to Mrs Ames  
at that date, the property conveyed by me  
to the deft-Elizabeth M<sup>c</sup> Furland is worth  
about \$800,

Andrew C Hooper,  
William M Phillips introduced and sworn  
for for P<sup>t</sup>y, deposes as follows: 'I am acq-  
ainted with the parties ~~Ames~~ Ames, knew  
Gilbert H Steins in his life time. Mrs  
Steins before she married Deft M<sup>c</sup> Furland  
and at the time she sent for me to admin-  
ister on Steins Estate, it being his request  
as she said among other things in  
reference to the estate told me that Emily  
Bledsoe now Plaintiff in this suit, had in  
M<sup>r</sup> Steins hands four hundred dollars  
in money, he being guardian of the said  
Emily which had been invested in the  
house we were then in being the one  
a brick house in which said Gilbert  
Steins died, and that the lots were  
not all paid for, that there was still  
due George Lowe as I understood from  
her twenty dollars. And Mrs Steins  
wanted to know of me if she was to pay  
George Lowe the balance on the bond and  
take a deed for said lots if it would be



good, I told her I thought it would. She then inquired if she could get pay for raising Emily Bledsoe and if so would it not offset this four hundred dollars above alluded to, I told her I thought it would offset. She remarked that Emily would have to be paid if it took the house to pay it. Her Heins told me Perkins was appointed guardian of the Plt in Kentucky. (Cross Ex by Mr Durham) All I know about it I learned from Mrs Heins. I do not remember of Mr Heins telling me about it in his life time (Direct ex resumed) Mr Heins had the house built - that he died in

William H Phillips

Subscribed & sworn

to before me this

2<sup>nd</sup> day of July 1868

He J Hammer J P.

Wm M Logan introduced and sworn for the Plt deposes as follows. I knew the parties knew Gilbert H Heins in his life time. Plt's name was Emily Bledsoe before her marriage. I was the administrator of the estate of Gilbert H Heins decd. said Heins was guardian of Emily Bledsoe as I was informed by Mrs Heins while a widow. Mrs M<sup>r</sup> Garland told me while the widow of said



Heines that Emily Bladsois folks left  
with said Heines four hundred dollars  
to pay the expenses of raising her &  
that said Heines had resigned or given  
up his guardianship before they came  
to this state, there was one George Lowe  
for lots ~~two~~ hundred dollars I think  
Mrs Heines took up the notes before &  
administered on the estate. she told me  
the above conversation after I took out  
letters of administration on Mr Heines  
estate & about the time ~~they~~ was prosec-  
uting her claim against the estate, (cross  
ex by Mr Durham) Mrs McFarland paid  
the notes to George Lowe with her own  
effects. I think there were four notes of  
fifty dollars each when she took them  
up. Mr Heines his two brothers & Mrs  
McFarlands brother built a brick a  
house on the lots bought of George Lowe  
I do not know that the bond was  
forfeited before Gilbert Heines died  
but the time of pay ment of the notes  
had expired before the notes was paid  
George Lowe offered to sell the property  
to any one who would pay the notes. I  
knew ~~Heines~~ at the time the house was  
built. I do not know how much was  
expended in building the house I suppose



there could not have been much money. I think the work and material was paid principally by labor, don't know that Gilbert Heines went in debt for material to the stores. I guess Ashbury Rice claimed from \$25. to \$35. for lumber, to the best of my recollection & that it was allowed against the estate. I think it was material for improving the lots, can not say that the house was finished when Mr Heines died, Mrs M<sup>r</sup> Garland and my self were present in the probate court and resisted the claim of Emily Leontie the P<sup>l</sup>ff and brought in off set against it Mrs M<sup>r</sup> Garland claimed that the money was all used up in raising the P<sup>l</sup>ff. She did not tell me the money was all used up untill the claim was probated, she thought she ought to be paid more than the four hundred dollars ( ) I done the best I could for a d<sup>r</sup> to resist the claim of Emily Bledsoe there was between two & three hundred dollars allowed the P<sup>l</sup>aintiff after allowing off sets for her support. Mr Heines estate was insolvent.

William H Logan  
 Subscribed & sworn to  
 before me this 9<sup>th</sup> day of July 1866,  
 H. J. Summerfield.



Q 21 Alexander P Shipley sworn and introduced  
by Plt<sup>f</sup> deposed as follows, "I know the parties  
knew Gilbert Hinds in his lifetime I was  
Guardian of the Plt<sup>f</sup> Emily during the last  
part of her minority, I think Plt<sup>f</sup> is about  
twenty years old, Mrs Ames requested me  
to be appointed Guardian for Plt<sup>f</sup>, if I  
recollect she stated to me there was about  
\$170.00 in Hinds hands as Guardian of Plt<sup>f</sup>  
I do not remember of Mrs Hines telling me  
what was done with the money, she told  
me that amount should be paid Plt<sup>f</sup> if it  
had to come out of her dower, this conver-  
sation was about the time I was appointed  
Guardian of Plt<sup>f</sup> which I think was in 1859  
she told me in present conversations  
before the allowance of Plt<sup>f</sup>'s claim that it  
should be paid, I sent to Kentucky and got  
a statement from the court as to the amount  
owing by said Hines to Plt<sup>f</sup> as Guardian  
There was due Plt<sup>f</sup> from said Hines according  
to the statement above referred to on the 3<sup>rd</sup> day  
of May 1856 \$189.01 there was a claim presented  
by Mrs Hines for the maintenance of Plt<sup>f</sup>  
when Plt<sup>f</sup> litigated her claim in the Probate  
court. Mrs Hines claimed at that time  
\$96. for maintaining Plt<sup>f</sup> but it was not  
allowed by the court, she did not claim  
anything for support when she said



the \$100. should be paid if it took her down.  
 Mr. Hines resided in the County near  
 as far previous to his death to the best of  
 my recollection (Lesso Ex) Mrs Hines I  
 think was not present when the claim  
 was probated.

subscribed and sworn to A P Shipley  
 before me this 8<sup>th</sup> day of  
 July 1866

Henry T Sumner J P  
 State of Illinois }  
 Washington County }

I Henry T Sumner Justice of the  
 Peace do hereby certify that the foregoing are  
 true and correct depositions of the persons  
 therein named that said depositions were  
 taken at my office in Nashville on the 8<sup>th</sup>  
 day of July 1866 in presence of the Attys of  
 the Parties + that each deponent subscribed  
 to his deposition + that the depositions were  
 duly sworn according to law

Given under my hand and seal  
 this 8<sup>th</sup> day of July 1866

Henry T Sumner J P.

On the 5<sup>th</sup> day of September 1866. the following  
 depositions were filed in said cause.

|                           |   |                       |
|---------------------------|---|-----------------------|
| Emely J. Conkle Et Al     | 3 | In Washington Cir     |
| vs                        |   |                       |
| Elizabeth McFarland Et al | 3 | civil Court Sept Term |



1866. Depositions taken by consent of Parties before the undersigned Justice of the Peace. Present P E Hosmer for Plff of M Durham for Defs. Taken before Sept 3<sup>d</sup> 1866

George Y Hoke introduced by Plff testified as follows, I am acquainted with the Parties

I made and took acknowledgment of a deed from Elizabeth M<sup>rs</sup> Garland to her husband William M<sup>rs</sup> Garland of the property in dispute, who is one of the defs in this case, She was laying in bed at the time she executed the deed and was scarcely able to sign her name. There was no consideration paid in my presence, I heard nothing of a consideration. It was supposed that Mrs M<sup>rs</sup> Garland would not recover at the time she made the deed: that was the general opinion

Geo Y Hoke.

Fengal M<sup>rs</sup> Hinds introduced by Plff testified as follows, I know Mrs M<sup>rs</sup> Garland. Her first husband G S Hinds was my brother. I was at my brothers house about two weeks before he died in Richview in this County. I had a conversation with my brother at that time as he did not expect he would live, concerning his business he told me there was ~~about~~ little over three hundred dollars of Emely J Bledsoes funds in his hands which he had invested in building the brick house in which he was then living. I understood he had this money as guardian of Emely J Bledsoe. She is now Emely J Bledsoe the complainant in this



action. He said as soon as he got well he would have another guardian appointed and pay the money over to him, he did not claim anything for her support but said she should have every dollar with interest; I understood that he had made a portion of it over two years & the balance not so long.

Y. H. Hinds.

State of Illinois }  
Washington County }

I Henry Y Sumner @ Justice of the Peace in and for said county do hereby certify that the within Depositions were taken before me on the 3<sup>d</sup> day of September 1866 in conformity to law that the testimony was reduced to writing sworn to and subscribed in my presence.

Given under my hand & seal this 3<sup>d</sup> day of Sept 1866  
H. Y Sumner. J.P.

On the 7<sup>th</sup> day of September 1866 the following copy of a deed from Elizabeth McFarland to Wm McFarland, was filed in said cause.

This Indenture made this 14<sup>th</sup> day of August in the year of our Lord One Thousand eight hundred and sixty Five between Elizabeth A McFarland of the first part, and William McFarland of the second part, Witnesseth that the said party of the first part for and in consideration of Love & affectionate Regard for my husband and fifty dollars in hand paid by the said party of the



Second part. the receipt whereof is hereby acknowledged  
 ha Granted, Bargained and Sold, and by these  
 presents do Grant Bargain & Sell unto said party  
 of the second part. his heirs and assigns, all the  
 following described lot, piece, or parcel of land  
 situated in Richview in the County of Washington  
 and State of Illinois to wit - Lot Eleven (11) Block  
 fourteen (14) in Shipley & Barber's addition to the  
 town of Richview Ills. Together with all and  
 singular the hereditaments and appurtenances  
 thereunto belonging or in anywise appertaining  
 and the reversion and reversions, remainder and  
 remainders, rents, issues and profits thereof; And  
 all the estate, right, title, interest, claim and  
 demand whatsoever, of the said party of the first  
 part either in law or in equity of, in and to the  
 above bargained premises, with the hereditaments  
 and appurtenances; To have and to hold the  
 said Premises above bargained and described  
 with the appurtenances unto the said party of  
 the second part his heirs and assigns Forever  
 And the said Elizabeth A McFarland part 2 of the  
 first part hereby expressly waives, release and  
 relinquish unto the said party of the second part  
 his heirs, executors, administrators and assigns  
 all right, title, claims interest and benefit whatever  
 in and to the above described premises, and each  
 and every part thereof. And the said Elizabeth A  
 McFarland party of the first part for her heirs,



26 executors and administrators do covenant grant  
bargain and agree to and with the said party  
of the second part - his heirs and assigns that  
at the time of the enrolling and delivery of these  
presento are well seized of the premises above  
conveyed as of a good, sure perfect absolute and  
indefeasible estate of inheritance at law and in  
fee simple <sup>and has good right, full power and law-  
ful authority</sup> ~~to and with the said party of the~~  
ful authority to grant bargain sell and con-  
vey the same in manner and form aforesaid  
and that the same are free and clear from all  
former and other grants, bargains, sales, liens,  
taxes assessments and incumbrances of what-  
kind or nature soever and the above bargain  
premises in the quiet and peaceable possession  
of the said party of the second part - his heirs  
and assigns against all, and every person or  
persons lawfully claiming or to claim the  
whole or any part thereof the said party of the  
first part shall and will warrant and for-  
ever defend in testimony whereof the said party  
of the first part has hereunto set her hand  
and seal the day and year first above written  
Signed sealed and  
delivered in presence of E. A. McFarland (seal)  
G. T. Hake

State of Illinois } ss J. Geo W. Hoke  
Washington County } in and for said coun-  
ty in the state aforesaid do hereby certify that



27

Elizabeth A McFarland who is personally known to me as the same person whose name is subscribed to the annexed Deed appeared before me this day in person and acknowledged that she signed sealed and delivered the said instrument in writing as her free and voluntary act for the uses and purposes therein set forth

{ Seal }

Given under my hand and official Seal this 14<sup>th</sup> day of August A D 1866  
Geo Y Hooper, Notary Public

On the day of 1866 the following was filed in said cause:

State of Illinois vs William L Logan being by Washington County Me in due form of law sworn states on his oath that @ certain title bond given by George Lowe to Gilbert S Hinds for lots in a certain deposition of himself and also said Lowe mentioned in their Depositions taken in case of Emily Coulee et al vs Elizabeth McFarland et al in Chancery was @ bond under seal in the usual form, Lowe agreeing to convey the fee simple in the premises in said depositions mentioned in a specified time on the payment of certain promissory notes therein mentioned & that time was expired before Mrs Hinds paid the money for the said lots to Lowe, for the payment of the same by the terms of the Bond & Lowe was offering to convey to her or any other person who



2 9 would pay him the amount for which he sold  
the said lots.

Silas L Bryon Judge

At the September Term 1866 the following order was  
made in said cause by said Court.

Emely of Boullee &

Ad Boullee

vs

Elizabeth M<sup>rs</sup> Garland &

W<sup>m</sup> M<sup>rs</sup> Garland

} Bill in Chancery to enforce  
Trust & for Relief

And now September 4<sup>th</sup> some  
complainants per Key & Hoerner their Attys & defend  
ants per Durham their Atty and the Demurrer filed  
with answer to amended Bill is overruled and  
leave is given to open depositions & now September 5<sup>th</sup>  
cause is submitted & heard on Bill answer Replication  
depositions and evidence and it is considered by the  
Court and ordered and decreed that prayer of Bill  
be granted and that complainants have and recov  
er from defendants the amount stated in Bill to  
have been received by former Guardian of Emely of  
Boullee, Gilbert S Helms to wit \$200.00 with six  
per cent interest thereon from January 1<sup>st</sup> 1857 to this  
date; in all \$316.00 & costs of this suit and if the  
same is not paid in 90 days from this date the  
said premises to wit lot eleven in Block fourteen  
in Shipley and Barbers addition to the old town



99  
of Richview in the county of Washington State of Illinois  
be sold by the Master in Chancery at the Court house  
door in said county for cash in hand after giving four  
weeks notice of such sale by posting up notices thereof  
in four of the most public places in said county &  
by causing a similar notice to be published in the Nash-  
ville Journal 4 weeks prior to day of sale stating time  
place and terms of sale and description of the premises  
to be sold and execute deed to purchaser and out of  
proceeds pay Compts and of decree with six per  
cent interest from this date to day of sale & the costs  
of this suit and the balance pay to said defendants  
Defts pray an Appeal to Supreme Court which is  
allowed upon their filing Appeal Bond in 30 days  
in the sum of two hundred dollars the bond to be  
approved by Clerk of this Court &c.

On the 20<sup>th</sup> day of October the following Appeal  
Bond was filed and by the Clerk of said Court ap-  
proved in said cause.

Know all men by these presents that we William  
McFarland and Elizabeth McFarland and Wm H  
are held and firmly bound unto Emily J  
Louise and Andrew J Louise in the penal sum  
of two hundred dollars for the payment of which  
to be well and truly made we bind ourselves  
our heirs executors and administrators jointly  
severally and firmly. Witness our hands and seals  
the day of September A.D. 1866.



The condition of the above obligation is such that whereas at the March term of the Washington County Circuit Court A.D. 1866 Emily J. Loulee and Andrew J. Loulee filed their Bill of Complaint against the above bounden Elizabeth M<sup>rs</sup> Farland and William M<sup>r</sup> Farland on the Chancery side thereof praying that certain real estate in the said bill mentioned be subjected to the payment of a demand of the said Emily J. Loulee against Hilber & Thinds deceased and alleging the said Thinds had used the said money in the purchase and improvements now on said real estate in the said Bill of Complaint mentioned belonging to the said complainant Emily J. Loulee as her guardian And also in the matter in the Bill issue was had at the last term of the Washington County Circuit Court and decree of Court in favor of said complainants and against the said defendants and from which said decree the said defendants prayed an Appeal to the Supreme Court of the State of Illinois.

Now if the said defendants shall prosecute their said Appeal with effect and shall in all things abide and perform to the decree of the said Court if modified changed or given against them according to the order of the said Court thereof therein then this bond to be void otherwise to remain in full force & virtue.

50 cts Ent Rec Stamp  
cancelled

E A M<sup>rs</sup> Farland (Seal)  
Wm M<sup>r</sup> Farland (Seal)  
Wm H. Hoar (Seal)



3 2 On the back of which said bond is the following  
Filed and Approved October 2nd 1866  
J A Verror Clk.

State of Illinois 3 ss  
Washington County 3

I John A Verror Clerk of the  
Circuit Court in and for said county hereby  
certify that the foregoing is a true copy of the  
Bill, Summons indorsement of service demurrer, An  
swer, Replication, Depositions, copy of Deed, certificate  
of allowance of claim by Co Clk of said county, certifi  
cate of lth of Caldwell County, Ky. Account on file in  
said cause between Emily J Bledsoe & estate of L S  
Hinds, & Statements made under oath & reduced to writing  
per judge presiding Silas Le Bryan, of Wm S Geogon all  
orders & decrees of Court & Appeal Bond being  
the papers & proceedings in the case of Emily J  
Boulie & Andrew J Boulie vs Elizabeth M<sup>rs</sup>  
Garland and Wm M<sup>rs</sup> Garland in Chancery  
tried at the September term of Circuit Court in  
& for Washington County, Ad 1866, as appears  
from files of papers & records in my office. VA com

plate copy of Record in said cause Witness my hand & seal of said  
Court this 26<sup>th</sup> day of November  
1866 at my office in Nashville  
John A. Verror Clk



In the Supreme Court,  
First Grand Division State of Illinois.

November term at Mt Vernon D. 1867.

Elizabeth McFarland,  
and William McFarland,

Plaintiffs in Error,  
vs.

Emily J. Bonlee,  
and Andrew Bonlee,

Defendants in error.  
Assignment of Errors.

And now the said Elizabeth  
McFarland, and William McFarland  
plaintiffs in error, comes and says,  
that in the record and proceedings  
aforesaid, there is manifest error in  
this, to wit: 1. That the judgments of the  
Circuit Court is erroneous.

2 That the judgment of the circuit  
Court is contrary to equity.

3 That the judgment of the circuit  
court is ~~contrary~~ against the weight  
of evidence.

4 That the Circuit Court erred in  
ordering sale of lot.

By reason whereof the said plaintiffs  
pray that said judgments be reversed.

By J. M. Durham,

Attorney for Plaintiffs.



Yomide of Error

Hay & Hosmer

Atty for Sept in Error

The writ of error will be made a supersedeas  
on plaintiffs in error executing a bond with  
William A. Howe their security in the penal  
sum of five hundred and thirty two dollars  
conditioned awaiting to Court - Carle  
Decr. 14. 1866

Wm. A. Howe  
Jury. Comrs.



Comely & A. J. L. L. L.

Elizabeth & M. M. L. L.

Record

For Sir John Washington  
Co. J. M. L. L. L. L.  
Record & Certificate of 16th



17 - 24

Elizabeth McFarland  
& William McFarland  
vs

Emily J. Corlies  
& Andrew J. Corlies

Record

Filed December 19, 1866

Book Johnson Clk  
By C. A. Johnson Depy

17-18



# IN THE SUPREME COURT.

## State of Illinois, First Grand Division.

JUNE TERM, A. D., 1867.

ELIZABETH McFARLAND and WILLIAM }  
McEARLAND, Plaintiffs in Error, }  
vs. }  
EMILY J. CONLEE and ANDREW J. CON- }  
LEE Defendants in Error. }

### PLAINTIFFS BRIEF.

To support a lien or implied trust two things must concur, namely, privity of estate and privity of notice. The legal or equitable estate of Hinds must subsist to predicate upon, either in his heir, alienee with notice, or his volunteer, and without any of these concurring facts it must fail. (A truism and needs no reasoning or authorities.) Butler's Coke Lit. 290, sec. 5.

Plaintiffs in error are not the heirs, alienees or volunteers of Hinds. They hold of Lowe for value and without fraud.

Hinds died without any legal or equitable estate in the land. He did not pay any part of the consideration money within the life of the bond, and for which the lots were sold.

No specific performance can be had where the consideration money has not been paid and the land has been sold for that purpose. Boon vs. Missouri Iron Co., 17 How. U. S. C. C. 340.

Specific performance is not a matter of right in either party, but a matter of discretion in the court. Story's Eq., 742.

If the money is not paid when due some satisfactory excuse must be shown. Doyet *et al.* vs. Taines, 4 Scam.

Part performance is entitled to great weight. 6 Wheaton R., 525.

Could Hinds improve himself into an estate in Lowe's lots? and if so, where is the authority to be found?

If any trust funds were used, it was a waste, not an investment.

A result in trust is a pure, unmixed trust ownership and title of the land, and not an interest in the proceeds of the land, nor a lien on it, nor an equity for a sum of money to be raised out of it. The latter rights are the subjects of contracts or agreements of parties, and may form the substance of express trusts. White vs. Carpenter, 2 Paige, 238-9.

To raise a result in trust, the whole, or some aliquot part of the purchase money, must be paid at the time the purchase is made.

Alexander, *et al.* vs. Tames, 13 Ill., 225.

There was no purchase of land with trust money in this case.

The evidence of Phillips is the strongest against Mrs. Hinds, but he advised her that her deed would be good; and if not true, she purchased under a mistake of law, and if equity is doubtful, not enforceable. Story's Eq., 400.

The declaration of her husband was not in her hearing, and not constructive evidence only upon the hypothesis that she holds as his heir, or volunteer, and at least questionable in the latter cases.

A naked oral declaration is the most unsatisfactory evidence, on account of the facility with which it may be fabricated, and the impossibility of contradiction.

Besides, the slightest mistake may totally alter the effect of it. It ought to stand wholly uncontradicted. Lench vs Lench, 10 Versy 518.

The admissions in this case are weakened if not totally destroyed by the testimony of Logan, showing the real facts to be different, as may be done. Ray vs Bell, 17 Ill., 444.

The testimony ought to be so clear and explicit as to leave scarce a



doubt. Farnger vs Ramsey, 2 Md., 365.

The oral testimony unsupported not sufficient. Loyd vs Lynch, 28 Penn. Stats.

The testimony of one witness not sufficient. James vs Fulcord, 5 Texas, 23. Lench vs Lench, 10 Ver., 518.

The case may be divided into several points :

1. Is there sufficient evidence to support an implied trust?
2. And if so, will it be a charge or an equitable ownership *protanto*?
3. Will oral evidence be competent to sustain a lien or charge?
4. And if so, will the evidence of one witness be sufficient?
5. And if so, will it be sufficient though the real facts are proved to be varient from the admissions?
6. Can there be a lien or charge when there has been no contract or express trust respecting the land in question?
7. What estate did Hinds have in the lot?
8. Could Hinds or his heirs at law enforce a specific performance?
9. Had Lowe never conveyed would there be any cause of action against him?
10. Did Mrs. Hinds hold by devotion or purchase?
11. Does she succeed to the rights of Lowe or her husband?
12. Admitting the defendant to have equity is not error to liken a trustee in equity without fraud, to a trustee in fact guilty of fraud and charge interest?

Mrs. Hinds holds the legal estate, and paid \$200 purchase money, which is held in the highest estimation in equity. Yet the rights of plaintiff are postponed by the decree, which is contrary in the legal and equitable rights of the parties, and right reason with which equity should accord.

"A right cannot die," for of such high estimation is right in the eye of the law, as the law preserved it from death and destruction; trodden down it may be, but never trodden out.—*Coke*.

The decree trades out right. Shall law be more just than equity?

J. M. DURHAM,

Att'y for Pl'ff in Error.



Elizabeth McFarland  
& William McFarland  
vs

Emily J Conlee  
Hector Conlee

Plaintiffs vs  
Defendants

17

Filed June 5<sup>th</sup> 1867  
Attest  
J. J. Johnston, Clerk



doubt. Farnger vs Ramsey, 2 Md., 365.

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Exxon.

McFarland et al } In the Supreme  
vs } Court of Illinois  
Conlee et al } Submitted at the June  
at Mt Vernon 1867

Written argument by Plf in error by  
special leave

I argue, that there is  
only testimony of one witness that  
tends according to the rules of evidence  
to show an investment with trust  
funds by decedent Hinds.

This I argue because,  
proof must sustain the allegations,  
namely, that Hinds did invest trust  
re which can only be done, namely  
first, by proving what he really did  
best second by proving what he said  
he had done (poorest); and the latter  
only was done in this case; and  
that too eight years after his death.

The true limits of the testimony  
of Philleps. The investment of  
trust funds, if any was made, was  
not such a fact as Mrs Hinds  
could certainly know the truth.

It was not her act; whether such



a fact did or did not exist.

She could rightfully change her notions and expressions every moment. It was only her notion respecting the act of another.

What she said to Phillpps was not said when she <sup>was</sup> owner of the Estate, and not therefore, within the rule of admission against interest.

It is necessary for the defendants in error to establish two facts, namely, <sup>1st</sup> The allegation of trust investment <sup>2nd</sup> Notice thereof to the Plaintiffs in Error.

The testimony of Phillpps tends to establish priority of notice, and only that, nothing more, which I think is "as plain as a mark can be made".

The case must stand or fall on the testimony of Hinds.

He testified to a near oral declaration, made eight years ago. Judge Redfield in his addition to Greenleafs evidence Vol. 1. Page 200. Says that. Express-



ience has shown, that no  
reliance can be placed on such  
testimony. The Supreme Court of  
this State has never to my  
knowledge expressly decided, that  
an oral declaration in proof by  
a single witness, is not sufficient  
to establish a result in trust  
; but so far as I have been able  
to examine, it is most clearly  
the result of the cases. And the  
Supreme Courts of this State of  
Texas, Indiana, Maryland & Pennsylvania  
have. See your written note to  
Plfs in error brief.

The Courts of Texas and Indiana  
hold, that there must be testimony  
of two good witnesses, and such  
seems to be the result of the  
highest Courts in Chancery in  
New York and England. See  
your written note to Plfs in  
Errors brief Burr Vs Buxford,  
and Lench Vs Lench cited.

And this near oral  
declaration, is disproved by  
Logan, showing the real facts to  
have been different, and by the  
record from Kentucky, which shows



that it could not wholly rest but true. And it further to be noted, that the witnesses all disagree, as in the case Ruxford Vs. Burr, and Chancellor Kent therefore, refused relief. But ~~more~~ & most, this Court can rightfully exercise its own opinion, and what is here said, is to direct, not controul.

What is above said is on the hypothesis, that the Estate of Hinds still subsist to feed the trust but this I deny.

It is one of the old fundamental principles of equity, that the use (trust) is fed by the legal estate and the priority of estates and priority of notice must continue to keep it a live, and when either fails, it elapses, dies out.

Hinds never had a legal Estate and his admissions were accordingly weakened. The trust in this case cannot be fed by a legal Estate, and if at all by ~~an~~ Equity upon an Equity, and that too, not upon a clear equity, but as most questionable Equity.



ience has shown, that no reliance can be placed on such testimony. The Supreme Court of this State has never to my knowledge expressly decided, that an oral declaration in proof by a single witness, is not sufficient to establish a result in trust, but so far as I have been able to examine, it is most clearly the result of the cases. And the Supreme Courts of this State of Texas, Indiana, Maryland & Pennsylvania have. See your written note to Plfs in error brief.

The Courts of Texas and Indiana hold, that there must be testimony of two good witnesses, and such seems to be the result of the highest Courts in Chancery in New York and England. See your written note to Plfs in Errors brief Burr Vs Buxford, and Lench Vs Lench cited.

And this near oral declaration, is disproved by Logan, showing the real facts to have been different, and by the record from Kentucky, which shows



The Equity of a specific performance  
of right against ~~Law~~ by the Heirs of  
Hinds of whom his widow is not one

And ~~a~~ specific performance  
is never a right. Always a discretion  
in the Court. & Rights are things  
that cannot be denied. A result  
in trust is an absolute title to  
the fee in Equity.

Again both priority of estate and  
priority of notice fails as to McFarland  
husband, and the deed from his wife  
to him is good in Equity I presume.

The evidence shows ~~the claimant~~ to  
have been probated by lawful guardian  
and it is submitted if the act of the  
guardian was not the act of the ward  
and an election to rely on the  
judgement.

Other points made in  
brief.

Most respectfully sub-  
mitted

J. M. Durham  
Sol for Plfs in &c

Judge, order me, said in a little  
correction & mention of the



17- 24

Prosser

McFarland et al

or

Comtee et al

Subscribed as

Miss Demott

Superior Court

at Milwaukee Wis

1887-

William Angerman

Typist & Engr



# IN THE SUPREME COURT.

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JUNE TERM, A. D., 1867.

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8. Could Hinds or his heirs at law enforce a specific performance?
9. Had Lowe never conveyed would there be any cause of action against him?
10. Did Mrs. Hinds hold by devotion or purchase?
11. Does she succeed to the rights of Lowe or her husband?
12. Admitting the defendant to have equity is not error to liken a trustee in equity without fraud, to a trustee in fact guilty of fraud and charge interest?

Mrs. Hinds holds the legal estate, and paid \$200 purchase money, which is held in the highest estimation in equity. Yet the rights of plaintiff are postponed by the decree, which is contrary in the legal and equitable rights of the parties, and right reason with which equity should accord.

"A right cannot die," for of such high estimation is right in the eye of the law, as the law preserved it from death and destruction; trodden down it may be, but never trodden out.—*Coke*.

The decree trades out right. Shall law be more just than equity?

J. M. DURHAM,

Att'y for Plff in Error.



THE STATE OF NEW YORK  
IN SENATE,  
JANUARY 1, 1867.

REPORT  
OF THE  
COMMISSIONERS OF THE LAND OFFICE,  
IN ANSWER TO A RESOLUTION PASSED BY THE SENATE,  
MAY 1, 1866.  
ALBANY:  
J. B. LEECH, PRINTER,  
1867.

ALBANY:  
J. B. LEECH, PRINTER,  
1867.

John Lewis 5. 1867  
" " " "

Elizabeth M. P. L. L.  
William M. P. L. L.  
no  
Emily P. L. L.  
Andrew P. L. L.  
Henry P. L. L.



IN THE SUPREME COURT.

State of Illinois, First Grand Division.

JUNE TERM, A. D., 1867.

ELIZABETH McFARLAND and WILLIAM  
McEARLAND, Plaintiffs in Error,  
vs.  
EMILY J. CONLEE and ANDREW J. CON-  
LEE Defendants in Error.

PLAINTIFFS BRIEF.

To support a lien or implied trust two things must concur, namely, privity of estate and privity of notice. The legal or equitable estate of Hinds must subsist to predicate upon, either in his heir, alienee with notice, or his volunteer, and without any of these concurring facts it must fail. (A truism and needs no reasoning or authorities.) Butler's Coke Lit. 290, sec. 5.

Plaintiffs in error are not the heirs, alienees or volunteers of Hinds. They hold of Lowe for value and without fraud.

Hinds died without any legal or equitable estate in the land. He did not pay any part of the consideration money within the life of the bond, and for which the lots were sold.

No specific performance can be had where the consideration money has not been paid and the land has been sold for that purpose. Boon vs. Missouri Iron Co., 17 How. U. S. C. C. 340.

Specific performance is not a matter of right in either party, but a matter of discretion in the court. Story's Eq., 742.

If the money is not paid when due some satisfactory excuse must be shown. Doyet *et al.* vs. Taines, 4 Scam.

Part performance is entitled to great weight. 6 Wheaton R., 525.

Could Hinds improve himself into an estate in Lowe's lots? and if so, where is the authority to be found?

If any trust funds were used, it was a waste, not an investment.

A result in trust is a pure, unmixed trust ownership and title of the land, and not an interest in the proceeds of the land, nor a lien on it, nor an equity for a sum of money to be raised out of it. The latter rights are the subjects of contracts or agreements of parties, and may form the substance of express trusts. White vs. Carpenter, 2 Paige, 238-9.

To raise a result in trust, the whole, or some aliquot part of the purchase money, must be paid at the time the purchase is made.

Alexander, *et al.* vs. Tames, 13 Ill., 225.

There was no purchase of land with trust money in this case.

The evidence of Phillips is the strongest against Mrs. Hinds, but he advised her that her deed would be good; and if not true, she purchased under a mistake of law, and if equity is doubtful, not enforceable. Story's Eq., 400.

The declaration of her husband was not in her hearing, and not constructive evidence only upon the hypothesis that she holds as his heir, or volunteer, and at least questionable in the latter cases.

A naked oral declaration is the most unsatisfactory evidence, on account of the facility with which it may be fabricated, and the impossibility of contradiction.

Besides, the slightest mistake may totally alter the effect of it. It ought to stand wholly uncontradicted. Lench vs Lench, 10 Versy 518.

The admissions in this case are weakened if not totally destroyed by the testimony of Logan, showing the real facts to be different, as may be done. Ray vs Bell, 17 Ill., 444.

The testimony ought to be so clear and explicit as to leave scarce a



Ashley, Mo. Dec 15<sup>th</sup> 1846

Wm Johnson Esq

Enclosed

please find Record Abstract &  
Bond on which I want issued a  
Writ of Error & Supersedeas—

You will see that the supersedeas  
has been granted—

Very respectfully

J. M. Durham

Also please find \$11.50 fees

J. M. Durham

Pl Please mail the writ

to Wm Clayton

Sheriff

Richwood Mo

J. M. Durham



17

Letter

Wills December 19, 1866  
Mark Johnson Esq  
By E. W. Johnson Esq



STATE OF ILLINOIS, }  
SUPREME COURT, } ss.  
First Grand Division. }

The People of the State of Illinois,  
To the Sheriff of Washington County.

BECAUSE, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Washington county, before the Judge thereof between

Erniey J. Louee & Andrew J. Louee

plaintiffs and

Elizabeth M. Sealant & William M. Sealant

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

as we are informed by their 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 MOUNT VERNON, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

Erniey J. Louee & Andrew J. Louee

that they be and appear before the Justices of our said Supreme Court; at the next term of said Court, to be holden at MOUNT VERNON, in said State, on the first Tuesday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said E. J. & Defendants A. J. Louee notice together with this writ.

WITNESS, the Hon. P. H. Walker Chief

Justice of the Supreme Court and the seal thereof, at  
MOUNT VERNON, this nineteenth day of  
December in the year of our  
Lord one thousand eight hundred and sixty six

Noah Johnston  
Clerk of the Supreme Court.  
By C. H. Johnston - Deputy



I have duly executed the within writ by  
redding the same to the within named Emily S.  
Conlee & Andrew S Conlee. December 27<sup>th</sup> 1866

W. H. Clayton  
Sheriff Washington  
County Illinois

Sheriff Fees  
Serving \$150  
Milage 320  
return 10  

---

4.80

17  
**SUPREME COURT.**

FIRST GRAND DIVISION.

Elizabeth M. Garland  
William M. Garland  
PLAINTIFFS IN ERROR.

vs.  
Emily S. Conlee &  
Andrew S. Conlee  
DEFENDANTS IN ERROR.

**Scire Facias.**

**FILED.**

December 19 1866

Dec 19 1866  
Application Clerk

The writ of Error was read and filed in this Court  
in made a Supersedeas, and as such, is to be stayed  
by all concerned - Dec 19, 1866  
Attest John W. Clark  
By E. Johnson Deputy



IN THE SUPREME COURT.

State of Illinois---First Grand Division.

JUNE TERM, A. D. 1867.

ELIZABETH MCFARLAND, *et al.*,  
Pl'tff in Error.

*vs.*

EMILY J. CONLEE, *et al.*, Def't  
in Error.

Def'ts in Error.

DEFENDANT'S BRIEF.

Pl'tff in error, Elizabeth McFarland, inherited and succeeded to whatever interest Hinds had in said estate and as such heir became possessed of said property, and for a nominal sum with deceased's interest, obtained a deed and does not hold as an innocent purchaser.

From the evidence of Philips obtained from said pl'tff in error it appears that said Hinds did pay for lot all but about \$20, (Towes evidence on that point is not positive,) and also invested \$400 of def't in error's, (Emily J. Conlee's) money, in said house, hence Hinds did have an equitable and legal interest in said property and if def't afterwards purchased said property it was with the full knowledge of said Hind's interest and can not claim to be an innocent purchaser.

If A invests the money of B in building a house on his, A's land without the consent of B, he A, and those claiming under him are accountable and must answer to B for his said money. 2 Kent, Pge 361. *See page 362, 3, 4, 5*

Whatever alteration of form, any property has undergone the owner may seize it in its new shape and be entitled to ownership of it in its new state of improvement if he can prove the identity of the original money. 2 Kent, page 362. *See page 362, 3, 4, 5*

Money converted or invested in property may be possessed and recovered as long as it can be identified. 19 Ill., Brush vs. Blanchard, page 37.

An abuse of trust can confer no rights on the party abusing it or those claiming in privity with him. 19 Ill., Brush vs. Blanchard, page 37.

HAY & HOSMER,

Att'ys for Def'ts in Error.



11  
Elizabeth J. McFarland  
Deft in Error

B  
Emily Stouffer  
Deft in Error  
Deft in Error  
Deft in Error  
Deft in Error

846

Filed June 3<sup>rd</sup> 1867  
Wm. Johnston

IN THE SUPREME COURT



State of Illinois,  
SUPREME COURT,  
First Grand Division.

} SS

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Washington Greeting:

**Because,** In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Washington county, before the Judge thereof between Emily J. Louder & Andrew J. Louder

plaintiffs and

Elizabeth M. Garland & William M. Garland

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

as we are informed by their complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at **Mount Vernon**, in the County of Jefferson, on the First Tuesday in November next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. P. H. Walker Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this nineteenth day of November in the year of our Lord one thousand eight hundred and sixty six

Book Johnston

Clerk of the Supreme Court.

By E. A. Johnston Deputy



SUPREME COURT.

First Grand Division.

*Elizabeth Th. McFarland*  
*William McFarland*

Plaintiffs in Error,

*vs.*  
*City of Worcester*  
*Worcester*  
Defendants in Error.

WRIT OF ERROR.

FILED.

*December 19, 1866*  
*Book Johnson clk*  
*By S. H. Johnson Reply*

*This writ of Error is made a Supersedeas*  
*and is to be stayed accordingly*  
*December 19, 1866*  
*Book Johnson clk*  
*By S. H. Johnson Reply*



*Kennedy*  
9  
Pleas Ch. J. This was a bill in Chancery  
in the Washington Circuit Court, exhibited by  
Emily J. Coulee and Andrew J. Coulee her  
husband against Elizabeth M. Faland  
and William M. Faland her husband, to subject  
certain real estate in the town of Rich view in  
that County, held in the name of William M.  
Faland, to the claim of complainants, on  
the allegation that the same was purchased  
and improved <sup>in part,</sup> with money belonging to ~~the~~ the  
complainant, which defendant Elizabeth's first  
husband, ~~Henry~~ <sup>Silbert</sup> J. Hinds, whilst guardian of  
complainant Emily, invested in such real  
estate -

The defendants answered, ~~the~~ denying  
the most material allegations of the bill, and  
on application filed and proofs taken, the  
Court ~~advised~~ granted the prayer of the bill and  
found that hundred and fifteen dollars  
~~there~~ had been received by Silbert S. Hinds whilst  
guardian of complainant Emily, and decreed  
if the same was not paid in ninety days  
the premises should be sold at public  
vendue to raise the money.

The cause is brought here <sup>with errors</sup> by ~~appeal~~  
and various errors ~~are~~ <sup>are</sup> assigned.

In the first place, it no where ap=  
pear from the decree, that this money  
received by Hinds was ~~trust money~~ <sup>was</sup>



interested by Hinds in these premises, and  
 if not, the complainant Emily, had no  
 equitable rights therein. The decree shows  
 simply, that Hinds as her guardian had  
 received, of complainant's money, the  
 amount for said fee, which is far from  
 sufficient to clothe her with a presumable  
 equity, to the exclusion of all others in  
 the premises in question. The testimony goes  
 to show most clearly, that although Hinds in  
 his life time contracted for these premises, on  
 for other premises for which there were received in  
 exchange, and ~~which~~ created a ~~bad~~ mort-  
 gage house ~~thereon~~ before his death, yet he  
 had made no payment on the lots and ~~was~~  
 his widow, now Elizabeth McFarland, paid  
 the purchase money therefor out of her own  
 funds, and took the deed therefor in her  
 own name, he Hinds having only a little  
 bond for the premises which had become  
 forfeited and ~~there~~ Lowe the holder  
 was offering to sell the lots to any one who  
 would pay the purchase money, being two  
 hundred dollars, which was paid by  
~~Elizabeth~~ his widow who after said inter-  
 view with William McFarland, having before that  
 exchanged the premises bought of Lowe  
 with one Shopley for other premises, which this  
 bill seeks to subject to the payment of this



claim, and which complainant had conveyed  
by a paper deed to her husband William  
McFarland on the 14th of August 1865

*Hall*  
But admitting this money was  
vested by Acts in these premises, it is  
very apparent from the testimony the  
money of defendant Elizabeth was also,  
and she has the legal title. Her equity  
is equal to that of complainant, and  
she has the legal title, therefore, it seems  
~~improper~~ just that defendant should  
have the preference, and right to relieve  
the premises from this claim of complain-  
ant by paying the amount due to her  
Equity. Should defendant decline to  
do so, if then, if the property is not  
susceptible of division, it should be  
ordered to be sold, and the money  
advanced by defendant Elizabeth  
to procure the legal title, with interest,  
be first paid to her. The claim of  
defendant Equity should then be paid  
with interest, and the surplus, if any  
paid over to Elizabeth McFarland  
the defendant. A reference ought to be had  
to the Master to ascertain the ~~correct~~  
amounts of interest due on each claim,  
stating that of Elizabeth McFarland at two  
hundred dollars as paid to Lane, in 1868 and



then paid receive proof, as the record fails  
to show it. The claim of dependent  
Emily will be stated at \$316, and interest  
computed from the date of the decree.

~~Reversed by the Circuit Court is~~  
~~Reversed and the same remanded~~

The finding of the Court of the  
amount due Emily, was doubtless based  
on the testimony of Fingol Hind, the brother  
of Gilbert Hind the guardian, and we  
have been much impressed by that testimony.  
He states his brother told him in his sickness  
and when he did not expect to live that there  
was about three hundred dollars of Emily's  
money <sup>in the house</sup> in the house, in which he was then  
living - ~~He said~~ He said as soon as he  
got well he would have another guardian  
appointed and pay the money over  
to him - he claimed nothing for the  
support of Emily, but said she should  
have every dollar with interest.

The decree of the Circuit Court is  
reversed, and the case remanded  
for further proceedings consistent with  
this opinion.



17 - 24

W. F. Talbot et al.

or

Charles et al

—

opinion by

Reese Ch. J.

P. R.

R. R.

R. 7. 42. 20



State of Illinois  
Washington County

William McFarland a  
resident of Richview Illinois being by me  
duly sworn according to Law State on  
his oath that he is worth \$1000.<sup>00</sup>/<sub>100</sub> of  
personal and real property and worth  
the sum of \$1000.<sup>00</sup>/<sub>100</sub> more than all  
liabilities that William H House  
Surety on bond in certain cause  
wherein Elizabeth McFarland and himself  
are plaintiffs and Emily Gleason and  
Andrew Gleason are defendants in a  
suit of Exar and Superedeas applied  
for in the Supreme Court 1st Grand Division,  
State of Illinois for the November term of said  
Court at Mt Vernon 1866 and that the  
said House is worth the sum of  
\$1000.<sup>00</sup>/<sub>100</sub> personal and real  
property and worth the sum of  
\$1000.<sup>00</sup>/<sub>100</sub> above all liabilities  
as he is creditably informed and  
believes & he wholly true & exemptions  
by law included.

Wm McFarland  
Subscribed and sworn to before me this  
11<sup>th</sup> day of December A.D. 1866  
In witness whereof I have set my hand  
and official seal as Notary Public for the  
said county and state Geo J. H. H.  
Notary Public





Elizabeth McFarland  
William McFarland  
Emory G. Gardner  
Andrew Gardner  
Qualification of  
Subpoena Bond  
Affidavit of  
William McFarland  
Miss McFarland

Filed December 19, 1860  
Book Johnson & Co  
By Esq Johnson & Co

State of Illinois  
Washington County  
John McFarland  
by my father John of Lawrenceville  
on his oath that he is well acquainted  
with William McFarland within named  
and that he is well acquainted with  
him & the fact that a person above  
all likelihood of being an embezzler  
is not admitted  
J. W. McFarland

Elizabeth McFarland  
William McFarland  
Emory G. Gardner  
Andrew Gardner  
Qualification of  
Subpoena Bond  
Affidavit of  
William McFarland  
Miss McFarland



IN THE SUPREME COURT.

State of Illinois, First Grand Division.

JUNE TERM, A. D., 1867.

ELIZABETH McFARLAND and WILLIAM }  
McEARLAND, Plaintiffs in Error, }  
vs. }  
EMILY J. CONLEE and ANDREW J. CON- }  
LEE, Defendants in Error. }

PLAINTIFF'S ABSTRACT.

1 This was a Bill in Chancery for relief in the Washington County Cir-  
cuit Court, filed for the April term, 1866, charging: That in Caldwell  
1 county, Kentucky, 1855, one Gilbert S. Hinds was appointed guardian of  
complainant, Emily J. Bledsoe, and as such received \$200. That in 1857  
he moved to Illinois, and purchased in Richview lots 7 and 8 in block 4,  
2 and lot 2 block 3, Lowe's addition, of George Lowe, and took bond for  
3 deed, and built house on lots and used trust money of ward to pay for lots  
and house.

3 That Hinds died and Wm. M. Logan was appointed administrator and  
that his estate was insolvent. That Alexander Shipley was appointed  
guardian of said ward and probated claim of \$233.78 for the money afore-  
said, June 19, 1860. That Hinds left widow, who paid Lowe balance due  
of \$20, and took deed in her own name for said lots from Lowe. That his  
4 said widow, Elizabeth, married McFarland and they conveyed said lots to  
Hooper in exchange for lot 11, block 14, S. & B's. addition to Richview,  
and that she conveyed the last mentioned lot to her husband August, 1865.  
That defendants had notice of all the above facts. That ward Bledsoe  
5 became of age April, 1865, and married Andrew J. Conlee. Bill asks that  
the last mentioned lot be sold in satisfaction of the money received by  
ward Hinds.

7.8 9 Answer denies that any trust money was used in the purchase of lots,  
or for building.

COMPLAINANTS' EVIDENCE.

12 Allegations of amount probated by Shipley proved.

13 Found due and settled by guardian Hinds May 18, 1856, \$189.01, in  
Caldwell county, Ky., by certificate of record.

14 Witness Lowe states a sale of lots to Hinds, 1857. That he gave him  
bond for deed on payment of notes. That after Hinds death and notes  
became due, his widow paid him for the lots, \$200, and he conveyed them  
to her March 12, 1858. That Hinds built brick house on the lot worth  
\$400 or \$500.

16 Witness Hooper states a transfer of lots as stated in bill.

16 Witness Phillips states that after Hinds died Mrs. Hinds wanted him  
17 to administer on estate of her husband, and said that her husband had used  
\$400 of wards money in building house and paying for lots, and that lots  
was all paid for but \$20, and that he advised that she could pay the \$20,  
and take deed and that it would be good.

23 Witness Hinds states that about two weeks before his brother's death  
24 he had a conversation with him and that he stated that over \$300 of ward's  
money was in house.

Witness Hope stated that in August, 1865, Mrs. McFarland was ex-



23 peeted to die and deceded to her husband lot 11, block 14 S. & B's. addition  
to Richview. Consideration expressed in deed \$50 and affection. That  
he saw no money paid.

21 Witness Shipley states an admission of Mrs. Hinds, \$170 due ward from  
her husband. Nothing was said about investment.

16 Witness Logan states that he was administrator; that estate was in-  
solvent; that he, for Mrs. Hinds, paid Lowe the entire consideration  
money for lots, \$200. It was paid with her own funds. That note was  
due, and that Lowe was offering to convey lots to any person who paid  
him the amount for which he sold them to Hinds. That Mrs. Hinds told  
him that her husband had had \$400 of ward's money while in Kentucky,  
but had expended for ward in Kentucky.

27 *Cross Examined.*—That Lowe gave Hinds a bond under seal in the usual  
form agreeing to convey fee-simple to lots in a time specified, on the pay-  
ment of notes therein mentioned, four in number, and that the time speci-  
fied for the payment of the same was expired before Mrs. Hinds paid  
Lowe for the lots, and that Lowe was offering to convey lots to any person  
who would pay him the amount for which he sold lots to Hinds. That  
there could not have been much money expended in building the house.  
That the material were principally paid for by labor and an account of  
\$25 was probated. That Hinds, his two brothers and brother-in-law built  
the house.

30 Decree grants the relief and orders lot 11 block 14, S. & B's. addition  
to Richview sold, if \$200 and \$116 interest is not paid in 90 days.

J. M. DURHAM, Attorney for Pl'ffs in Error.



Elizabeth McFarland  
Wm McFarland

vs

Emily Conlee

Andrew Conlee

17

Sept. 1881

Filed June 1st 1881

Noah Johnston Esq



Know all men by these Presents That we  
Elizabeth McFarland William McFarland  
and William H House are held and  
firmly bound unto Emily J Coulee  
and Andrew J Coulee in the penal  
sum of six hundred and thirty two  
dollars lawful money for the payment  
of which well and truly to be made we  
do jointly severally and firmly bind  
ourselves our heirs executors and  
administrators by these Presents.

Witness our hands and seals this 2<sup>th</sup>  
day of November A.D. 1866.

The condition of the above obligation  
is such; That whereas the above named Emily  
J Coulee and Andrew J Coulee filed their  
Bill of Complaint in Chancery in the Washington  
County Circuit Court for the April term  
thereof A.D. 1866 for relief against the above  
bounden Elizabeth McFarland and Elizabeth  
William McFarland and whereas also that the  
said Complaint was heard on their Bill of  
Complaint finally at the September term said  
Court of said year and among other  
things it was ordered and adjudged by the  
said Court on final decree that there was  
the sum of \$316. due the said Emily J.  
Coulee from one Gilbert H Birds  
deceased as her guardian and that



Lot eleven in Block fourteen of Shipley and  
Barbours addition to the town of Nicholas  
Washington County Illinois be sold to satisfy  
the same if not paid within ninety days  
together with cost of suit and six percents interest  
thereon and on the said Record and  
Proceedings found in the said cause the said  
Elizabeth McFarland and William McFarland  
believe there is manifest error and are about  
to apply for a Supersedeas in the said cause  
and to prosecute a writ of Error to the  
November term of the Supreme Court of Illinois,  
First Grand Division at Mount Vernon &c. &c.  
1867.

Now if the said Elizabeth McFarland  
and William McFarland shall we and truly  
pay or cause to be paid to the said Emily Houlce  
and Andrew Houlce the judgements cost  
and interest in case the judgements in the said  
cause is affirmed and also all damages  
occasioned by the suing out of such writ of  
Error then this obligation is void  
otherwise to remain in full force and  
effect

Elizabeth McFarland *my*  
William McFarland *my*  
William H. Harker *my*



17  
 Elizabeth McHard  
 William McHard  
 Esq  
 City of London  
 & Treasury of London  
 L. per d. Bond

Filed December 19, 1866  
 at New York  
 By E. A. Johnston Clerk



IN THE SUPREME COURT.

State of Illinois, First Grand Division.

JUNE TERM, A. D., 1867.

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money was in house.

Witness Hope stated that in August, 1865, Mrs. McFarland was ex-



23 pected to die and deeded to her husband lot 11, block 14 S. & B's. addition  
to Richview. Consideration expressed in deed \$50 and affection. That  
he saw no money paid.

21 Witness Shipley states an admission of Mrs. Hinds, \$170 due ward from  
her husband. Nothing was said about investment.

16 Witness Logan states that he was administrator; that estate was in-  
solvent; that he, for Mrs. Hinds, paid Lowe the entire consideration  
money for lots, \$200. It was paid with her own funds. That note was  
due, and that Lowe was offering to convey lots to any person who paid  
him the amount for which he sold them to Hinds. That Mrs. Hinds told  
him that her husband had had \$400 of ward's money while in Kentucky,  
but had expended for ward in Kentucky.

27 *Cross Examined.*—That Lowe gave Hinds a bond under seal in the usual  
form agreeing to convey fee-simple to lots in a time specified, on the pay-  
ment of notes therein mentioned, four in number, and that the time speci-  
fied for the payment of the same was expired before Mrs. Hinds paid  
Lowe for the lots, and that Lowe was offering to convey lots to any person  
who would pay him the amount for which he sold lots to Hinds. That  
there could not have been much money expended in building the house.  
That the material were principally paid for by labor and an account of  
\$25 was probated. That Hinds, his two brothers and brother-in-law built  
the house.

30 Decree grants the relief and orders lot 11 block 14, S. & B's. addition  
to Richview sold, if \$200 and \$116 interest is not paid in 90 days.

J. M. DURHAM, Attorney for Plffs in Error.



Elizabeth McFarland  
Wm McFarland

As  
Emily Cleaveland  
Andrew Cleaveland

17  
Sept. 1864

Filed June 4. 1864

Wm. Johnson Clk.