

No. 12744

Supreme Court of Illinois

Cutler

vs.

Hall

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William T. Butler
vs

Lamberton G. Hall

12744

1859

fol. 1-

Tuesday March 22^d A.D. 1859
United States of America
State of Illinois
McHenry County

Pleas before
the Hon. Isaac G. Wilson Judge of
the thirteenth Judicial Circuit of
the State of Illinois, and Presiding Judge
of the McHenry County Circuit Court
at a Circuit Court begun and holden
at the Court House in Woodstock
in said County on Tuesday the 22^d
day of March A.D. 1859.

Present Hon. Isaac G. Wilson
Judge

C. S. Jaslyn States Atty.
Edwin E. Thomas Sheriff

Attest
Geo. W. H. H. Clerk

H. M. Thompson
L. C. Hall

vs
J. M. T. Lottier adm^r. of
Est. of H. M. R. Thompson
Deceased

Appeal from
before the County
Court of McHenry
County the Hon.
James M.
Strode Judge
Presiding

The Transcript of the Record of

of the proceedings of said County Court
in said Cause - the Writs of Citation
issued out of said Court - and the appeal
Bond of Party praying this appeal
are in the words and figures as follows,
to wit.

United States of America
State of Illinois }
McHenry County } ss. Pleas before the
Hon. James M. Strode
Judge of the County Court in and for
said County of McHenry and State of
Illinois at a Term thereof begun and
holden at the Court House in Woodstock
in said County on Monday the Second
day of March in the year of our
Lord One thousand eight hundred and
fifty seven and of the American In-
dependence the eighty first.

Present the
Attest Hon James M Strode
William M. Lamb Judge
Clerk.

And thereafter to wit on the 31st. day
of March A.D. 1857 the following
among other proceedings were had
Tuesday March 31st. 1857
Present the Hon

James M. Strode
Judge

Attest
Elum M. Lamb
Clerk.

In Matter of the Estate of
Wm R Thompson deceased

And now
Comes L. C. Hale and Hurvey M.
Thompson heirs at Law of William
R. Thompson and file their petition
that the Letters of Administration
granted to William T. Cutler be
revoked and administration be
granted to some other person entitled
to the same and move the Court for
process of Citation to be issued
citing William T. Cutler administrator
of said Estate to appear before this
Court on the fourth Monday of
June next to show cause if any
he can why his letters of Admin-
istration in said Estate should
not be revoked and why Letters
of Administration should not
be granted to some other person
entitled to the same. Motion
granted and process of Citation

awarded in accordance with the
Said Motion

It is ordered that Court adjourn
to Court in course

J. M. Strode County
Judge of the McKenney
County Court.

Attest
Elam M. Lamb Clerk

And thereafter to wit on Monday the
22^d day of June A.D. 1854 it being
one of the days of the June Term thereof
the following among other proceedings
were had

Monday June 22^d. A.D. 1854

Present the Hon James

Attest M. Strode Judge
Elam M. Lamb
Clerk.

Petition to revoke
the Letters of Administration in matter
of the Petition of L. C. Hale and Harney
M. Thompson heirs at Law of
William R. Thompson deceased to
revoke the Letters of Administration
granted to William T. Cutler in Said
Estate and that Letters of Administra-
-tion in Said Estate be granted to

5.

Some person Intitled to the Same.

And now come the said
L. C. Hale and Harney M. Thompson
by Chickering, Walker & Willard
their Attornies and file their petition
herein praying the Court that the
Letters of Administration heretofore
granted to William T. Cutter in
the Estate of William R. Thompson
deceased be revoked and Letters of
Administration in said Estate be
granted to some person Intitled to
the Same. And also comes the said
William T. Cutter administrator as
aforesaid by Burgess and Murphy
his Attornies and object to the
sufficiency of the Notice given to
the said Administrator of the pews-
=dency of the said said petition
the Court being fully advised
overrules the objection

It is ordered that the Court
adjourn to nine o'clock to-morrow
morning)

Attest Elam M. Lamb Clerk.

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Tuesday June 23rd. A.D. 1854

The Court met this day
at the hour of nine o'clock the
hour to which it had formerly adjourned

Present the Hon.

James M. Strode
Judge

attest
Elam M. Lamb Clerk.

In the matter of the Petition of
S. C. Hall and Nuroey M. Thompson
Heirs at Law of William R. Thompson
deceased to revoke the Letters of
Administration to William T. Cotton
in said Estate and that Letters of
Administration be granted to
some person entitled to the same

Petition to revoke Letters
of Administration

And now again come the
parties by their respective Attorneys
And the Court after hearing the evidence
and arguments of Counsel takes the
same under advisement until the
third Monday in July next at two
o'clock in the afternoon

And thereafter to wit; on the 20th
day of July A.D. 1854 it being one

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of the days of the July Term thereof
the following among other ~~things~~
proceedings were had

Monday July 20th. A.D. 1857

Present the Hon.
James M. Strode
Judge
Attest
Clara M. Lamb
Clerk.

In the matter of the Petition of
L. C. Hall and Harvey M. Thompson
Heirs at Law of William R. Thompson
deceased to revoke the Letters of
Administration granted to William
T. Cutler in said Estate and that
Letters of Administration be granted
to some person entitled to the same
Petition to revoke

Letters of Administration

It appearing unto the
Court that the said William T. Cutler
was not a creditor of the said William
R. Thompson deceased, anterior or at
the time of the said Thompson's death
nor has that relation between the
intestate and the Administrator
claimed or pretended to have existed
anterior to or at the time of the

intestates death. And therefore it is the opinion of the Court the Act of granting William T. Cutter Letters of Administration in this Cause as a creditor (the only character in which he claimed a right to administer) was a proceeding Coram non iudice. Also for the further reason that no assets of the intestate have been found or inventoried in this County and of consequence void from the beginning.

It is therefore ordered and considered by the Court that the said petition be granted and that the Letters of Administration ~~be~~ be ~~revoked~~ heretofore granted to the said William T. Cutter in the Estate of the said William R. Thompson deceased be and are hereby ~~are~~ be ~~revoked~~ and that the said S. B. Hall and Harvey M. Thompson have and recover of the said William T. Cutter their costs and charges in this behalf expended and that they have execution therefor.

Whereupon the said Administrator by his Attorney prays an appeal which is granted by the Court.

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on condition that he enter into bonds
in the penal sum of two hundred dollars
conditioned as required by the Statute
in such case made and provided
within twenty days from the date
hereof.

State of Illinois }
McHenry County } ss. I Elam M. Lamb

Clerk of the County
Court of said County do hereby certify
the foregoing to be a true copy of the
Record in the above intitled cause

Witness Elam M. Lamb
Clerk of our said Court and
the Seal thereof at Wood-
stock in said County this tenth
day of August A.D. 1854
Elam M. Lamb
Clerk.

Petition to revoke Letters }
of Administration } Citation to
from H. T. Cutter } appear.

State of Illinois } ss. The People of
McHenry County } the State of Illinois
to the Sheriff of said County: Greeting

We command you that you Summon Theodore D. Murphy attorney for William T. Cuttee, Administrator of the Estate of William R. Thompson deceased if he shall be found in your county personally to be and appear before the County Court of Said County on the fourth Monday of June next at the Court House in Woodstock in said County then and there to shew cause if any there be why the said William T. Cuttee should not be removed as such Administrator.

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

Witness Elam M. Lamb Clerk of our said Court and the Seal thereof at Woodstock this 28th. day

2 of April A.D. 1854

Seal

Elam M. Lamb

Clerk of the County Court

(Endorsement) Served the within by Theodore D. Murphy accepting service the 28th. day of April A.D. 1854. John Eddy Shff. Sec. so. mil 10. ret 10. = 70. by E. A. Smith Filed May 11. 1854. Em Lambell. Dpty. Filed Aug. 17. 1854. G. H. Kegan clk

Petition to revoke Letters of Administration of Wm T. Cutler .

Citation to appear

State of Illinois }
McHenry County } S. The People of
the State of Illinois
to the Sheriff of Cook County
Greeting;

We command you that you summon
Hansworth and William T. Barges
Attorneys for William T. Cutler admin-
istrator of the Estate of William R.
Thompson deceased if they shall be
found in your County personally to
be and appear before the County Court
of said County on the fourth Monday
of June next at the Court House in
Woodstock in said County then and
there to show cause if any there be
why the said William T. Cutler should
not be removed as such administrator

And have you then and there this
Writ with an endorsement thereon in
what manner you executed the same
Witness Elam M. Lamb
Clerk of our said Court
and the Seal thereof

at Woodstock this
28th. day of April
A. D. 1854
Clara M. Lamb
Clerk of the County Court

Seal
(Endorsed.)

Served by reading to the within
named John F. Farnsworth & William
T. Burgess. this 16th. day of May
1854. Paid by Plaintiff 2 services. 1.00

2 miles .10

1 Return .10

John L. Wilson Sheriff 1.20

By George Anderson Deputy.

Filed June 22^d. 1854

Clara M. Lamb Clerk.

Filed Aug. 17. 1854

G. T. H. Clerk.

Petition to revoke Letters } Citation to
of Administration of } appear.
W. T. Cutler & Son

State of Illinois }
McHenry County } ss. The People of
to the Sheriff of said County Greeting.

We command you that you Summon William T. Cutler Administrator of the Estate of William Thompson deceased if he shall be found in your county personally to be and appear before the County Court of said County on the fourth Monday of June next at the Court House in Woodstock in said County then and there to shew cause if any there be why you should not be removed as such Administrator And have you then and there this writ with an endorsement thereon in what manner you executed the same.

Witness Our Hand Clerk of
 our said Court and the Seal
 thereof at Woodstock this
 28th day of May A.D. 1857
 Elam M. Lamb

Clerk of the County Court

State of New York

City and County of New York

Henry B. Hall of the
 City and County of New York by duly
 sworn says that on the eighteenth day
 of May A.D. 1857 he saw the original
 summons which is hereto annexed
 issued by the County Court of McHenry

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County under the Seal of said Court tested
the 28th. day of April 1857 & directed
to the Sheriff of said McHenry County
upon William T. Cutter therein named
which service was made by delivering
to said Cutter a copy of said Summons,
and at the same time exhibiting to
him the original Summons under
the Seal of the Court
Subscribed & Sworn before Henry B. Hall
on this 10th. day May 1857

George Edw. Sibley
Attorney Public
New York

Petition to revoke Letters of Administration of ~~Wm~~ T. Cutter Adm^r Appeal Bond

Know all men by these Presents,
that we William T. Cutter and T. D. Murphy
are held and firmly bound unto Lambertus
C. Hall and Harvey M. Thompson in the
penal Sum of Two Hundred Dollars
for the payment of which well and
truly to be made we bind ourselves our
heirs executors, and administrators jointly
severally & jointly by these presents
Sealed with our Seal and dated this

20th day of July A.D. 1854

The condition of the above obligation is such that whereas on the application of the said L. C. Hall for and on behalf of himself and the said Harvey M. Thompson the Probate Court of McHenry County in the State of Illinois did on the 20 day of July A.D. 1854 make the following order to wit.

In the matter of the application of L. C. Hall that } Monday July
for the removal of Wm. T. Cutter } 20. 1854
from administration of the Estate } It appearing
of William R. Thompson deceased } unto the Court
that the said
William T. Cutter was not a creditor }
of the said William R. Thompson deceased }
anterior or at the time of the said }
Thompson, nor has that relation between }
the intestate and the Administrator been }
claimed or pretended to have existed }
anterior to or at the time of the inter- }
-state's death, that therefore it is the }
opinion of the Court that the act }
of granting letters to William T. Cutter }
in this case as a creditor (the only }
character in which he claims to }

administer was a proceeding coram non
 judicio. Also for the further reason,
 that no assets of the intestate have
 been found or inventoried in the County
 & of consequence void from the beginning.
 It is therefore ordered and considered by
 the Court that the said Petition be granted
 and that the Letters of Administration
 heretofore granted to the said William T. Cutter
 in the Estate of the said William R. Thompson
 deceased be and are hereby revoked
 and that the said L. C. Hall & Mary M.
 Thompson have and recover of the said
 William T. Cutter their costs and charges,
 in this behalf expended and that they
 have execution therefor.

From which said order the above
 bounden Cutter has taken an appeal
 to the Circuit Court of said McHenry
 County. Now if the said William T.
 Cutter shall prosecute his said appeal
 with effect and shall pay whatever
 Judgment may be rendered by the
 Court upon dismissal or trial of said
 appeal then the obligation to be void
 otherwise to remain in full force and
 effect

Wm T. Cutter Seal
 In presence of: Charles W. Thompson T. D. Murphy Seal
 Alexander Cornell.

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State of New York
County of Kings
City of Brooklyn
ss. Be it remembered
that on the first
day of August
in the year One thousand eight hundred
and fifty seven in the City and County
aforesaid before me Charles H. Thomson
a Commissioner residing in said City
duly appointed a Commissioner of
the Governor of the State of Illinois,
to take the acknowledgement of Deeds
to be used or recorded in said State
of State of Illinois, personally appeared
William T. Cutler who is personally
known to me to be the person whose
name is subscribed to the foregoing
instrument as having executed the
same and acknowledge that he had
executed the same for the uses and pur-
poses therein expressed. In Witness whereof
I have hereunto set my hand and affixed
my official Seal as Commissioner of
the said State of Illinois at my office
in the City of Brooklyn and State aforesaid
this first day of August 1857

Charles H. Thomson
Commissioner of the State of Illinois,
for the City of Brooklyn

Tuesday April 20. A.D. 1858.
 United States of America
 State of Illinois }
 McHenry County } ss. Pleas before the
 Honorable Isaac G. Wilson
 Judge of the Thirteenth Judicial Circuit
 of the State of Illinois, and Presiding Judge
 of the McHenry County Circuit Court at
 a Circuit Court begun and held at the
 Court House in Woodstock in said County
 on Tuesday the twentieth day of April
 in the year of our Lord eighteen hundred
 and fifty eight Present
 Hon. Isaac G. Wilson
 Judge
 John Eddy Sheriff
 Attest
 Geo. H. Kason Ck.

And heretofore to wit on the 28th. day of
 October A.D. 1857, it being one of the
 days of the October Term of the Court
 aforesaid for the year last aforesaid
 the following among other proceedings
 were had to wit:

Lemuel H. Hall & Co
 vs
 Wm. T. Cutler Admin^r.

Appeal
 and now

comes the defendant by Turgess
his Attorney & files an affidavit
herein and for reasons therein set
forth moves the Court for a contin-
-uance of this cause.

Lambton Hall N.Y. } Affidavit
vs } for continuance
Wm T. Cutler Admt.

State of New York }
City and County of New York } Ss.

Titus W. Powers being
duly sworn doth depose and say that
he is a practising physician in the
City of Brooklyn: that as such
Physician he has been in attendance
upon the family of William T. Cutler
that two of said Cutler's children have
been ill for some days past, that
one of said Children is quite seriously
ill, and has required the attendance of
deponent several times a day for
two days past

And deponent further says that
said Cutler's wife is in an advanced
stage of pregnancy and her confinement
may be expected daily. And deponent

further says that in consequence of
the situation and health of said Cutter's
family it is not safe for him to
leave home or be absent therefrom
Titus W. Powers

Sworn to before me this

15th October A.D. 1857

Leve
Edwin W. Corey

Notary Public.

In the McKenney Circuit Court

N. M. Thompson &

L. C. Hall

vs

J. T. Cutler Adm.
of Est. of N. M. Thompson
deceased

Appeal from
Prob. Court
State of Illinois,
County of
McHenry.

William T. Burgess of Cook County
in said State being duly sworn do the
depose and say that he is one of
the attorneys for the said Cutter in
this matter. That as he is informed
by the annexed affidavit of Titus
W. Powers & verily believes to be
true the said Cutter is unable to
attend the present Term of this Court
for the reasons set forth in that affi-
davit. That this deponent is of.

the opinion that this cause can not be tried at the present Term of this Court with safety to the interests of said Cutter in this matter - that he is the only person who as yet has proved up any claims against the Estate of said Cutter, That the ground upon which the petition in this case is based extends over the whole time since letters of Administration were granted & are of that nature that this deponent is not sufficiently familiar with all the details to enable ~~them~~ him to try the Cause understandingly and so as to protect the rights of said Cutter in his absence That this application is not made for delay ^{thereby} but that justice may be done
 Subscribed & sworn to W. T. Pringle
 before me this 28th.

Octo. 1857

G. T. Rapson Ck.
 (Endorsed)

Filed Oct. 28, 1857

G. T. Rapson Ck.

And thereafter to wit on the 27th day of April in the year of our Lord One

Thousand eight hundred and fifty eight
being one of the days of the ^{March} ~~April~~ Term
of said Court for the year last aforesaid
the following further proceedings were had
in the above intitled Cause to wit.

Samuel C. Hall
vs
Henry M. Thompson
vs
Wm T. Cutler Adm^r. } Appeal

And now comes
Plaintiff's Attorney for defendant and files
~~the following~~ ^{his} motion and for reason therein
set forth moves the Court ~~to~~ dismiss
this proceeding.

S. C. Hall vs
vs
W. T. Cutler Adm^r. } motion to dismiss

In the McHenry Circuit Court
Hall vs
vs
Cutler Adm^r. } And the deft. comes and
moves to dismiss this
application on the ground
of the insufficiency of the Complaint
1st. It is not stated how he "is not
legally or by right such Administrator"
2^d. That the law did not prevent

the Court from appointing non-residents administrators

3^d. That it does not show in what particulars or particulars Said Cutler has been fraudulently acting as Such Administrator

4^m. That it does not state in whose favor fraudulent Judgements were obtained against the Said Estate nor how or in what particulars or particulars Such Judgements are fraudulent

5. That he now ^{falsely} claims to be a creditor of Said Estate to a large amount is immaterial now constat but that he was when letters were granted & if the falseness consist in claiming a large amount when the amount is small ^{that} is immaterial so as he was a creditor in fact.

6. That it is not stated in what County Said Thompson died - the records of the Court showing he died in Texas & Such being really the fact

7. That whether they knew it or not or were willing or not is immaterial

8. That it is not stated when how to whom or where he either neglected or refused to make report & the charge.

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is not in the affirmative but in the
alternative

9. We should like to have known the "other
Causes"

(Endorsed)

W. T. Burgess
for deft.

Filed Apr. 27. 1858

G. H. Brown Clk.

Lambert C. Hall
Harvey M. Thompson

vs
Wm T. Cutler Admr.

} Appeal

And now
come the Plaintiffs by Chickering and
Walker their attorney, and the defendant
by Burgess his attorney and issue being
joined, by agreement submit this cause
to the Court for trial without the
intervention of a Jury

And thereafter to wit on the 5th. day of
May A.D. 1858 being one of the days
of the ~~April~~ ^{March} Term of said Court for the
year last aforesaid the following among
other proceedings were had to wit.

Lambert C. Hall
Harvey M. Thompson
vs
Wm T. Cutler Admr.

} Appeal.

And the

Court having heard the proofs submitted herein and the arguments of Counsel and being fully advised, doth order and adjudge that the Judgement of the Court below from which this appeal was taken be and the same is hereby affirmed and that the Plaintiffs have and recover of the defendant their costs and Charges about their Suit in this behalf expended and that they have execution therefor. To all which said Rulings of the Court, the defendant by Burgess his Counsel then and there excepts and prays an appeal herein to the Supreme Court which is granted upon condition that he enter into bonds conditioned according to Law in the Sum of two hundred dollars with Surety, within Sixty days from this Date.

And it is further ordered that the Bill of Exceptions herein be filed by the 10th day of June next.

State of Illinois
McHenry County J. C.

I George D. Kelson
Clerk of the Circuit Court in and for
said County in the State aforesaid
do hereby certify that the above and
foregoing is a true and complete copy
of the Record of this Court in a case
wherein Lamberton C. Hall and
Harvey M. Thompson were Plaintiffs,
and H. M. T. Cutler Admt. Defendants
as appears from examination thereof

In Witness whereof I have
hereunto set my hand and
the seal of said Court at
Woodstock this the 14th
day of April A.D. 1859
G. D. Kelson Clerk

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In the Supreme Court
William T. Cutler
Admr. & Appellant

of April Term
A.D. 1859

Lambton C. Hall
& Harvey M. Thompson
Appellus

Appal from McHenry
Circuit Court

And now comes the
said appellant by his Attorney
and says that in the record proceedings
& judgment aforesaid of the said
circuit court there is manifest
and material error appearing of
Record in this - That the court below
overruled & denied the motion of the
said appellant to dismiss the suit
& That the court affirmed the judg-
ment of the County Court of
McHenry county whereas it should
have reversed the same. That the
facts proved did not warrant the
finding of the court & the removal
of the Appellant according to the circuit
court.

Wherefore for other errors manifest
of record in said proceedings the said
appellant prays that the said
order & judgment of the court below

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William & Butler
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Lamberton & Hall

Record

~~Filed April 26 1859~~

L. Deland
Clerk

Filed April 26 1859

L. Deland
Clerk

Case of Evans
Filed April 28 1859
L. Deland
Clerk

May be reversed annulled & altogether
held for nothing & he return to
Mr. J. P. Phipps
for appealant

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William F. Butler adms

L. L. Hall.

State of Illinois,
Cook County

John M. Highwin &
James M. Walker being duly sworn
do upon their respective oaths say
that they are the counsel for the
appellants in this case in the term below
that they had no notice of the pendency
of the appeal; so that the record of this
case had been filed in this Court
and they had good reason to believe
that such was not the case inasmuch
as the Bill of Exceptions thereon had
not been settled — and the Judge
who tried the case below had
refused for reasons satisfactory to him
to seal the record —

and an application for a Mandamus
had been made to this Court at the present
term to require the said Judge to seal

the same in pursuance to a notice
therefor served up on these applicants —
and these applicants believed that until
such bill of exceptions was duly sealed
no record would be had in the cause
in this court —

These applicants further say that in the
absence of such bill of exceptions, there
^{can be} ~~is~~ in their opinion no error in the
record & ~~judgment~~ in proceedings in the
case —

and further that to compel the appellants to
go through the expense & trouble of an
other trial in the court below where
the judgment must be shown as ~~correct~~
must be extremely onerous and best
tender to the furtherance of justice —

and these applicants further say that
they this day have learned for the first time
that the said cause was in this court —
when they were informed that ~~at the~~ the
judgment rendered below therein had
been reversed for new trial in error

Joseph Hickling
J. M. Weather

Subscribed and sworn to before me this
fifth day of May A.D. 1859

R. J. Leonard

Notary Public

William P. Butterfield
 & C. Halliday

And now comes said
 Hall & Thompson and moves
 to set aside the order
 reversing the judgment
 in this case for want
 of affidavits in error - for
 the following reasons.

1st The case was not in
 Court so as to compel the
 defendants to join within

2nd This Court had no
 jurisdiction over the parties
 to compel them to join in
 error

3rd The defendant had
 no reason to suppose said
 not suppose the case was
 in Court

4. That there are reasons
 why the order should be
 set aside & shown by the
 affidavits in file

5. That there was a mandamus
 out to compel the judge below
 to show cause why they should
 not sign a bill of exceptions

5 It was not a case for appeal
 & there was a writ granted
 & been paid out

William H. Butler
Adm

s

L. C. Hall stat

Motion to sit
aside the order
reversing the
judgment

Filed May 6, 1889
L. Leland
Clerk

12744

Wm. Chockens, Wm. Walker
By H. H. W. to
Alfred Chockens to
in Sine

Letter

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H. M. Thompson
Hall

William G. Barker

is

He shall be
affd to set aside
under reviewing
the judgment for
want of grounds
induced

Filed May 6. 1859

L. Leland
Clerk

In the Supreme Court

William T. Cutler

Adm^r & Appellant

vs

Lamberton C. Hall &

Harry M. Thompson

State of Illinois

LaSalle County } Sps.

Appeal.

^{copy}
~~Said~~ county being duly sworn says
that there was filed in the county court
the Petition of the said appellants to remove
the said circuit ^{as an administrative} upon which the subsequent
proceedings were based in this cause that
the said paper was afterwards returned to &
filed in the office of the clerk of the circuit
court of McHenry upon the appeal being
taken to that court. That said paper
is not inserted in the Transcript of
the record in this cause & is a material
part thereof.

Subscribed & sworn to before
me this 22 day of

A.D. 1859 L. Deland Clk. of the Sup. Court

by J. B. Rice Deputy

W. T. Cutler

William T. Butler
Dear Sir
Lumberton B. Hall had

affidavit

Filed April 22. 1854
L. L. Leland
clerk

12744

In the Supreme court.

William T. Cutler Advers

as
D. C. Hall & Harry } Appraal from
M Thompson } Mettury -

State of Illinois.
County of Mettury Sp: William T.

Pruep of Cook county being
adly sworn says that he
saw on the files of the Mettury
circuit court an appraal
bond in this cause marked
filed within the time required
by that court in its order allowing
such appraal - That the
fact ^{of such bond being filed} was disputed at the
March ^{by the superior courts couple} term of said court
1859 - & the bond was
found among the files of the
court - & produced to them -
and this deponent at the
time he filed this transcript
in this cause supposed
that the clerk had certified
a copy thereof in this transcript
now on file

Subscribed & Sworn before me

this 12th day of May 1859

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

W. T. Pruep

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Cutter

or

Hall

Appoint

Filed May 12, 1859

L. Leland
clerk