

13907

No. _____

Supreme Court of Illinois

Bennett

vs.

Waller et al.

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* $\Sigma 14 = 1859$

Bennett to Waller

13907

1859

RECORD IN CASE
OF
H. WALLER, ET AL, VS. W. BENNETT, ET AL,
BEFORE HON. J. M. WILSON, ~~RE~~
—OF—
Cook County Court of Common Pleas,
JANUARY, 1858.

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Original Bill filed in Circuit Court Feby 3. 1855
" " " " Common Pleas Court March 28.
by change of Venue - - - - - } 1856.

PART I.

ORIGINAL BILL.

STATE OF ILLINOIS, } ss.
COOK COUNTY.

COOK CIRCUIT COURT,
MARCH TERM, A. D., 1855.

To the Hon. Bucker S. Morris, Judge of said Court in Chancery, sitting:

Humbly complaining, your petitioners, Henry Waller, Henry McAuley, James H. Rees, and the Chicago, St. Charles and Mississippi Air Line Railroad Company,

Respectfully show unto your honor that one William Bennett, then living, but since deceased, on, or about the twenty-seventh day of December, A. D., Eighteen Hundred and Thirty-Four, purchased of the United States, the following described tract of land, situate in the said county of Cook, in said State of Illinois, viz: The west half of the north-east quarter of section twenty, (20,) in township thirty-nine, (39,) north of range fourteen, (14,) east of third principal meridian, containing eighty (80) acres more or less, (w. $\frac{1}{2}$, n. e. $\frac{1}{4}$, s. 20, t. 39 n. r. 14, e. 3, p. m.

And your petitioners further show that being seized in fee simple of the said premises, the said William Bennett, afterwards, in his life time, to-wit: some time in the year Eighteen Hundred and Thirty-Four, in the said county of Cook, for a valuable consideration to him paid, bargained and sold said land to one James Kinzie, subsequently to which last mentioned time your petitioners became and now are seized in fee by mesne conveyance from and under said Kinzie in the respective shares and proportions of said premises hereinafter set forth, to-wit: Your petitioner, Henry Waller, is seized in fee of the north half of the said west half, of the said north-east quarter of said section twenty, (20), township thirty-nine, (39), north range, fourteen (14) east, containing forty (40) acres.

Your petitioner, Henry McAuley, is seized in fee of the north half of the south half of the same tract of land first described, containing (20) twenty acres.

Your petitioner, James H. Rees, is seized in fee of twelve (12) acres in the south half of the south half of the same tract.

Your petitioners, the said Chicago, St. Charles and Mississippi Air Line Railroad Company, are seized in fee of eight (8) acres in the said south half of the south half of the said tract.

And your petitioners further show that no conveyance of said premises was executed by the said William Bennett to the said Kinzie, at the time the same were so bargained and sold by him to the said James Kinzie, nor was such conveyance executed by said Bennett, as your petitioners are informed and believe, until some time in the Eighteen Hundred and Thirty-Eight or Nine, (1838—9,) at which time the said Bennett executed a deed of conveyance of said premises to said James Kinzie, his heirs and assigns, which said deed, so executed, was afterwards, viz: in the year last mentioned, delivered by the said Bennett to one Rufus Soules, with instructions to deliver the same to the said James Kinzie.

And your petitioners further show unto your Honor, that since the delivery of said conveyance to said Rufus Soules, as aforesaid, the same has been accidentally lost or destroyed, and that the same is not in the possession or custody of your orators, or of either of them, nor was the same ever recorded, nor are your orators, or either of them, able to ascertain, after diligent search and enquiry of the said James Kinzie, and the said Rufus Soules, and of all other parties, and used their best endeavors to discover the same where said deed is.

And your petitioners further show unto your Honor, that on the third day of July, A. D., 1854, they filed their petition in this Court, to perpetuate the testimony of the said Rufus Soules, and an order was duly entered upon said petition for a *Dedimus Potestatem* to issue out of this Court, to the Clerk of the Circuit Court of Lake County, to take the said testimony, and on the eighteenth day of September, A. D., 1854, the said deposition was duly taken by the said clerk of Lake County Circuit Court, and returned by him to the clerk of this Court, and the same has been duly entered of record in Book page
of the records of this Court, to which reference is hereby made, by which said deposition it fully appears that a deed of the whole west half of the north-east quarter of section twenty, (20), in township thirty-nine, (39), north of range fourteen (14) east, containing eighty acres, (80), was duly executed under the hand and seal of the said William Bennett and Rachel, his wife,

to James Kinzie, and, together with a duplicate receipt from the Recorder's office, were delivered to the said Rufus Soules by the said Bennett, at the house of said Soules some time in the year 1838 or 1839.

That the said deed and certificate were delivered to him, the said Soules, to be delivered by him to the said James Kinzie, and that the said deed was lost while in the said Soules' possession, and that the said duplicate receipt was attached by him to his deposition taken on a former commission. That at the same time the said Bennett delivered to him the said deed and certificate, he stated to said Soules that he had sold the said land to the said Kinzie, and had told said Kinzie that he would leave the said papers with him, Soules, to be delivered to him, said Kinzie. That he was positive that Rachel Bennett's signature was also affixed to said deed, as a guarantor, and that he believed the same to have been regularly acknowledged, and that the said deed is not now in said Soules' possession, and he cannot state where the same is, and after the most diligent search and inquiry, is unable to find the same, all of which fully appear by reference to the said deposition on file, as aforesaid.

And your orators further show unto your Honor, that the consideration for the said deed from said Bennett to said Kinzie, was fully paid.

And your orator further shows that the said Kinzie, and those claiming under him, have been in possession of the said premises and exercising undisputed acts of ownership over said premises down to the time of your orators' purchase thereof, and that your orators, since their purchase, have been, and now are, in the actual and undisputed possession, ownership and control of the said premises and their respective interests therein, there being as yet no adverse possession thereof, or any part thereof on the part of the said William Bennett, or any one for him, or of any other person claiming by, through, or under the said William Bennett, by purchase or otherwise, as your petitioners verily believe.

And your orators further show unto your honor, that the said Rachel Bennett, now Rachel , has since executed to your petitioners a release of her dower in the said premises by a conveyance duly executed and acknowledged and recorded in Cook County Registry of Deeds.

And your orators further show unto your Honor that the said William Bennett departed from this State in the year 1838 or 1839, and has never since been heard from and is supposed to be dead, that the said Rachel, his widow, has since been twice married, and that the family and friends of the said William Bennett have long regarded the said William Bennett as deceased, and your petitioners verily believe that the said William Bennett is deceased.

And your orators further show that the said William Bennett left a son

William Bennett, who is now living, and who is under the age of twenty-one years, and that the said son William Bennett is the sole child and heir of the said William Bennett.

And your orators further show unto your Honor that the loss or destruction of the said Deed greatly and injuriously clouds, prejudices and endangers the title and interest of your orators in the said premises, and that unless your orators are relieved in the premises, by the intervention of this Court, they cannot have any safety or security in the title, ownership and possession of their said property, and cannot sell the same for a full and fair consideration, and cannot safely covenant to warrant and defend said title, but that on the contrary, the value of their said property is greatly depreciated and impaired by the loss and destruction of the said Deed.

And your orators further show unto your Honor that they can have no peace or security in their said title and property until the defect in said title, arising from the loss of the said Deed from said Bennett, from said Bennett to said Kinzie, is supplied by the decree of this Court, ordering the said William Bennett, son and heir of the said first named William Bennett, by a guardian duly appointed in that behalf, to execute a deed of quit claim of any and all interest in said premises to your orator, or in default thereof, that said deed be executed by the master in Chancery of this Court, in the name and behalf of the said William Bennett, son and heir to the said William Bennett, deceased. In tender consideration whereof, and for as much as your orator is remediless in the premises, at and by the strict rules of the common law, and is only releivable in a court of equity, where matters of this nature are properly cognizable and relievable.

To the end, therefore, that a guardian, *ad litem*, may be appointed by the Court, for the said William Bennett, and that the said guardian, *ad litem*, may be ordered by the decree of this Court, as such guardian, and for and in behalf of, and in the name of the said William Bennett, minor heir of the said William Bennett, deceased, to execute a quit claim deed to your orators of any and all interest in said above described premises, and in default thereof that the Master of Chancery of this Court be ordered and empowered to execute such conveyance for and in the name of the said William Bennett, minor heir of the said William Bennett, deceased, and that the said William Bennett, minor heir of the said William Bennett, deceased, be forever barred and precluded, by the decree of this Court, from setting up or assuming any claim, title or interest in the said premises, and for such other relief as your Honor shall deem meet, and which shall be agreeable to equity and good conscience.

May it please your Honor to grant unto your orators the writ of *subpoena*, issuing out of and under the seal of His Honorable Court, to be directed to the said William Bennett, minor heir of the said William Bennett, deceased,

commanding him, by a certain day, and under a certain penalty, therein to be inserted, to be and appear before this Honorable Court, and then and there to answer the premises, and further, to stand and abide such order and decree as may be agreeable to equity and good conscience, and your orators shall ever pray, &c.

HENRY WALLER,

HENRY McAULEY,

JAMES H. REES,

CHICAGO, St. CHARLES & MISSISSIPPI

AIR LINE RAIL ROAD COMPANY.

By ARNOLD, LARNED & LAY.

ARNOLD, LARNED & LAY, Solicitors.

STATUTE OF ILLINOIS

COOK COUNTY CIRCUIT COURT

To the Hon. Justice of the Cook County Circuit Court, in Chicago, Illinois:

Complainant show unto your Honor, your petitioners, Henry Waller, Henry Waller, Henry Waller, James H. Rees and the Chicago, St. Charles & Mississippi Air Line Rail Road Company. That on or about the third day of February, 1885, your petitioners exhibited their original bill of complaint and petition in this honorable court, against William Bennett, minor heir of William Bennett, deceased, the defendant therein named as defendant, thereby stating that one William Bennett then living, but since deceased, being seized in fee, and the owner of the west half of the north east quarter of section twenty (20), in township thirty-nine (39), north of range fourteen (14), east of the third principal meridian, in his life time, some time in the year 1884, for a valuable consideration sold said land to one James Kinzie, and that said petitioners became seized in fee, by means of conveyance from and under said Kinzie of the respective portions as in said petition particularly described, and further stating that no conveyance of said premises was executed by said William Bennett to the said Kinzie, at the time of said sale, nor until the year 1888 or 1889, at which time the said Bennett executed a deed to said James Kinzie of the said premises, and afterwards in the year last mentioned said Bennett delivered said deed to execution to one Rufus Soules, with instruction to deliver the same to the said James Kinzie, and further stating that the said deed since the delivery thereof, had been accidentally lost or destroyed, and is not in the possession or custody of your orators or any of them, and was never recorded, and further stating that on the third day of July, 1884, they filed their petition in this court to perpetuate the testimony of said Rufus Soules, and that it was taken on the 17th day of September, A.D.

Supplemental Bill
Filed in Circuit Court March 3^d 1855
in Common Pleas Court
by change of Venue March 28th 1856.

SUPPLEMENTAL BILL.

STATE OF ILLINOIS, }

COOK COUNTY CIRCUIT COURT.

*To the Hon. Buckner S. Morris, Judge of the Cook County Circuit Court, in
Chancery, Sitting :*

Complainings shew unto your Honor, your petitioners, Henry Waller, Henry McCauley, James H. Rees, and the Chicago, St Charles & Mississippi Air Line Rail Road Company. That on or about the third day of February, 1855, your petitioners exhibited their original bill of complaint and petition in this honorable court, against William Bennett, minor heir of William Bennett, deceased, the defendant therein named as defendant thereto, thereby stating that one William Bennett then living, but since deceased, being seized in fee, and the owner of the west half of the north east quarter of section twenty, (20), in township thirty-nine, (39), north of range fourteen, (14), east of the third principal meridian, in his life time, some time in the year 1834, for a valuable consideration sold said land to one James Kinzie, and that said petitioners became seized in fee, by mesne conveyances from and under said Kinzie, of the respective portions as in said petition particularly described, and further stating that no conveyance of said premises, was executed by said William Bennett to the said Kinzie, at the time of said sale, nor until the year 1838 or 1839, at which time the said Bennett executed a deed to said James Kinzie of the said premises, and afterwards in the year last mentioned said Bennett delivered said deed so executed, to one Rufus Soules, with instructions to deliver the same to the said James Kinzie, and further stating that the said deed since the delivery thereof, had been accidentally lost or destroyed, and is not in the possession or custody of your orators or any of them, and was never recorded, and further stating that on the third of July, 1854, they filed their petition in this court to perpetuate the testimony of said Rufus Soules, and that it was taken on the 13th day of September, A. D.

1854, by A. H. Cotes, Esq., the clerk of Lake County Circuit Court, and further stating the abstract of the proof of the said Rufus Soules as to the said deed, and its delivery and loss, as also the delivery of certificate of purchase from United States to William Bennett further stating that the consideration of said deed was fully paid, and that said Kinzie and those claiming under him, have been in possession and exercising undisputed acts of ownership over the same, down to the time of your orator's purchase, and up to the time of filing petition by petitioners, and further stating the release of dower by the said Rachel Bennett, wife of William Bennett, and the departure of said William Bennett from the State of Illinois in 1838 or 1839, and that he has never been heard from, and the subsequent marriages of the said Rachel, and the belief of family and friends of Bennett, of his decease, and that he (William Bennett,) is dead, and further stating that William Bennett left a son who is now living, sole child and heir of said Bennett, and further stating that the loss and destruction of said Deed, clouds their title, and that a deed should be executed by Master in Chancery, in the name and behalf of said William Bennett, of said premises to your orators, and praying that a Guardian *ad litem* might be appointed for said William Bennett, and that said Guardian *ad litem*, might be decreed to execute a quit claim deed of said premises to your orators, and in default thereof, then the Master in Chancery, for and in the name of said William Bennett, minor heir of said William Bennett, might execute said deed, and that the said William Bennett, minor heir of said William Bennett, deceased, might be forever barred and precluded by decree of court, from setting up any claim, title or interest to said premises, and that your orators might have such other or further relief in the premises, as to your honor should seem meet.

And your orators further show that process of summons was issued thereupon, and duly served, on said William Bennett, minor heir of William Bennett, deceased, on or about the day of February A. D., 1855.

And your orators further show by way of supplement, that subsequent to the filing of said petition, and on the day of A. D. 1855, one William H. Stow, of the City of Chicago, presented to the Register of deeds for the County of Cook, a certain writing, pretending and purporting to be a deed from the said William Bennett, of the said premises above described, which said pretended deed, is in the words, terms and figures, following, to wit:

This indenture, made this 26th day of January in the year of our Lord, one Thousand Eight Hundred and fifty-five, between William Bennett, of the county of Bowie, in the State of Texas, party of the first part, and William H. Stow, of the County of Cook, in the State of Illinois, party of the second part, witnesseth, that the said party of the first part, for and in consideration of the sum of twenty thousand dollars, in hand,

paid by the said party of the second part, the receipt of which is hereby acknowledged, and the said party of the second part forever released and discharged therefrom, hath remised, released, sold conveyed and quit claimed, and by these presents, do remise, release, sell, convey and quit claim, unto the said

party of the second part, his heirs and assigns, forever, all the right, title, interest, claim and demand, which the said party of the first part has in and to the following described lot, piece or parcel of land, to wit: the west half of the north-east quarter of section numbered twenty, township numbered thirty-nine, range numbered fourteen, east, situate, lying and being in the city of Chicago, in the county of Cook, in the State of Illinois. To have and to hold the same together with all and singular the appurtenances and privileges, thereunto belonging, or in any wise thereunto appertaining, and all the estate, right, title, interest and claim whatever, of the said party of the first part, either in law or equity, to the only proper use, benefit and behalf of the said party of the second part, his heirs and assigns, forever. And the said party of the first part, for himself and his heirs, executors and administrators, doth covenant, promise and agree to, and with the said party of the second part, his heirs, executors, administrators and assigns, that he hath not made, done, committed, executed or suffered any act or acts, thing or things, whatsoever whereby or by means whereof the above mentioned and described premises, or part or parcel thereof, now are or at any time thereafter, shall or may be impeached, charged or encumbered in any manner or way whatsoever.

In witness whereof, the said party of the first part hereunto sets his hand and seal the day and year first above written.

Signed, sealed and delivered
in presence of
M. M. PARSONS,
JOSEPH MOSELY.

WILLIAM BENNETT. { SEAL }

~~Attest~~ *Attest*

STATE OF MISSOURI, }
COUNTY OF COLE. } ss.

I, G. A. Parsons, clerk of the Circuit Court, within and for the county and State aforesaid, do hereby certify that William Bennett, who is personally known to me to be the same person whose name is subscribed to the foregoing

instrument of writing, appeared before me this day, in person, and acknowledged that he signed, sealed and delivered the said instrument of writing as his free and voluntary act and deed, for the uses and purposed therein set forth.

In testimony whereof I, G. A. Parsons, clerk of the Circuit Court, aforesaid, have hereunto set my hand, and affixed the seal of said Court, at office, this 26th day of January, A. D., 1855.

G. A. PARSONS, Clerk.

And your orators verily believe and so charge, that the said deed is a forgery, and that the name of William Bennett thereto subscribed, is not the name of the said William Bennett who was formerly seized of the said premises, but that the same is either the name of some other person bearing the same name, and who has falsely and fraudulently signed and executed such conveyance for the purpose and intent of obtaining the title to said premises, in fraud of your orators' rights and interests therein, or else that the name William Bennett has been falsely and fraudulently signed to the said deed by some other person, who has falsely and fraudulently represented himself to be the said William Bennett, for the purpose of executing said conveyance, and defrauding your orators out of their interests in the said premises.

And your orators further show unto your Honor, that the said William H. Stow, obtained the said deed to be executed falsely, fraudulently, and with the intent to cheat and swindle your orators out of their rights, interest and property in the said premises.

And your orators further show unto your Honor, that the said deed to the said Stow, purported to be made for a consideration of \$20,000, paid by the said Stow, whereas your orators are informed and believe, and so charge, that no such consideration was ever paid, and that the said consideration named in said deed, is falsely and fraudulently inserted in said deed, for the purpose of giving color to said conveyance, and of making the same appear to be made upon a fair and valuable consideration, where, as your orators show unto your Honor, that the true and fair consideration for said premises would not be less than One Hundred Thousand Dollars, and that no consideration whatever, was ever paid by the said Stow, as they verily believe, but the said conveyance is a mere fabrication, fraud and swindle on the part of the said Stow, in combination with the person so executing said deed, under the signature of the said William Bennett, to defraud and swindle your orators out of their said rights and interests, and property in said premises.

And your orators are informed and believe, and so charge, that the said

William H. Stow, at the time of the execution of the said false, fraudulent and pretended conveyance to him, upon the said pretended consideration of \$20,000, was wholly incapable of paying any such sum of money, and, was in fact, destitute of property to any considerable amount. That the said Stow was in straightened circumstances, and never could have paid, and never did pay any such sum of money to the person named in the said deed, or to any other person, for said premises, as they verily believe, but inserted such consideration falsely and fraudulently, and with the intent to cheat, defraud and swindle your orators, as aforesaid.

And your orators further show unto your Honor, that the said W. H. Stow had full knowledge and notice of your orators' rights and claims to the said premises. That your orators were then, and they and the parties from whom your orators purchased had been, in the possession and control of the said premises for nearly twenty years, and paid the taxes thereon, and that the said Stow well knew of the possession of your orators, and of their right and title to said piece. And your orators further show that on the twenty-sixth day of June, A. D., 1850, a bill in chancery, was filed in this court, in the name of William Bard, Patrick Strachan, and others, and against William Bennett, to perpetuate the testimony of the said Rufus Soules, to the fact of the execution of said conveyance of said premises, by said William Bennett, in his life time, to the said James Kinzie, from whom your orators obtain title, by mesne conveyance of record, in said Cook County, as aforesaid, and that the said suit was upon the docket of the said court, and an order for said testimony to be taken entered therein, and that notice of the filing of said bill, together with a copy thereof, setting out all the matters expected to be established by the said testimony, and the same was published in the city of Chicago, in the *Western Citizen*, a newspaper published in said city, for six successive weeks, and that the said Stow was, as your orators believe, residing in said City of Chicago, and your orators believe and so charge, that said Stow saw the said notice, and was fully cognizant of the claims and rights of your orators therein set forth, and that, on the twenty-fourth day of September, A. D., 1850, the said deposition of Rufus Soules was taken by the said A. H. Cotes, in pursuance of such order, and was afterwards, on the twenty-sixth day of December, A. D., 1850, returned to the clerk's office of this court, and entered of record upon the record of this court, in Book No. 1, of complete record, pages 16 to 27.

And your orators charge that the said suit, and the proceedings therein were full notice to the said Stow, and to all other persons of the rights, claims, interest and property of your orators to said premises. And your orators fur-

ther show unto your Honor, that long prior to the time of the date of said pretended deed to said Stow, or of the pretended execution thereof, to the said Stowe, to-wit: on the third day of July, A. D., 1854, your orators filed their petition in the Cook County Court of Common Pleas, to perpetuate the testimony of the said Rufus Soules, to the fact of the execution of the said deed, from said William Bennett to said James Kinzie, and that, on the 21st day of July, A. D., 1854, a notice of the takings of said testimony, with a copy of the said petition in full, was published in the Chicago *Daily Tribune*, a newspaper published in the city of Chicago, where the said Stow resided, and that, in said petition, the rights and interests of your orators in the premises were fully and particularly set forth and specified, and the fact of the execution and loss of the said deed, from said Bennett to said Kinzie, fully specified and set forth, which said notice and petition were published for four weeks in said newspaper, and your orators verily believe and so charge, that the said Stow had full knowledge and notice of the said petition, and that the said Stow saw and read the said notice and petition so published, as aforesaid, and was fully cognizant of the matters and facts therein set forth, being prior to the said pretended execution of the said conveyance to the said W. H. Stow, and of the rights and interests of your orators, and of the fact of the execution and loss of the said deed from said Bennett to said Kinzie, and that the said deposition of said Soules was, in pursuance of the order of the Court, entered in said cause, and of the *Dedimus* issued out of the said Court, duly taken by A. B. Coates, clerk of Circuit Court of Lake County, and returned to the said Court on the 25th October, A. D., 1854, and recorded in the records of said Court, in Book A, of complete records, pages 42 to 53.

And your orators aver that the said William Bennett has been long since deceased as they verily believe, that he has never, as they have been informed, been heard from by any of his relatives, for nearly sixteen years. That he left a wife and son in this city, who have, as they are informed, never received any communication from him, or any intimation of his existence. That the said wife of said Bennett has been since twice married, and is now living with her third husband, and that neither his said wife nor said child have ever received any communication from the said Bennett, or had any information of his existence. And your orators verily believe and charge, that the said Stowe, with a full knowledge of the said William Bennett's death, has falsely and fraudulently, in combination with other persons, whose names are to your orators unknown, and whom, when discovered, they pray may be made parties hereto, contrived and procured the said false, fraudulent and pretended deed to be executed with the intent to defraud and swindle your orators out of their rights, interest and property in said premises. And your orators further show unto your Honor, that

they verily believe, and so charge the fact to be, that the signature of William Bennett to the said false and pretended deed to the said William H. Stowe, is not the signature of the said William Bennett, whose signature it purports to be, but is a false and forged signature, and was falsely and fraudulently signed to said deed, for the purpose and with the intent to defraud your orators, as aforesaid.

And your orators further show unto your Honor that the said false, forged and fraudulent instrument in writing, purporting to be the deed of the said William Bennett, to the said William H. Stowe, has been lodged in the office of Louis D. Hoard, clerk of this court, and ex officio register of the Deeds, for Cook County for record, and your orators are apprehensive that if the said deed is allowed to be returned to the said Stowe, that the same will be purposely lost or destroyed by said Stowe, to enable said Stowe, to use the record copy thereof, and that your orators will be deprived of the opportunity of showing by examination of said deed, and by the comparison of the hand writing and signature of said Bennett, with the signature attached to said deed, to show the said signature to be a forgery, unless the said L. D. Hoard shall be restrained by the order of this court, from returning or re-delivering the said deed to said W. H. Stowe, or any other person, until the further order of this court in the premises. And your orators further show unto your honor that on the 26th day of January, A. D., 1855, the said William H. Stowe, made, executed and acknowledged a trust deed to William Bennett, minor son of Rachel Appleton, formerly Rachel Bennett, for the pretended consideration of Five dollars, conveying 20 Acres off the south end of the west half of the north-east quarter of section 20, T. 39, N. R. 14, E., conditioned that whereas the said Stowe is indebted to the said William Bennett, in the sum of Five Hundred dollars, due January 1, 1859, and evidenced by said instrument alone, and providing that if said money should be paid, then the said conveyance should be null and void, and further, with the express condition that in case of the death of the said party of the second part, before said sum of money should become due and payable, then the said conveyance to be void and of no effect, or on reference to said deed recorded February 15, 1855, in the Recorder's office of Cook County, in book 89 of deeds, page 77, and to a copy thereof hereunto annexed, marked "A" and hereof made a part of this bill, will more fully appear. And which said deed, purports to have been made, executed and acknowledged in Cole county, in the State of Missouri. And your orators further show and aver that the said pretended conveyance so made as aforesaid, by said Stow to said Bennett, was made without the knowledge, consent or approval of the said William Bennett, minor son and heir of said William Bennett, and without any consideration whatever having passed between said parties thereto and that the said conveyance is fraudulent and void and without consideration.

And your orators charge that the said William H. Stow, never had any dealing or transaction with the said William Bennett, minor heir as aforesaid, and never owed him, said Bennett, minor heir as aforesaid, any money whatever, and that the said Stow made and executed said conveyance to subserve and accomplish his own fraudulent purposes. And your orators further show unto your Honor that the said Stow for the purpose of further carrying out his said fraudulent purposes, after having executed the same to the said William Bennett, minor heir as aforesaid in Cole county, in the State of Missouri, without the knowledge of the said William Bennett, minor heir as aforesaid, kept the said conveyance for a long time in his own possession, and until he placed the same for record in the Recorder's office of the county of Cook, himself, and paid the fees for the record thereof, and that the said conveyance has never been delivered by the said Stow to the said Bennett, minor heir as aforesaid, but that the said Stow has kept the possession thereof himself, since its execution, and until placing the same for record as aforesaid, as your orators are informed and believe.

And your orators further show unto your Honor, that the said Stow, now gives out and pretends that he has a good title to the said premises owned by your orators, and threatens to bring a suit of ejectment against your orators for the possession thereof, and has offered the same for sale, and has made a pretended sale of portion thereof to some party or parties to your orators unknown with the design, intent and object of clouding the title of your orators, and cheating and defrauding them.

And your orators are fearful that the said Stow or some person or persons on his behalf, or as his grantees, will take and remove the said deed from the said William Bennett, to the said Stow, from the Recorder's office of said county of Cook, and that the same will be lost or mislaid so as not to be produced in evidence upon the trial of said cause, and so as to deprive your orators of the benefit of the proof as to its execution and signature thereto. And your orators further show unto your Honor that they verily believe and so charge, the deed from said Stow to said William Bennett, minor heir of said William Bennett, was fraudulently executed with the design to cheat and swindle your orators, and that it is important to the protection of your orators interests and rights and to the discovery of the false and fraudulent conduct of the said Stow in the premises, that the said original deed should remain in the custody of said Hoard, and not to be delivered over to said Bennett, or Stow or any one on his behalf.

To the end, therefore, that the said defendants may, if they can show why your orators should not have the relief hereby prayed, and may answer the premises as fully and particularly as if specially interrogated thereto, (their answers under oath and the answer of each of them being hereby expressly waived pursuant to statute.

And that your orators may have the same relief against the said William H. Stow, as they might have had if the facts hereinbefore stated and charged by way of supplement, had been stated in your orators' original bill and petition.

And that the said pretended deed from the said William Bennett to William H. Stow, be declared adjudged and decreed fraudulent and void, and that the same may be set aside and cancelled, as also the conveyance from the said William H. Stow to the said William Bennett, minor heir as aforesaid, may be declared in like manner fraudulent and void, and that the same may be set aside and cancelled, and that all subsequent conveyances made by the said Stow to any person or persons whomsoever, may in like manner be set aside and cancelled.

And that the said Louis D. Hoard, clerk of the Circuit Court of Cook county, his servants and agents be enjoined and restrained from delivering up the said pretended deed, purporting to be from said William Bennett, to the said William H. Stow, to said William H. Stow, or any person or persons whatsoever, until the further order of this Court, or the said deed from the said W. H. Stow to the said William Bennett, son of William Bennett to said William Bennett, son and heir of said W. Bennett, or to any person or persons whatsoever until the further order of this Court.

And that the said William H. Stow and William Bennett, minor heir as aforesaid, may be restrained and enjoined from making or executing any conveyance or conveyances of the said property owned by your orators, or any part or portion thereof to any person or persons whomsoever, or in any way or manner encumbering the said property or further clouding the title thereof, and that the said William H. Stow and his grantees may be restrained and enjoined from commencing any suit or suits of ejectment or otherwise, for the recovery of the said real estate or any part or any portion thereof and from taking any legal proceedings to recover possession thereof or any part or portion thereof until the further order of this Court.

And that your orators may have such further or other relief as the circumstances of the case may require and to your honor shall seem meet.

May it please your Honor to grant unto your orators the People's Writ of Injunction, issuing out of and under the seal of this Court, directed to the said Louis Hoard, William Bennett, minor son and heir of said William Bennett and William H. Stow, their counsellors, attorneys, solicitors and agents, restraining and enjoining the said Louis D. Hoard, his agents and servants, from delivering up to the said William H. Stow, or any person or persons whatsoever, the said certain pretended deed, purporting to be a deed from William Bennett to William H. Stow, dated the 26th day of January, A. D., 1855, and purporting to convey the west half of the north-east quarter of section numbered twenty, (20,) township numbered thirty-nine, (39,) range num-

ber fourteen (14,) east, situate, lying and being in the the city of Chicago, in the county of Cook, in the State of Illinois, until the further order of this Court, and also that the said Hoad, his agents and servants may be enjoined and restrained from delivering up to the said William Bennett, minor son and heir of said William Bennett, or to said Stow, or to any other person or persons, the said pretended deed, purporting to be the deed of the said William H. Stow to the said William Bennett, minor son of the said William Bennett, purporting to bear date on the 26 day of January, A. D., 1855, and to convey the south 20 acres of the said last mentioned tract, to secure the sum of five-hundred dollars, payable as aforesaid, until the further order of the Court.— And also, enjoining the said William H. Stow or his attorneys, from making any deeds, transfers, mortgages or conveyances of the said west half of the north-east quarter of said section 20, t 39, n r 14 e, or of any part thereof until the further order of this Court, or from commencing any suit or suits of ejectment, for the recovery of the said property, or any part thereof, or from taking any proceedings whatsoever, in law or otherwise, to obtain or recover the possession of the said property, or any part thereof, until the further order of this Court.

And also, that the said William Bennett, minor son and heir of the said William Bennett, may be enjoined from making any sale or transfer of any portion of said property, or of any interest therein, until the further order of this Court.

May it please your Honor to grant unto your orators the writ of summons, issuing out of and under the seal of this Court, to be directed to the said William H. Stow and William Bennett, minor son and heir of William Bennett, deceased, to be and appear at the next term of this Court, then and there to answer and abide by such decree as may be made in the premises, and further to stand to and abide such order and decree therein as shall be agreeable to equity and good conscience.

And your orators shall ever pray.

HENRY WALLER,

HENRY McAULEY,

JAMES H. REES,

CHICAGO, St. CHARLES & MISSISSIPPI

AIR LINE RAIL ROAD COMPANY.

By ARNOLD, LARNED & LAY, *Solicitors*.

STATE OF ILLINOIS, } ss.
COOK COUNTY.

James H. Rees being duly sworn, saith that he is one of the above named complainants, that he has read the foregoing bill of complaint, and knows the contents and that the facts and statement therein contained are true of his own knowledge, except as to the matters which are therein stated to be on the information and belief of the complainant, and that as to those matters the deponent believes them to be true.

JAMES H. REES.

Subscribed and sworn to before me } L. D. HOARD, Clerk.
this 3d day of March, 1855.

STATE OF ILLINOIS, } ss.
COOK COUNTY.

COOK CIRCUIT COURT,
MARCH T, A. D., 1855.

I do hereby enter myself as security for costs in the within entitled cause, and do acknowledge myself indebted to pay all costs which may accrue in the same, either to the said defendants or any of the officers of the Court under the laws of this State.

JAMES H. REES.

Chicago, March 4, 1855.

Let an injunction issue according to the prayer of the foregoing bill until the further order of the Court to the contrary.

B. S. MORRIS, Judge & J. Cir. Ill.

CHICAGO, March 3d, 1855.

JAMES H. REES
JAMES H. REES
JAMES H. REES
CHICAGO, BY CHARLES & MISSISSIPPI
AIR LINE RAIL ROAD COMPANY

filed in Circuit Court - April 24, 1855
" " Common Pleas Court }
by change of Venue } March 28, 1856.

ANSWER OF W. H. STOW

HENRY WALLER
HENRY MCAULEY,
JAMES H. REES, and the
CHICAGO, St. CHARLES
& MISSISSIPPI AIR LINE
RAILROAD COMPANY.

vs.

WILLIAM BENNETT,
WILLIAM H. STOW.

IN CHANCERY.

CIRCUIT COURT of COOK COUNTY,

MARCH TERM, A. D., 1855.

Before the Hon. Buckner S. Morris, Judge of the said Court.

The answer of William H. Stow, one of the defendants to the original and supplemental bills of complaint of Henry Waller, Henry McAuley, James H. Rees and the Chicago, St. Charles and Mississippi Air Line Railroad company, complainants.

This defendant now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exemption to the many errors and imperfections in the complainants' said bill of complaints contained, for answer thereunto, or unto so much or such parts thereof as this defendant is advised is material for him to make answer unto, answers and says that he admits that one William Bennett did some time in or about the year A. D., 1834, purchase of the United States Government, the following described tract of land, situate in the county of Cook and State of Illinois, viz: the west half of the north-east quarter of section twenty, in township thirty-nine, north range fourteen, east of the third principal meridian, containing eighty acres more or less (W. $\frac{1}{2}$ of N. E. $\frac{1}{4}$ section 20, township 39, N. R. 14, E. of the 3rd P. M.) But this defendant denies that the said William Bennett is deceased, and further says that on the 26th day of January, A. D., one thousand eight hundred and fifty-five he saw the said William Bennett, by this defendant well known to be the same William Bennett who did make the above purchase of the United States Government, then in good health, and did receive from the said William Bennett a deed for the above described premises, as will appear more fully hereafter, in this answer of said defendant William H. Stow.

And this defendant further answering, says that he has been informed by the said William Bennett, who was the same who made the purchase of the above described premises off the United States Government as aforesaid, and that he has been so informed during the year A. D., 1855, that he the said William

Bennett never sold the above described premises or any part thereof to James Kinzie and never signed any deed or other indenture, purporting to convey the said described premises to any person, before he the said William Bennett signed the deed conveying the same to this defendant, which deed will be referred to more fully hereafter, in this answer, this defendant says, that he is informed and believes that the said William Bennett never sold the premises above described to the said James Kinzie or to any other person prior to the sale to this defendant, and never executed any instrument in writing for the conveyance of the said described premises to any person prior to the execution of said deed from said Bennett to this defendant, wherefore this defendant denies that any sale or conveyance of the said described premises was ever made by said Bennett to said Kinzie as is pretended in said complainants' said original and supplemental Bills of complaint and further denies that any such conveyance as is pretended in the said original and supplemental bill of complaint was ever delivered to one Rufus Soules.

This defendant further answering, admits that the said complainants do pretend under and by virtue of the said pretended deed from Bennett to Kinzie, which in said complainants' original and supplemental bills of complaint is pretended to have been executed and to have been delivered to Rufus Soules, and to have been lost or destroyed, that the said complainants have a title to the above described premises in severalty, in the parts and proportions thereof, as in said complainants' said original bill of complaint is set forth, but this defendant does wholly and absolutely deny that complainants or either of them, have any good or valid title to the above described premises, or any part thereof, as against this defendant or are rightfully seized in fee of any part thereof, as he has been informed and verily believes, because he says that William Bennett, who was the original purchaser of the described premises of the United States Government, did not make any sale of the described premises to James Kinzie, aforesaid, did never execute any deed to said James Kinzie, of the said above described premises, nor ever deliver any such deed to said Soules as it is pretended was executed by said William Bennett and delivered to said Soules to be by him delivered to said Kinzie.

The defendant further answering, admits that some time in the Fall of A.D. 1839 the said William Bennett left the state of Illinois, but this defendant further answering says that the said William Bennett was on the 26th day of January A. D. 1855, alive and is still living unless he has deceased since the said day last mentioned, for this defendant says that he on the said last mentioned day did see and converse with the said William Bennett. And this defendant further answering admits that the said William Bennett had a son who was named William Bennett, and is a minor, as is set forth in said complainants said bill

of complaint, and is the only child, as this deponent is informed, of the said William Bennett the original purchaser of the said described premises of the United States Government.

This defendant further answering, says that he has no knowledge, whatever of complainants having, on or about the 3d day of July, A. D., 1854, filed their petition in this court, to perpetuate the testimony of one Rufus Soules, or that the testimony of one Rufus Soules was taken in the fall of 1854, by virtue of a dedimus potestatem issuing out of this court, but has been informed such is not the fact, and this defendant further says that he has that the deposition alleged to be taken, is recorded in the records of this court, but whether said petition was filed in this court, and whether said deposition, if taken at all, is regularly and properly taken, whether from the said alleged deposition the facts appear which in the said original and supplemental bill of complaint are alleged to appear in and from said deposition, this defendant is unable to say, but refers to the record, if any there be of the said deposition, and of the taking thereof, and this defendant requires proof of the filing of said petition, and of said deposition &c., but this defendant says that he never had any knowledge whatever, of the taking of said alleged deposition, or of its contents, till after the filing of the said supplemental bill of complaint of these complainants, and until he saw the statement in regard to said petition set forth in the said supplemental bill, and this defendant denies the truth of the facts alleged to be in the said deposition, relative to any sale of the said described premises, to said Kinzie, and the delivery of any deed to Rufus Soules, to be by him delivered to said Kinzie, and this defendant further denies that any sale of said described premises or any deed thereof was ever made by said William Bennett to said Kinzie.

This defendant further answering, says that he denies that the said complainants, or those under whom they claim have ever till a very recent period had actual possession of the said described premises, or of any part thereof, or till very recently had any possession of, or exercised any act of ownership over said premises, unless an attempt to and pretended conveyance of land, which one does not own be deemed an act of ownership; and this defendant further, says that till a very recent period, the said described premises were unoccupied and were uninclosed, and that there are now but few persons actually occupying and living upon said premises, neither of whom is these complainants, and that the only one of these complainants, who has the actual use and possession of any part of the said described premises, is the said Rail Road company, whose track crosses a part of the said described premises, and that without right.

This defendant further answering, says that he has been informed, and therefore admits that Rachel former wife of the said original

purchaser of said described premises, said William Bennett has executed an instrument in writing, which purports to be a release of dower in the said described premises, but this defendant says that at the time of the execution of said instrument purporting to be a release of dower by the said Rachel she, the said Rachel, was not the wife of said William Bennett, but as the defendant is informed and believes, had been divorced from the said William Bennett, and that at the time of her execution of the said instrument the said William Bennett was alive and did not join in the execution of the said instrument in writing, which was signed by her alone, and this defendant says that no title, either legal or equitable in or to the said described premises or any part thereof, was conferred upon or passed to, or was vested in the said complainant or either of them, by the execution of the said instrument purporting to be a release of dower or by its delivery.

This defendant further answering, says that he admits that on or about the third day of February, A. D., 1855, the said complainants did exhibit their original bill of complaint aforesaid, in this action in this court against William Bennett, the son of the said William Bennett, who was the original purchaser of the said described premises and that the allegations in the said original bill of complaint and the prayers thereof, are in substance such as they are stated to be in the repetition of them which is made in the commencement of the said supplemental bill of complaint in this action, and are the same which have hereinbefore been answered by this defendant, but this defendant saith that he does not know whether the summons which issued on the filing of the said original was served upon the younger William Bennett or not, but is advised that if said summons was served as alleged in the said supplemental bill of complaint it will appear on the files and records of this court to which for the greater certainty in this matter this defendant would refer, that the court may, may therefrom be assured of the service or of the non-service of the said summons on the said younger William Bennett.

This defendant further answering says that sometime in the month of February, A. D., 1855, this defendant did deliver to the register of deeds, for the county of Cook, a deed executed by William Bennett and afterwards acknowledged and delivered to this defendant by the same William Bennett, in order that the said deed might be recorded among the records of deeds of said Cook county which said deed was executed, acknowledged and delivered to this defendant by that same William Bennett who was the original purchaser of the said described premises from the United States Government and by said deed the said William Bennett did convey his interest, right and title in the said described premises to this defendant, but whether the said deed be in the very same words and figures in which it is set forth in the said supplemental bill of the complainants, this defendant is unable to say as the said deed and

of complaint, and is the only child, as this deponent is informed, of the said William Bennett the original purchaser of the said described premises of the United States Government.

This defendant further answering, says that he has no knowledge, whatever of complainants having, on or about the 3d day of July, A. D., 1854, filed their petition in this court, to perpetuate the testimony of one Rufus Soules, or that the testimony of one Rufus Soules was taken in the fall of 1854, by virtue of a dedimus potestatem issuing out of this court, but has been informed such is not the fact, and this defendant further says that he has that the deposition alleged to be taken, is recorded in the records of this court, but whether said petition was filed in this court, and whether said deposition, if taken at all, is regularly and properly taken, whether from the said alleged deposition the facts appear which in the said original and supplemental bill of complaint are alleged to appear in and from said deposition, this defendant is unable to say, but refers to the record, if any there be of the said deposition, and of the taking thereof, and this defendant requires proof of the filing of said petition, and of said deposition &c., but this defendant says that he never had any knowledge whatever, of the taking of said alleged deposition, or of its contents, till after the filing of the said supplemental bill of complaint of these complainants, and until he saw the statement in regard to said petition set forth in the said supplemental bill, and this defendant denies the truth of the facts alleged to be in the said deposition, relative to any sale of the said described premises, to said Kinzie, and the delivery of any deed to Rufus Soules, to be by him delivered to said Kinzie, and this defendant further denies that any sale of said described premises or any deed thereof was ever made by said William Bennett to said Kinzie.

This defendant further answering, says that he denies that the said complainants, or those under whom they claim have ever till a very recent period had actual possession of the said described premises, or of any part thereof, or till very recently had any possession of, or exercised any act of ownership over said premises, unless an attempt to and pretended conveyance of land, which one does not own be deemed an act of ownership; and this defendant further, says that till a very recent period, the said described premises were unoccupied and were uninclosed, and that there are now but few persons actually occupying and living upon said premises, neither of whom is these complainants, and that the only one of these complainants, who has the actual use and possession of any part of the said described premises, is the said Rail Road company, whose track crosses a part of the said described premises, and that without right.

This defendant further answering, says that he has been informed, and therefore admits that Rachel former wife of the said original

the certificates on and attached to the same are in the hands of the said Register who is enjoined by this court from delivering the same to this defendant and this defendant in consequence of the said injunction hath not been able to compare the said deed and certificates of acknowledgement therein with that which in the said supplemental bill of complaint purports to be a copy thereof, but as the said deed from said William Bennett is as this defendant is informed in the hands of the said Register of deeds, who is also the clerk of this honorable court, reference is hereby made to the said deed and the certificates upon and attached to it, and though said deed and the certificates thereon and thereto for a more full and particular description of them and of their provisions and contents are made a part of this answer of this defendant, this defendant further answering says that the same deed from William Bennett to this defendant which was delivered by this defendant to the said Register of deeds of said Cook county as aforesaid, was executed and acknowledged and delivered to this defendant by that same William Bennett who was the original purchaser of the said west half of the north east quarter of section twenty in township thirty-nine north of range fourteen east of third principal meridian lying in the said county of Cook and State of Illinois, and is no forgery and that the name to the said deed signed is the name of said William Bennett, the said original purchaser and who was seized in fee of the said described premises, and was so signed by that same William Bennett and not by any other person, for this defendant says that he well knew William Bennett the original purchaser of said described premises before he said William Bennett left the State of Illinois as aforesaid, and that on the 26th day of January, A. D., 1855 this defendant saw that same William Bennett execute and acknowledge that same deed, signed William Bennett, which this defendant did in the month of February, A. D., 1855, deliver to the said Register of deeds of said Cook County to be recorded as aforesaid; this defendant further says that he knows the person who executed and acknowledged and delivered the said deed to the defendant to be the same person who was prior to A. D. 1839 known to this defendant as William Bennett and as the purchaser of the said described premises from the United States Government, and to be that same William Bennett whom the said complainants in their bills of complaint, both original and supplemental, all allege to be dead, and this defendant says that he is confident and certain from his own personal knowledge and observation of the Bennett who was the original purchaser of the said described premises and was known to this deponent prior to 1839 as a resident of this State, and from his own personal knowledge and observation of the person who executed the said deed to this defendant that they are one and the same person, and this defendant further answers and says that he did not procure the said deed

from William Bennett to this defendant to be executed falsely and fraudulently in order to cheat and defraud complainants or either of them, but did with the knowledge that the person of whom he was then purchasing was that same William Bennett who was the original purchaser of said described premises, and after having received from the said William Bennett the assurance that he had never conveyed away his interest in the said described premises to any person and after having received from him, the same William Bennett, his affidavit that he had not parted with his interest in the said described premises, purchase of him, the said William Bennett, his right title and interest in and to the said described premises for the sum of twenty thousand dollars, and the further consideration of five hundred dollars to be by this defendant paid to him the said Bennett's said son William on the first day of January, A. D., 1859, if the said son William should then be living, of which sum of twenty thousand dollars this defendant did then pay in cash to the said original William Bennett upon his execution of said deed as aforesaid on said 26th day of January, A. D. 1855, the sum of ten thousand dollars and did give the said original William Bennett notes for the further sum of ten thousand dollars, and did also execute an acknowledgment, the trust deed to said William Bennett, son of that William Bennett, who signed the deed to this defendant in order to receive the payment of said sum of five hundred dollars to the said younger William Bennett to be made as agreed as aforesaid, and in consideration of the said sum of money by this defendant so paid and of the said notes by this defendant so given, and after said agreement of this defendant to pay said five hundred dollars as aforesaid, he, the said William Bennett, the original purchaser of the said described premises, did execute and acknowledge and deliver to this defendant the said deed from William Bennett to this defendant which was delivered by this defendant to the said register of deeds of Cook County as aforesaid, and this defendant did execute the said trust deed which is the same trust deed which is referred to in said complainants said supplemental bill of complaint and which is now in the hands and possession of the said Register of Deeds of Cook County, and is hereby made a part of this answer of this defendant; and this defendant further answering says that he has not had any notice of the rights and claims (if any there be which this defendant denies) of the complainants to the said described premises or any part thereof except such notice as is by law implied to be given to all men by the proper recording of matters properly entitled to be of record in the office of the said Register of deeds of said Cook county and such notice as such recording implies, this defendant had and no other or further notice did this defendant have of the pretended claims and rights of these complainants to said described premises or any part thereof till after the filing of the said supplemental bill of these complainants

whereby this defendant was made a party to this suit, nor has this defendant now any further knowledge of the said complainants' rights or titles to the said described premises or any part thereof excepting as he is informed by their said original supplemental bills of complaint in this suit from which this defendant infers a claim of title on the part of these complainants in and to said described premises through and by virtue of said pretended sale and conveyance of William Bennett to said Kinzie which said pretended sale this defendant says never took place, and the said deed which complainants allege has been lost or destroyed this defendant says did never exist.

7 This defendant further answering says that he does not know who has paid the taxes on the said described premises or any part thereof and can neither admit or deny that the taxes have been paid by complainants or those under whom they pretend to have a title to said demised premises but requires proof thereof. This defendant further answering says that he can neither admit or deny the filing in this court of a bill in chancery in the name of William Bard and Patrick Shachen and others against William Bennett on the 6th day of June, A. D. 1850, as alleged in complainants' supplemental bill of complaint and further says that he has no knowledge of the proceedings and notice and publication had or given in consequence of the filing of said bill but is advised that all of said proceedings whatever they were will appear on the record of this court, and this defendant against proof of all of said alleged proceedings notice and publication had and given in consequence of the filing of said bill of Bard and others, but this defendant denies that he ever saw any notice of the filing of said bills by Bard and others or any copy thereof or any other thing in regard thereto in the *Western Citizen* or any other paper or elsewhere, for of the filing of said bill by Bard and others this defendant never had nor has he now any knowledge or information except what he has acquired from the said original and supplemental bills of the complainants filed in this suit and from the recorded depositions of Rufus Soules, and this defendant further answering says that the said last mentioned bill and the proceedings thereon as this defendant is advised and believes were not any notice to this defendant of the rights, claims, interest or property (if any they have) of these complainants to the said premises, this defendant now and at all times denying that the said complainants or either of them have any right, title, claim, interest or property of in or to said described premises or any part thereof. And this defendant further answering says that for further answer to the allegations in said complainants said supplemental bill in this suit, in regard to the filing of a petition by these complainants on the third day of July, A. D. 1854, in the Cook County Court of Common Pleas and in regard to the proceedings had and the notices given and the publication made thereon

that of the said petition and the proceedings thereon and notices and publications thereof this defendant had no knowledge whatever prior to the middle of March A. D. 1855, for this defendant says that he never saw said petition nor any notice thereof nor any notice of taking of the deposition of Rufus Soules, nor did this defendant ever see or ever read any notice such as is alleged to have been published in the *Chicago Daily Tribune*, nor had this defendant any knowledge or information in regard to the filing of said petition or of the proceedings thereon, or of the notices given thereof, or of the publications made in regard thereto, or of the taking of depositions therein, or of the contents of any depositions therein taken till about the middle of March, A. D. 1855, and that all the knowledge or information which this defendant now has in regard to the said petition, its allegations and any and all proceedings and notices in regard to it is what he has been informed of the said complainants bill and supplemental bills in this suit, a copy of which this defendant first saw about the middle of March, A. D., 1855, long subsequent to his receiving the said deed from the said William Bennett, and long subsequent to his delivery of the said deed to the said Register of deeds of said Cook County to be recorded as aforesaid, this defendant therefore denies that said filing of said petition and the proceedings thereon were any notice to him, and he requires proof of the filing of said petition and of its contents and of the proceedings, the taking of depositions, the publication of notices and of all the matters in regard to the said petition which are alleged in the said complainants original and supplemental bills to have been made or had in the matter of the said petition; and this defendant further denies that the said instrument in writing which was signed by William Bennett, and which was by this defendant delivered to said Register of deeds of said Cook County as aforesaid, was ever obtained in order to defraud complainants or either of them, and says that the signature thereto is the signature of that said William Bennett who was the original owner and first purchaser of the said described premises. And this defendant further denies any fraud or any intention to defraud any one of their rights in the execution of the said deed to this defendant, by the said William Bennett or in the execution of the aforementioned trust deed from this defendant to William Bennett, son of the original purchaser of said described premises, who is the grantor of this defendant as aforesaid; and this defendant denies any design or attempt to defraud, cheat or swindle these complainants or either of them out of any of their rights, property or possession, and charges that said pretended deed from Bennett to Kinzie is wholly a matter of fiction and that these complainants each and every of them have no right, interest or title whatever of in or to the said described premises or of in or to any part of the same, but that the said complainants are unlawfully continuing and combining to defraud this defendant out of his right, title and interest in and to the said described premises.

And this defendant submits to this honorable court that all and every of the matters in complainants' said bills of complaint so far as this defendant is thereby made a party complained of, and mentioned on matters which may be tried and determined at law and with respect to which the said complainants are not entitled to any relief from a court of Equity, and this defendant hopes he shall have the same benefit of this defence as if he had demurred to the said complainants' bills of complaint.

And this defendant denies any and all unlawful confederacy or combination in the said bills of complaint charged; without that any other matter or thing material or necessary for this defendant to make answer unto and not herein or hereby well or sufficiently answered unto, confessed or avoided, traversed or denied, is true to the knowledge of belief of this defendant; and of which matters and things this defendant is ready to aver, maintain and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in that behalf most wrongfully sustained.

W. H. STOW.

STATE OF ILLINOIS, }
COOK COUNTY } ss

I, William H. Stow, of the city of Chicago, in said county, being duly sworn, do depose and say that I have carefully read the above answer to the original and supplemental bills of complaint of Henry Waller and others against William Bennett and myself, which is by me alone subscribed, and that I know the contents of the above answer, and that the facts and statements therein contained, I of my own knowledge know to be true, except as to matters therein stated to be on my belief and information, and that as to those matters I believe them to be true.

W. H. STOW.

Subscribed and sworn to before, at
Chicago this 24th day of April, 1855. } L. D. HOARD, Clerk.

UP
Answer of William Bennett,
filed April 19: 1856.

(ANSWER OF WILLIAM BENNETT.)

STATE OF ILLINOIS, }
COOK COUNTY CIRCUIT COURT. }

IN CHANCERY.

*Now, by Change of Venue in the Cook County Court of Common Pleas, in
Chancery.*

HENRY WALLER,
HENRY MCAULEY,
JAMES H. REES,
CHICAGO, St. CHARLES & MISSISSIPPI
AIR LINE RAIL ROAD COMPANY. }

vs.
WILLIAM BENNETT,
MINOR HEIR OF WILLIAM BENNETT, deceased, AND
WILLIAM H. STOW. }

The answer of William Bennett, an infant, under the age of twenty-one years, by Hugh Maher, his guardian, defendant to the original bill of complaint and one of the defendants to the supplemental bill of Henry Waller, Henry McAuley, James H. Rees, Chicago, St. Charles and Mississippi Air Line Railroad Company, complainants.

This defendant for answer to the said original bill and supplemental bill of said complainants, or unto so much thereof as this defendant is advised is material for him to make answer unto; answering says that he admits that William Bennett in his life time and on or about the 27th day of December, 1834, purchased of the United States that certain piece or parcel of land situated in the county of Cook and State of Illinois, viz : The west half of the north-east quarter of section twenty (20) in township thirty-nine (39) north of range fourteen (14) east of the third principal meridian containing eighty (80) acres more or less, W. $\frac{1}{2}$, N. E. $\frac{1}{4}$, S. 20, T. 39, N. R. 14, E. 3d, P. M., as in said original bill alleged, and that the said Bennett was seized in fee of the same, but this defendant denies that the said William Bennett afterwards and in the year 1834 or at any other time in the said county of Cook or elsewhere, bargained and sold the above described premises or any part thereof to the said James Kinzie, or that any consideration whatever was ever paid by the said James Kinzie to the said William Bennett therefor, and this defendant denies that said complainants became severally seized by said pretended mesne conveyances purporting to be from and under

said James Kinzie in the respective shares and proportions of said premises in said original bill mentioned and set forth.

And this defendant also denies that the said James Kinzie was ever seized of said premises in fee simple or otherwise, or that he ever had any right or title thereto, or property therein from or under the said William Bennett, or that the said complainants were ever seized of said premises, or that they now have or ever had any right, title, interest or property therein from or under said William Bennett.

And this defendant further answering says that he admits that no conveyance of said premises was executed by the said William Bennett to the said Kinzie at the time of the pretended bargain and sale by him to James Kinzie, but he denies that the said William Bennett in the year 1838 or 1839 or at any time before or since executed a deed of conveyance of said premises to the said James Kinzie, his heirs and assigns, or that afterwards and at the time in said original bill mentioned, or at any other time any deed of conveyance of said premises from said Bennett to said Kinzie, was delivered to said Rufus Soules with instructions to deliver the same to said James Kinzie as in said original bill is alleged.

And this defendant further answering admits that no deed of said premises from said Bennett to said James Kinzie has ever been recorded, but this defendant denies that any such deed was ever lost or destroyed, or that any such deed was ever made, executed or delivered to the said James Kinzie or to the said Soules for him, by said William Bennett.

And this defendant further answering says that he does not know and cannot state whether on the 3d day of July, 1854, the said complainants filed their petition in Cook county Circuit Court to perpetuate the testimony of the said Rufus Soules, nor when or whether an order was entered for a dedimus potestatum to issue out of said Circuit Court to the clerk of the county to take the said testimony, nor whether on the 18th day of September, 1854, the deposition of said Soules was taken by the clerk of Lake County Circuit Court and returned to the clerk of Cook county Circuit Court, nor whether such deposition has been entered of record on the records of Cook County Circuit Court, nor whether from the said pretended deposition the facts appear which in the said original and supplemental bills were alleged to appear therein, but leaves the said complainants to prove the same and each of them as they may be able.

And this defendant further answering denies that any consideration for the said pretended deed from the said Bennett to said Kinzie was ever paid by said Kinzie to said Bennett, or that the said Kinzie ever had any control or possession of said premises, or that the said complainants or those under whom they

claim ever until recently had actual possession of the said described premises or any part thereof, or until recently ever had any possession of said premises, and this defendant further says that until recently the said described premises were wholly unoccupied and unenclosed, and that but few persons are now in the actual possession of, or live upon said premises, but neither of said complainants are now living on said premises, or any part thereof, and have now no actual possession of the same or any part of the same, except the said complainant Chicago, St. Charles and Mississippi Air Line Railroad company, whose line of road crosses the same, and this defendant further says that whatever possession the said complainants or either of them now have, and whatever acts of ownership or control over said premises have been exercised, or are now being exercised by said complainants or either of them, have been and still are without right or title, and in fraud and violation of the rights of this defendant.

And this defendant further answering says that he has been informed that said Rachel Bennett, now Rachel Elam, has executed a paper purporting to be a deed of conveyance of her right of dower in said premises to said complainants, or some one or more of them, but this defendant is informed and believes that said pretended conveyance was fraudulently obtained from the said Rachel by falsely and fraudulently pretending to be the said Rachel, and leading her to suppose and believe that the said Bennett had conveyed his interest in said premises to them through James Kinzie and mesne conveyances.

And this defendant denies that any interest, either legal or equitable in said premises, was acquired by said complainants or either of them by the execution of said pretended release of dower by the said Rachel.

And this defendant further answering admits that the said William Bennett departed from this State in the year 1838 or 1839, and has never since been heard from, and that he is supposed to be dead; that said Rachel Bennett, his widow, has since been twice married, and that the family and friends of the said William Bennett regard him as deceased, and this defendant admits that the said William Bennett is and has been long deceased.

And this defendant further admits that the said William Bennett left a son, this defendant, who is now living and under the age of twenty-one years, and that he is the sole child and heir of the said William Bennett deceased.

And this defendant further answering admits that on or about the 3d day of February, A. D. 1855, said complainants did exhibit their original bill of complaint in this cause in this court against this defendant, and that the allegations and prayer of said original bill are in substance recited in the said supplemental bill against this defendant and one William H. Stow, and that what pur-

ports to be a copy of a summons issued out of said Circuit Court, dated February 5th, 1855, was left with this defendant.

This defendant further answering says that he has been informed and believes that the said defendant, William H. Stow, presented to the register of deeds of Cook county a paper purporting to be a deed from William Bennett of said premises to him, and he admits that a copy of said deed is set forth in said supplemental bill.

This defendant further answering says that he believes and admits that said paper purporting to be a deed from William Bennett to said Stow is a forgery, and that the name of William Bennett thereto subscribed is not the signature of William Bennett who purchased of the United States, and in his life time was seized of the premises above described, but this defendant denies that the said complainants have now or ever had any right, title, interest or property, either legal or equitable, in said premises, or that said deed was obtained in fraud of the rights of said complainants, but he states that the same is and was intended to be in fraud of the rights and interests of this defendant.

And this defendant further answering admits that said Stow obtained said deed to be executed falsely and fraudulently, but denies that it was to cheat and swindle said complainants out of any interests in said premises, and states that it was to cheat and defraud this defendant as sole heir of said William Bennett, deceased, out of his title and interest in said premises.

And this defendant further answering says he admits that said pretended deed to said Stow, purports to be made for a consideration of \$20,000, paid by said Stow, and that no such consideration was given and paid by said Stow, that said consideration is falsely and fraudulently inserted to give color to said conveyance, and that a true and fair consideration for said premises would be not less than one hundred thousand dollars, that said pretended conveyance is a fabrication, a fraud and swindle on the part of said Stow in combination with the person so executing said deed under the signature of said William Bennett, but he denies that it was to defraud and swindle said complainants or either of them as in said supplemental bill is alleged, but says that it was to defraud and swindle this defendant out of his rights to, and interest in said premises.

This defendant further answering says that he admits that at the time of the execution of said pretended deed of said premises from said Bennett to said Stow, the said Stow was irresponsible, that he was nearly destitute of property, that he never could have paid and never did pay any such sum as twenty thousand dollars to the person named as grantor in said deed or to any other person for said premises, and that such consideration was falsely and fraudulently in-

serted as alleged in said supplemental bill, but this defendant denies that it was with the intent to defraud said complainants, and says that it was done with the intent to defraud this defendant out of his interest and property in said premises.

This defendant further answering says that he does not know and cannot state whether said Stow had full knowledge and notice of the pretended rights and claims of said complainants to the said premises, or of their pretended possession and control of the same, or their payment of taxes thereon, but this defendant denies that the said complainants have any rights or claims to said premises, or that they, the said complainants, or the parties under whom they pretend to claim, have now or ever have had any lawful possession or control of said premises or any part thereof, whether the said complainants have paid the taxes on said premises, this defendant does not know and cannot state, but leaves complainants to prove the same as they shall be advised.

And this defendant further answering says that he does not know and cannot state whether on the 26th day of June, 1850, a bill in chancery was filed in the name of William Bard and Patrick Shaban and others against William Bennett to perpetuate the testimony of Rufus Soules as in said supplemental bill stated, nor whether said suit was upon the docket of said court, nor whether an order for the taking of said testimony was entered, nor whether notice was published of the filing of said bill with a copy thereof setting out the matters expected to be established as in said supplemental bill is stated, nor whether said Stow was then residing in Chicago and was cognizant to the pretended claims and rights of said complainants as therein set forth, nor whether said deposition of said Soules was taken, returned and recorded as in said supplemental bill stated, but leaves said complainants to prove the same as they may be able, but this defendant denies that he had any notice of the proceedings in said supplemental bill alleged or if such proceedings did take place as therein stated, that the right, title or interest of this defendant in said premises was in any respect thereby affected, and this defendant denies that said proceedings were any notice to him of any rights, claims, interests or property of the said complainants in said premises.

This defendant further answering says that he does not know and cannot state whether said complainants on the 3d day of July filed their petition in the Cook county Court of Common Pleas to perpetuate the testimony of the said Rufus Soules, nor whether such proceedings were thereupon and thereafter had as in said supplemental bill is alleged, but leaves the complainants to prove the same as they shall be advised, but this defendant denies that he had any notice of such proceedings, or that his interests in and title to said premises have been thereby affected.

This defendant further answering says that he admits that the said William Bennett, the original purchaser of said premises, has been long since deceased, and that he has not been heard from for nearly sixteen years, that he left a wife and son, this defendant, in this city, and that they have received no communication from said Bennett, or had any intimation of his existence, that the said wife has been twice since married, and is now living with her third husband, and neither the said wife nor this defendant have received any communication from said Bennett or had any information of his existence, and that said Stow, with full knowledge of the death of said William Bennett, has falsely and fraudulently with others contrived and procured said false and fraudulent and pretended deed to be executed, but this defendant denies that it was with the intent to defraud said complainants of any rights or property in said premises, and says that it was made with the intent to defraud this defendant out of his interest and property in said premises.

And this defendant further answering admits that the signature to said pretended deed to said William H. Stow is not the signature of said William Bennett, the original purchaser of said premises, and that it is a false and forged signature, and was falsely and fraudulently signed to said pretended deed, but this defendant denies that it was to defraud said complainants, but states that it was to defraud this defendant as aforesaid.

This defendant admits that on the 26th day of January, A. D. 1855, said William H. Stow made, executed and acknowledged a trust deed to this defendant, son of the said Rachel Elam, formerly wife of William Bennett, for the pretended consideration of the premises, containing the conditions, and purporting to have been made and acknowledged at the place in the said supplemental bill stated.

This defendant also admits that said pretended trust deed was made without the knowledge, consent or approval of this defendant, and without any consideration paid by this defendant, and that said trust deed is void and without consideration, that this defendant never had any dealings with said Stow, that said Stow has never been indebted to this defendant in any sum whatever, and that said Stow made and executed said conveyance to subserve and accomplish his own fraudulent purpose; that said trust deed has never been delivered to this defendant, that said Stow left the same for record and paid for recording the same.

And this defendant further answering says that said Stow is not indebted to him in any sum of money, and that he hereby disclaims any and all right, title, claim or interest in or to said trust deed or in or to the money pretended to be secured thereby.

"All 'which' matters and things this defendant is ready to aver, maintain and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in that behalf most wrongfully sustained.

WILLIAM BENNETT,
 MINOR HEIR OF WILLIAM BENNETT, deceased.
 BY HUGH MAHER, his Guardian,
 SEDGWICK & WALKER, Sol's., for Deft Bennett, and his Guardian.

Cross Bill
Filed May 33 12th 1886.

(CROSS BILL OF WILLIAM BENNETT.)

STATE OF ILLINOIS, }
COOK COUNTY COURT OF COMMON PLEAS. }

*To the Honorable John M. Wilson, Judge of the said Cook County Court of
Common Pleas, in Chancery sitting:*

Humbly complaining, sheweth unto your Honor, your orator, an Infant, under the age of twenty-one years, that is to say of the age of Eighteen years, by Hugh Maher, his Guardian, that, heretofore, and on or about the third day of February, A. D., 1855, Henry Waller, Henry McAuley, James H. Rees and Chicago, St. Charles & Mississippi Air Line Railroad Company, whom your orator prays may be made parties defendants to this, your orator's cross bill of complaint, brought unto the Circuit Court of Cook County in Chancery and filed with the clerk thereof, their bill of complaint against your orator as defendant thereto, stating therein that William Bennett, who was then alive, but is since deceased, on or about the 27th day of December, A. D., 1834, purchased of the United States the west half of the north-east quarter section twenty, (20,) in township thirty-nine, north of range fourteen, east of the third principal meridian, containing eighty acres; that said William Bennett, being seized of said premises, in fee simple, afterwards and in the year A. D., 1834, for a valuable consideration to him paid, sold said premises to James Kinzie, and that the said complainants therein, subsequently became, and at the time of filing their said bill were seized of said premises, by mesne conveyance from and under said Kinzie, in the respective shares in said bill stated; that at the time of said sale no conveyance was made, and that, in the year A. D., 1838 or 1839, said William Bennett executed a deed of said premises to said James Kinzie, his heirs and assigns, and in A. D., 1839, delivered the same to Rufus Soules, with instructions to deliver the same to James Kinzie; that, subsequently, said deed was lost or destroyed; that the same cannot be found, and that it has never been recorded; that, on the third day of July, A. D., 1854, they, the said complainants therein, filed their petition in said Circuit Court, to perpetuate the testimony of said Soules; that, an order was entered for a *dedimus*, to issue to the clerk of the Circuit Court of

Lake County, to take the testimony of said Soules ; that, on the 18th day of September, A. D., 1854, the deposition of said Soules was taken, returned and entered on the records of said Circuit Court for Cook County ; that it appears, by said deposition, that a deed of said premises was executed by said William Bennett and Rachel, his wife, to said Kinzie ; that the same was delivered to said Soules, by said Bennett, in 1838 or 1839, to be delivered by him to said Kinzie ; that said deed was lost while in possession of said Soules ; that the consideration for said deed was fully paid ; that said Kinzie and those under him, whom the complainants therein claim, have had possession of said premises until the time of filing their said bill ; that said William Bennett departed this State in 1838 or 1839, and has never since been heard from, and that he is dead ; that he left a son, the sole child and heir of him, the said Bennett, and that the loss of said deed clouds their title, and praying that a guardian, *ad litem*, may be appointed for said William Bennett, minor heir of William Bennett, deceased, and that such guardian may be decreed to execute a quit claim deed of said premises to them, said complainants therein, or, in default thereof, that the master of said Circuit Court in Chancery, might execute such deed, and that your orator might be for ever barred, by decree of said Court, from setting up or asserting any claim, title or interest in said premises

And your orator further shows unto your Honor, that afterwards, and on or about the 3d day of March, A. D., 1855, the said complainants in said bill of complaint, so filed in said Circuit Court, as herein before mentioned, filed their supplemental bill to said original bill of complaint against your orator, and one William H. Stow, as defendants therein, therein stating, in substance, the allegation contained in said original bill, that process was issued on the filing of said original bill, and served on the said William Bennett, minor heir of said William Bennett, deceased, on or about the day of February, 1855, and also stating that subsequent to the filing said original bill, and on the day of , A. D., 1855, said Stow presented to the recorder of deeds for the county of Cook, a certain writing, purporting to be a deed to him from the said William Bennett, of said premises, and setting forth a copy of such deed ; that said deed is a forgery ; that the name of William Bennett, thereto subscribed, is not the name of the said William Bennett, who was formerly seized of said premises ; that the said name was falsely and fraudulently signed for the purpose of defrauding them of their pretended interests in said premises ; that said deed purports to be made for the consideration of \$20,000 ; that no such consideration was paid ; that a fair consideration for said premises would not be less than \$100,000 ; that no consideration was paid by said Stow ; that said Stow, at the time of the exe-

ution of said deed, was wholly incapable of paying any such sum, and was destitute of property, to any considerable extent; that said complainants, in said supplemental bill, and those from whom they claim had been in possession of said premises for nearly twenty years, paid taxes, and that said Stow had full knowledge of their right and title to the same, at the time he procured such deed; that, on the 26th day of June, A. D., 1850, a bill in Chancery was filed in said Circuit Court, in the name of William Bard, Patrick Strachan and others, against the said William Bennett, to perpetuate the testimony of the said Rufus Soules, to the execution of said deed, by said Bennett to said Kinzie; that said suit was upon the docket of the Circuit Court, and an order to take said testimony entered thereon; that notice of the filing of said bill, together with a copy thereof, was published in the city of Chicago, in the *Western Citizen*, for six successive weeks; that said Stow then resided in Chicago, and saw said notice; that, on the 24th of September, 1850, said deposition of said Soules was taken by A. H. Coates, in pursuance of said order, returned to the clerk of Cook county Circuit Court, and recorded; that such suit and proceedings were notice to Stow and all others, of their rights and property in said premises.

That, on the 3d day of July, 1854, the said complainants, in said supplemental bill, filed their petition in this court to perpetuate the testimony of said Soules to the execution of said pretended deed from said Bennett to said Kinzie; that a notice of the taking of said testimony, with a copy of the petition, were published in the *Chicago Tribune*, at Chicago, where said Stow resided, four weeks; that the deposition of said Soules was in pursuance of the order of this Court, in said cause, taken and returned to this Court on the 20th day of October, 1854, and recorded on the records of this Court; that said Stow had full knowledge of such petition, and of the matter therein contained, and of the rights of complainants therein, and of the execution and loss of said deed to said Kinzie; that said Bennett has been long since deceased; that said Bennett left a wife, who has since been twice married; that neither said wife nor this complainant have ever heard from said Bennett, or know any thing of his existence; that said Stow procured such deed fraudulently, and with a full knowledge of the death of the said William Bennett; that the signature to such deed to said Stow, is not the signature of the said William Bennett; that said fraudulent writing, purporting to be a deed from said Bennett to said Stow had been lodged with L. D. Hoard, the register of deeds for Cook county, for record; that, on the 26th day of January, A. D., 1855, said Stow executed a trust deed to your orator, for the pretended consideration of \$500, conveying 21 acres off the south end of said premises, for the pretended purpose of securing to your orator the sum of Five Hundred Dollars, as by reference to said

deed, will appear; that a copy of said deed is annexed to said supplemental bill, and make a part thereof; that said trust deed was made without the knowledge, consent or approval of your orator, without consideration paid by your orator, and that said trust deed is fraudulent and void; that said Stow never had any dealing or transactions with this complainant, and that he was not indebted to this complainant; that said Stow kept said conveyance for a long time after the same was executed, and until he left the same for record in the Recorder's office of Cook county, and paid the fees for the record thereof; that said trust deed has never been delivered to your orator, and that the same was fraudulently executed, with the design to cheat and swindle them out of their right in said premises, and praying that said pretended deed from William Bennett to said Stow, and the said pretended trust deed from said Stow to this complainant, may be declared fraudulent and void, and that the same may be set aside and cancelled; that said Hoard, and his agents and servants, be enjoined from delivering up said pretended deeds to said Stow, or to any other person or persons until the further order of said Circuit Court, and that said Stow and your orator might be restrained and enjoined from executing any conveyance or conveyances of said premises, or any part thereof, to any person or persons whomsoever, or in any way encumbering the same; that said Stow and his grantees be restrained and enjoined from commencing any suit or suits in ejectment or otherwise, for the recovery of said real estate, or any part thereof, and from taking any legal proceedings to recover the possession thereof, or any part thereof, until the further order of said Circuit Court, as will appear more fully by reference to said supplemental bill, now on file in this Court, and to which your orator, for greater certainty, prays leave to refer.

And your orator further shows unto your Honor, that on the twenty-fourth day of April, 1855, the said William H. Stow, whom your orator prays may be made a party defendant of this your orator's cross bill of complaint, filed his answer to said original and supplemental bill of complaint in said Circuit Court admitting that said William Bennett purchased said premises of the United States as in said bill stated, but denying that said Bennett is dead and stating that on the 26th day of January 1855 he was alive, denying that said William Bennett sold or conveyed said premises or any part thereof to said Kinzie or any other person prior to the pretended deed from said Bennett to him said Stow—or that any deed of said premises was ever delivered to said Soules as in said original and supplemental bills is alleged, admitting that said William Bennett left this estate in the fall of 1839, that said William Bennett left a son an only child, who is a minor as set forth in said bill of complaint, denying all knowledge of the pro-

ceedings in said original and supplemental bill alleged to have taken place to perpetuate the testimony of said Soules till after the filing of said supplemental bill and denying the truth of the pretended facts contained in said deposition of said Soules, relative to the execution of the deed to Kinzie and the delivery thereof to Soules, denying that the complainants in said supplemental bill until recently have had any possession of or exercised any acts of ownership over said premises, or that said complainants or either of them have actual possession of said premises, except the Chicago St. Charles and Mississippi Air Line Railroad Company whose line of road crosses the same, admitting that Rachel Bennett has executed an instrument in writing purporting to be a release of dower in said premises to said complainants in said supplemental bill, and alleging that at the time of the execution thereof she had been divorced from said Bennett, and that said William Bennett was alive and did not join in the execution thereof, and that said Rachel conveyed no title to said premises by such instrument, admitting the filing of the said original bill of complaint against your orator, and that the allegation and prayers thereof are in substance recited in said supplemental bill, admits that in February 1855 he delivered to the Register of deeds of Cook County, said deed from said William Bennett, to said Stow for record, alleging that said deed was executed, acknowledged and delivered to him said Stow by the same William Bennett who purchased said premises from the United States, and denying that such deed is a forgery, but neither admitting nor deny that a copy of said deed is set forth in said supplemental bill, that he did not procure said deed to be executed falsely and fraudulently in order to cheat the said complainants in said supplemental bill, but after he had received from said William Bennett an affidavit that he had not parted with his interest in said premises, he purchased of him his right and title thereto for the sum of \$20,000, and the further sum of \$500, to be paid to the said Bennett's said son, on the 1st day of January 1859, if he should then be living; that he paid in cash for said premises on the 26th day of January 1855, the sum of \$10,000 and gave him notes for \$10,000, that he executed and acknowledged said trust deed to your orator to secure to him the payment of said \$500; that in consideration of said sum of money so paid and of the note so made to said Bennett, and of the money agreed to be paid to your orator by said Stow, said William Bennett executed, acknowledged and delivered to said Stow the said deed by him left for record; admits the execution of said trust deed and makes the same part of his answer, denying that said complainants have any rights and claims to said premises, and states that he had no notice of their right and claims to the same, except the notice implied by law by the proper recording of matter properly entitled to be recorded in the office of Register of deeds of said Cook County and no other, till after the filing of said supplemental bill, that he has no further knowledge of their rights or title to said

premises or any part thereof than he is informed by said original and supplemental bill, that defendant Stow infers from said bill that complainants claim title under said pretended sale by said William Bennett to said Kinzie, and denying that any such sale ever took place or that the pretended deed, pretended to be delivered to said Soules ever existed; that he neither admits nor denies that the complainants in said supplemental bill have paid the taxes on said premises, but that he requires proof of the same; that he neither admits nor denies the filing of a petition in chancery in said Circuit Court, of William Bard and Patrick Shahan and others against William Bennett as alleged in said supplemental bill; that he has no knowledge of the proceedings, notice and publication, that they will appear on the records of said Circuit Court in chancery if any such took place, and requires proof of such proceedings, notice and publications; denies that he ever saw notice of the filing such bill by Bard and others or any copy thereof or any thing relating thereto; that he has no knowledge except from the said original and supplemental bill and from the recorded depositions of said Soules; denies that such proceedings were any notice to him of the rights of complainants (if any they have) in said premises; denies that the complainants in said supplemental bill, or either of them have any claim right title interest or property in said premises or any part thereof; that he never had any knowledge whatever of the complainants in said supplemental bill having filed their petition on the third day of July, A. D. 1854 in this court, or of the proceedings thereupon or thereafter had, as in said supplemental bill alleged, till about the middle of March A. D. 1855, that all the knowledge he then had was gained from said bill and supplemental bill, a copy of which he first saw about the middle of March 1855 long after the execution of said deed by him from said Bennett and his said delivery thereof to the said Register; denies that the filing said petition and the proceedings thereon were any notice to him, and requires proof of the filing of such petition and of all proceedings thereon and thereafter had, which are alleged in said original and supplemental bill; denies all fraud or intention to defraud in the execution to him of said deed by said Bennett, or in the execution by him of said trust deed, and that said pretended deed from said Bennett to said James Kinzie is a mere fabrication and that the complainants are contriving to defraud him of his right, title and interest in and to said premises.

And your orator further shows unto your Honor that said complainant in said original and supplemental bill of complaint, and the said defendant, William H. Stow, having afterwards taken the depositions of certain witnesses and filed the same in said cause in said Circuit Court, and such proceeding were thereupon and thereafter had in said cause, and that by the order of said Circuit Court and upon the agreement of the complainants and the defendant Stow, in said cause, the of said cause was changed to this court and the

pleadings and papers filed therein, and the copy of the record proceedings in said cause in said Circuit Court was on the 28th day of March, 1856, filed in this Court.

And your orator further shows unto your Honor that afterwards and on the day of April, A. D. 1856, on motion of the solicitor for the said complainants in said cause, by the order of this court, Hugh Maher was appointed guardian *ad litem* to your orator, and that on the 19th day of April, A. D. 1856, your orator by his said guardian filed in said cause with the clerk of this court his answer to the said original and supplemental bills of complaint.

And your orator shows unto your Honor that the said William Bennett, now deceased, in his life time and on or about the 27th day of December, A. D. 1834, purchased of the United States the following described tract of land situated in the said county of Cook and State of Illinois, and described as follows, to-wit: The west half of the north east quarter of section twenty, in township thirty-nine north of range fourteen, east of the principal meridian, containing eighty acres more or less, and then and there became and was seized thereof in fee simple, and that afterwards and about the year A. D. 1839, the said William Bennett departed this state and has never returned, that at the time of his said departure from the state of Illinois he left at Chicago in the said county of Cook, his wife Rachel Bennett and your orator the son and only child of him the said William Bennett; both of whom ever since have and still do reside at Chicago aforesaid. And your orator further shows that neither your orator nor the said Rachel nor any of the friends relatives of the said William Bennett have heard from him since his said departure from the said state of Illinois, that your orator has made and has caused to be made the most thorough search and diligent inquiry for the said William Bennett and that for the last sixteen years he has never been able to ascertain where he is, or hear any thing from him or learn anything of his existence, and your orator believes and so charges the fact to be that the said William Bennett is now and for a long time has been deceased and that he died seized in fee simple of the premises above described.

And your orator further shows unto your Honor, that your orator is the son and only child of the said William Bennett deceased, and sole heir of him the said William Bennett to the above described premises of which he died seized as aforesaid.

And your orator further shows unto your Honor that the said defendants Henry Waller, Henry McAuley, James H. Rees and the Chicago St. Charles and Mississippi Air Line Railroad Company claim to be the owners of said premises in the following shares to wit: Henry Waller of the north half, Henry McAuley of the north half of the south half, James H. Rees of the south half of the south

half, and the Chicago St. Charles and Mississippi Air Line Railroad Company of eight acres in the south half of the south half, by mesrie conveyance from and under a pretended bargain and sale of the same by said Bennett in his life time and in the year 1834 to one James Kinzie, and a pretended deed claimed to have been executed by the said William Bennett and Rachel his wife for a valuable consideration, to him the said Bennett paid by said Kinzie, to said Kinzie in the year 1838 or 1839 and in 1839, delivered by said William Bennett to one Rufus Soules with instructions to deliver the same to the said James Kinzie when he the said Kinzie should call for the same, which said deed said last named defendants pretend has since been lost or destroyed and cannot be found.

And your orator shows unto your Honor that your orator is informed and believes and so charges the truth to be that said pretended bargain and sale and said pretended deed from said Bennett to said Kinzie are mere fabrications, that no such bargain and sale were ever made by said Bennett to said Kinzie, that no deed of said premises was ever executed by said William Bennett or by the said William Bennett and Rachel his wife to said Kinzie; that no consideration was ever paid by said Kinzie to said William Bennett for said premises or for any deed or conveyance thereof; that no deed executed by said Bennett to said Kinzie of said premises was ever delivered by said Bennett to said Rufus Soules for said Kinzie, or to be delivered to said Kinzie; that the said Rachel neither separately nor with her said husband William Bennett, ever executed any deed of said premises to said James Kinzie, and that said pretended bargain and sale of said premises to said Kinzie, by said William Bennett, and said pretended payment of consideration by said Kinzie, and said pretended deed from said Bennett and Rachel his wife to said Kinzie, and said pretended delivery of such deed to said Soules by said Bennett, are mere fabrications falsely and fraudulently set up and pretended by the said last named defendants to cheat and defraud your orator out of his right title and property in said premises.

And your orator further shows unto your Honor that he is informed and believes that the last named defendants heretofore and on or about the third day of July A. D. 1854 filed their petition in the Cook County Circuit Court in chancery, for the purpose of perpetuating the testimony of the said Rufus Soules to the pretended execution of said pretended deed from said Bennett to said Kinzie of said premises, to the pretended delivery thereof to said Soules by said Bennett, and the pretended loss of the same, and that such proceedings were thereupon and thereafter had in said Circuit Court in chancery, that the deposition of said Soules was taken and returned to said Circuit Court and spread upon the records thereof, from which deposition so recorded as aforesaid it appears as your orator is informed and believes "that a deed of said premises was executed by said William

Bennett and Rachel his wife in 1838 or 1839, and was delivered by said Bennett to said Soules with instructions to deliver the same to said James Kinzie when he should call for it, and that the same was subsequently lost or destroyed, as in and by said record of said deposition now remaining in the office of the clerk of the Cook County Circuit Court reference being thereto had, will more fully and at large appear and to which for greater certainty your orator prays leave to refer.

And your orator shows unto your Honor that said deposition was taken without his knowledge or consent; that he is informed and believes and states the truth to be that said statements of the said Soules in reference to the said pretended execution and delivery of said deed by said William Bennett of said premises, in said record of said deposition contained, are wholly untrue; that neither the said William Bennett nor the said William Bennett and Rachel, his wife, ever executed any deed of said premises to said Kinzie; that no deed of said premises executed by said Bennett and wife or by said Bennett to said Kinzie of said premises was ever delivered by said Bennett to said Soules, and that no such deed was ever lost or destroyed, and that the last named defendants caused the said deposition to be taken, returned and recorded as aforesaid to injure your orator, and for the purpose of better carrying out their said intent to cheat and defraud your orator out of his right and title to and property in said premises as heir of the said William Bennett.

And your orator further shows unto your Honor that heretofore and sometime in the month of February, A. D., 1855, the said defendant, William Stow, delivered to the Register of deeds for said County of Cook and State of Illinois, a certain writing purporting to be a deed executed by the said William Bennett to him, said William H. Stow, for and upon the pretended consideration of twenty thousand dollars, pretended to have been paid by said Stow to said William Bennett, of said above described premises which said pretended deed is in the words and figures following, that is to say :

"This Indenture made this 26th day of January, in year of our Lord, one thousand eight hundred and fifty-six, between William Bennett, of the county of Bowie, in the State of Texas, party of the first part, and William H. Stow, of the county of Cook in the State of Illinois, party of the second part, witnesseth: that that the said party of the first part for and in consideration of the sum of twenty thousand dollars in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, and the said party of the second part forever released and discharged therefrom—hath remised, released, sold and quit claimed, and by these presents do remise, release, sell and convey and quit claim unto the said party of the second part his heirs and assigns all the right, title, interest, claim and demand which the said party of the first part has in and to the following

described tract, piece or parcel of land, the west half of the north-east quarter of section numbered twenty, township numbered thirty nine, range numbered fourteen, east, situated, lying and being in the city of Chicago, in the county of Cook and State of Illinois, to have and to hold the same together with all and singular the appurtenances and privileges thereto belonging or in any wise thereunto appertaining, and all estate, right, interest and claim whatsoever of the said party of the first part either in law or equity—to the only proper use, benefit and behoof of the said party of the second part his heirs and assigns forever.

And the said party of the first part for himself and his heirs, executors and administrators doth covenant, promise and agree to and with the said party of the second part, his heirs, executors, administrators and assigns; that he hath not made over, committed, exercised or suffered any act or acts, thing or things whatsoever whereby or by means whereof the above mentioned and described premises or any part thereof now or at any time hereafter shall or may be impaired, changed or encumbered in any manner or way whatsoever.

In witness whereof the said party of the first part hath hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of

M. M. PARSONS, }
JOSEPH MOSLY. }

WILLIAM BENNETT.

{ L. S. }

STATE OF MISSOURI, }
COUNTY OF COLE. } ss.

I, G. A. Parsons, clerk of the Circuit Court, within and for the county and State aforesaid, do hereby certify that William Bennett, who is personally known to me, to be the same person whose name is subscribed to the foregoing instrument of writing, appeared before me this day in person, and acknowledged that he signed, sealed, and delivered the said instrument of writing as his free and voluntary act and deed for the use and purpose therein set forth.

In witness whereof I, G. A. Parsons, clerk of the Circuit Court aforesaid, have hereunto set my hand, and affixed the seal of said Court of office, this 26th day of January, A. D., 1855.

G. A. PARSONS, Clerk.

And your orator further shows that he is informed and believes, and so charges the truth to be, that the said pretended deed from said Bennett to said

Stow is a forgery, and that the signature of William Bennett thereto subscribed is not the signature of the said William Bennett who purchased said premises of the United States as hereinbefore stated; that the same is the signature of some other person of the same name, who falsely and fraudulently signed and executed said pretended conveyance, to injure and defraud your orator in the premises, or else that the name of William Bennett has been falsely and fraudulently signed to the said pretended deed by some other person falsely and fraudulently representing himself to be the William Bennett who was formerly seized of said premises for the purpose of injuring your orator and defrauding him out of his property in said premises; that no such consideration of \$20,000 was paid by said Stow to the said pretended Bennett; that no consideration whatever was paid; that a fair consideration for said premises would not be less than \$200,000.

That said pretended deed is wholly a fabrication and fraud; that said pretended consideration of \$20,000 was inserted or caused to be inserted therein by said Stow, and to give color to said pretended deed, and that said defendant Stow procured said pretended deed to be executed for the purpose and with the intent to injure your orator, and to cheat him out of his right, title, interest and property in said premises.

And your orator further shows unto your Honor, that he is informed and believes, and charges the truth to be that the said defendant Stow, at the time he procured said pretended deed to him to be falsely and fraudulently executed as aforesaid, well knew that said William Bennett, the original purchaser of said premises of the United States, departed the State of Illinois, A. D., 1839; that he had not been heard from for nearly sixteen years, and that he had been long deceased; that he died seized of the said premises, and that he left your orator, his only child, sole heir to the same, and that he procured said pretended deed to be executed with full knowledge of the absolute right and title to said property in your orator.

And your orator further shows unto your Honor that he is informed and believes, and states the truth to be that on or about the 26th day of January, A. D., 1856, the said William H. Stow executed and acknowledged, and on or about the 15th day of February, A. D., 1856, left with the recorder of said county of Cook, and paid for the record thereof, a pretended trust deed to your orator, of twenty-one acres off the south end of said premises, for the pretended purpose of securing to your orator the payment of \$500, upon the condition and in the manner in said trust deed stated, as by the record of said pretended trust deed, recorded on the 15th day of February, A. D., 1855, in the recorder's office of said county of Cook, in book 89 of deeds, at page 77, reference being thereto had will more fully appear, and to which for greater certainty your orator prays leave to refer.

And your orator further shows that the said pretended trust deed was made without the knowledge or consent of your orator ; that your orator never paid any consideration to said Stow therefor ; that said Stow is not now and has never been indebted to your orator in any sum whatever; that said pretended trust deed is without consideration and void ; that said trust deed has never been delivered to your orator, or recorded with his consent, and that the said defendant Stow executed, acknowledged and placed upon record said trust deed, in order to give color to the said pretended purchase of said premises by him of said Bennett, and to the said pretended deed from said Bennett to him, for the purpose and with the intent to cheat and defraud your orator out of his title and property in said premises.

And your orator further shows unto your Honor that the said pretended deed from said William Bennett to said James Kinzie, and the said deposition of the said Soules, taken in 1854, and recorded in Cook County Circuit Court, for perpetuating the testimony of said Soules relative to the execution and delivery of said deed to said Kinzie, and the loss of the same as hereinbefore stated, the pretended deed from said William Bennett to said William H. Stow of the said premises, and the said pretended trust deed from said William H. Stow to your orator, are clouds upon the title of your orator to said premises, which your orator owns, and is entitled to the possession of, as sole heir of the said William Bennett, and your orator hoped that the defendants would not under the circumstances, have set up or insisted upon their pretended titles to said premises, as against your orator by or under said pretended false and fraudulent deeds.

But now so it is may it please your Honor, the said defendants, combining and confederating with divers other persons, (to your orators unknown, but whom, when discovered, your orator prays may be made parties defendant hereto,) now to injure and defraud your orator, the said defendants, Henry Waller, Henry McAuley, James H. Rees and Chicago & St. Charles & Mississippi Air Line Rail Road Company, have filed their said original and supplemental bills of complaint in the Circuit Court of Cook County in Chancery, setting forth the matters, and praying as herein before stated, and give out and pretend that they have a title to said premises, which your orator expressly denies, and charges on the contrary thereof, that your orator has the sole title to, and is the exclusive owner of said premises, and of the whole thereof; and the said defendant, William H. Stow has filed his answer to said original and supplemental bill, containing the admissions and denials and statemets herein before mentioned, and gives out and pretends that he has the title to and property in said premises, which your orator also expressly denies, and charges on the contrary thereof that your orator is the sole owner of the same.

All which actings and pretences are contrary to equity and good conscience, and tend to the manifest wrong and oppression of your orator. In tender consideration whereof and for as much as your orator has no remedy without the assistance of a Court of Equity.

To the end therefore that the said defendants may full, true and perfect answers make, according to the best of their knowledge, information and belief to all and singular the matters and charges aforesaid, (the answer under oath of the said defendants, and the answer of each of them under oath, being expressly waived pursuant to the statute,) as fully and particularly as if the same were here again repeated, and they thereunto particularly interrogated, and that the said pretended deed from the said William Bennett to the said James Kinzie may be declared, adjudged and decreed fraudulent and void; that the same, together with the said deposition of the said Rufus Soules, as to the execution, delivery and loss thereof, recorded in said Circuit Court as herein before stated, may be set aside, cancelled and held for naught, and that the said defendants, Henry Waller, Henry McAuley, James H. Rees and Chicago, St. Charles & Mississippi Air Line Rail Road Company, and each of them may be for ever barred and precluded by the decree of this Honorable Court, from setting up or asserting any claim or title to or interest in said premises, or any part thereof.

And that the said pretended deed of said premises from the said William Bennett to the said William H. Stow, and the said pretended trust deed from the said William H. Stow to your orator, may be declared, and adjudged, and decreed fraudulent and void, and that the same and each of them may be set aside and cancelled, and the said William H. Stow forever barred and precluded from setting up or asserting any claim, title or interest in and to said premises, or to any part thereof, and that your orator may have such other relief as the nature of his case shall require, and as shall be agreeable to equity and good conscience.

May it please your Honor to grant unto your orator the writ of summons, issuing out of and under the seal of this Court, to be directed to the sheriff of said county of Cook, commanding the said Henry Waller, Henry McAuley, James H. Rees, Chicago, St. Charles & Mississippi Air Line Rail Road Company, and William H. Stow, and each of them to be and appear at the next term of this Court, then and there to answer and abide such order and decree therein as shall be agreeable to equity and good conscience, and your orator shall ever pray, &c.

HUGH MAHER,

Guardian for William Bennett, Minor, &c.

SEDGWICK & WALKER, *Solicitors and Counsel for the Complainant.*

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

On this eighth day of May, A. D., 1856, before me personally appeared the above named Hugh Maher, and made oath that he has read the above bill of complaint by him subscribed as Guardian, and knows the contents thereof; that the same is true, of his own knowledge, except as to the matter therein stated to be on the information and belief of the complainant, and that as to those matters he believes it to be true.

WALTER KIMBALL,

Clerk Cook Co. Ct. Common Pleas.

Answer to Cross Bill
Filed June 23rd 1856.

(ANSWER OF HENRY WALLER ET AL. TO CROSS BILL OF WM. BENNETT.)
STATE OF ILLINOIS,
COOK COUNTY COURT OF COMMON PLEAS. }
IN CHANCERY.

The joint and several answers of Henry Waller, Henry McAuley, James H. Rees, the Chicago, St. Charles and Mississippi Air Line Railroad company, defendants, to the cross bill of complaint of William Bennett, by Hugh Maher, his guardian, complainant.

These defendants now and at all times hereafter saving and reserving to themselves all manner of benefit and advantage of exceptions to the many errors and insufficiencies in the complainant's said cross bill of complaint contained, for answer thereunto or unto so much thereof as they are advised it is material for them to make answer unto; answer and say that they admit that on or about the third day of February, A. D., 1855, certain of these defendants brought into the Circuit Court of Cook county, sitting in chancery, and filed with the clerk thereof their bill of complaint against William Bennett the above named complainant, and these defendants admit that the contents of their said bill so filed by them as aforesaid may be as set forth in the said complainant's bill of complaint, but for greater certainty these defendants refer to the said original bill so filed by them, and still remaining on file in the office of the Clerk of the Cook County Circuit Court as aforesaid.

And these defendants further answering admit that on or about the third day of March, A. D. 1855, certain of these defendants as named in said complainant's bill of complaint filed their supplemental bill to said original bill of complaint against the said William Bennett, complainant herein, and William H. Stow as defendants; but as to the contents of the said supplemental bill these defendants neither admit nor deny the same to be true, as set forth in the said complainant's bill of complaint, but for greater certainty these defendants refer to the original supplemental bill so filed by them as aforesaid and still remaining on file with the clerk of the Cook County Circuit Court.

And these defendants further answering admit that on the twenty-fourth day of April, 1855, the said William H. Stow, one of the above named defendants, filed his answer to said original and supplemental bills of complaint in said Circuit Court, but as to the contents of the said answer these defendants neither

admit nor deny the same as set forth in said complainant's bill of complaint; but for greater certainty refer to the said original answer so filed by the said William H. Stow in the Cook County Circuit Court as aforesaid.

And these defendants further answering admit, as alleged in said bill, that said complainants in said original and supplemental bill of complaint, and the said defendant, William H. Stow, after having taken certain depositions and filed the same in said cause in said Circuit Court, as they are informed, obtained an order from said Circuit Court upon the agreement of the parties to said cause, and changed the venue of said cause, and procured the papers and pleadings filed therein, and the copy of the record and proceedings in said cause to be removed from the said Circuit Court and filed on the 28th day of March, 1856, in the Cook County Court of Common Pleas.

And these defendants further answering admit that afterwards and on the day of April, A. D., 1856, on motion of the party complainants to said bill and supplemental bill as aforesaid and by order of the court, Hugh Maher was appointed guardian *ad litem* to William Bennett, complainant herein, and that on the 19th day of April said Bennett, by his guardian, filed in said cause with the clerk of this court his answer to the said original and supplemental bill of complaint.

And these defendants further answering admit that William Bennett, father of the complainant herein, now deceased, purchased in his life time of the United States the tract of land mentioned and described in said complainant's bill of complaint at the time and in the manner and form as stated in said bill, that afterwards and about the year 1839 the said William Bennett departed this State and has never returned, and that the said Bennett left in Chicago his wife Rachel, and William Bennett, complainant herein, only child of him, the aforesaid William Bennett, both of whom have ever since resided and do still reside at Chicago aforesaid.

And these defendants further answering deny the statements in said complainant's bill that neither the said Rachel nor any of the friends or relatives of the said William Bennett have heard from him since his departure from said Chicago, and said State of Illinois as aforesaid. But on the contrary, three of these defendants aver that they are informed and believe that the said Rachel heard from the said William Bennett, her husband, as aforesaid, in the year 1844 or 1845, and that at this time the said William Bennett was living in the city of New Orleans. But these defendants admit that since the said time last mentioned to-wit, the year 1844 or 1845, the said William Bennett has not been heard from by said Rachel or by any of his friends and relatives in said Chicago.

And these respondents further answering deny that the said complainant has caused diligent search to be made during the last sixteen years for the said William Bennett, but on the contrary thereof aver that it is only within a short time last past that the said complainant has made or caused to be made any search or inquiry for said Bennett, and they deny that for the last sixteen years he has not been able to ascertain the residence of said William Bennett, or to hear anything from him of his existence; but on the contrary thereof, these defendants aver, as they have already averred, that the said Rachel, mother of said complainant as aforesaid, heard from the said William Bennett about the year 1844 or 1845, and that said William Bennett was then living in the city of New Orleans as aforesaid.

And these defendants further answering say that nothing having been heard from the said William Bennett for seven years after the said last mentioned time, to wit: the year 1844 or 1845, that it is the presumption of the law from and after the expiration of the said seven years that the said William Bennett is deceased, but these defendants deny that there is any knowledge or presumption of the death of the said William Bennett before the expiration of said seven years after he was last heard from as aforesaid, or that any information of the time, manner or place of his decease has ever been received.

And these defendants further deny that the said William Bennett died seized of the said premises in said bill described, or of any part thereof, as is untrue alleged in the bill of said complainant.

And these defendants further answering admit that said complainant is the son and only child of the said William Bennett, but deny that said complainant is heir to said premises described in said bill, or that the said William Bennett died seized of the same or of any part thereof.

And these defendants admit that Henry Waller, Henry McAuley, James H. Rees, and the Chicago, St. Charles and Mississippi Air Line Railroad Company, who are all made parties defendant to said complainant's bill of complaint, claim to be the owners of the premises described in said bill, and these defendants suppose that the respective interests of the said parties so claiming ownership of the said property as aforesaid, may be correctly stated in said bill of complainant of said complainant, but they neither admit nor deny the same, and for greater certainty refer to the original bill above mentioned filed by the parties claiming said property as aforesaid, and which said bill now remains on file in said cause.

And these defendants further answering admit that the said parties so claiming said property as aforesaid claim the same under conveyances from and under a bargain and sale of the same by said Bennett in his life time, and in the

year 1834 to James Kinzie, of Chicago, and a deed executed by the said Bennett and Rachel, his wife, for a valuable consideration paid to said Bennett by said Kinzie in the year 1838 or 1839, and that said deed was in 1839 delivered by said William Bennett to one Rufus Soules with instructions to deliver the same to the said Kinzie, and these defendants admit that said deed last mentioned has since been lost or destroyed, and cannot now be found.

And these defendants further answering deny the statements made in said complainants bill of complaint; that the said bargain and sale and the said deed aforementioned from said Bennett to said Kinzie is a mere fabrication, and that no such deed was ever executed by said Bennett or by Rachel, his wife, and that no consideration was ever received for the same by said Bennett, and that no such deed was ever deposited by said Bennett with said Soules to be given to said Kinzie; but on the contrary thereof, these defendants aver, as they have already averred, that the said deed above described was duly executed by the said William Bennett and Rachel, his wife, and a valuable and adequate consideration paid therefor by said Kinzie, and that the said deed was delivered by the said Bennett to the said Rufus Soules for and on account of and to be delivered to said Kinzie.

And these defendants further answering admit that the said last named defendants heretofore, and on or about the third day of July A. D., 1854, filed their petition in the Cook County Circuit Court in chancery for the purpose of perpetuating the testimony of the said Rufus Soules to the execution of said deed from said Bennett to said Kinzie, and the delivery thereof to said Soules and the subsequent loss of the same, and that such proceedings were thereupon and thereafter had in said Circuit Court in chancery, that the deposition of said Soules was taken and returned to said court and spread upon the records thereof, but as to the contents of said deposition these defendants for greater certainty refer to the original now remaining on record in the Circuit Court of said Cook County aforesaid.

And these defendants further answering say that the said deposition of said Soules was taken upon due notice and in strict accordance with the statute in such case made and provided, and these defendants deny that the statements of the said Soules in reference to the execution of said deed by said Bennett of said premises, are false; but on the contrary thereof, these defendants aver that said statements of said Soules are true in manner and form as they are contained in the depositions of said Soules as aforesaid, that the said William Bennett and Rachel, his wife, did execute a deed of conveyance of the said premises to the said James Kinzie, that the said deed was delivered to the said Soules by the said Bennett as aforesaid, and that said deed was subsequently lost or destroyed,

and these defendants deny that they or any of them caused the said deposition to be taken, returned and recorded as aforesaid to injure said complainant, or for the purpose of cheating and defrauding said complainant out of any right or title in said premises.

And these defendants further answering admit that some time during the month of February, A. D., 1855, William H. Stow delivered to the register of deeds for the county of Cook and State of Illinois a certain writing purporting to be a deed executed by the said William Bennett to him, said William H. Stow, for and upon the pretended consideration of twenty thousand dollars pretended to have been paid by said Stow to said Bennett, of the premises described in said bill, and these defendants admit that the said pretended deed is in words, terms and figures as set forth in said complainant's bill of complaint.

And these defendants further answering admit that according to their information and belief the said pretended deed from said Bennett to said Stow is a forgery, and that the signature of the said William Bennett thereto subscribed is not the signature of the said William Bennett who purchased said premises of the United States, but that said deed has been falsely and fraudulently signed by some other person representing himself to be the William Bennett, who was formerly seized of said premises, and that no such consideration as \$20,000 was ever paid by said Stow to the said pretended Bennett, and that a fair consideration for said premises would not be less than \$200,000.

And these defendants further answering admit that said pretended deed is wholly a fabrication and a fraud, and that said pretended consideration of \$20,000 was inserted or caused to be inserted therein by said Stow to give color to said pretended deed, and these defendants further answering aver that said Stow procured said pretended deed to be executed for the purpose and with the intent to injure these defendants and to cheat and defraud them out of their right title, interest, possession and property in said premises.

And these defendants further answering admit that they are informed and believe that said Stow at the time he procured said pretended deed to him to be falsely executed as aforesaid, well knew that said William Bennett the original purchaser of said premises of the United States, departed this State in the year A. D. 1839 and that he had not been heard from for a long time, and that he had been long deceased, and these defendants further aver that the said Stow well knew that the said Bennett had conveyed said premises by deed to the said James Kinzie as aforesaid, in the year 1839 and before the departure of the said Bennett from the said State of Illinois, and that these defendants became and are seized of the said premises by mesne conveyances from said Kinzie under the said conveyance to said Kinzie by said Bennett as aforesaid, and that the said Stow

procured said pretended deed to be executed with full knowledge of the absolute right and title to said property in these defendants.

And these defendants further answering admit that they are informed and believe the fact to be that on or about the 26th day of January A. D. 1855 the said William H. Stow executed and acknowledged, and on or about the 15th day of February 1855 left with the register of deeds in said county of Cook to be recorded, and paid for the record thereof a pretended trust deed to William Bennett for complainant as aforesaid, of twenty-one acres off the south end of said premises for the pretended purpose of securing to said complainant the payment of \$500, upon the conditions and in the manner in said trust deed stated.

And these defendants further answering aver that the said Stowe and the said William Bennett jr complainant as aforesaid, are now fraudulently and corruptly concluding and contriving together to cheat and defraud these respondents out of their right title and property in said premises, and these defendants aver that the said Stow is acting for and procuring testimony for said Bennett and is aiding and assisting him in the defence to the aforementioned bill filed by the respondents as aforesaid, and they aver that there is a corrupt and fraudulent agreement between the said complainant and the said Stowe, by virtue of which said Stowe has agreed to give up the prosecution of his said pretended false and fraudulent title and to aid and further the said complainant in defrauding and cheating these respondents out of their said estate, title and property in said premises, and in case of the success of said Bennett the said Stowe is to receive in return a part of said premises, so fraudulently and wickedly obtained from these respondents in payment for his said services in that behalf; and that with this intent and for this purpose the said Stowe has been present at the taking of testimony for said complainant Bennett and has procured witnesses for said Bennett and conferred with said witnesses and with the counsel of said Bennett; while the counsel representing said Stow have since the filing of said cross bill taken no part in said case, and have not been present at the taking of testimony therein.

And this defendant Henry Waller further answering says that he has a title to a portion of said premises under and by virtue of the said deed of said Bennett to James Kinzie as herein and in the original bill of these defendants set forth, and further answering says that he has, as he is advised and believes and therefore alleges a good and valid title under the laws of this State as hereinafter set forth.

And this defendant H. Waller further answering avers as has already been averred that he is informed and believes that the said Rachel, wife of

William Bennett aforesaid, received information from him said Bennett at or about the year 1844 or 1845 and that the said Bennett was then living in the city of New Orleans and State of Louisiana and upon such information and belief this defendant expressly charges that said Bennett was living in the said year 1844 or 1845 at said city of New Orleans.

And this defendant further answering avers that the said James Kinzie aforesaid executed a deed to John H. Kinzie and Hiram Pearsons on or about the twenty-ninth day of May A. D. 1835 of the north half of said tract herein before described, which deed was recorded in Cook County registry of Deeds, June 29, A. D. 1835—as by reference thereto will more fully and at large appear, and that the said John H. Kinzie and Hiram Pearsons executed a deed of the said north half of said tract to one William Bard which deed was duly recorded in the recorder's office of Cook county on the 28th day of July 1841, as by reference thereto will more fully appear, and these defendants further aver that the said William Bard executed a deed of the said north half of said tract to Henry Waller, one of these defendants, on the 22d day of March A. D. 1853, as by reference thereto will more fully appear.

And this defendant further answering avers that the said William Bard having color of title to the said north half of said tract made and taken in good faith under and by virtue of the said conveyances aforesaid, he the said Bard paid all the taxes legally assessed thereon for more than seven successive years, viz: for the years 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848 and 1849 and that the said land was during all said time vacant and unoccupied land; and this defendant further avers that the said Henry Waller, one of these defendants as aforesaid, has held and owned the said north half of said tract by purchase from the said William Bard ever since the execution of the deed to him from said Bard as aforesaid and that the said Henry Waller now holds the same, and that the said Waller has fully paid during said time all taxes legally assessed on said land.

And this defendant further answering insists that, by virtue of the statute in such case made and provided in the second section of an act entitled "an act to quiet possessions and confirm titles to land" approved March 2d, 1839 and adopted into the revised code of 1845 as the 9th section of the twenty-fourth chapter of said code entitled "conveyances" such payment of taxes by said Bard as aforesaid and by this defendant Henry Waller under said claims and color of title as aforesaid would of itself and independent of the validity force or effect of the said conveyance vest in him the said Waller as the grantee of the said Bard as aforesaid, a good title to said premises and entitle him the said defendant Henry Waller to be deemed and adjudged to be the

legal owner thereof, and this defendant Henry Waller claims the benefit of the said statute, and this defendant Henry Waller insists that the said William Bard having color of title made in good faith to said lands, the same being vacant and unoccupied, and having paid all taxes legally assessed thereon for seven successive years and upwards is well entitled to said premises.

And this defendant, Henry Waller, further answering says that he holds title to said premises under said William Bard, and that the same still continues vacant and unoccupied, that he purchased the same in good faith, and having color of title as aforesaid has continued to pay all taxes legally assessed thereon from the date of the deed executed by said Bard to this defendant to the time of the filing of the said cross bill of said complainant.

And these defendants further answering deny all unlawful combination and confederacy in the said bill charged; without that, any other matter or thing material or necessary for these defendants to make answer unto, and not herein or hereby well or sufficiently answered unto, confessed or avoided traversed or denied is true to the knowledge or belief of these defendants, all which matters and things these defendants are now ready to aver, maintain and prove, as the honorable court shall direct and humbly prays to be hence dismissed with their reasonable costs and charges in that behalf most wrongfully sustained, &c.

(Signed,)

HENRY WALLER,

JAMES H. REES

H. McAULEY,

CHICAGO, MISSISSIPPI & ST. CHARLES

AIR LINE R. R. COMPANY.

*Replication of Bennett to Answer to
Cross Bill. filed January 5: 1858.*

[REPLICATION.]

STATE OF ILLINOIS,
COOK COUNTY COURT OF COMMON PLEAS.

IN CHANCERY.

WILLIAM BENNETT,

MINOR HEIR OF WILLIAM BENNETT, deceased,

BY

HUGH MAHER, His Guardian,

Complainant,

vs

HENRY WALLER, ET AL,

Defendants.

REPLICATION.

This repliant, by Hugh Maher, his said Guardian, saving and reserving to himself, now, and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer of the said defendants to this complainants' cross bill, for replication thereto, says, that he will aver, maintain and prove his said cross bill of complaint to be true, certain and sufficient in law, to be answered unto, and that the said answer of the said defendants is uncertain, untrue and insufficient to be replied unto by this repliant, without this, that any other matter or thing, whatsoever, in the said answer contained material or effectual in law, to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true, all which matters and things this repliant is and will be ready to aver, maintain and prove as this Honorable Court shall direct, and humbly prays as in and by his said bill he has already prayed.

WILLIAM BENNETT, MINOR, &c.,

By HUGH MAHER, his Guardian.

SEDGWICK & WALKER, Solicitors for Complainant.

Patent.

56

Filed February 10: 1857.

(PATENT.)

THE UNITED STATES OF AMERICA,

To all to whom these Presents shall come, Greeting:

PRE-EMPTION / CERTIFICATE, }
NO. 1678.

Whereas, William Bennett, of Cook County, Illinois, has deposited in the General Land Office of the United States, a Certificate of the Register of the Land Office at Danville, whereby it appears that full payment has been made by the said William Bennett, according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An act making further provision for the sale of the public lands," for the west half of the north east quarter of section twenty, in Township thirty-nine, north of Range fourteen, east, in the district of lands subject to sale at Danville, Illinois, containing eighty acres, according to the official plat of the survey of the said lands, returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said William Bennett.

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have Given and Granted, and by these presents do Give and Grant, unto the said William Bennett and to his heirs, the said tract above described; To Have and to Hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said William Bennett, and to his heirs and assigns forever.

In testimony whereof, I, Martin Van Buren, President of the United States of America, have caused these letters to be made Patent, and the Seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the sixteenth day of March, in the year of our Lord one thousand eight hundred and thirty-seven, and of the Independence of the United States, the sixty-first.

By the President:

MARTIN VAN BUREN.

By A. VAN BUREN, Sec'y.

HUDSON M. GARLAND,

Recorder of the General Land Office.

{ L. S. }

Recorded, Vol. 4, Page 144.

GENERAL LAND OFFICE,)

February 6, 1857. }

I, Thomas A. Hendricks, Commissioner of the General Land Office, do hereby certify, that the annexed is a true and literal exemplification from the patent records of this office.

In testimony whereof, I have hereunto subscribed my name, and caused the Seal of this office to be affixed, at the city of Washington, on the day and year above written.

THOS. A. HENDRICKS,

Commissioner of the General Land Office.

{ L. s. }

JAMES K. HARRIS

JAMES K. HARRIS

Deed filed February 16. 1858

JAMES KINZIE,
TO
JOHN H. KINZIE, ET AL. }

Know all men by these presents, that we, James Kinzie and Leah, his wife, of Chicago, county of Cook and State of Illinois, for and in consideration of the sum of sixteen hundred dollars to us in hand paid by John H. Kinzie and Hiram Pearsons of the same place, the receipt whereof we do hereby acknowledge and confess, have remised, released and forever quit claimed, and by these presents do remise, release and quit claim unto the said John H. Kinzie and Hiram Pearsons and to their heirs and assigns forever, all that certain piece or parcel of land described as follows, to-wit :

The north half of the west half of the north-east quarter of section number twenty, township number thirty-nine, north range fourteen, east of the third principal meridian, containing forty acres be the same more or less, dividing the eighty acres precisely across the middle by a line running east and west, and giving said John H. and Hiram the north half of the eighty acre lot, together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining, to have and to hold the said premises, with the appurtenances to the said John H. and Hiram and their heirs and assigns forever, and the said James Kinzie for himself, his heirs, executors, administrators and assigns doth covenant, promise and agree to and with the said John H. and Hiram, their heirs and assigns; that he, the said James Kinzie, will with all convenient speed obtain a patent for said above described premises, and will also whenever called upon by said John H. and Hiram, their heirs or assigns, after the obtaining of the patent, make, execute and deliver to said John H. and Hiram, their heirs or assigns, such other deeds of conveyance, with full covenants (and releasing dower) of the said premises, for the conveying, investing and assuring to said John H. Kinzie and Hiram Pearsons a full and perfect title in fee simple to said premises, free from all encumbrances, as they, the said John H. Kinzie and Hiram Pearsons, their heirs or assigns, or his or their counsel, learned in the law, shall reasonably devise, advise or require.

In witness whereof the said James Kinzie and Leah Kinzie, have hereunto set their hands and seals, this 27th day of May, A. D. 1855:

In presence of

A. CLYBOURN.

JAMES KINZIE. { SEAL }

LEAH KINZIE. { SEAL }

**COOK COUNTY, }
STATE OF ILLINOIS. }**

Personally appeared before me, James Kinzie and Leah Kinzie, being both of them personally known to me as the signers and sealers of the foregoing instrument of writing, and acknowledged the same to be their free will and deed. The said Leah Kinzie, wife of James Kinzie, having been by me first examined apart from her husband, according to law, declared that the within deed was executed by her free will and consent, and that she relinquished all her claim to right of dower to the same.

Given under my hand this 27th day of May, 1835,

JOHN DEAN CATON, J. P.

Recorded 29th June, 1835, in Book F. of deeds, page 91.

Deed filed February 16. 1838.

JOHN H. KINZIE and WIFE, }
and
HIRAM PEARSONS, } To WILLIAM BARD.

This indenture, made this twenty-sixth day of July in the year of our Lord one thousand eight hundred and forty-one, between John H. Kinzie and Juliette A. his wife, and Hiram Pearsons, all of the city of Chicago, of the first part, and William Bard, of the city of New York, of the second part, witnesseth: That the said party of the first part for and in consideration of five hundred and fifty dollars in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, and also in consideration of the cancelment of our bond and contract with Charles Butler, William Bard and others, of date 20th April 1835, have remised, released, sold, conveyed and quit claimed, and by these presents do remise, release, sell, convey and quit claim unto the said party of the second part his heirs and assigns forever, all the following described lots or parcels of land, situate, lying and being in the state of Illinois, to wit: the following lots in "Kinzie's addition to the town of Chicago," the undivided half of water lot No. eleven, the whole of water lot No. four, and lot four in block fifteen; also an equal undivided half of the following lots and blocks in the "School Section addition to Chicago," to wit: lot No. one and five in block number forty-eight, lot two in block seventy-two, lot one, two and three in block eighty, lot one and three in block eighty-one, lots one, two, seven and eight in block ninety five, lot seven in block one hundred and nineteen, lot one in block ninety-six, lot one and eight in block eighty-two, lots one, two, three and four in block seventy-nine, lot one in block twenty-six, lots one and four in block seventy-one, lot four in block fifty, blocks No. sixty-seven and one hundred and twenty-four. Lot No. seven in Egan's subdivision of block eighty-three, and lots one and three in block one hundred and one, also part of lot five in block twenty in the original town of Chicago being twenty-four feet off the south west corner of said lot on Lake street and forty feet deep on Franklin street, also the following lots in "Wolcott's addition to Chicago," to wit: lot three in Block thirteen, lot thirteen in block one, lots four, six and seven in block eight, lots six and seven in block fourteen; also the following lands, to wit: the north half of the west half of the north east quarter of section twenty in township thirty-nine north of range fourteen east; the west half of the south west quarter of section sixteen, township thirty-six north range nine east, containing 80 acres; north east quarter of sect. sixteen, township 35, north range 11 east, containing 159½ acres; the south east quarter of sec. twelve, township 40, north range 13 east, containing 160 acres; the east half of the south east quarter of sec. seven; the east half of the north east quarter of sec. eighteen both in township 35 north range 4 east, containing 160 acres; the east half of south east quarter of sec. twenty-six and west half of south west quarter of sec. twenty-

five, both in township 32, north range seven east, containing 160 acres; the west half of the south west quarter of sec. eighteen (80 acres); east half of the north-east quarter of sec. twelve (70 acres); east half of the north-east quarter of sec. ten (80 acres); south fraction of north east quarter of sec. twenty (18 acres); east half of south east quarter of sec. twenty-four (80 acres); east half of south west quarter of section twenty-four (80 acres); east half of north west quarter of sec. twenty (80 acres); east half of south west quarter of sec. twelve (80 acres); north fraction of north east quarter of sec. twenty (50 acres); west half of north west quarter of section twenty-six (80 acres); east half of north east quarter of same sec. (80 acres) all in township 37 north range 11 east; the north east quarter of section fourteen in township 36, north range 10 east, containing (160 acres); the north east quarter of sec. six (160 acres); south west quarter of sec. four (160 acres); west half of south west quarter of sec. ten (80 acres); south fraction of south east quarter of sec. six ($95 \frac{25}{100}$ acres), all in township 27 north range 12 east: the west half of north west quarter of sec'n six ($75 \frac{61}{100}$ acres); in township 36 range 11 east; the south east quarter of section twenty-six, township 38, north range 11 east, containing (160 acres); the north west quarter of sec. eight (160 acres); south west quarter of section six (144 20-100 acres), both in township 36 north range 11 east; the west half of north west quarter of sec'n eighteen (80 acres); east half of south west quarter of sec'n six (80 acres); west half of south west quarter of same sec. (80 acres), all in township 39 north range 14 east; the west half of the north east quarter of sec'n seven (78 49-100 acres); east half of north east quarter of same sec. (80 acres); east half of south east quarter of sec'n six (80 acres); north west and west half of south west quarter of sec'n fifteen (240 acres), all in township 36 north range 13 east; the equal undivided half of south fraction of south east quarter of section thirty-two and north fraction of south east quarter of same sec. (58 50-100 acres); west half of north east quarter of same sec. (80 acres); west half of north east quarter of sec. eighteen (80 acres); west half of north west quarter of sec. two (83 28-100 acres); north half of east half of south east quarter of section thirty-four (40 acres); west half of south west quarter of sec. twenty eight (80 acres), all in township 38 north range 12 east; the west half of north west quarter of sec. one, township 31 north range 4 east (80 acres); the west half of the north east quarter sec. thirty-six (80 acres); east half of same quarter (80 acres); west half of the north east quarter of sec. thirty-four (80 acres); east half of north east qr. same sec. (80 acres); and east half of north west quarter of same sec. (80 acres); and west half of south west quarter of sec. thirty-two (80 acres), all in township 33 north range 4 east; the east fraction of north west quarter and north west fraction of north west quarter of section ten (137 64-100).

East half of south east quarter of same sec. (80 acres); west half of north

east quarter ($79 \frac{83}{100}$ acres). The north west quarter (160 acres) of section nine; east half of north west quarter and west half of north east quarter, sec. eight, (160 acres); south east quarter, (160 acres), and north west quarter ($151 \frac{1}{100}$ acres) of section one; west half of south west quarter of sec. two, (80 acres); east half of north east quarter of sec. three, ($69 \frac{66}{100}$ acres). South fraction of north east quarter of sec. two, ($114 \frac{65}{100}$ acres); west half of north west quarter of sec. two, (80 acres); west half of north west quarter of sec. three, (80 acres); west half of south east quarter of sec. four, (80 acres), all in township 34, north range 4 east. The north west quarter of sec. four, township 32, north range 5 east, ($156 \frac{11}{100}$ acres). The east half of north west quarter of sec. four, township 33, north range 7 east, (80 acres). The west half and east half of south east quarter of section fifteen (400 acres). West half of north east quarter of sec. twenty four (80 acres), both in township 39, north range 13 east. The north east quarter and east half of south east quarter of sec. ten (240 acres). East half of south west quarter of sec. three (80 acres). South east quarter of sec. four (160 acres). East half of south west quarter of sec. two (80 acres). East half of north west, east half of south west, and west half of south east quarter of sec. ten (240 acres), all in township 39, north range 13 east. The south east quarter of sec. eight, township 28 north range 13 east. Lot No. seven in block No. eight in Wolcott's addition above mentioned is however conveyed subject to certain contract of sale made by the said parties of the first part to Garland & Dyer, and the whole premises hereby conveyed are conveyed subject only to the payment of the sum of four hundred dollars, being the amount of the drafts of Charles Butler on the said William Bard party of the second part, payable three months from the date thereof.

To Have and to Hold the Same, together with all and singular the appurtenances and privileges thereunto belonging or in any wise appertaining, and all the estate, right, title, interest and claim whatsoever, of the said parties of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever.

And the said party of the first part for themselves, their heirs, executors and administrators do covenant and agree to and with the said party of the second part, his heirs and assigns, that they will warrant and forever defend the aforesaid premises to be free and clear of all claim or claims of any and every person or persons claiming and to claim by, through or under them, and none other.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Sealed, and delivered in presence of

JNO. H. KINZIE,

{ L. s. }

HIRAM PIERSONS,

{ L. s. }

Four words on the first page erased before signing, and also the words "and also in consideration of the cancelment of our bonds and contract with Charles Butler, William Bard and others, of date 20 April, 1855," and the word "half," on first page, and the words "all in township 34, north range 4 east," on the second page, and the word "themselves," on the third page, interlined before signing, W. M. Larrabee, as to the signature of John H. Kinzie and Hiram Pierson.

STATE OF ILLINOIS, }

COOK COUNTY, }

Personally appeared before me, the undersigned, clerk of the County Commissioners' Court in and for said County, John H. Kinzie and Hiram Piersons, both personally known to me as the same persons who signed the foregoing deed, who acknowledged that they executed the same freely and voluntarily for the uses and purposes therein set forth.

In Testimony Whereof I have hereunto set my hand and the seal of said County, this 27 July, A. D., 1841.

{ L. s. }

GEORGE DAVIS, Clerk.

Filed this twenty-eighth day of July, A. D., 1841.

ELI B. WILLIAMS, Recorder.

Book 7 of Deeds, Page 30.

Power of Attorney filed Feby. 16. 1858.

WILLIAM BARD, }
TO
OGDEN & JONES. }

Know all men by these presents that we, William Bard, of the city, county and State of New York, and Catherine, his wife, have made, constituted and appointed, and by these presents do make, constitute and appoint William B. Ogden and William E. Jones, of Chicago, in the State of Illinois, them or either of them jointly or severally our true and lawful attorneys or attorney for us and in our name, place and stead to take upon themselves, either jointly or severally as aforesaid, the charge, care and management of the lands hereinafter mentioned, that is to say:

All those certain lands situate, lying and being in the county of Will and State of Illinois, known and described as follows, to-wit:

East half of the north east quarter of section 14, town 36, N. R. 10, E.

West half of the north east quarter of section 14, T. 36, N. Range 10, E.

Also those certain lands situate, lying and being in the county of Dupage and State aforesaid, described as follows:

East half of the north east quarter of section 10, town 37, N. Range 11, east; west half of the south west quarter of section 18, T. 37, N. Range 11, east; east half of the south east quarter of section 26, town 38, N. range 11, east,

West half of the south east quarter of section 26, town 38, N. range 11, east.

Also all those certain lands lying in the county of Cook and State aforesaid described as follows, to-wit:

West half of the south west quarter of section 10, town 37, N. Range 12, east; the east half of the south east quarter and the west half of section fifteen (15), township 39, north of range 12 east, and the north west quarter of the north east quarter of section twenty, township thirty nine, north of range fourteen east, and also lot number one in block 48; lot number two in block seventy nine, and lot number seven in block ninety five, in the school section addition to Chicago, in said county of Cook, and to lease, sell and dispose of or to contract for the leasing, sale or disposition of the said lands or any portion thereof for such consideration and upon such terms of payment as they or either of them may deem sufficient and right, and for our interests, and in pursuance of any such contract or sale, and for the purpose of consummating the same, we do hereby authorize and empower them to make, execute, acknowledge and deliver all

proper and necessary papers, deeds and conveyances in the law that may be required to remise, release and convey with such covenants as they or either of them may deem proper and necessary all our right, title and interest of, in or to the lands before mentioned, and we do also hereby authorize and empower our said attorney or attorneys, them or either of them as aforesaid to ask, demand, sue for, recover and receive all moneys that may become due from any person or persons from or on account of said lands or any portion thereof, and to make and deliver good and valid receipts, acquitances and discharges therefor, and also in our name or otherwise, as the said attorneys or attorney shall find or deem requisite and proper to take and adopt in any court or courts, or before any magistrate, judge or tribunal of the United States, or of any State or Territory thereof all such legal measures and proceedings as they or either of them may think requisite, in order to protect, preserve and defend our title, interest and possession in the said lands or any portion thereof, and to remove any intruder or intruders, prevent any trespass, and for the recovery of any damages against any trespasser or trespassers by reason of unlawful possession, detainer or wrong doing upon the land before mentioned, or any portion thereof; and I, the said William Bard, do hereby authorize the said Ogden and Jones, them or either of them, to cause the beforementioned property or part thereof to be surveyed and subdivided into lots, or such other subdivisions as to them may seem expedient, and to cause proper maps to be made thereof, and to acknowledge said maps and file the same in the proper offices, according to the laws of Illinois, in such case made and provided, giving and granting unto our said attorneys or attorney them and each of them jointly and severally full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as we might or could do if personally present with full power of substitution and revocation hereby ratifying and confirming all that our said attorneys or attorney, they or either of them, or their or his substitute shall lawfully do or cause to be done by virtue hereof.

In witness whereof we have hereunto set our hands and seals the sixteenth day of October, in the year one thousand and eight hundred and forty six.

WM. BARD.

{ SEAL. }

CATHERINE BARD.

{ SEAL. }

Sealed and delivered in presence of }
S. H. FLEETWOOD. }

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK. } ss.

On this twenty-seventh day of October, eighteen hundred and forty-six, before the subscriber, a commissioner for said State, appointed by the governor of the State of Illinois, to take the acknowledgment of deeds and other instruments of writing in said State of Illinois, personally came, William Bard and Catherine, his wife, known to me to be the same persons described in and who executed the within power of attorney, and severally acknowledged that they executed the same for the uses and purposes therein expressed.

And the said Catherine Bard, on a separate examination apart from her said husband, being by me made acquainted with the contract and power of attorney, acknowledged that she executed the same and relinquished her dower to the lands therein described, and authorized and empowered the said attorneys or attorney to relinquish her dower therein freely and voluntarily, and without compulsion from her husband.

In witness whereof I have hereto subscribed my name and affixed my official seal the day and year above written.

{
SEAL
}

STANLEY H. FLEETWOOD,

Commissioner for Illinois,

Filed the 2d day of January, A. D. 1847.

No. 15,874; book 21, page 469

Deed - Filed February 16, 1858.

WILLIAM BARD AND WIFE, }
TO
HENRY WALLER. }

This Indenture, made this twenty-second day of March, in the year of our Lord, one thousand eight hundred and fifty-three, between William Bard, of the city, county and State of New York, and Catherine, his wife, by William B. Ogden, of the city of Chicago and State of Illinois, their attorney in fact duly constituted by letter of attorney executed by the said William and Catherine Bard, bearing date the sixteenth day of October, A. D. 1846, and recorded in the recorder's office of Cook county on the second day of January, A. D. 1847, in book 21, page 469, parties of the first part, and Henry Waller, of the city of Maysville, in the county of Mason, and State of Kentucky, party of the second part, witnesseth; that the said parties of the first part for and in consideration of the sum of forty thousand dollars in hand paid by the said party of the second part, the receipt of which is hereby acknowledged, have remised, released, conveyed and quit claimed, and by these presents do remise, release, convey and quit claim unto the said party of the second part his heirs and assigns forever, all the following described lot or parcel of land situate, lying and being in the county of Cook and State of Illinois, to-wit :

The north west quarter of the north east quarter of section twenty (20) in township thirty nine (39), north of range fourteen (14), east of the third principal meridian, containing forty (40) acres more or less, together with all and singular the hereditaments and appurtenances thereunto in any wise belonging or appertaining, to have and to hold the same together with all the appurtenances and privileges thereunto belonging, or in any wise appertaining, and all the estate, right, title, dower, right of dower, interest and claim whatsoever of the said parties of the first part, either in law or equity, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever, and the said William Bard, for himself, his heirs, executors and administrators, doth covenant and agree to and with the said party of the second part, his heirs and assigns that the aforesaid premises are free and clear of all claim or claims of all and every person or persons claiming or to claim by, through or under him, the said William Bard, and none other.

IN WITNESS WHEREOF the said parties of the first part have, by their said attorney, hereunto set their hands and seals the day and year first above written.

WM. BARD. { SEAL }
By W. B. Ogden, his Attorney in fact.

CATHERINE BARD. { SEAL }
By W. B. Ogden, her Attorney in fact.

Signed, sealed and delivered }
in presence of }

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

I, Franklin Hathaway, a Notary Public, in and for the town of North Chicago, in the county and State aforesaid, do hereby certify that the above named William B. Ogden, who is to me personally known to be the real person described in and who executed the foregoing deed, as the attorney in fact of William Bard and Catherine Bard, the grantors in said deed named, this day appeared before me in person and acknowledged that as such attorney in fact he freely and voluntarily signed, sealed and delivered the said deed as the free act and deed of the said William Bard and Catherine, his wife, and thereby relinquished the dower of the said Catherine Bard in and to the lands and tenements therein described for the uses and purposes therein set forth.

Witness my hand and notarial seal this twenty-second day of March, A. D. 1853.

{ SEAL } FRANKLIN HATHAWAY, Notary Public.

Recorded March 24th, 1853, in book 61 of deeds, page 279; No. 41,074.

Deed - Filed. February 16: 1858.

WILLIAM ELAM & WIFE, }
 TO
 HENRY WALLER & OTHERS. }

THIS INDENTURE, made this fifteenth day of December, in the year of our Lord one thousand eight hundred and fifty-four, between William Elam and Rachel his wife, (the said Rachel being late Rachel Bennett, wife of William Bennett, deceased), of the city of Chicago, State of Illinois, parties of the first part, and Henry Waller, of the city of Maysville, State of Kentucky, Henry McAuley and James H. Rees, of said city of Chicago, and the Chicago, St. Charles and Mississippi Air Line Rail Road Company, parties of the second part, Witnesseth, That the said party of the first part, for and in consideration of the sum of Five Dollars to them in hand paid, the receipt whereof is hereby acknowledged, (and the said parties of the second part forever released and discharged therefrom), hath remised, released, sold, conveyed and quit claimed, and by these doth remise, release, sell, convey and quit claim unto the said parties separately and respectively of the second part, their heirs and assigns forever, all the right, title, interest, claim and demand, including all and every right of dower which the said parties of the first part have in and to the following described lots, pieces or parcels of land situate in the said City of Chicago, that is to say all their right, &c., as aforesaid in and to the north half of the west half of the north east quarter of section twenty (20), to the said Henry Waller all their right, &c., as aforesaid, in and to the north half of the south half of the west half of said quarter section, to said Henry McAuley, all their right, &c., as aforesaid in and to twelve (12) acres of the south half of the south half of the west half of said quarter section to said James H. Rees, and all their right, &c., as aforesaid, in and to the remaining eight (8) acres in said south half of the south half of the west half of said quarter section, to the said Chicago, St. Charles & Mississippi Air Line Rail Road Company, their heirs, successors and assigns forever, there being eighty (80) acres altogether in said lots, and all being in township thirty-nine, (39) north range fourteen (14) east of the third principal meridian.

To have and to hold the same together with all and singular the appurtenances and privileges thereunto belonging or in any wise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever of the said parties of the first part, either in law or equity, to the only proper use, benefit and behoof of the said parties separately and respectively of the second part, their heirs and assigns forever.

In Witness Whereof the said parties of the first part have hereunto set their hands and seals the day first above written.

WILLIAM ELAM. { SEAL }

RACHEL ELAM. { SEAL }

Scaled, signed and delivered in presence of }
JOHN LUDBY.

STATE OF ILLINOIS, } ss.
COOK COUNTY.

I, Francis A. Hoffman, a Notary Public in and for said County, in the State aforesaid, do hereby certify that William Elam and Rachel his wife, personally known to me as the same persons whose names are subscribed to the foregoing instrument of writing, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument of writing as their free and voluntary act, for the uses and purposes therein set forth. And the said Rachel, wife of the said William Elam, having been by me examined separate and apart, and out of the hearing of her husband, and the contents and meaning of the said instrument of writing having been by me made known to her, acknowledged that she had freely and voluntarily executed the same, and relinquished her dower to the lands and tenements therein mentioned without compulsion of her said husband, and that she does not wish to retract the same.

Given under my hand and seal of office this 16th day of December, A. D., 1854.

{ L. S. }

FRANCIS A. HOFFMAN, *Not. Pub.*

No. 55,566. Filed for Record December 16th, 1854. Book 84 of Deeds, page 269.

(AFFIDAVIT OF JAMES H. REES).

This affiant, the undersigned James H. Rees, states that he is one of Complainants in the above entitled case, and one of the owners of the property in contest as set forth in the pleadings. He states that sometime prior to September 1850, he received a letter from George E. Walker, of Ottawa, with whom he was acquainted, stating in substance, and as well as he can now recollect, that he, Walker, had received a letter from Maniere & Meeker, attorneys in Chicago, or one of said firm, asking of him information in reference to the title papers to the West half of the North East quarter of section 20, Township 39, Range 14, East, which had been entered by William Bennett, and sold to James Kinzie—(being the property now in controversy), and that as he Walker was not acquainted with the writer of said letter, or did not know the object of the inquiry, he preferred corresponding with him, said affiant, on that subject. He then stated that he did not know where said papers then were, as he had not heard any thing about them for a long time, but referred affiant to Rufus Soules for information.

At this time affiant had no interest in the land; but he took said letter from said Walker and handed it to said Maniere & Meeker, or one of them, and has never seen it since. He has applied for it, but it could not be found, and affiant supposes it has been lost. Said Maniere & Meeker then engaged him to visit said Soules, for the purpose of procuring whatever title papers he might have of this land, or whatever information he might be able to give concerning it.

He accordingly went to see said Soules on the subject, and asked him if he knew any thing about a certain tract of 80 acres of land in or near Chicago, which had been entered in the name of one William Bennett, and sold by him to one James Kinzie. Soules answered promptly that he had in his possession a deed from William Bennet to James Kinzie for 80 acres of land, and had had it for a number of years; and he then stated the circumstances under which it had been left with him by Bennett, with directions to be delivered to Kinzie. Said affiant made known to said Soules for whom he was acting, and requested to see the deed.

Soules went to get the deed, and after searching for a considerable time, returned and reported that he could not find it, but brought with him and handed to this affiant the land office receipt for the land in contest, issued to William Bennett by Sam. McRoberts, Receiver, dated December 27th, 1834, and which is filed in, and made a part of the first deposition of Soules, which was taken before A. B. Cotes, on the 24th day of September, 1850. Soules stated, at the time he handed said paper to affiant, that it had been left with

him by said Bennett when he left the deed as aforesaid, and that the deed called for the same land that the receipt did. He said that the deed, he supposed, had gotten misplaced in some way, and upon request of affiant, promised to make a thorough search. This was the first time affiant ever saw the said land receipt, and he asked said Soules for permission, which he granted, to take it away and exhibit it to said Maniere & Meeker. Affiant then left said Soules, and took and delivered said receipt to said Maniere & Meeker, or one of them. This affiant examined said receipt closely at the time it was handed to him by said Soules, and the endorsements as follows: "Wm. Bennett" (sola) "W. Bennett"—were then upon it as now. Affiant is acquainted with the hand writing of said George E. Walker, and he believes said endorsements are in said Walker's hand writing.

He afterwards saw said Soules on the subject of the deed, and said Soules stated to him that he had searched, and caused search to be made for said deed, thoroughly and diligently throughout his house, and in every place where he conceived it possible the deed might be, but had entirely failed to find it, and that he believed said deed was lost and could not be found.

Subsequently said deposition of said Soules was taken, under the direction of Maniere & Meeker, on the 24th September, 1850.

Before and since he acquired an interest in said land, this affiant has made every inquiry in every quarter which he conceived calculated to afford any information of the missing deed, but without avail. He has consulted the Ogdens, agents of William Bard, who owned 40 of the 80 acres aforesaid, with Archibald Clybourne, Edmund Weed, James Kinzie and Nelson Millett, his agent and legal adviser, with George E. Walker, Cornelius Price and others, on this subject, but has never been able to discover the said deed, and from his extensive investigation and inquiries he is satisfied that the said deed is lost, and cannot be found.

He states that he has carefully read the original bill filed in this case, and understands the various allegations thereof; and that all the facts therein stated of his own knowledge are true, and those stated on the information of others he believes true; except where the said land receipt is stated to have been issued from the 'Recorder's office.' It should have been the 'Receivers office.'

JAMES H. REES.

Subscribed and sworn to before me,

this 14th day of January, A. D. 1858,

WALTER KIMBALL, Clerk.

Affidavit
Filed January 12th 1856.

(AFFIDAVIT OF HENRY WALLER.)

The affiant, the undersigned Henry Waller, states that he is one of the complainants in the above entitled case, and claims to own a portion of the property involved in the said case. He states that he purchased 40 acres of the said 80 acres now in controversy, of William Bard, of New York, through his agent William B. Ogden, of the city of Chicago, on the 22d day of March 1853, for the sum of \$40,000. In the examination of the title to said land on said occasion, this affiant discovered that the said Bard held title under James Kinzie, and that the connecting link between said Kinzie and the patentee, William Bennett, was missing. The deposition of Rufus Soules, taken on the 24th September 1850 was submitted to him, as also the land receipt attached, dated 27 December, 1834. He made diligent inquiry of said Wm. B. Ogden, of J. H. Reese, Archibald Clybourne, B. S. Morris and others, as to the character and truth of said Rufus Soules and his statements of the fact of the original purchase, of Wm. Bennett, the patentee, by said James Kinzie, of the said land, and of the possibility of ultimately finding the deed from Bennett to Kinzie. He became perfectly satisfied from his investigation as to the reliability of said Soules, and the truth of his statements, and also of the fact that the land had certainly been purchased by Kinzie of Bennett. It was still regarded as possible that the deed might be found, either by Soules or Kinzie. He found that no claim had been set up by William Bennett or his representative, the infant son, to the land since the delivery of the deed to Soules, but that the said Kinzie had at an early day treated and conveyed the land as his own, without interruption, and that the parties claiming under him had been paying taxes upon the land and claiming it as their own. Under these circumstances he purchased the land aforesaid; and immediately commenced a further investigation as to the loss of the deed. He went to the residence of Soules, and had an interview with him as to the probability of finding it; he also saw James Kinzie on the subject; he also had interviews with several legal gentlemen who had been the attorneys of Soules and of James Kinzie, and urged them to search their papers with the hope that the missing deed might be found. It was stated by one of the said attorneys that long before the deposition of Soules had been taken, Soules had communicated the fact to him that he had in his possession the said deed from Bennett to Kinzie, and consulted him in reference to it; and affiant was in hopes that the deed might possibly have been delivered by Soules to him. But upon searching his papers nothing could be found. Neither were the other attorneys able to find it.

This affiant also having learned that James Kinzie had taken the benefit of the bankrupt law, went to Milwaukee where his bankrupt papers were deposited, and searched through them in hopes of finding said deed; and also call-

ed on Dr. Cary, his assignee, at Racine, and got him to look through his papers; but all in vain.

Affiant also learning that Kinzie had said he had given an order to one Edmund Weed, of Sheboygan, on Rufus Soules, and hoping he might possibly have the deed, applied to him, but learned that he had thoroughly searched, as well as his wife, and James Kinzie, for the deed and that it could not be found amongst his papers.

Affiant has made other inquiries and efforts to find said deed without effect. He, as co-complainant, co-owner, and counsel for his co-owners, has been entrusted chiefly, if not entirely since he became interested, with the investigation of this matter; and he has become perfectly satisfied that said deed is lost, and after the most diligent and persevering search cannot be found. He has had and felt the deepest interest and desire in discovering the missing deed, and has resorted to every source of information which suggested itself and was practicable; but in vain. He had been informed that the Recorder's office of this county had been searched; but to be certain, he himself carefully examined said office, and no trace or record of the deed can be found there.

H. WALLER.

Subscribed and sworn to before me,

this 14th day of January, A. D. 1858.

WALTER KIMBALL, Clerk,

Deposition of Rufus Soules
Filed ⁷⁵ April 9: 1856.

TESTIMONY IN CHIEF FOR COMPLAINANTS.

[The notices, captions, and certificates of the depositions are considered regular by counsel, and their publication is dispensed with.]

(DEPOSITION OF RUFUS SOULES.) Taken May 2nd 1856.
before Geo. Manierre Master in Chancery.

RUFUS SOULES being first duly sworn, in answer to interrogatories propounded, deposes and says :

Interrogatory 1. What is your name, age and residence, and were you acquainted with one William Bennett, formerly of Cook County, in the State of Illinois ; if so, please state when and how long you knew him, and what, if anything, you know respecting his decease?

Answer. My name is Rufus Soules ; my age is not far from sixty ; my place of residence is Waukegan, Lake County ; I was acquainted with William Bennett, formerly of Cook county, in this State ; I became acquainted with him some considerable time previous to 1838, but do not recollect when I first became acquainted with him ; I was acquainted with him from two to three years ; I do not know anything respecting his decease.

Int 2. State whether or not the said William Bennett had a wife and if yea, were you acquainted with her, and if so how long?

Ans. The said William Bennett had, at the time I knew him, a wife ; I was then acquainted with her ; I knew her when I saw her ; I was not personally acquainted with her, but Bennett and his wife used to travel past my house and stop there, and I think have staid there over night.

Int. 3. State what you know, if anything, in relation to any conveyance by the said Wm. Bennett, or the said Bennett and wife, of any part of section twenty, (20) in township thirty-nine, (39) north range fourteen, (14) east of the 3d principal meridian, and if yea, what part of said section was conveyed by him or them ; state particularly when, where and to whom such conveyance was made?

Ans: In answer to this interrogatory I shall have to refer for a description of the land to the duplicate which was left with me by said Bennett. Sometime in 1838 or 1839, but I think in 1838, William Bennett left with me a quit claim deed from himself and wife to James Kinzie. The deed was for

the same piece of land described in the duplicate, to wit: The west half of the north east quarter of section twenty, (20) township thirty-nine, (39) north range fourteen (14) east, containing eighty (80) acres. I think the deed was made in Chicago; I recollect of its being a proper deed, signed by Bennett and wife; I cannot say whether the deed was printed or written, but I rather think it was written; I am pretty sure it was written; I cannot state what the date of the deed was, but I think it was dated in 1838, and my reason for thinking so is, that from the way it was left by Bennett for Kinzie I concluded that he had made a recent trade with Kinzie.

Int. 4. If you state that you know of a deed answering to the one inquired of in the last interrogatory, state what you know, if anything, in regard to the delivery of such deed by the said Bennett; to whom was the same delivered, and for whom, and what, if anything, was said by said Bennett at the time? State all you know particularly.

Ans. Bennett left the deed of which I have spoken, and the duplicate, with me, to be delivered to James Kinzie when he should call for them; I think the next season or spring after the deed and duplicate were left with me, I was riding in the stage in company with James Kinzie, to Chicago, when he spoke to me about the papers being left with me, and asked me if I knew any thing about them; I answered him that I had the deed and duplicate, and he said that sometime when he came along he would call and take them, or that he would call soon for them, or words to that effect; when Bennett left the deed I do not recollect that he said anything more than that he wanted me to take the papers and keep them, and deliver them to Kinzie when he called for them; I had a great deal of conversation with him at the time besides, but nothing more on this subject that I now recall.

Int. 5. Was any other paper besides the deed, and if so, what other paper, left with you at any time by the said Bennett, and if so, at what time and what was to be done with the same, and what was done with it, and when did you last see such paper, and where is the said paper now?

Ans. There was another paper left with me besides the deed; it was a duplicate certificate of the Receiver of the Land Office at Danville, in this State, and is the same paper now shown to me; it was left with me at the time the deed was left, and it was to be handed with the deed to Mr. Kinzie, as near as I can recollect; I kept it in my possession up to the time that my deposition was first taken, or a little before; the deposition was taken in September, 1850, a little while before this Mr. James H. Rees called upon me for the deed and duplicate both; I hunted then for the deed, and supposed I could find it; I could not find the deed among my papers, but found the

duplicate, which I handed over to him, Mr. Rees; the duplicate is now before me, and is attached to the deposition above referred to, and to which my name is signed.

Int. 6. Look upon the paper now shown to you, and marked A, attached to your former deposition, and state whether you ever saw the same before, and where and how the same came into your possession, and attach the same or a copy thereof to your deposition?

Ans. I have looked upon the duplicate attached to my former deposition; I have seen it before; it is the same duplicate paper that I had in my possession, and which was left with me by Bennett; I think all the endorsements now upon the back of the same were upon the certificate when the same was left with me, except the certificate of Augustus B. Cotes; I am satisfied that those endorsements were on it when the duplicate was left with me, having looked at it a great many times.

Int. 7. State whether you ever compared the description of the land in the said duplicate with the description in said deed, and state whether the description of the property in said deed and duplicate was the same or different?

Ans. I know I did compare the description of the land in the said duplicate with the description in the deed; I remember it very plainly; it was the same property described in the deed which was described in the duplicate; the same property was described in both.

Int. 8. At what place were the deed and duplicate delivered to you by Bennett?

Ans. They were delivered to me at my old tavern stand, in Lake County, in this State.

Int. 9. What, if anything, did said Bennett say to you at the time he delivered said papers, in relation to his having sold the land to Kinzie, and having told Kinzie that he should leave the papers with you?

(Objected to as leading.)

Ans. I don't recollect any particular words that were said by Bennett any more than I have stated before, and what I gathered from him that he had sold the land to Mr. Kinzie.

Int. 10. Have you ever delivered the said deed to the said James Kinzie, or to any one else, and if so, to whom; and if not, what has become of the same?

Ans. I have not delivered the said deed to James Kinzie or to any one else, to my recollection; if I ever did to any body, it must have been to Mr. Kin-

zie, but I have no recollection of delivering it to any person; Kinzie was afterwards at my house once, and stopped over night; this was after him and I had talked the matter over; if the deed was ever delivered to him it must have been at that time, as he was never there afterwards to my knowledge; the conversation referred to was that which we had had together in the stage; the deed is lost; I never could find it; I made several diligent searches for it, but could not find it.

Int. 11. For how long a time do you remember said deed and duplicate being in your possession, and did you, while they were in your possession, examine and compare them, and if yea, did you do so more than once?

(Objected to.)

Ans. According to the best of my knowledge I should think the deed and duplicate remained in my possession for five or six years; I used to see them very often; I do not remember of ever comparing them together but once.

Thereupon the defendant, William H. Stow, by his solicitors, propounded to the witness the following cross interrogatories:

Interrogatory 1. Have you read the duplicate mentioned in your direct examination several times this afternoon?

Answer. I believe I have read it over once, and partially several times.

Int. 2. Did you read to the Master taking this deposition the description of the land therein mentioned, therefrom, and if so, how many times?

Ans. I think I read it part way through; I do not know that I read it altogether; I probably read it once or twice; I read it part way through; I think I read the description of the land.

Int. 3. Can you now give the description of the land therein mentioned?

Ans. I will try; I think it is the west half of the north east quarter of section twenty, township thirty-nine; range I cannot recollect exactly.

Int. 4. Did you not say in answer to the last interrogatory, "township forty-nine or thirty-nine, I don't recollect which?"

Ans. I think I said so; I could not recollect at that moment whether it was thirty-nine or forty-nine.

Int. 5. Did not E. C. Larned, Esq., while you were answering the third cross interrogatory, say thirty-nine?

Ans. I think he spoke "thirty-nine" just as I spoke it, either before or afterwards, I will not be certain which.

Int. Can you give the date of the said duplicate certificate; if so, what is it?

Ans. I think so; I think it was dated in 1834; I could not give the month it bears date, nor the day of the month.

Int. 7. Can you give the number of said duplicate certificate; if so, what is it?

Ans. I cannot give the number of the duplicate certificate.

Int. 8. Are you positive that the deed mentioned in your direct examination was signed by Bennett's wife, and if so, what is her given name?

Ans. I am positive that the deed was signed by her; the deed was finished out for man and wife; it was a regular deed; I think the given name of Mrs. Bennett was either Rachel or Rebecca; it began with an R, according to the best of my recollection.

Int. 9. Was the deed acknowledged by Bennett and wife, or either of them; and if so, before whom, and at what time and place?

Ans. According to the best of my recollection I think it was acknowledged by both Bennett and wife; I cannot say before what person; I cannot remember, though I think it was by some Justice of the Peace; nor can I state at what time or place, but I should think it was in Chicago, but the time I could not state.

Int. 10. Can you state any thing said by Bennett to you at the time of the delivery of said deed to you, other than that you were to deliver the said deed and duplicate to Kinzie when he called for them, and if so, give the said Bennett's exact language.

Ans. Bennett talked to me a good deal at the time; we had more talk than him and I had ever had together at one time; I do not think that he said any thing else; I cannot recollect any thing else in particular but what I have stated; he and I talked a good deal about his affairs, and one thing and another; I cannot give his exact words.

Int. 11. Can you state anything which Bennett said to you on the delivery of said deed, besides telling you to deliver it to Kinzie when he called for it; if so, state what?

Ans. Yes sir, I think he said at the time he delivered the deed to me that he would not deliver them to any other person; I recollect I thought it a little singular that he should wish to leave the papers with me at that time; I had never had any private conversation or any thing like being intimate with him before that time; and I believe it was the last time I ever saw him.

Int. 12. Can you state what was the consideration named in the deed mentioned in your direct examination; if so, what was it?

Ans. I cannot recollect what consideration was named in the deed; I should think, however, it was not much of a sum; it strikes me that it was not much of a price that he gave for it, but as to the number of dollars, I cannot give it.

Int. 13. When did you compare the deed with the duplicate, as mentioned in your direct examination?

Ans. As near as I can recollect it was not more than one or two years after I got them.

Int. 14. Did you ever show the deed or duplicate to any person prior to the time you were called upon by James H. Rees; if so, to whom?

Ans. Well sir, I would not wonder if I had; it rather strikes me that I did once, but I cannot now recollect to whom.

Int. 15. Can you, from recollection, state what land was conveyed by said deed?

Ans. It was the same land that is mentioned in the duplicate; I compared them together, and it was the same; that is all the recollection I have of it; the reason of my comparing them was that I thought it singular that Kinzie had never called, and I concluded I would see what it was; I looked them over, and compared them together, and found them to describe the same land; it was a regular quit claim deed; no warranty about it; I looked them over, and laid them away.

Int. 16. Did you ever compare said deed with said duplicate at any time before or after the time mentioned in the three last interrogatories; if so, when?

Ans. I might have done so, but I have no recollection particularly of comparing them at any time before or after.

Int. 17. At what time was Kinzie at your house, as mentioned in your direct examination?

Ans. If I recollect right it was in 1842; I should think in the fall of the year, as late as November.

Int. 18. Did Kinzie at that time make any inquiry of you relative to said deed or duplicate, and if so, what was it?

Ans. I don't remember as he did.

Int. 19. Did you ever receive from James H. Rees, or any other person any money, or other thing, for giving up said duplicate? If so, what?

Ans. I never did receive a mill in the world; I never received anything; he said he would pay me handsomely if I would find the deed; that it would be some little trouble for me, but that he would pay me well if I would hunt it up.

DIRECT EXAMINATION Resumed.

Interrogatory 13. Did you mention the word "thirty-nine" from the suggestion of Mr. Larned?

Ans. I think I got the word out before he spoke; I spoke forty-nine, and was correcting myself when Mr. Larned spoke.

Int. 14. In giving the description of the land in the deed do you pretend to rely upon your memory of the description, or upon the fact of your having compared it with the duplicate now shown you, and knowing it was the same with that? (Objected to.)

Ans. In giving the description of the land I rely upon the fact of having compared the description of the deed with the duplicate as already stated, and not upon my memory of the description, aside from such comparison.

RUFUS SOULES.

DUPLICATE CERTIFICATE.

By the consent and agreement of the parties by whose agreement the foregoing deposition is taken, I have hereunto appended a true and perfect copy of the original duplicate, which was produced before me during the taking of the foregoing deposition, which copy is to be taken and used as evidence of the contents of said certificate and endorsements thereon, with the like force and effect, as the original would be entitled to if produced.

RECEIVER'S OFFICE, AT DANVILLE, ILLINOIS, }
December 27, 1834. }

"No. 1678.

Received from William Bennett, of Cook Co., Ill., the sum
"of one hundred dollars and cents, being the full pay-
"ment for the W. H. of the N. E. quarter of Section No. 20 in
"Township No. 39, north of range No. 14 East, containing 80
"acres, at \$1 25 per acre.

"\$100.00.

SAM'L McROBERTS, Receiver."

On the back of said duplicate appear the following endorsements :

(at the top.)

"WILLIAM BENNETT,"

&

("SOLD,")

(In the centre,)

"W. BENNETT."

The words "*at the top*," "&" "*In the centre*," are not upon said certificate, but are used by the undersigned to indicate the position of the said endorsements respectively upon the back of the same.

*Deposition of Ursula Soules taken 20th October
1855. & Filed March 28: 1856.*

(THE DEPOSITION OF URSULA SOULES.)

Interrogatory 1. What is your age, and where do you reside?

Answer 1. My age is forty-nine years, and I reside in Waukegan, Illinois.

Int. 2. Are you or are you not the wife of Rufus Soules?

Ans. 2. I am.

Int. 3. Were you or were you not acquainted with one William Bennett, of Chicago?

Ans. 3. I was not particularly acquainted with him; I have seen him.

Int. 4. Where did you last see him?

Ans. 4. I saw him last at our house, on the O'Plain river.

Int. 5. What was your house called?

Ans. 5. The Red House—a public tavern.

Int. 6. How long has it been since you last saw him there?

Ans. 6. We left the tavern in 1844 or 1845; saw Bennett a short time before that; not more than a year before I should think.

Int. 7. Did you or did you not ever see an instrument of writing with Bennett's name on it?

Ans. 7. I did.

Int. 8. Where did you see it?

Ans. 8. I saw it in the desk, among Mr. Soules' papers.

Int. 9. Please describe its appearance and what it purported to be?

Ans. 9. It was a deed given by Mr. William Bennett to Mr. James Kinzie.

Int. 10. How did you happen to see it?

Ans. 10. I used frequently to see it among his papers, because when he wanted to use a paper he used to call upon me to get them.

Int. 11. Did you see this paper once, or more than once?

Ans. 11. I saw it a number of times.

Int. 12. How long has it been since you saw it last?

Ans. 12. Can't exactly tell; we moved to Chicago in A. D., 1845; I packed Mr. Soules' paper and saw it then; don't remember that I have seen it since.

Int. 13. How long had it been in your husband's possession to your knowledge previous to that time?

Ans. 13. He had it in his possession two or three years previous to that time, and perhaps longer; can't exactly tell how long.

Int. 14. Have you ever examined your husband's papers since A. D., 1845, for the purpose of finding that deed?

Ans. 14. I have.

Int. 15. Have you been able to find it?

Ans. 15. I have not.

Int. 16. Do you recollect when it was called for by James H. Rees?

Ans. 16. I do; I was at home; Mr. Soules was gone.

Int. 17. What is the reason that you are able to state certainly that this deed was amongst your husband's papers?

Ans. 17. When looking his papers over I have frequently taken it up and read a few lines of it.

Int. 18. Is there any other reason that impressed it on your memory?

Ans. 18. When we were looking it over, Mr. Soules has talked about it; Mr. Soules said it was singular that Mr. Kinzie did not call for it; that he (Mr. Soules) would keep it, as it might be of some use.

And further deponent saith not.

URSULA SOULES:

*Deposition of E. G. Upham taken 20th Octr 1855, &
Filed March 28: 1856.*

(DEPOSITION OF ELBRIDGE G. UPHAM.)

Interrogatory 1. Are you acquainted with Rufus Soules and his wife, Ursula Soules?

Answer 1. I am

2. Have you or have you not been connected in business with Rufus Soules?

Ans. I have.

3. Have you or not been in Mr. Soules' house, and state what terms you are on with him and his family?

Ans. I have frequently been in Mr. Soules' house, am on good terms with him and family.

4. State whether or not in the course of your business you have had occasion to go to Mr. Soules' house for the purpose of getting papers?

Ans. I don't recollect that I have; I have frequently been to Mr. Soules' house for the purpose of doing business with him, settling with him, &c., and have seen his papers.

4. State who got or examined the papers for you?

Ans. Mr. Soule's wife, Ursula; I don't know as I ever went there to do business, but that if any papers were wanted, Mr. Soules would call upon his wife to get them, and she would do it.

5. What is your age and residence?

Ans. I am thirty-eight years old, and reside at Waukegan, Illinois.

ELBRIDGE G. UPHAM.

DEPOSITION OF URSULA T. MOORE.

Interrogatory 1. What is your name and age, in whose family, and where have you resided for the past six years, and what relationship do you bear to Rufus Soules?

Answer. My name is Ursula T. Moore, my age is twenty-three years, I have resided in my father's family for the last six years, till three years ago, since then I have resided in my own family,—I am the daughter of Rufus Soules.

2. State what you know, if any thing, of a deed having been in your father's possession, executed by one William Bennett to James Kinzie for certain real estate in Chicago?

Ans. I know that I have looked for it a great many times.

3. When did you look for it, and why, and at whose request?

Ans. Within six or seven years I have looked a number of times, at my father's request—I understood it to be a deed for a considerable amount, and I looked for it so that it could be given to Mr. Rees.

4. How long ago did you first make search for it at your father's request?

Ans. I don't know just how long, should think it was as much as six years ago, if not more.

5. Where did you search?

Ans. I searched through all the papers he has, and through a satchel of papers that was put by in my father's house,

6. State whether or not you found said deed?

Ans. I did not. It could not be found—a duplicate certificate was found and given to Mr. Rees.

7. State what inducements if any your father offered you to make search for the deed?

Ans. He offered to give us, me and my sister, a present if we would find it, and there was considerable strife between us to find it and claim the present.

8. State what you know of searches for the deed being made by your father or mother, and how long since such search was first made by them or either of them and how long since the deed was lost or missing.

Ans. I know that they have searched for it, we have all searched for it, it has been six or seven years since searches began to be made, I do not know when it was last seen.

9. State whether or not, prior to about six years ago your mother kept your father's papers or had any thing to do with them.

Ans. She did. It is the custom for mother to keep the papers, and if father wants any one he asks her to get it, and returns it to her to put away, &c.

URSULA T. MOORE.

Filed
January 30. 1858.

Taken Decr 19th 1857

86

DEPOSITION OF N. P. IGLEHART.

Interrogatory 1. State your name, residence, age and occupation?

Answer. My name is Nicholas P. Iglehart; my age is forty-six; am a general land agent and reside in Chicago.

2. State what you know of the possession of the West half (1-2) of the North East quarter (1-4) of Section twenty, (20), Township thirty-nine, (39), Range (14), lying in the City of Chicago; also, any acts of ownership, exercised by any one over said property, or any part thereof, and by whom such acts of ownership were exercised?

(Question objected to by Bennett's and Stow's Counsel, on the ground, with other reasons, that it is not within the rule for as-essing proofs.)

Ans. In March 1853 as the agent of Henry Waller, I negotiated with Ogden, Jones & Co. for the purchase of the North Forty (40) acres described, and concluded the purchase of the same, in behalf of Henry Waller; and as his agent took control, and charge of said property; had it subdivided and platted into lots; Streets made through it, and graded; paid the taxes on it for the year 1853, and all the subsequent years, up to 1856, inclusive—I commenced making sales of a portion of said lots, in the Plat referred to, in August 1853, and subsequent to that time had it fenced all around except where it crossed the Streets. I think the fence was completed in the Spring of 1854.

Cross Examined by Counsel for Defendant Bennett.

Here Mr. Stuart, one of the Counsel for Bennett, asked the witness if he had any pecuniary interest in the matter in question, and was answered in the negative. The Notary then asked him to repeat his question so that he might reduce it to writing *verbatim*. He (Stuart) remarked that it was not intended as an interrogatory, but merely as a side question. The Counsel for Complainants urged that it should be reduced to writing, and Counsel for defendant Bennett objected.

Filed
January 30. 1858.

Taken Decr 19th 1857

DEPOSITION OF FRANKLIN HATEAWAY.

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

Answer, My age is thirty-eight years, reside in the city of Chicago, and Cashier for Ogden, Fleetwood & Co.

Int. 2. How long have you been in that position?

Ans. With the present firm and their predecessors, nearly ten years and a half. Ogden, Jones & Co, and Ogden & Jones were their predecessors.

Int. 3. Are you acquainted with the property in Chicago, known as the North West quarter of the North East quarter (1-4), of Section twenty (20) Township thirty nine (39), Range fourteen (14)—If so, how long?

(Question objected to by Counsel for Bennett and Stow).

Ans. I am acquainted with the property about ten years.

Int. 4. Do you know who paid taxes on it from the year 1840 to 1853—If you, state who paid them.

(Objected to by Counsel for Bennett and Stow).

Ans. Ogden & Jones, and their successors, Ogden, Jones & Co., were in charge of this tract of land as agents of William Bard, and attended to the payment of taxes from the year 1841, to 1852, both inclusive.

Int. 5. Have you or not the tax receipts for said payments amongst the papers of said firms, and if so will you refer to them as parts of your deposition, and mark them as follows: Nos. 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52. (Objected to by the Counsel for Bennett, and also by Counsel for Stow).

Ans. They are among the papers in the office of Ogden, Fleetwood & Co. I have not been able to find them all as yet, I do not know that I can find them all—My former answer as to payment of taxes for the years previous to 1847, is predicated upon the entries made in the tax books in the office of Ogden, Fleetwood & Co. I will refer to the receipts, and mark them, so far as I can find them in the office.

Int. 6. Please state for what years if any, you have been able to find the tax receipts for said property?

(Objected to by Counsel for Bennett & Stow).

Ans. I have found receipts for taxes for 1843, 1844, 1845, 1846, 1847, 1848, 1850, 1851 and 1852.

Filed
January 27, 1858 (STIPULATION AS TO DEEDS.)

[The complainants are not required to introduce and file the mesne conveyances from James Kinzie under which they claim, and their publication in this record is dispensed with.]

(ORDER CHANGING VENUE.)

[Venue changed by agreement of parties, to Cook County Court of Common Pleas, 28 March, 1856.]

PART II

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PART II.

INDEX TO PART II.

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Interrogatories

Filed

June 18: 1855

Depositions

filed

Oct: 11. 1855

PART II.

*Dep. taken Sept
4th 1855.*

TESTIMONY IN REFERENCE TO STOW'S DEED.

Deposition of LEE MORRIS, taken September 4, 1855.

1st Int. What is your name, age, residence and occupation?

Ans. My name is Lee Morris; age, about forty-six; residence, Bowie county, Texas; occupation, farmer.

2. If in answer to foregoing interrogatory you state that you reside in Bowie county, Texas, state when did you first become a resident of Bowie county, Texas, and how long have you resided in said county?

Ans. I settled in this portion of the State in 1835, and have continued to reside here since.

3. State how large the white male population of said county was when you first went there to reside, and how large it is now.

Ans. There were but few settlers, and they were immediately on the river at the time I settled. Number not precisely known. There were about three hundred voters in the county in 1848. There are but few, if any more, at this time. I do not know the precise number of the male population.

4. State whether or not you are acquainted with the white male persons now residing in that county, and whether or not you have been acquainted with the white male residents or inhabitants of said county since you resided there, and how extensive your acquaintance with such residents or inhabitants has been, and generally your means of knowledge and acquaintance.

Ans. I do not know them all now. In 1846, 1847 and 1848 I was the Assessor and Collector of the county, and at that time knew the names and residence of perhaps all the male residents over the age of twenty-one years. Shortly after my settlement and for some time I knew perhaps every one in the county, but subsequently strangers came in; and my knowledge of them was not perfect up to the time previously mentioned.

5. State all you ever knew in relation to any person of the name of William Bennett residing in said county during the time you have resided there, and your means of knowledge.

Ans. I have no recollection of ever having known a man by that name in the county.

6. State what you know, if anything, by hearsay, reputation, or common report, in said county, respecting a person by the name of William Bennett, residing in said county.

Ans. I never heard of such a man, to my recollection.

LEE MORRIS.

Interrogatories

Filed

June 18, 1855

Depositor's

Filed

Oct 14, 1855

Deposition of LEMUEL PETERS, taken September 4, 1855.

1st Int. What is your name, age, residence and occupation?

Ans. My name is Lemuel Peters; I am thirty-five years old; residence, Bowie county; my profession, physician.

2. If in answer to foregoing interrogatory you state that you reside in Bowie county, Texas, state when did you first become a resident of Bowie county, Texas, and how long have you resided in said county?

Ans. I became a resident of what is now Bowie county, formerly Red River, in December, 1835, and have resided there nineteen years.

3. State how large the white male population of said county was when you first went there to reside, and how large it now is.

Ans. I cannot say positively—it was very small. There were about fifty voters. The voting population is about three hundred. The male population I cannot tell precisely.

4. State whether or not you are acquainted with the white male persons now residing in that county, and whether or not you have been acquainted with the white male residents or inhabitants of said county since you resided there, and how extensive your acquaintance with such resident inhabitants has been, and generally your means of knowledge and acquaintance.

Ans. I am acquainted with the most of them, and have had a general acquaintance over the county since my residence there. I have resided at the county seat for ten years, as a practicing physician, and at various times have been called to every portion of the county.

5. State all you ever knew in relation to any person of the name of William Bennett, residing in said county during the time you have resided there, and your means of knowledge.

Ans. I never knew any man by that name in this county.

6. State what you know, if anything, by hearsay, or reputation,

or common report in said county, respecting a person by the name of William Bennett, residing in said county.

Ans. I never heard of any man by the name of William Bennett in this county, and should any man of that name have resided here for any length of time I feel assured I should have seen him.

And further this deponent saith not.

LEMUEL PETERS.

Interrogatories

Filed June 18: 1855

Depositions

Filed

Oct. 4. / 55

Deposition of JOHN A. TALBOT, taken September 4, 1855.

1st. Int. What is your name, age, residence and occupation?

Ans. My name is John A. Talbot; age, forty years; residence, Bowie county, in the State of Texas; and occupation, merchant.

2. If in answer to foregoing interrogatory you state that you reside in Bowie county, Texas, state when did you first become a resident of Bowie county, Texas, and how long have you resided in said county?

Ans. I became a resident in February, 1836, and have resided in what is now Bowie county since.

3. State how large the white male population of said county was when you first went there to reside, and how large it is now.

Ans. The male population, in what is now Bowie county, was very small; a small string of settlements along Red River, and two families off the Red River, were all. I do not know precisely what the male population is now; the county votes about three hundred and twenty-five and fifty.

4. State whether or not you are acquainted with the white male persons now residing in that county, and whether or not you have been acquainted with the white male residents or inhabitants of said county since you resided there, and how extensive your acquaintance with such residents or inhabitants has been, and, generally, your means of information.

Ans. I have been acquainted with the male inhabitants generally, since my residence. I have been doing business in Bowie county some twelve or fifteen years. The limits of Bowie have been curtailed since its first organization; a part of Titus county and Cass county, once a part of this county, contained a population with which my acquaintance was limited.

5. State all you ever knew in relation to any person of the name of William Bennett residing in said county during the time you have resided there, and your means of knowledge.

Ans. I never knew any man by the name of William Bennett.

6. State what you know, if anything, by hearsay, reputation or

common report, in said county, respecting a person by the name of William Bennett, residing in said county.

Ans. I know nothing of him by hearsay, reputation, or common report; and further this deponent saith not.

JOHN A. TALBOT.

*Interrogatories
Filed*

June 18, 1855

*Depositions
Filed*

Oct. 11, 1855.

Deposition of HENRY S. JANES, taken September 4, 1855.

1st Int. What is your name, age, residence and occupation?

Ans. My name is Henry S. Janes; residence, Bowie county; age thirty-nine in February next.

2. If, in answer to foregoing interrogatory, you state that you reside in Bowie county, Texas, state when did you first become a resident of Bowie county, Texas, and how long you have resided therein?

Ans. I became a resident of what now is Bowie county, in 1834 or 1835, and have resided in the same to the present time—say twenty years.

3. State how large the white male population of said county was when you first went there to reside, and how large it is now.

Ans. I think there was not more than fifty, certainly not more than seventy-five. I cannot now say how many males there are in the county, but there are about three hundred and fifty voters in the county, which would include the males over twenty-one, with a very few exceptions.

4. State whether or not you are acquainted with the white male persons now residing in that county; and whether or not you have been acquainted with the white male residents or inhabitants of said county, since you resided there; and how extensive your acquaintance with such residents or inhabitants has been, and, generally, your means of information.

Ans. I am acquainted with the larger portion of the male inhabitants now residing in the county. Shortly after my residence, and for six or seven years thereafter, I knew, I think, every man in the county. As the population increased, there were, perhaps, persons who came into the county, remained a short time and left, with whom I did not become acquainted. My acquaintance, however, has been general. Being one among the first settlers with my father, and attending to his business to a considerable extent, as well as my own, I have been present generally, at our courts, and at public assemblages, whereby my acquaintance has been kept up and extended. The limits of Bowie county have been curtailed; what is now Cass county, and a part of Titus, for a short time belonged to Bowie. When Bowie was first settled, there were no inhabitants in

that part of the county, but since then became populated, and my acquaintance with that part of the country is now limited.

5. State all you ever knew in relation to any person of the name of William Bennett, residing in said county during the time you have resided there, and your means of information.

Ans. I don't recollect of ever knowing such a man.

6. State what you may know, if anything, by hearsay, reputation or common report in said county, respecting a person, by the name of William Bennett residing in said county.

Ans. I never heard of any such a man, that I recollect of; and further this deponent saith not.

H. S. JANES.

Filed
October 4. 1885.

Deposition of WILLIAM D. KERR, taken September 18, 1855.

1st Int. Please state your residence and occupation in January last.

Ans. I resided in the city of Jefferson, in the county of Cole, in the State of Missouri, in January last. My occupation then was a hotel keeper.

2. What hotel were you then keeping, and what day of that month did a man calling himself William Benitt stop there?

Ans. I was then keeping the Virginia Hotel. On the fourth day of that month a man calling himself William Benitt stopped there.

3. Did he or not enter his name and residence and destination on your register? if so, please state how he spelled his name and residence.

Ans. He did enter his name, residence and destination on my register — he spelled his name "William Benitt," his residence he spelled — "from *texas*."

4. Be kind enough to make the leaf of the register on which the above entry is made a part of your deposition, and identify it by some mark, and file it.

Ans. I object to making the leaf of the register on which the above entry is made, a part of my deposition, and filing it, for the reason that there are other entries on said leaf which may hereafter be of importance to me.

5. How long did he remain in your house, and on what day did he leave?

Ans. He remained in my house from the fourth of January, to the twenty-fifth or twenty-sixth of the same month. I think he left on the twenty-sixth of that month.

6. By what conveyance and with whom did he leave, and for what point?

Ans. He left in the stage with a man who called himself W. H. Stow, for St. Louis.

7. How did he occupy himself while he remained in your house?

Ans. He was not doing anything while at my house.

8. What reason did he give for remaining so long with you, and where did he say he was going?

Ans. He said he was waiting for a friend, and said he was going to Nebraska territory.

9. Did he give any other account of himself or his business, before the arrival of W. H. Stow?

Ans. He said he had been living in Texas for some years, and was waiting for his friend who was bringing on some wagons and teams, that they were moving to Nebraska.

10. When did said Stow arrive at your house? When did he leave? For what point and by what conveyance, and who went with him?

Ans. He arrived at my house the twenty-fifth of January last—he left on the twenty-fifth or twenty-sixth of the same month; but I think it was on the twenty-sixth. He started for St. Louis in the stage, and a man who called himself William Benitt went with him.

11. How long have you been living in Jefferson City, and how long have you been keeping hotel there?

Ans. I have been living here eighteen years—and have been keeping hotel in said city nearly two years.

12. Had you ever known of the so-called William Benitt being in said city? or had you ever seen him before?

Ans. No—and never saw him before to know him.

13. Did he or not speak of his domestic relations—his former residence—his property, &c., after Stow's arrival? If so, state what he said.

Ans. After Stow's arrival, he, (Benitt), spoke to me in regard to his domestic relations—he said he married in Chicago, and that he and his wife had disagreed; that he left there and afterward went to Texas; that he left a wife and one child; that he learned his wife had obtained a divorce and was married again; that he had entered a piece of land at or near Chicago, several years ago, before he left there, I think he mentioned eighty acres, he said it was low and swampy; that he had been away so long he thought it was of little value, but that he supposed that it had become valuable, from the fact that Stow wanted to buy it, that if Stow got it he would have to pay him a large price for it, that if he sold to Stow he would make provision for his child, which he understood was still living at Chicago. He told me after the sale that he had or would make provision for his child out of the proceeds of the sale.

14. Did you see any money paid by Stow to him?

Ans. I did not.

15. Did you or not go with him and Stow to the Clerk's office, and introduce him to Mr. Parsons the clerk?

Ans. Yes, I did.

16. How did you happen to do it? If requested to do so, who requested you?

Ans. The reason I happened to do it was, Mr. Benitt had been boarding at my house nearly a month and had conducted himself as a gentleman, and I believed he was such—therefore I introduced him to the Clerk. I was requested to do so by Mr. Benitt himself. I think Mr. Stow was present; and my impression is, that we all three went to the Clerk's office together.

17. How many hotels or taverns were there in Jefferson City in January last?

Ans. There were about six.

18. How old did the man calling himself Benitt seem to be? How high? What was the color of his hair, and complexion of his skin?

Ans. He appeared to be from about thirty-five to thirty-eight years of age—was about five feet eight or nine inches high; his hair was dark—his complexion was rather dark.

19. Had he a smooth face, or was he marked with small pox?

Ans. I don't think he had any appearance of having had the small pox. He didn't have whiskers, but wore a goatee.

20. Did he say anything about waiting for his friend after Stow came?

Ans. I do not think he did.

21. Did you or not have a letter from him after he left? If so, please file the same, and make it a part of your deposition.

Ans. I did get a letter from him after he left, and would have no objection to making it a part of my deposition, if I could find it, but have made two searches for it without being able to find it.

22. If you cannot find such letter, and the same is lost, please state its contents as near as you can?

Ans. As said above, I cannot find the letter—it is lost or mislaid. The contents of said letter was about this; it was written from St. Louis, and stated that if his friend came to this place, to tell him (his friend) to meet him (said Benitt) at Kansas, that he (Benitt) had gone on the north side of the Missouri river with his cattle.

WM. D. KERR.

Filed
Decr 11. 1855
Deposition of LOWELL G. SPAULDING, taken September 18, 1855.

1st. Int. State, if you please, your age, and what were you engaged in during the month of January last?

Ans. I am about twenty-eight years old; during the month of January last, I was traveling agent from St. Louis to Boonville, in this State, by way of Jefferson City, for the stage company.

2. Do you recollect of the arrival of a man calling himself William Benitt, at the house of Mr. Kerr, proprietor of the Virginia Hotel, Jefferson City, Missouri? If so, state the time, and by what route he reached there.

Ans. I came with a man calling himself William Benitt, from St. Louis to Union, on the route from St. Louis to Jefferson City, by railroad and stage, in the fore part of January last. I stopped at Union—Benitt came on up—if Benitt continued on directly to

Jefferson City, he would have reached here about the first of January last; and about a week afterwards I got here.

3. How long did he remain at Mr. Kerr's?

Ans. He remained about three weeks at Mr. Kerr's after I got there.

4. Where did he say he was going when he arrived at Kerr's? and what reason did he give for remaining as long as he did?

Ans. He said he thought of going to Kansas, and that he was waiting on a friend of his that he was expecting here.

5. Were you present when William H. Stow arrived in the stage at Kerr's hotel?

Ans. I was present when the stage drove up, and Mr. Stow got out of it and went into the sitting-room.

6. Did you see him and the so-called Benitt, meet, on Stow's arrival there?

Ans. I did not see them meet there; Stow went through the bar-room into the sitting-room, and I asked Benitt if his name was not Stow; he said he believed it was, and followed into the hall after him (Stow.)

7. If so, how did they meet—as strangers or as old acquaintances?

Ans. I did not see them meet then, but saw them together next morning, and from their acts and conversation I came to the conclusion that they had seen each other before.

8. Did they see each other rarely or frequently? Were they together much or not, whilst there?

Ans. They did not see each other very frequently, as I know of, nor were they much together, as I saw.

9. When and how did they leave? and for what place? Did they leave separately or together?

Ans. They both left together in the stage on the night of the twenty-seventh of January last, for St. Louis.

10. Were you present when Stow took his passage for Jefferson City at the stage office in St. Louis? If so, please state what he said, and what inquiries he made at that time, and what answers he received in reference to the man called Benitt, if any.

Ans. I was not present at the stage office in St. Louis when Stow took his passage to Jefferson City, but it was S. S. Spalding who was office agent at the time.

11. How old did the man calling himself Benitt appear to be? Did he seem to be as old or older than yourself?

Ans. He appeared to be about thirty years old—not over thirty-five; he seemed to be a little older than myself.

12. Were you with him much, or not? and had you or not an

opportunity of judging properly of his age? and what would you place as the extreme limit of his age?

Ans. I was with him a good deal; was with him every day, more or less, and went with him to the Thespian Society the night before he left. I would place, as the extreme limit of his age, not over thirty-five.

13. Had he a thin or full figure?

Ans. He was rather of a full figure.

14. How would you describe his face? was it full and round, or thin, rough or smooth?

Ans. His face was rather full and round, and smooth, what I could see of it; the lower part of his face was covered with beard, and that, of course, I couldn't see; from his mouth up he had no whiskers.

15. Was he or not marked with the small-pox?

Ans. If he was marked with small-pox, I did not see it; he had no small-pox marks on his face.

16. Did he seem to be a good liver, and in good keeping, or to have seen hard times and a rough life?

Ans. He seemed to be a good liver and in good keeping—did not look like a man who had seen hard times.

17. Was his hair sandy, light or dark?

Ans. It was nearly black.

18. Was his complexion fairer or darker than Stow's?

Ans. His complexion was darker than Stow's.

LOWELL G. SPALDING.

Filed

Sept. 4: 1855,

Deposition of GUSTAVUS A. PARSONS, taken September 18, 1855.

1st Int. Where do you reside, and how long have you resided where you now do?

Ans. I reside in the city of Jefferson, county of Cole, in the State of Missouri, and have resided here for about nineteen years.

2. Do you hold any office in Cole county, Missouri? If so, state what it is?

Ans. I do; I am Clerk of the Circuit and County Courts, of the county of Cole.

3. Are you the Clerk who took the acknowledgment of the deed, a copy of which, marked (A) and made part hereof, is now herewith shown you, and also of a mortgage made on the same day to William Bennett, Jr., by the grantee in said deed?

Ans. I am. But the copyist in copying the deed and acknowledgment, has written my name A. G. Parsons, instead of G. A. Parsons.

4. Where did you make the acquaintance of the man who signed the said deed?

Ans. I made his acquaintance in my office in the county and State aforesaid.

5. Who first introduced him to you?

Ans. A man who called himself Stow. And afterwards William D. Kerr, introduced him the second time before the taking of the acknowledgment.

6. When and how did you become acquainted with the grantee, William H. Stow?

Ans. Mr. Stow came into my office and introduced himself.

7. Did you receive any letters from said Stow, prior to the execution of said deed? If so, please exhibit and file them as a part of your deposition?

Ans. I did receive two letters — duplicates — both mailed at Chicago. I cannot exhibit and file said letters for the reason that they are lost. I made diligent search for them and could not find them?

8. If lost, so that you cannot exhibit them, please state their contents as near as you can?

Ans. They are lost, so that I cannot exhibit them; they contained principally inquiries of or about a man by the name of William Bennett, who he (Stow) learned at that time was in Jefferson City, and wished me to find out the fact, and write to him in St. Louis. They were written some time in the fore part of January last, and bore date Chicago, and directed to the Clerk of the Court, at Jefferson City. From the letters he seemed to have some business with Bennett, but did not state, if I recollect correctly, what it was.

9. State whether you complied with any request in said letters, and if you did not, state why.

Ans. I did not inquire myself after Bennett, but requested Mr. M. L. Jefferson, who was on the street every day, to inquire at the hotels for him. I heard nothing of Mr. Bennett, nor did I answer Mr. Stow's letters, for the reason that I thought there was some rascality connected with the matter. My opinion at the time was, that they were both abolitionists, and believed that their business here was to steal and run negroes off. My reason for thinking so was, that the letters contained nothing tangible, but were enveloped in mystery to me, and that further, their being written from Chicago, the hot-bed of abolitionism, as I conceive.

10. Had you ever seen the man calling himself William Benitt, before the day the deed was executed, and had he ever lived in Cole County, Mo.? If he had, would you, or not, have known it?

Ans. I never saw the man Benitt before the day the deed was executed, that I have any knowledge of. If he ever lived here in Cole County, Mo., I never knew it; if he had ever lived in this

county any length of time I would have been very apt to have known it.

11. Did you ever hear or know of his having been in Jefferson City before?

Ans. I never did.

12. Who wrote the deed, and where was it written and executed?

Ans. My son, M. M. Parsons, wrote the deed in my office, and it was executed there.

13. Was there any money paid by Stow to the so-called Benitt at the time of the execution and delivery of the deed, or at any time in your presence?

Ans. There was no money paid by Stow to Benitt at the time of the execution and delivery of the deed in my presence, nor at any other time in my presence.

14. Who was the active man in talking, giving directions and having the deed and mortgage executed?

Ans. The man calling himself Stow was the only man that had much to say about it.

15. Did the man calling himself Benitt appear to take an interest in the matter, or did he seem indifferent?

Ans. Benitt seemed to be quite indifferent about it. Stow seemed to take the active part.

16. What was his height, and complexion of his skin, hair and eyes, and his apparent age?

Ans. He was about five feet eight or nine inches high; would take him to be about thirty-five or thirty-six years old, rather dark skin, dark hair and eyes.

17. Were his features regular and smooth, or irregular and rough?

Ans. There were no marks nor scars about his face, that I discovered, and his features were ordinarily regular. I think he had a goatee.

18. Was he, or not, marked with small-pox?

Ans. If he was, I didn't discover it. I saw no signs of pox marks about him.

19. How many hotels or taverns were there in Jefferson City in January last?

Ans. There were about six.

G. A. PARSONS.

ⁿ
Filed
April 9: 1886.

Deposition of JOHN LUDBY, taken October 24, 25, and 26, 1855.

1st Int. State your age, residence and occupation.

Ans. I am sixty-two. My occupation is soap boiler—I reside on State street, six miles up from the Market.

2. How long have you resided in Chicago, or vicinity?

Ans. It will be twenty-three years next June.

3. Were you or not acquainted with William Bennett, formerly of Chicago?

Ans. I were—I was.

4. State how long you knew him, and what relation existed between him and yourself?

Ans. I have known him since thirty-three. He married my daughter Rachel.

5. When did he marry your daughter?

Ans. I think in thirty-four—or it might be in the latter part of thirty three.

6. Did they keep house or board after their marriage?

Ans. They kept house.

7. Did they keep house as long as they lived together?

Ans. A part of the time, jointly with me.

8. How long did they live with you jointly?

Ans. I think about two years.

9. When did you last see him?

Ans. I can't remember the year—but it was when he was last tried in McHenry county.

10. Was his wife living with him when you last saw him?

Ans. They were in court together, but not living together as man and wife.

11. How long before that time had they separated?

Ans. I think it might be three or four weeks.

12. Where was she living at that time?

Ans. A part of the time with me on my farm, and a part of the time in the city.

13. How long since that time has she lived with you?

Ans. She may have lived with me a year after this time.

14. Please state your best recollection as to the number of years that have elapsed since you saw Bennett.

Ans. I think between fifteen and sixteen years.

15. Have you any means by which you can refresh your recollection?

Ans. I have. I have a ledger which contains the general items of transaction between Bennett and me.

16. What became of him after you last saw him?

Ans. My son saw him in New Orleans.

(Answer objected to by defendants' counsel.)

17. Under what circumstances did you last see him?

Ans. Discharged from court, and at full liberty.

18. Did you or not see him in court at that time?

Ans. I did.

19. What was he tried for in McHenry county?

(Objected to by defendants' counsel.)

Ans. It was for aiding and assisting of criminals to escape justice?

20. State from general reputation, whether he remained in the State, or left it, after that trial.

(Objected to by defendants' counsel.)

Ans. He left it.

21. State whether or not he has ever returned to the State, from your knowledge?

Ans. He never has, to my knowledge.

22. Has he ever returned to the State, according to general reputation?

(Objected to by defendants' counsel.)

Ans. I have heard of no report of his being here from the time he first left it.

23. Has, or has not, his whereabouts been a subject of inquiry and conversation generally, in Chicago?

Ans. My daughter has been very anxious and fearful, knowing him to be a revengeful man, until time subsided fear. It has been a subject of general inquiry.

24. Have, or have not, you and your daughter, made it a subject of inquiry?

Ans. We have on all proper occasions.

25. From all information you have gathered from such inquiries, what conclusion have you arrived at concerning him?

(Objected to by defendants' counsel as improper.)

Ans. Knowing his desperate character, and seeing in the papers an account of a desperate fracas somewhere on the Mississippi, at one Brown's Hotel, where there were a number killed, I concluded that he was one killed.

26. Have you had any communication or message, or heard any thing from him since that time to alter that conclusion?

Ans. No, Sir.

27. Has, or has not, his wife married again?

(Objected to by defendants' counsel as immaterial.)

Ans. She has.

28. To whom has she been married, and when?

(Objected to by defendants' counsel.)

Ans. To James Appleton ; at his decease married William Elam, four years after Appleton's decease.

29. State what would be William Bennett's age, if now living ?

Ans. I think it must be about forty-seven. I think he was born in the year 1808 ; knowing that he was eight or ten years older than my daughter, who is about thirty-eight.

30. Have you any record that would enable you to speak more definitely ?

Ans. I have.

31. State his height as nearly as you can from your best recollection ?

Ans. I think about five feet six.

32. What was his complexion, and the color of his hair and beard ?

Ans. Light complexion, light hair, auburn colored beard, pock-marked, small eyes. Eyes, light hazel.

33. Was he slightly or considerably marked with small-pox ?

Ans. Considerably.

34. Had he any marks or scars about his face, head or hands ?

Ans. He was much pock-marked on the nose. Had a part of the right ear disfigured ; there was a scar upon his hand, I think the right one.

35. How did he spell his name ?

Ans. Bennett.

36. Have you or not seen him write ? and have you in your possession any of his hand-writing, which you know to have been written by himself ?

Ans. I have seen him write, and have his hand-writing in my day-book, and know that he wrote it himself.

37. Will you be so kind as to produce the book in which this writing of William Bennett is, and cut therefrom a leaf containing it, and make the same an exhibit in this case by marking it ?

Ans. I will ; but I would prefer to mark the passages in William Bennett's hand-writing, and leave the book in the hand of the Commissioner, and object to mutilating the book.

(Here the complainants offered in evidence the Day Book of John Ludby.)

Answer continued. The signature, " William Bennett," between the two crosses at the foot of 115th page of the Day Book, is the signature of William Bennett in his own hand-writing, which book I now deliver to the Commissioner for safe keeping.

38. In whose hand-writing is the settlement above the signature of William Bennett on the same page ?

Ans. In mine.

39. Have you had an opportunity of refreshing your recollection

as to the age of William Bennett, and the time he left this State? If so, please state those periods.

Ans. I have had an opportunity of refreshing my recollection, and am confident in my statement yesterday. If living, he must be forty-seven; was born in the year 1808. It must have been sometime in June, of the year 1839, that he left the State.

40. Will you examine page 132, in your Day Book, filed in this deposition, and see if there are any entries on said page relating to William Bennett and his wife? If so, state the same in full, with dates.

(Objected to by defendants' counsel.)

Ans. On June 14th, 1839, on said page there is an entry as follows: "Mr. Bennett, by two yoke of cattle taken by Kellams." Another entry as follows: "Mrs. Bennett came to my house on Sunday, 30th June, 1839." Both of these entries are endorsed within parentheses on said page, and marked with the initials of the Commissioner, G. W. D.

41. In whose hand-writing are those entries?

Ans. My own.

42. Have you or not a recollection of the facts set forth in those entries?

Ans. I have, as clear to my mind as if now present.

Here plaintiffs rested, and defendant Stow proceeded with the cross-examination of witness.

1st Cross Int. Did you state, in answer to the 29th interrogatory, on your examination yesterday, that you knew Bennett's age to be twenty years less than your own?

Ans. Not positively. I did not.

2. Did you not say that you knew what his age was, because he was twenty years younger than you when you came here to Chicago?

Ans. I might have supposed, without reflection of date, that there may have been that difference. I knew better, however, when compared with dates.

3. Did you say there was a difference of twenty years between your age and that of Bennett?

Ans. I did not say positively.

4. What do you mean by your answer to the last question?

Ans. Knowing that there was a great disparity of years, I think I may have said eighteen or twenty, but, on final recollection, I know that he was born the same year as two other sons-in-law of mine, who were born in the year 1808.

5. What are their names?

Ans. Hiram Buell and William Draper.

6. How do you know that Bennett was born in the same year with them?

Ans. I cannot know, for this obvious reason, that I was not acquainted with him in England. This I know; at a general meeting of the family, (my family), the question arose as to ages; each son giving his age, and finding they were born in the same year, which made some sport for their wives as to which had the youngest husband.

7. Who were present and gave their ages as you stated?

Ans. William Bennett, Hiram Buell, and William Draper.

8. Who else was present?

Ans. Myself, my wife and daughters. There were others, but I forget who they were.

9. On what occasion was this?

Ans. I am not certain whether it was an accidental visit or invited.

10. Where were you then living?

Ans. It was east of Mr. A. Clybourne's, perhaps half a mile or three-quarters from him.

11. Was Mr. A. Clybourne present?

Ans. No, sir.

12. Was Mr. A. Clybourne intimately acquainted with your family and with Bennett's?

Ans. Not intimately. No further than business concerns.

13. Was he, A. Clybourne, your next neighbor at that time?

Ans. He was nearest west or either way.

14. Have you any means of knowledge of the age of Bennett except what you gathered from the conversations between him and your sons-in-law as herein before by you referred to?

Ans. Their family record, which my daughter has now in her possession.

15. When did you first learn of that family record?

Ans. Years before this controversy.

16. Have you examined that record?

Ans. I have.

17. When?

Ans. Recently—to confirm my impression.

18. When did you last see that record?

Ans. This very morning.

19. In what kind of a book is this record?

Ans. In no book at all.

20. In what shape is it, if not in a book?

Ans. It is in a frame—in a picture form, giving births, deaths, and marriages—though I believe I may have the record in my Bible, of Bennett's birth.

21. Can you produce this framed record of which you have spoken?

Ans. I possibly might, or may not.

22. Where is it now?

Ans. It was in the possession of Mrs. Rachel Elam this morning, at my house.

23. By whom is the record in the frame drawn up, and when?

Ans. I am not certain whether it is by myself or Bennett, but I am predisposed to believe it was by myself. It might have been a year, or two years, or three years from the date of their marriage, or as circumstances would occur to record births or deaths.

24. Is this family record you speak of, a record of your family or Bennett's family, or both?

Ans. Of Bennett's family.

25. Whose births and deaths are mentioned in this record that you speak of as having seen this morning?

Ans. I made no further observation than that of William Bennett. I didn't notice anybody else.

26. Did you from time to time record on that record circumstances that occurred to Bennett's family?

Ans. So far as by the request of the wife or the husband.

27. Have you any recollection of making any record, at the request of either of them, on that family record? If so, what?

Ans. I have nothing particularly definite, as I have always been in the habit of writing notes, and doing little business for individuals around me, and when done would be thought no more of.

28. Why did you not speak of this family record on your direct examination, as a means of fixing Bennett's age?

Ans. I did say that he was born in the year 1808. I had not it, and how could I command that which I had not?

29. Did you not know, at the time of your direct examination yesterday, that there was or had been such a family record?

Ans. I might not have thought of it, and still might know of it.

30. Did you know of it?

Ans. I did know before and know since.

31. What reason did you yesterday give for saying that Bennett was forty-seven years old on your direct examination?

Ans. My mind was so convinced that he was born in 1808, I took my pencil and made the deduction.

32. Did you not give another reason on your direct examination for saying that his age, if living, would be forty-seven years?

Ans. I might have, but don't remember any circumstance now.

33. Can you not now recollect what you swore to yesterday?

Ans. I am liable to forget. I have answered all questions to the best of my knowledge.

34. Why should you be so certain that your recollection is per-

fectly right as to things that happened years ago, if you cannot be certain as to what you swore to yesterday?

Ans. My memory was good in former days. What may have happened years ago, I can remember better in detail than circumstances which may have recently occurred.

35. What is the age of your daughter Rachel?

Ans. I think she is 38 or 39.

36. If there be a record of Bennett's birth in your Bible, by whom is it made?

Ans. By me.

37. Are all of the records of his age which you have mentioned, made from your own knowledge, or from what you have learned from others?

Ans. The records that I have of my wife's age, is on good faith from her; in like manner my sons-in-law; my own children records from my own knowledge, and positive as to all their matrimonial ties.

38. When was the fight at Brown's Hotel, of which you have spoken?

Ans. I think it must have been from 1840 to 1841, '42 or '43.

39. Have you heard of Bennett since he left the Court House at McHenry county?

Ans. On three occasions. One on the road from McHenry to Chicago, from a person who gave him fifty cents. The second, in Chicago, desiring to see my daughter, which she refused. The third, in New Orleans, was seen by my son, William Ludby.

40. Did Bennett and wife live happily together during the last few months before he left?

Ans. No, they did not.

41. How long was their separation before he left the State?

Ans. I think it might be four or five months.

42. How long did he remain in Chicago, after she refused to see him, as by you stated?

Ans. Not knowing, cannot say.

43. Where was the scar upon his hand of which you have spoken?

Ans. I think it was from a bite in one finger, but which I could not say.

44. Would it be noticed by a person who did not have his attention called to it?

Ans. Perhaps not, unless seeking for defects.

45. Was he much pock-marked, except on the lower part of his face?

Ans. Yes, Sir, to his very forehead.

46. Where and what was the mark on his ear, of which you have spoken?

Ans. The lower part of his right ear had been wounded and partially separated.

47. Did he wear his hair long or short ?

Ans. I never knew it to be long, nor never knew of its being cut.

48. When did Bennett go to Libertyville, in Lake county, to live ?

Ans. I think in '35 or '36 ; am more inclined to think '35.

49. How long did he remain there ?

Ans. Until some time in '39.

50. Where were you living when he lived at Libertyville ?

Ans. Part of the time on the north branch of Chicago river, near Clybourne's ; the other part of the time on Union Ridge, north-west of Chicago, about nine miles from the forks of the river.

51. Did Bennett ever return to Chicago, to live with his family, after he lived at Libertyville ?

Ans. He did not.

52. Did his wife live with him all of the time he was at Libertyville ?

Ans. She did until he was arrested in 1839.

53. Did she ever cause his arrest, and if so, in what year ?

Ans. She was not the primitive cause.

54. Did she make an affidavit which caused his arrest for threatening her life ?

Ans. It was after an arrest had been made from another source that she made the declarations before the court for the security of her life.

55. Was this prior to the trial in McHenry county, of which you have spoken, and if so, how long ?

Ans. I think it must have been four months prior.

56. When and where was it that the signature of William Bennett on the 115th page of day-book, was made ?

Ans. On my farm, on Union Ridge.

57. Who was present ?

Ans. I don't know whether my wife was or not ; she most likely was. I don't know whether any other person was.

58. Who wrote the name "Bennett," in pale ink, at the bottom of page 115, in day-book ?

Ans. I did.

59. Who wrote the word "Bennett" under where the letter "A" is marked, on the 114th page of day-book ?

Ans. Mine. I wrote it.

60. Who wrote the word "Bennett" on the second line of the 100th page of said book ?

Ans. I did.

61. Who wrote the word "Bennett" over where the letter "B" is marked on the 24th page of said book?

Ans. George Adams, deceased.

62. When was the entry of the settlement, which is on the 113th page, made in said book?

Ans. It was on the date when it purports to have been made there. It purports to have been made on 6th of December, 1837.

63. Have you any other signature which you can say is the signature of William Bennett, except that which you have spoken of on the 115th page, amongst any of your papers?

Ans. I had a pocket-book containing many papers; on looking for them, found they were not there. There were a number of letters and communications from him in that pocket-book, and I have reason to believe they were stolen. There is another paper extant with the name of William Bennett, in full, on it, being a note for thirty-six dollars or thirty-eight dollars and some cents. This note was given into the hands of Mr. Bonney for the purpose, as he said, of comparing with some documents of William Bennett's, in Mr. Ogden's office. I know of no other in my possession than the one in the book.

64. Did you see William Bennett sign that note for \$36 or \$38?

Ans. I did not.

65. Who gave that note to Bonney?

Ans. I did.

66. When?

Ans. I think it must have been in 1852 or '53.

67. Is the Christian name of said Bennett abbreviated or written in full as signed to that note.

Ans. Written in full.

68. Do you know whether the document in Ogden's office was signed by said Bennett?

Ans. I don't know, never having seen the document.

69. Did said Bennett, in signing his name, always sign the Christian name in full, or did he sometimes abbreviate it "Wm.?"

Ans. Most generally abbreviated to "Wm."

70. When were the two entries, on the 132d page of said day-book, of which you testified in your direct examination, made in said book?

Ans. I have no reason to believe but what they were made at the time they purport to be.

71. Who made those two entries?

Ans. Myself.

72. What was the original date by the side of those two entries?

Ans. It appears as if it were 12 first, by mistake, then altered to 14.

73. When was that alteration made?

Ans. It surely must have been at the time.

74. What was the original date by the side of the second of those two entries?

Ans. There is no date at the side, but the entry must have been made between the 30th of June and July 4th, 1839.

75. Do you recollect the making of those entries, excepting as you gather them from the book now before you?

Ans. I do not.

76. Have you shown this book to persons, and pointed out those entries, and that on the 115th page, to them, prior to this day?

Ans. I think I did that on the 115th page. I believe no other.

77. How often have you shown that entry?

Ans. Only on one occasion, that I remember.

78. To whom did you then show it, and when was it?

Ans. I think it must have been in August or September last. I think it was to Mr. Iglehart.

79. Have you conversed with any person before giving in your testimony here as to what your testimony would be?

Ans. Yes.

80. Have you ever conversed with either of the complainants, or with their attorneys, as to what you would testify to if called on?

Ans. Not in reference as to any direction what I should or should not say. I don't think I ever told any of them what I would say.

81. With which of the complainants have you conversed about the subject matter of your testimony in this case, and when?

Ans. I may have been asked by Mr. Waller when I last saw Bennett or knew anything of him?—that seemed to be the principal aim to attain. I have no memory of anything more definite than I have given.

82. Have you talked with James H. Rees about this matter, and your evidence in it?

Ans. Nothing further than a conversation about a final settlement for the boy, Wm. Bennett, Jr.

83. What did Mr. Rees say he would do for the boy?

Ans. He said he would consult with others interested; there was nothing more said.

84. Have you conversed with Mr. Rees more than once on the subject matter of this suit, or your evidence in it?

Ans. I have.

85. What were these other conversations?

Ans. I asked him if he had seen the parties; he said no, and I left.

86. Have you talked with any persons about your evidence since yesterday morning, excepting the conversations had in this room?

Ans. I believe I did with my family when I went home last night. I also talked with Mr. Bell and Mr. Stow; none else.

87. Have you any knowledge of any deed from Bennett and wife to James Kinzie, of the W. $\frac{1}{2}$ N. E. $\frac{1}{4}$ of Section 20, Township 39, Range 14 East 3d P. M.?

Ans. No, Sir.

88. Has any promise been made to you of any benefit or advantage to you, or any of your relatives, by either of the complainants, or any one acting for them, provided they were successful in this suit.

Ans. No, Sir.

89. Have you any other son-in-law living, besides those you have named herein before?

Ans. Yes, Sir; Peter Haslett.

90. Was Haslett with you at the time of the family gathering, when the ages were compared, as you have stated?

Ans. I don't recollect.

91. Was said Bennett a person spare and slim, or thick set?

Ans. He was thick set, though of small features.

92. Was he of such a make and nature as would naturally become stout, as he increased in years?

Ans. More likely to become thin, than to become lusty.

Defendants here rested, and the direct examination of witness resumed by complainants.

1st Int. When you were asked in the direct examination, the 29th interrogatory, as to William Bennett's age, and said you supposed that he might be eighteen or twenty years younger than yourself, did you not at the time correct yourself, and direct the answer to be written down as it has been by the Commissioner?

(Objected to by defendants' counsel.)

Ans. I did.

2. Was, or was not, your knowledge of Bennett's age derived originally from Bennett himself?

Ans. It was.

3. How did his appearance correspond with his statement of his age?

Ans. There was not the shadow of doubt on my mind, but what he spoke what was correct.

4. Has the note of thirty-six or thirty-eight dollars, with William Bennett's signature, which was handed by you to Bounney, ever been returned to you?

Ans. No, Sir, it has not.

5. Have you made any alteration in your day-book, since this suit has been in progress, or since the entries were made?

Ans. With me, it would be impossible. No, Sir, I have not.

6. Do you or not, recollect the facts recorded by those entries, to have occurred ; and if you do, how do their dates correspond with your recollection ?

Ans. I do ; by the reading of them, they come fresh to my mind. I wouldn't presume to question the dates.

7. Has either of the complainants ever attempted to influence your testimony in this case, by any offers, or by means of any kind ?

Ans. Yes.

8. Please state which.

Ans. Mr. Stow.

9. Did you or not, understand question seven, to which you responded yes, to embrace both complainants and defendants in this suit ?

Ans. I did, in my answer.

10. I will ask you now, whether either of the complainants ever attempted to influence your testimony in this case, by any offers or by means of any kind ?

Ans. Never.

11. Please state what offers Mr. Stow has made, or what means he has used to influence you in this case.

Ans. He said there was enough for us all, and he didn't want to trouble me for nothing ; there were some proffers which were not to be revealed ; I don't know that I am bound to say what it was. (Commissioner told witness he must state what those proffers were. Witness proceeded in his answer to the 11th interrogatory.) He said, if you will serve me, there is enough for the whole of us. I asked him what offer he would make ; he said it would debar me from being a witness if I accepted anything ; this was at the corner, I think, of Dearborn and Lake. At another time, at Mr. Stonham's, in the company of Mr. Bell, (Joshua Bell,) it was proposed by Mr. Stow to give a thousand dollars each—one to me, one to Mrs. Elam and one to William Bennett, junior. Mr. Bell was to be in trust, as a security, till after the trial, to have the thousand dollars secured in other property ; no other offers made, I believe.

12. What did Mr. Stow propose to give this money to you, Mrs. Elam and William Bennett, junior, for ?

Ans. The idea was, for me to serve him by the acknowledgment of a signature signed William Bennett, on a certain deed. He asked me if that was not Bennett's hand-writing ; I said it was very imposing. I believe that terminated pretty much that conversation.

13. In answer to the 86th cross-interrogatory, you stated that you talked with your own family, Mr. Bell and Mr. Stow ; please state the conversation with Mr. Stow on that occasion.

Ans. I asked Mr. Stow if things went right according to his view, or something like it. He alleged that my leaning was against him, or something to that purpose, and that there would be some-

thing to counteract all, or nearly to that purpose. He asked me what year Bennett went to Libertyville; I told him I thought it was in the year 1835.

14. Had you had any other conversation with Mr. Stow relative to your testimony on that day, or any day previously, which you have not mentioned?

Ans. Yes.

15. Please state it.

Ans. At the bottom of the stairs yesterday, he observed that Bennett's face was now covered with hair so that the marks of the small-pox could not be discovered, or words to that effect. There was one, on another occasion, just previous to my being sworn yesterday; he told me that I should not be too precise, or words to that effect; I said, I should speak the truth as far as I knew.

Here complainants rested, and cross-examination again resumed by counsel for Stow.

1st Cross Int. Have you, at any time, during the last year, applied to Mr. Stow and asked him to loan you money?

Ans. I have.

2. Have you been refused any such loan?

Ans. Yes.

3. Have you received any loan of money, or other accommodation, from either of the complainants or any of their agents, during the last year?

Ans. Not on any ground relative to this case.

4. Have you received any gift, any loan of money, or any accommodation of any kind, from either of complainants or any of their agents? and if so, what was it, and when and by whom made or loaned?

Ans. I have loaned twenty dollars from Mr. Iglehart, for which I gave my note; being much pressed for money in consequence of putting up new works.

5. Have you received any gift, any loan of money, or any accommodation of any kind, from either of complainants or any of their agents, other than the twenty dollars mentioned in your last answer? If so, state fully any and all gifts, loans, or any accommodation so by you received, their amounts, and when and from whom received.

Ans. None, except that which has already been stated.

6. When was the deed, of which you speak in your answer to the 12th interrogatory, on the second direct examination, shown you by Mr. Stow?

Ans. I think it was some time during the last summer.

7. What time in the last summer?

Ans. In May or June, I think ; I have in my minute book day and date.

8. When were they entered in your minute book ?

Ans. That same day.

9. Did you read the said deed which you say was shown you ?

Ans. I did not examine it scrupulously ; I read it over without a disposition to justify or condemn.

10. Who was the grantor in the said deed ?

Ans. William Bennett.

11. Who was the grantee in the said deed ?

Ans. Mr. Stow, and I think some others.

12. Are you certain there were any other grantees named in said deed ?

Ans. I am not certain.

13. To the best of your recollection, after reflection, was or was not the said deed to Mr. Stow alone ?

Ans. I cannot be positive about it.

14. Can you tell what land it purported to convey ?

Ans. That which is in litigation between Waller, Rail Road Co., and others, and Stow.

15. Was the said deed shown you in the spring or summer of this present year ?

Ans. I think it must have been in the early part of the summer.

16. Have you that minute book in your possession ?

Ans. I think I have—I have.

17. Where is it ?

Ans. Here it is.

18. After looking at it, are you able to state with certainty the date when said deed was shown you by said Stow ? If so, please state when.

Ans. Yes, Sir. It was on the 14th of March, 1855.

19. Did Mr. Stow, on the 14th of March, 1855, show you any deed ? If so, whose name was signed to it, what land was conveyed by it, and to whom ?

Ans. He did. William Bennett in full was signed to it. I was well satisfied that it was that now in litigation, and am still. There was a stamp with the coat of arms of the State of Missouri on that same deed. There were other papers, one paper bearing the evidence of the person of William Bennett appearing before me, and being duly sworn, or something to that effect, that he being known to certain persons, and this was signed by some official at some place in Missouri. The land was conveyed to Mr. Stow, and I think to some other person.

(All of the above answer is objected to by defendants' counsel, except what is responsive to the interrogatory.)

20. Have you at any time during the past twelve months applied

to Mr. Stow, and offered your services to him in this suit, on condition of receiving a gift, loan, property of any kind, or any accommodation from him ?

Ans. No.

21. Have you in any way assisted the complainants, or either of them, in the management or conduct of this suit ?

Ans. Not a word.

22. Have you handed to Mr. Waller, during this examination, any question, or memorandum of question, to be put to you ?

Ans. I did.

23. Was not the conversation between you and Mr. Stow, at the time he said you leaned against him, after, and in consequence of, and about your prompting Mr. Waller, by handing such memorandum ?

Ans. There was something that he was galled at—I observed that he was much galled. No, Sir, the conversation was not altogether upon any pointed subject.

24. Who commenced that conversation in which you say Mr. Stow alleged your leaning was against him ?

Ans. I believe I spoke.

25. State in detail that conversation between Mr. Stow and you.

Ans. I said, what do you think of the proceedings ? He alleged that my evidence leaned in favor of the other party, or words to that effect. I said I would speak the truth, lean where it would. He then asked me what year Bennett went to Libertyville. I said, I think it was in the year 1835. We then parted.

26. Was, or was there not, anything said by Mr. Stow to you during that conversation in regard to your having handed Mr. Waller a memorandum ? If so, what was it ?

Ans. There was nothing explicitly mentioned, that I understood, relative to it.

27. What was said relative to it ?

Ans. Nothing more than I have already stated.

28. Did, or did not, Mr. Stow say that you were pettifogging the case by writing questions and handing them to counsel, or words to that effect ?

Ans. Not in my hearing.

29. Did you deny to Mr. Stow, yesterday noon, that you had written and handed to counsel any memorandum ?

Ans. I never confessed nor denied, nor was the question put to me in my hearing.

30. Have you ever been to the office of Messrs. Sedgwick & Walker, or to the office of either of them, and endeavored to have Mr. Stow make to you an offer for your assistance in this case ?

(Question objected to by complainants' counsel.)

Ans. No, Sir.

31. Have you directed Sedgwick & Walker, or either of them, to see what proposition could be obtained from Mr. Stow in favor of yourself, or in favor of William Bennett, Junior?

(Question objected to by complainants' counsel.)

Ans. No, Sir.

32. Have you ever induced Mr. Stow to go to Messrs. Sedgwick & Walker's office at any time during the last twelve months?

Ans. On all occasions I have avoided Mr. Stow. I believe not.

33. How many times has Mr. Stow been with you, at your request, to Messrs. Sedgwick & Walker's office?

(Question objected to by complainants' counsel.)

Ans. Never, by my request. We had met there, or near there. I meant to say, we had met near there, and referred him to Sedgwick & Walker as acting attorneys for the boy.

(Answer objected to by complainants' counsel.)

34. Have you ever been in the office of Sedgwick & Walker with Mr. Stow, and how often?

(Question objected to by complainants' counsel.)

Ans. Twice, I think.

The counsel for Mr. Stow here objected to the 11th, 12th, 13th, 14th and 15th questions in the resumed direct examination, on the ground that they should have been put to the witness during his direct examination, and prior to any cross-examination.

Direct examination renewed on the part of complainants.

1st Int. What was the memorandum you handed to Mr. Waller, alluded to in your answer to the 22nd question of the second cross-examination?

Ans. I will give it to you. "Have you had more evidences of his writing?"

2. Was this all? and what induced you to hand it to him?

Ans. That was all. To discover a thief.

3. Whose writing did this memorandum allude to?

Ans. William Bennett's.

4. Did Mr. Iglehart loan you the twenty dollars, spoken of by you, individually, or as agent of complainants?

Ans. Individually.

5. Did you apply to him for the twenty dollars on account of any services by you to be rendered in this case, or as a friend?

Ans. Such a thing was never thought of. I applied to him as a friend.

Further saith not

JOHN LUDBY.

Filed

January 22nd / 1858.

DEPOSITIONS TAKEN BY DEFENDANT STOW TO IMPEACH JOHN
LUDBY, BETWEEN JANUARY 6TH AND 16TH, 1858.

Deposition of JACOB HARRIS.

1st Int. What is your name, age, and place of residence ?

Ans. Reside in Chicago. Age, forty-three. Name, Jacob Harris.

2. Are you acquainted with John Ludby, of the city of Chicago ?
If so, how long have you known him ?

Ans. I have known him by sight and reputation for the last fourteen years.

3. Have you, at any time, had any conversation with John Ludby in regard to his belief in a future life ? and if so, what was such conversation ?

(The above interrogatory is objected to, because no foundation has been laid for such evidence in the previous examination of Ludby by plaintiffs' counsel.)

Ans. I have had none.

4. Have you ever heard said Ludby make any statements in regard to his belief in a future state of existence ?

(Objected to for the same reason as above.)

Ans. I think I have.

5. What were such statements ?

Ans. That he did not believe in a future state of existence—that as a man died, so it was ; he was nothing after death—the impression produced upon my mind was, that he was a deist.

(Plaintiffs' counsel objects to this answer.)

6. When was it you heard Mr. Ludby make this statement ?

Ans. I should say, about ten years ago. As near as I can recollect, it was when the Clark Street Methodist Church occupied their old church at the head of Dearborn street.

(Witness wishes here to make an alteration in his answer to the 2nd interrogatory, making the term of years that he has known Ludby by reputation, twelve instead of fourteen years.)

Cross-Examination.

1st Cross Int. Do you remember who were present at the time ?
If so, state who they were.

Ans. I cannot state particularly. It was a meeting of the church.

2. Was this statement made in a private conversation, or to the whole audience ?

Ans. To the whole audience.

3. Was Mr. Ludby a member of that church?

Ans. I think not, Sir.

4. How came he to be preaching, or talking, to that audience?

Ans. My impression is that it was at a protracted meeting, where there was liberty given for individuals to speak.

JACOB HARRIS.

Filed
Jan'y 22, 1858.

Deposition of CYRUS P. BRADLEY.

1st Int. What is your name, age, and place of residence?

Ans. My name, Cyrus P. Bradley; age, thirty-eight; residence, four hundred and twenty West Adams street, city of Chicago.

2. Are you acquainted with either of the parties to this suit? and if so, which of them?

Ans. I know Henry McCanley, James H. Rees, and William H. Stow.

3. Are you acquainted with John Ludby, of the city of Chicago? and if so, how long have you known him?

Ans. From twelve to fifteen years. I cannot remember how long, exactly. I don't recollect distinctly, back any longer than twelve or fifteen years.

4. Have you ever had any conversations with the said John Ludby, in regard to his belief in a future state of existence? if so, what were such conversations, when were they had, and who was present at the saying?

Ans. Never had any.

5. Have you ever heard said John Ludby make any statements in regard to his belief in a future state of existence? If so, what were such statements, and when made?

Ans. I have never heard him make any statements in regard to his belief in a future state of existence.

6. Do you know the general reputation of said John Ludby, as to the belief of said John Ludby in a future state of existence, amongst his neighbors? If so, what is the same? and state the same fully.

(Objected to by plaintiffs' attorney.)

Ans. His general reputation, in regard to a future state of existence, was, that he was a follower of Tom Paine; that he was always one of the head men in getting up a supper in honor of the birth-day of Tom Paine. I never attended one of those anniversary suppers, and only speak from what I have heard.

7. How long have you known such reputation?

Ans. About twelve years.

8. What was your business in the years 1853, 1854 and 1855?

Ans. In the year of '53, and up to November, '54, I was sheriff of Cook county; from the spring of the year '55, until the close of the year, I was captain of the city police.

9. While acting as sheriff of Cook county, did you have occasion to know of a search being made for William Bennett? If so, by whom was such search made, when made? State fully all you know in regard to such search.

Ans. Some time during the fall of '54 there was a hand-bill received by me as such sheriff, from Jerseyville, in this State, offering a reward for one James Bennett. Mr. Allan Pinkerton was then my deputy. I showed him the hand-bill. He remarked that that came very near the description and age of a William Bennett that he wanted to find. I then first learned that he was in search of William Bennett, son-in-law of John Ludby. I then made inquiries of him for what this William Bennett was wanted. I was then informed by him that he wanted to find him for some parties who had a claim, or pretended to have some claim, to some land on the west side of the river, said to have been owned by William Bennett, and that by finding him he could get a reward of five hundred dollars. I also learned at the Penitentiary in Alton that Edward Bonney had been in there inquiring if any of them had known this man, William Bennett. Bonney was at Alton some time during the fall of '54. I also went with Mr. Pinkerton to see a fortune teller who had a husband whose name was William Bennett, but he did not answer the description of the bill. That is all I know personally of the search having been made.

(Plaintiffs' counsel objects to above answer.)

10. Do you know for whom this search for William Bennett was made? and if so, for whom?

Ans. I heard it was for parties claiming under a tax title. Could not tell whether it was from Rucker or Pinkerton, that it was for James H. Rees and Buckner S. Morris, and others interested in it.

(Plaintiffs' attorney objects to the above answer.)

11. Did you know, while acting as sheriff of Cook county and captain of police of the city of Chicago, of any other search being made for said William Bennett?

Ans. No, I don't. I was kind of looking out for him myself. I was after the reward the same as the rest of them.

12. Do you know of any search being made for the said William Bennett out of the State of Illinois? and if so, where?

Ans. I do not, other than as above stated.

CYRUS P. BRADLEY.

Deposition of AMBROSE BURNAM.

1st. Int. What is your name, age and occupation?

Ans. Name, Ambrose Burnam. Age, 46. Am health officer.

2. Are you acquainted with John Ludby of Chicago? if so, how long have you known him?

Ans. I am. I have known him fifteen years. I had rather say ten years that I have known him.

3. Have you ever heard said John Ludby make any statements in regard to his belief in a future state of existence?

(Objected to by plaintiffs' counsel.)

Ans. Not to my recollection.

4. Do you know the general reputation amongst his, said Ludby's, neighbors, as to his, said Ludby's, belief in a future state of existence?

(Objected to by plaintiffs' counsel.)

Ans. I don't know who his neighbors are.

5. Do you know his general reputation at all, as to his religious belief? If so, what is it?

(Objected to by plaintiffs' counsel.)

Ans. The common report is that he is an infidel, as far as my knowledge goes.

AMBROSE BURNAM.

Filed
January 22nd 1858

Deposition of LUTHER NICHOLS.

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

Ans. My name is Luther Nichols; age, fifty-one; residence, Chicago. I am on the Chicago police.

2. Are you acquainted with John Ludby, of the city of Chicago? and if so, how long have you known him?

Ans. I have known him, I should judge, for about fifteen years, I don't know but longer.

3. Have you ever heard said John Ludby make any statements in regard to his religious belief in a future state of existence? if so, what were such statements, and when and where made?

(Objected to by plaintiffs' counsel.)

Ans. I have heard Mr. Ludby several times, in the city of Chicago, in speeches which he has made in public, state his belief in regard to future punishment.

4. What were such statements, and who were present when they were made?

(Objected to by plaintiffs' counsel.)

Ans. That he did not believe in a Supreme Being, or, in other words, he was a follower of Tom Paine. As to who was present, I don't know as I could answer that, as it was in a crowd.

5. How long ago was it that you heard him make these statements?

(Objected to by plaintiffs' counsel.)

Ans. I don't think that I have heard him within the last two years.

Cross-Examination.

1st Cross-Int. On how many occasions have you heard John Ludby declare his religious belief?

Ans. I could not say how many. A considerable number of times; over twice.

2. Can you state any place where he made such declarations?

Ans. I have heard him on Dearborn street, near the Engine House.

3. Can you state when that was, and the name of any person present, beside yourself and Mr. Ludby?

Ans. I could not.

4. How did that conversation occur?

Ans. I could not tell, unless it was commenced from politics.

5. Were there a good many persons present?

Ans. I could not say how many.

6. How long did the conversation last?

Ans. That I could not tell.

7. Did Mr. Ludby state that he held the same opinions that were held by Tom Paine?

Ans. I could not say that he did, in the same words, at that time.

8. Can you give any statement made at that time by him, in his own words?

Ans. Well, I don't know that I can.

9. Can you name any other place where Mr. Ludby declared his religious opinions?

Ans. Well, I don't know that I can name any other place. I have heard him several times.

10. Were these statements of Mr. Ludby made in argument with other persons?

Ans. I have heard him in argument with other persons, and I have heard him without argument with other persons.

11. On what occasion did you hear him declare his religious belief when it was not in argument?

Ans. Well, I couldn't state no time.

12. Did you ever seek a conversation with Mr. Ludby upon this subject for the purpose of ascertaining his religious belief?

Ans. I did not, to my knowledge.

13. Did you understand, from what Mr. Ludby stated, that he was a deist, an atheist, or an infidel?

Ans. I have ascertained, from what I have heard him say, and from general reputation, that he was a believer in Tom Paine, and did not believe in any rewards or punishment, or any hereafter.

(Objected to by plaintiffs' attorney.)

14. From what you heard Mr. Ludby say, did you regard him as a deist, atheist, or infidel?

Ans. I have ascertained from what I have heard him say and from general reputation that he was a believer in Tom Paine, and did not believe in any rewards or punishment, or any hereafter.

(Answer objected to by plaintiffs' attorney.)

15. From what you heard Mr. Ludby say, and not from his general reputation, did you regard him as a deist, atheist, or an infidel?

Ans. I should judge, if I know anything about infidelity, that from what he said he was an infidel.

16. Do you know Mr. Ludby's neighbors, or who were his neighbors at the time of these declarations?

Ans. I do not know in what part of the town he lived, or who were his neighbors.

17. Are you acquainted with the general reputation of his religious belief?

Ans. I think I am.

18. Can you name any whom you have heard speak of his religious belief?

Ans. I don't know that I could name any one any more than he has himself. I do not recollect any, so that I can name them.

L. NICHOLS.

Filed
January 22nd 1858

Deposition of JAMES M. MORRISON.

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

Ans. My name is James M. Morrison; my age fifty; residence, Chicago; have no regular business at the present time.

2. Are you acquainted with John Ludby of the city of Chicago? If so, how long have you known him?

Ans. I know him. I have known him several years—cannot tell how long.

3. Have you ever had any conversations with the said John Ludby in regard to his religious belief, as to a future state of existence? If so, state when and where did you hold such conversations,

who was present, and what were such conversations? State the same fully.

(Objected to by plaintiffs' counsel.)

Ans. I have had conversations with John Ludby; I think it was out on Clark street here; there was no one present; the conversation was on religious subjects. What caused me to speak to him upon the religious subject, was, that I heard him, at a revival meeting in the Clark Street Methodist Church, say that he did not believe in any God. After that, out on Clark street, I asked him about his religious belief, and he told me there that he did not believe in any God.

4. Have you ever heard the said John Ludby make any statements in regard to his religious belief? and if so, what were such statements other than above stated?

(Objected to by plaintiffs' attorney.)

Ans. I don't recollect that I have.

Cross-Examination.

1st. Cross Int. What else did he say that he believed?

Ans. I think he said also, that a man was nothing more or less than a dumb beast, and that after he was dead there was nothing more of it.

2. Was he not excited by liquor at the time?

Ans. I don't think he was, Sir.

3. How long since this conversation occurred?

Ans. I could not tell exactly. I can't state the time; it is some years since.

4. Was it as long as five years ago?

Ans. I should think it was.

J. M. MORRISON.

Filed

January 22^d 1858.

Deposition of ALEXANDER WOLCOTT.

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

Ans. Alexander Wolcott. Age, 42. Reside in Chicago. Am a civil engineer.

2. Are you acquainted with John Ludby of the city of Chicago? and if so, how long have you known him?

Ans. I have known him some twelve or fifteen years, I should think it was.

3. Have you ever held any conversations with the said John Ludby in regard to his religious belief as to a future state of existence? If so, what were such conversations, when and where held? who was present at said conversations? State the same fully.

(Objected to by plaintiffs' attorney.)

Ans. I have had two or three arguments with him. I don't remember who was present; there were some five or six of us; they were always held on the sidewalk; the conversation was in regard to his belief in the Scriptures; that the Bible was got up to deceive old women and children, and that after death there was an end of it.

4. Have you ever heard him make any statements other than those above mentioned?

(Objected to by plaintiffs' counsel.)

Ans. He did not believe in a Supreme Being; that the world was made by chance, and not by the Supreme Being.

Cross-Examination.

1st Cross-Int. State the time that these conversations occurred.

Ans. I could not state positively in regard to any of them; should think the last was in the summer of '48.

ALEX. WOLCOTT.

Filed
January 22^d, 1858.

Deposition of BENJAMIN JONES.

1st Int. What is your name, age, residence and occupation?

Ans. Name, Benjamin Jones. Age, 62. Reside in Chicago. Occupation, lumber dealer.

2. Are you acquainted with John Ludby of the city of Chicago? and if so, how long have you known him?

Ans. I formed his acquaintance more than twenty years ago.

3. Have you ever had any conversation with said John Ludby in regard to his religious belief as to a future state of existence? If so, what was such conversation? when and where held? who was present at said conversation? State the same fully.

(Objected to by plaintiffs' attorney.)

Ans. I have had several conversations with Mr. Ludby in regard to his religious belief. I don't recollect what those conversations were, exactly, it has been so long since; it was to the effect that he was not a religious believer; he was a Tom Paine man. I do not recollect who was present at such conversations.

B. JONES.

Filed
January 22^d, 1858.

Deposition of W. R. CORNELL.

1st Int. What is your name, age, occupation and residence?

Ans. Name, W. R. Cornell. Age, 44. Am not doing anything at present. Residence, Chicago.

2. Do you know the parties to this suit?

Ans. Mr. Stow is the only party that I know.

3. Have you read the paper, and do you know the contents of the paper now handed you, and marked "Exhibit A."?

Ans. Yes.

4. Do you know whether the paper now handed you, and marked "Exhibit A," is an original document, or a copy of some other document, and if a copy of any, what other document or instrument, and your means of knowledge? State fully and particularly.

(Objected to by plaintiffs' attorney.)

Ans. It is a copy. I called at the General Land Office, or I think it was at the General Land Office, Washington, and called for a paper of this description, signed by John Ludby and William Bennett, and they produced the paper from which this is an exact copy. I requested them to copy it, and they did so.

5. From what place was the paper brought, and by whom produced?

(Objected to by plaintiffs' attorney.)

Ans. By one of the clerks of the office.

6. Describe that instrument. Had it an old appearance?

(Objected to by plaintiffs' attorney.)

Ans. It was very much like this one. It had an older appearance.

7. State whether or not you examined the hand-writing of the manuscript of which this is a copy, or of the signatures.

(Objected to by plaintiffs' attorney.)

Ans. I examined the hand-writing of the signatures.

8. From the examination of the hand-writing of the signatures are you able to tell whether or not the hand-writing thereof is the same hand-writing as that of the paper I now hand to you and attached hereto, marked Exhibit B?

(Objected to by plaintiffs' attorney.)

Ans. I should think it was the same hand-writing of the signature. The name attached to the instrument marked Exhibit A was written out in full, and in Exhibit B it was not.

Cross-examined by H. WALLER.

1st Cross-Int. At whose request did you visit the Land Office in Washington to examine the paper of which you have spoken?

Ans. Mr. Stow's.

2. When did he request you to do so?

Ans. Either one or two years ago, in the fall of the year.

3. Were both the signatures that you examined, to the original instrument, apparently written by the same hand?

Ans. I don't recollect now about Ludby's signature. My attention was not particularly called to that.

4. Are you an expert at writing?

Ans. No; I can write very well.

5. Do I understand you to say that you had the paper marked B with you at the time you examined the original of the paper marked A?

Ans. Yes; I had it with me.

6. Did you ever see William Bennett write?

Ans. Not to my knowledge. I never saw the man, to my knowledge.

7. Do I understand you to say that the body of exhibit B is in the same hand-writing with the signature subscribed to it?

Ans. I should think it was.

8. Examine the William Bennett written at the top of Exhibit B, and state whether or not the word Bennett is not written with an I.

Ans. I don't know whether it is or not. There appears to be a dot over it.

W. R. CORNELL.

EXHIBIT A.

STATE OF ILLINOIS, }
Cook County. }

This day came John Ludby and William Bennett, before me, at my office in Chicago, in said county, and after being duly sworn, and after being interrogated by me, deposes and says, as follows:

That in the year 1833, they enclosed one acre of land by a fence, and cultivated the same in corn, potatoes, beans, peas, and other garden vegetables, it being on the south-east quarter of section thirty-two, township forty north, range fourteen east of the third principal meridian, in the State of Illinois; and further saith, that they erected three dwelling houses on the same; and further states, that they have continued in possession ever since, and is still in possession, and was residing on said land on the nineteenth of June, eighteen hundred and thirty-four.

JOHN LUDBY,
WILLIAM BENNETT.

Sworn and subscribed to, this 29th day of September, 1834.

ISAAC HARMON, J. P.

EXHIBIT B.

WILLIAM BENNETT,
vs.
ELKANAH TWIGBY,
and nine others. }

The Clerk will please issue subpoenas in the above entitled cause for John J. Pulling, Samuel S. Carpenter, Noah Pierce; and to Cook county for Wm. Ludby and Peter Haslett. February 28th, 1839.

WM. BENNETT.

EXHIBIT C.

TO MESSRS. WALLER & CAULFIELD, Solicitors for complainants in case of Henry Waller et al., complainants, against William Bennett and William H. Stow, defendants, in Chancery in the Com. Pleas:

Take Notice, That I shall take the testimony of David Bradley and others, before John Summerfield, a Notary Public, at his office in Chicago, on behalf of defendant, William H. Stow, on June the 2nd, 1838, at the hour of nine o'clock, A. M.

ARTHUR W. WINDETT,
For Stow.

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PART III.

Filed
June 14: 1856

[TESTIMONY TAKEN BY DEFENDANT STOW-TO IMPEACH RUFUS SOULES.]

1. DEPOSITION OF THOMAS GEORGE, TAKEN 29TH JANUARY, 1856.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is Thomas George, am over twenty-one, reside in Chicago, by occupation am tin smith.

2. Are you acquainted with Rufus Soules, now a resident of Lake county, if yea, how long have you been acquainted with him?

Ans. I am acquainted with Rufus Soules, of Lake county, have known him some 17 or 18 years.

3. Are you acquainted with the reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances, If yea, please state what his general reputation for truth and veracity among his neighbors and acquaintances is?

Ans. I am not now but was formerly.

4. What was his reputation for truth and veracity among his neighbors and acquaintances formerly, that is at the time you knew it?

Ans. It was bad.

5. How long is it since the time you refer to as being acquainted with his reputation as aforesaid?

Ans. About 15 years since I was acquainted with his immediate neighbors.

6. Have you heard his reputation since that time for truth and veracity spoken of, and what has been his reputation since that time since you were acquainted with his immediate neighbors as to truth and veracity? State fully.

Ans. It is still bad.

CROSS-EXAMINED BY H. WALLER.

CROSS INT: 1. How long have you been residing in Chicago?

Ans. I came to Chicago either in the fall of 1837 or 1838. After staying here a few months I then went out to Buffalo Grove, near Wheeling, where I resided something near a year, at which time I returned to Chicago, where I have resided ever since.

2. When you were at Buffalo Grove how far were you from where Mr. Soules resided?

Ans. I cannot tell exactly, but from a mile and a half to three miles.

3. Were you acquainted with Mr. Soules before you went to reside at Buffalo Grove?

Ans. No, sir.

4. Who have you heard speak of Mr. Soules within the last fifteen years?

Ans. Charles Morrison, for one. I have heard Jos. Filkins, and I think it is very likely John Shingley and William H. Stow; I don't know of any more.

5. Did you hear all of these speak of his reputation for truth?

Ans. I am not sure that I did.

6. Can you say that you have been acquainted with his reputation for truth at any time within the last fifteen years?

Ans. Well, to some extent, I can.

7. Upon what do you base that acquaintance?

Ans. From what I have heard these men say. I recollect one other I have heard speak of him, William Wisencroft.

8. Do you not know that these men have all had difficulty or law suits with Mr. Soules, except Mr. Stow?

Ans. I do not know it positively, only from hearsay.

9. Do you not know that they are all inimical or unfriendly to Mr. Soules?

Ans. I only know it from hearsay and inference.

10. Do you not know it from what they have said?

Ans. I should infer from what they said that they were.

11. How long has it been since you heard them speak of Mr. Soules, leaving out of the question Mr. Stow?

Ans. A number of years.

12. Had it been as long as five or six years?

Ans. I should think it had, leaving out Mr. Stow.

13. Can you say then that you are or have been acquainted with Mr. Soules' reputation for truth since that time?

Ans. Only from what I have heard from Mr. Stow.

14. When did you hear Mr. Stow speak of his reputation?

Ans. Some time during the past winter.

15. Was he then anxious that you should appear as a witness against Mr. Soules' reputation?

Ans. He asked me to come and testify what I had heard.

16. Who had you heard speak of Mr. Soules' reputation for truth before you came to live at Chicago the last time?

Ans. Joseph Filkins, Charles Morrison, and perhaps others, but am not positive who.

17. Have you ever had any business or other transactions with Mr. Soules?

Ans. Individually, only to sell him goods out of my store, for which he paid when he got them.

18. Do you know anything of your own knowledge calculated to impeach the character of Mr. Soules for truth?

Ans. I do not.

19. What is your age?

Ans. Thirty-seven.

THOS. GEORGE.

2. DEPOSITION OF JOSEPH FILKINS.

INT. 1. What is your name, age, residence and occupation?

Ans. Joseph Filkins—am 50 years of age, I reside in Chicago, by occupation hardware merchant.

2. Do you know Rufus Soules, now, of Lake county, and how long have you known him?

Ans. I know him and have been personally acquainted with him since the fall of 1835.

3. Have you been during any of the time you have known said Soules, a neighbor of the said Soules. If so, state when and how long, and about what distance did you live from him? State fully.

Ans. I was a neighbor of his, resided from the fall of 1835 within from two to four miles from him—most of that time about two miles from him, for the term of about fourteen years, and I have been personally acquainted with him ever since.

4. Has his character for truth and veracity been the subject of conversation among his neighbors and acquaintances or not. If yea, how long has his said character for truth and veracity been the subject of conversation among his neighbors?

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Ans. It has been the subject of conversation from the first month I knew him up to the present date.

5. Are you acquainted with the reputation which he has borne and still does bear, among his neighbors and acquaintances, for truth and veracity? If so, state what his reputation for truth and veracity among his neighbors has been, and what it now is.

Ans. I am acquainted with his reputation among his neighbors, and have been for the last twenty years past; his reputation has always been one universal thing—bad. I never have conversed with a neighbor of his in regard to him that ever spoke well of his reputation for truth and veracity.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. Were not you and Mr. Soules each keeping tavern when you were neighbors?

Ans. Part of the time. I can't recollect the year. I commenced keeping tavern in 1836 at Wheeling, and kept tavern, with the exception of two or three or four years I rented my house, some seventeen or eighteen years. I don't recollect the year that Mr. Soules commenced keeping tavern, but think that it was either in 1837, 1838 or 1839. I don't recollect how long he was in the house; he left there and moved into town, and then moved back on to the prairie.

2. Did he not commence keeping tavern as soon as he came to the neighborhood?

Ans. He was not keeping tavern when I first knew him.

3. Did he not commence keeping tavern as soon as he came to the neighborhood where you resided?

Ans. I found him in that neighborhood when I first moved there, in the same precinct, but not keeping tavern.

4. How far from Wheeling was that?

Ans. It was some four or five miles down the river, south from where I lived and where the village of Wheeling now is.

5. Did he not commence keeping tavern when he moved from that place into your immediate neighborhood?

Ans. As soon as he got his buildings built and prepared to do so, I believe.

6. How long had you been keeping tavern before he commenced?

Ans. I cannot state any nearer than I have above; can't say whether it was 1837, 1838 or 1839.

7. When did you have your first difficulty with Rufus Soules?

Ans. It was either the latter part of the winter of 1836 or the fore part part of the winter of 1837.

8. Have you not had frequent difficulties with him since?

Ans. No; not frequent.

8. How many?

Ans. I don't recollect; there never has been since that time, as I recollect of, but one serious difficulty between us.

9. Have you not spoken very harshly of Mr. Soules on many occasions?

Ans. I have on several.

10. Have you not been his open and avowed enemy for many years?

Ans. I have not for *many* years. During the time our law suits were pending, I was his open and avowed enemy; those were settled and since then I have not been his enemy.

11. Have you not on many occasions appeared as a witness against Mr. Soules?

Ans. No. I have no recollection of appearing in but two suits against him; there may have been some other trifling ones, but do not remember. These two were important ones.

12. Have you not appeared as counsel or adviser in suits against Mr. Soules?

Ans. I have appeared as pettifogger against him.

13. Have you not on one or more occasions volunteered your services against him?

Ans. No more to pettifog against him than others.

14. Have you made it your business to acquaint yourself with the reputation of Mr. Soules for truth since he has resided at Waukegan?

Ans. I have not made it my business.

15. Have you ever resided at Waukegan?

Ans. I have not.

16. How often have you been there within the last five years?

Ans. I could not say, but a good many times.

17. When were you there last?

Ans. Last Sunday.

18. When next before that?

Ans. A fortnight or three weeks ago last Tuesday or Wednesday.

19. Who of the residents of Waukegan are you acquainted with who have spoken to you of Mr. Soules' reputation for truth within the last five years?

Ans. I have heard James McKey. I have heard some man who married Easton's daughter. I heard a man by the name of Sunderland speak of it. It is impossible for me to mention all the names. It seemed to be the general talk.

20. When did you hear these men speak of him?

Ans. Well, I have heard some of them speak of him within the last three months.

21. Did you not yourself speak very freely of Mr. Soules to them?

(Objected to by Counsel for Stow.)

Ans. I did not, at that time.

22. Did you not give your opinion of him to them.

Ans. I think I did not, sir, at that time, for the reason that since this matter has been stirred up I did not wish to be hauled into it.

23. How did the conversations of which you have spoken originate, if you were anxious to avoid them?

Ans. Some of them asked me if I had been called upon to give a deposition against Rufus Soules.

24. Had William H. Stow been up there?

Ans. I do not know of my own knowledge.

25. Had you given your opinion of Mr. Soules to these men before that time?

Ans. No more than in general conversation between man and man.

RE-EXAMINED BY MR. BARKER.

INT. 1. Were you generally acquainted with Mr. Soules' neighbors and acquaintances near Wheeling?

Ans. I was.

2. Are you generally acquainted with Mr. Soules' neighbors and acquaintances at Waukegan, and have you been for the last four or five years?

Ans. I am well acquainted in Waukegan, but do not know that I am acquainted with his associates.

JOS. FILKINS.

DEPOSITION OF ARCHIBALD CLYBOURN.

INT. 1. What is your name, age, residence and occupation?

Ans. Archibald Clybourn; am over twenty-one years of age; I live in the town of West Chicago; by occupation butcher.

2. Do you know Rufus Soules, now of Lake county, and also how long have you known him?

Ans. I do know him, and have known him for about twenty-two years.

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3. Has the reputation of said Soules for truth and veracity at any time since you have known him been the subject of conversation among his neighbors?

Ans. It has a part of the time; for the last five or six years I have not known much about him.

4. Are you acquainted with the reputation which the said Soules has borne and still does bear among his neighbors and acquaintances for truth and veracity?

Ans. I have not been much acquainted with it, for the past six years, but previous to that time it was bad.

5. What is the reason why you have not known his reputation for the last five or six years as well as you did previous to that time?

Ans. I have not been acquainted with his neighbors since that time, he has been living at Waukegan.

6. What was his reputation for truth and veracity among his neighbors from the time you first knew him till about the time he moved to Waukegan?

Ans. It was bad during the time he lived near Wheeling, before that I didn't hear much about him, that was about eight or ten years he lived near Wheeling.

CROSS-EXAMINED BY MR. WALLER.

CROSS 1ST: 1. When did Mr. Soules move to Wheeling, and how long did he live there?

Ans. I think he moved there in 1840, it might have been before that. I think he lived there seven or eight years, it may not have been more than five or six. Mr. Soules did not live in Wheeling, he lived a mile and a half or two miles the other side of there.

2. What was the occasion of the conversation of which you speak?

Ans. I had reference to one or two occasions when I was at Wheeling. There had been a law suit there, I think, in which Mr. Soules testified, and it was said that he had not testified truly. I think it was at Filkins' tavern in Wheeling. I think it was on one or two occasions when I was there.

3. Who were the parties to the suit of which you speak?

Ans. I have no recollection who the parties were.

4. Was not Jos. Filkins one of the parties?

Ans. I believe Jos. Filkins was there, and I think he was one that spoke of it.

5. Who else did you hear speak of it?

Ans. I can't recollect now; there were others there at the time.

6. Was not Joseph Filkins a bitter enemy of Soules?

Ans. He talked pretty hard against him.

7. Was it not at his tavern that you heard the conversation?

Ans. Yes, it was; it was a house he owned at the time, and he might have kept it; I think he did.

8. Was not Soules keeping tavern at that time?

Ans. I think he was.

9. Do you know whether any of those who were present you have spoken of were neighbors of Soules?

Ans. I think there were some of the people that lived there present at the time.

10. Is this the only occasion when you recollect of hearing any conversation about Soules' character for truth?

Ans. I don't know whether it was once or twice; it may have been only once, but think it was twice; it was there I heard them speaking of it. I don't recollect of hearing his character talked about at any other place.

11. Did you reside in or near Wheeling at the time?

Ans. No nearer than about twenty miles.

12. Was not this a mere casual conversation you heard as you was passing through the place?

Ans. I think I was stopping there over night or for dinner, I am not sure which.

13. Have you not had frequent business transactions with Mr. Soules, and has he or not dealt fairly with you?

Ans. I have had frequent business transactions with him, and he has always dealt fairly with me.

14. From your own knowledge of Mr. Soules, would you or not believe him on oath?

Ans. I have no occasion to doubt his word or oath, I never had any occasion.

15. Were you or not acquainted with Wm. Bennett, the son-in-law of John Ludby, formerly of this place, and James Kinzie, formerly of this place?

Ans. I was very well acquainted with both of them.

16. Were you or not frequently in their company, and state whether or not you had opportunities of knowing their business transactions?

Ans. I was frequently with them in business transactions and in their company; I had opportunities of knowing of their business transactions and had some knowledge of them.

17. Do you or not know the land formerly claimed by said Bennett, and now in controversy in this suit in section 20?

Ans. I know the land which James Kinzie claimed as having bought of Bennett, I think in section 20.

18. State what you have heard from the said Bennett, if anything, relative to this land in connection with James Kinzie's claim.

Ans. I have heard Bennett say that he had sold his float to James Kinzie and have heard them talk together about it.

19. State what you heard James Kinzie say about his claim when he and Bennett were talking together?

Ans. I heard him say that he had bought it; it was for 80 acres.

(Here witness was examined by deft. Stow's counsel.)

INT. 1. Do you or not know of your own knowledge when this float was laid, or by information from Bennett and Kenzie or from Bennett alone?

Ans. I do not know from my own knowledge, nor from Bennett and Kinzie together nor from Bennett alone.

2. At the time of the conversations mentioned by you in your cross-examination, were there or not several persons present, and was the conversation relative to Mr. Soules' reputation for truth general among those present?

Ans. There were several present: I don't recollect who they were; think McDuffy was present; I think the conversation relative to Soules' reputation was general among those present.

(The cross-examination of witness was again resumed by complt's counsel.)

Cross INT: 1. Did you know of any other property being bought by Kinzie of Bennett or claimed by Kinzie to have been so bought?

(Objected to by deft's Stow's counsel.)

Ans. I did not.

A. CLYBOURN.

Filed
June 14: 1836. 1. DEPOSITION OF IRA COUCH, TAKEN 2ND, FEBRUARY, 1856.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is Ira Couch; am 49 years of age; I reside in New York city; I have no occupation at present.

2. Are you acquainted with Rufus Soules, now a resident of Lake county. If yea, how long have you known him?

Ans. I am acquainted with Rufus Soules, formerly a keeper of a public house on the O'Plain river; I was acquainted with him from about the year 1840 until 1850.

3. What was his reputation among his neighbors and acquaintances for truth and veracity at the time you knew him ?

Ans. It was bad.

IRA COUCH.

Filed
June 14: 1856.

DEPOSITION OF JAMES B. BRADWELL.

INT. 1. What is your name, age, residence and occupation ?

Ans. My name is James B. Bradwell ; am 27 years of age ; I reside in Chicago ; by occupation I am a lawyer.

2. Are you acquainted with Rufus Soules, now a resident of Lake county. If yea, how long have you been acquainted with him ?

Ans. I am acquainted with Rufus Soules, [now of Lake county, and have known him for about nineteen years.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances ? If yea, please state what his reputation is.

Ans. I am acquainted with his general reputation for truth and veracity. It is bad.

4. From your knowledge of his general reputation would you believe him on his oath ?

Ans. I would not.

CROSS-EXAMINED BY H. WALLER.

CROSS INT : 1. How long have you resided in Chicago ?

Ans. I have been in Chicago a year and a half.

2. When and where did you first know Mr. Soules ?

Ans. About eighteen or twenty years ago, on the O'Plain river.

3. Where were you residing then ?

Ans. I was residing on the O'Plain river about half a mile from Mr. Soules.

4. How long did you reside within that distance from Mr. Soules ?

Ans. I lived for about two years within a mile and half of him, afterwards for three or four years I lived within half a mile of him.

5. Were you living at the village of Wheeling at the time of which you first spoke, and was Mr. Soules keeping tavern at that time ?

Ans. I was living where Wheeling now stands when I first got acquainted with Mr. Soules. According to the best of my recollection he was keeping tavern at the time.

6. Where did you move to when you left the second place of which you spoke?

Ans. I moved to a place between the two, and stayed there a year or two.

7. Where did you move to from that point?

Ans. About ten miles west.

8. How long did you live there?

Ans. I lived there until the time that I came to Chicago, excepting two years that I was south; a part of the time I was away at school but considered that my home.

9. Where was Mr. Soules living from 1840?

Ans. At the present time I understand he is living in Lake county, and some time since 1840 he has been keeping store in Chicago; I am sure he was living on the O'Plain river in 1840.

10. Have you been a neighbor of Mr. Soules since 1840.

Ans. I believe I have.

11. Until what time?

Ans. I don't know the exact time; until after Harrison was elected President, but not a great while after.

12. Have you ever had any business or other transactions with Mr. Soules?

Ans. At the time I of speak I was a minor and not capable of transacting business on my own account.

13. Have you ever had any business or other transactions with him since you became of age?

Ans. I don't recollect of having any business transactions with Mr. Soules since I became of age.

14. Are you acquainted with Mr. Soules' reputation for truth among his neighbors in Waukegan?

Ans. I am not acquainted in Waukegan at all; I have never been at Waukegan; I know some people who live at Waukegan and have heard them speak of Mr. Soules.

15. Who did you hear speak of him of the citizens of Waukegan?

Ans. I heard E. F. Runyon and Homer B. Galpin speak of him; neither of the above persons reside at Waukegan now.

16. When did you hear them speak of him?

Ans. It was probably some two or three months since.

17. What was the occasion of their speaking of him?

Ans. Something was said in relation to Mr. Soules in connection with this suit in a conversation with me.

18. Had you been speaking with Mr. Stow on the subject before that?

Ans. Yes, I think I had.

19. Did you seek the conversation with these men for the purpose of ascertaining the reputation of Mr. Soules?

Ans. No, sir; I knew that without.

20. Did you know his reputation in Waukegan without conversing with them?

Ans. I never was at Waukegan myself; I had heard other persons speak of it.

21. Do you know of any other persons; if yea, please state the names of such persons?

Ans. I know I have spoken with others, but the names I don't remember.

22. When did you speak with them and where?

Ans. Well, I could not tell.

23. Has it been a year ago, two years, three, or more?

Ans. It has not been two years; I think some time during the past year.

24. Had you agreed to be a witness in this case before your conversation with Runyon and Galpin?

Ans. I never agreed to be a witness in the case.

25. When did Mr Stow ask you to be a witness, before or after that conversation?

Ans. This conversation was since my testimony was taken in this case; and Mr. Stow spoke to me some months before.

26. Who had you heard speak of Mr. Soules' reputation whilst he lived near Wheeling?

Ans. Nearly all his neighbors; it was a common report. I heard Mr. Filkins and old Mr. Wisencroft, Charles Morrison. I have heard the Mc Nabbs. I have heard Mason at Indian Creek. I don't think I have heard Mr. Mason speak of Mr. Soules' reputation for truth and veracity, but think I have heard him speak of his reputation.

27. When you lived ten miles off, did you hear his reputation for truth and veracity spoken of?

Ans. O, yes.

28. Name the persons you then heard.

Ans. I can't name them. Yes, I can name one of them now—my father.

29. When you were at school did you hear of it?

Ans. Part of the time during my school days, for four or five months of the year, I was at home. While I was at school I heard no one speak of it because no one knew him.

30. Did it continue to be talked of after Mr. Soules moved away?

Ans. O, yes, it has been, and is to this day, that is among the old acquaintances.

31. How old were you when Soules moved away from Wheeling.

Ans. I can't say; I was quite young.

32. How often have you seen Mr. Soules within the last twelve years?

Ans. Within the last ten years I may have seen Mr. Soules twenty times, and spoke with him during that time perhaps three or four times.

33. Did you ever hear any one speak favorably of Mr. Soules.

(Objected to by Stow's Counsel.)

Ans. Not that I recollect of.

RE-EXAMINED BY COUNSEL FOR STOW.

1. Were you acquainted generally with the neighbors and acquaintances of Mr. Soules near Wheeling?

Ans. I was.

JAMES B. BRADWELL.

*no
Filed*

June 14, 1856.

DEPOSITION OF JAMES LONG.

INT: 1. What is your name, age, residence, and occupation?

Ans. My name is James Long, am over twenty-one years of age, reside in the City of Chicago, have no particular occupation at present.

2. Are you acquainted with Rufus Soules, now a resident of Lake county. If yea, how long have you known him?

Ans. I am acquainted with Rufus Soules of Lake county, and have known him for about twenty years.

3. State if you know his general reputation among his neighbors and acquaintances for truth and veracity. If so, what is it?

Ans. I know his general reputation for truth and veracity. It is bad.

4. From your knowledge of his general reputation, would you believe him on his oath?

Ans. I would not believe implicitly in the man. I should want other evidence. If he had no interest in the matter at issue, I think I should believe him, but if he had any interest in the matter at issue, I think I would not believe him.

CROSS EXAMINED BY MR. WALLER.

CROSS INT: 1. Where and when did you first know Mr. Rufus Soules?

Ans. On the O'Plain river, about twenty years ago, about fifteen miles from here in a straight line.

2. Where were you then living?

Ans. On the same river, about three miles south of him.

3. How long did you and he live there?

Ans. We lived within that distance of each other about two years, when he moved up the river a few miles further.

4. When did you move to Chicago?

Ans. I think it was in 1843.

5. Have you seen any thing of Mr. Soules since he has been living in Waukegan?

Ans. I have met him on the street here a number of times.

6. Do you know any thing of his reputation among his neighbors there for truth?

Ans. No, sir.

7. Who have you heard speak of Mr. Soules' reputation for truth?

Ans. The first man I ever heard speak of it was a Mr. Walton, who is now dead, Eben and Augustus Conant, Gen. Peet, I believe he is also dead, Myron Thornton, Socrates Rand, a Mr. Babcock on the O'Plain, Jos. Filkins, Deacon Clark, I think his given name is Curtiss.

8. Can you recollect when or on what occasion you have heard all or any of these persons speak of Mr. Soules' reputation for truth?

Ans. I cannot mention any time, but when his name was mentioned among us neighbors, it was mentioned in that way. A lack of truth,

9. Had not these men or some of them been engaged in law suits with Mr. Soules.

Ans. Eben Conant had had one or more law suits with him, and so had Mr. Filkins, I believe. I don't know that any others had.

10. Had not some others of them had difficulty with him of some sort?

Ans. I think that Augustus Conant and Mr. Babcock had; don't know the nature of it.

11. Had not some of them been witnesses against him in some of his suits.

Ans. I don't know. I never was present at any of the law suits.

12. Were not some or all of them inimical or unfriendly to him?

Ans. I don't know a man among them that did not dislike him.

13. Do not you yourself dislike him?

Ans. I dislike any man I don't conceive honest.

14. Has there not been a law suit or difficulty between Mr. Soules and some one related to you, or connected with you by marriage?

Ans. Eben Conant, my wife's uncle, had a law suit with him.

15. Did you ever have any business transactions with Mr. Soules?

Ans. Well, not much. I have had some. When I first came into the country Mr. Soules assisted some one to trespass upon my brother-in-law's claim. I bought some articles of him, a hog at one, some articles of produce at different times.

JAMES LONG.

Filed
June 14, 1856

DEPOSITION OF ALEXANDER H. HEALD.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is Alexander H. Heald; I am forty-two years of age; I reside in the city of Chicago; by occupation master builder.

2. Are you acquainted with Rufus Soules, now a resident of Lake county; if yea, how long have you known him?

Ans. I am some acquainted with Rufus Soules, of Lake county, tho' not very intimate with him; I became acquainted with him some 17 or 18 years ago, and have known more or less of him since.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors; if yea, please state what his reputation is?

Ans. I am somewhat acquainted with his general reputation for truth and veracity; his general reputation is bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. Not when he had anything at stake; I would not.

CROSS-EXAMINED BY MR. WALLER.

1. Did you ever live in the neighborhood of Rufus Soules? and if so, when and how long?

Ans. I never did live in the neighborhood of Rufus Soules?

2. Did you ever have any transactions with Rufus Soules?

Ans. I never had any thing any further than to stop at his house when he kept tavern, on the O'Plain.

3. Did ever any thing occur between you and him of which you could complain effecting either his veracity or honesty?

(Objected to by Mr. Meech, Counsel for Stow.)

Ans. I don't know that there ever did. At one time when I stopped at his house I got a meal of victuals. It was in wild cat times; after dinner I handed him out a wild cat bill; he declined to take it, and said he would prefer bogus if it was half pewter.

4. Are you acquainted with the present reputation of Rufus Soules for truth amongst his neighbors?

Ans. I am not.

5. When did you ever hear any one speak of his reputation for truth, and who did you hear speak of it?

Ans. I think some sixteen or seventeen years ago. I don't recollect the name of any individual now.

A. H. HEALD.

DEPOSITION OF JOHN BATES.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is John Bates; I am 53 years of age. I reside in Chicago, by occupation an auctioneer.

2. Are you acquainted with Rufus Soules of Lake County? If yea, how long have you known him?

Ans. I am, and have known him for eighteen or twenty years. I became acquainted with him in Michigan before he came to Chicago, while he was keeping a public house.

3. Are you acquainted with the general reputation of said Soules for truth and veracity among his neighbors and acquaintances? If yea, what is it?

Ans. I don't know any thing about his neighbors and acquaintances. I have my own views about it. I know something of his general reputation. It is questionable.

4. From your knowledge of his general reputation, would you believe him on his oath.

Ans. If there were any matters of interest, I should not believe him; if he had no interest it would be a matter of question.

CROSS-EXAMINED BY MR. WALLER.

Cross INT: 1. Where were you residing when you became acquainted with Rufus Soules?

Ans. I was residing in Chicago.

2. Where have you resided since?

Ans. In Chicago.

3. Did you ever reside in Michigan?

Ans. No, sir.

4. How long were you with Mr. Soules when you first became acquainted with him?

Ans. I stopped at his house in Michigan; I think I was there one or two or three days during a storm along in the winter of 1833 or 1834; do not recollect distinct; it was before Mr. Soules came here.

5. What place in Michigan was it?

Ans. It was at Mr. Soules' tavern about fifty or sixty miles this side of Detroit.

6. Did you hear any thing of Mr. Soules' reputation then.

Ans. Well, there was some talk. I don't recollect now what it was. It may have been some woman matter. I don't know what it was.

7. Who did you hear speak of it?

Ans. I don't know sir; it was road talk.

8. Were you at any other house in that neighborhood at that time?

Ans. No. I stopped no wheres near it.

9. Did Mr. Soules settle fairly with you as landlord?

Ans. O yes, sir.

10. What other transactions have you had with Mr. Soules?

Ans. Well, I don't know what they were or when.

11. Have you any cause of complaint against Mr. Soules for unfair dealing with you?

Ans. No, sir.

12. Who have you heard speak of his general reputation for truth?

Ans. I don't know, sir.

RE-EXAMINED BY COUNSEL FOR STOW.

1. How has your knowledge of Mr. Soules' reputation for truth been obtained?

Ans. Well, it has been obtained by circumstances of learning of his deal and general character of others. I never had any difficulty with Mr. Soules whatever. We have always been on the best of terms and always would be. I never deal with anyman who is doubtful in the community. I never buy nor sell to such men.

CROSS-EXAMINED BY H. WALLER.

13. Who are the others whom you have heard speak of circumstances and of general reputation of Mr. Soules?

Ans. I don't know. I should say the citizens of Chicago.

14. Did you never hear Joseph Filkins speak of him.

Ans. No, sir.

15. Did you never hear Wm. H. Stow speak of him?

Ans. Well, if I did, I would not give it head room.

16. Are you, as auctioneer, in the habit of refusing bids of persons, if you had heard any thing against them..

Ans. O, no.

JOHN BATES.

DEPOSITION OF DAVID HAMILTON.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is David Hamilton; I am sixty-six years old; I reside in the city of Chicago; have no particular occupation at present.

2. Are you acquainted with Rufus Soules, of Lake county; if yea, how long have you known him?

Ans. I am, though not for seven or eight years last past; was acquainted with him for nine or ten years.

3. State if you know his general reputation among his neighbors for truth and veracity; if so, what is it?

Ans. I know his general reputation among his neighbors; it is bad, or was at that time.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I think I should not.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. Who did you ever hear speak of the reputation of Rufus Soules for truth?

Ans. A man by the name of Thornton, I can't think of his given name; Dr. Carr; I think I have heard Joseph Filkins; I don't know that I can name any other one.

2. How long ago was this.

Ans. It must have been ten or twelve years ago.

3. Were not these men enemies of Mr. Soules.

Ans. I think they were.

4. Was not Dr. Carr a very dissipated man?

Ans. He was.

5. Was not Thornton an ill natured and malicious man?

Ans. I don't know that he was then; I understood that he had been, and a drinking man.

6. Have you ever had any dealings with Mr. Soules ?

Ans. I have; the first man that I dealt with when I moved up into that country was Mr. Soules.

7. Were his dealings with you satisfactory and fair ?

Ans. Yes, sir; I never dealt with a man more so.

8. Has anything ever occurred between you and Mr. Soules to make you doubt his truth ?

Ans. No, sir.

9. From your own personal knowledge of Mr. Soules would you not believe him on oath ?

Ans. I should believe him; from my personal knowledge I would believe him or take his word.

DAVID HAMILTON.

Filed
March 28: 1886.

DEPOSITION OF EDWARD M. DENNIS, TAKEN FEB. 7, 1856.

INT. 1. What is your name, age, residence and occupation ?

Ans. My name is Edward M. Dennis; my age is thirty-two years; I reside at Waukegan, Lake County, Illinois. I keep a livery stable.

2. Are you acquainted with Rufus Soules, resident at Waukegan, Lake County, Illinois? If yea, how long have you been acquainted with him ?

Ans. I am acquainted with him. Have been acquainted with him for the last nine years. Have known him by sight for the last fourteen years.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances ? If yea, please state what his reputation is.

Ans. I am somewhat acquainted with his reputation. It is generally bad.

4. From your knowledge of his general reputation, would you believe him on his oath ?

Ans. It would depend on circumstances.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. Who have you heard speak of the general reputation of Rufus Soules for truth among his neighbors ?

Ans. I have heard Ezekiel Lawrence, Cornelius Voley and Orange Brace speak of it.

2. Have you had any business transactions with Rufus Soules ?

Ans. Yes, sir.

3. Was there any thing unfair in his conduct in these transactions ?

Ans. We settled and had no hard feelings in what business I had with him.

4. Are you not the son-in-law of Ezekiel Lawrence, and connected by marriage with Cornelius Veley.

Ans. Yes, sir.

5. Have not Cornelius Veley and Rufus Soules had law suits and frequent difficulties?

Ans. I don't know of their having any law suits, but they have had frequent difficulties.

6. Was not Cornelius Veley a very dissipated man?

Ans. Yes, sir.

E. M. DENNIS.

DEPOSITION OF MOSES P. HOYT.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is Moses P. Hoyt; my age is fifty-six years; my residence is Waukegan, Lake County, Illinois; my occupation that of carpenter and joiner.

2. Are you acquainted with Rufus Soules, now a resident of Waukegan, Lake County, Illinois? If yea, how long have you known him?

Ans. I am acquainted with him; have known him some fourteen years.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what his reputation is.

Ans. I have heard his neighbors—those with whom he has dealt—say that his reputation was bad.

4. From your knowledge of his general reputation, would you believe him on his oath?

Ans. I can't say that I would not believe him under oath from my own knowledge.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT.: 1. Have you ever had any dealings with Rufus Soules, now residing at Waukegan, Lake county, Ill.?

Ans. I have.

2. Has the said Soules dealt fairly or unfairly with you?

Ans. He has always dealt fairly with me.

3. When have you heard any of his neighbors speak of his reputation for truth and veracity?

Ans. Some fourteen years ago; I have not heard anything since Mr. Soules lived in town; several years ago Mr. Soules had considerable law,

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and I was here and used to hear about him.

4. State who you have heard speak of the reputation of Mr. Soules for truth at that time?

Ans. I cannot tell.

5. State whether or not they were persons who had had difficulty with Mr. Soules?

Ans. I cannot state who they were; they were persons whom I did not know.

6. From your own knowlege and dealing with Mr. Soules would you or not believe him on his oath?

Ans. I should.

7. How long have you lived in Waukegan, Ill.?

Ans. I have lived here since May, 1841.

8. Have you not known Mr. Soules well since he has lived here?

Ans. I have.

M. P. HOYT.

Filed
March 28. 1856

DEPOSITION OF EZEKIEL LAWRENCE.

1st. 1. What is your name, age, residence, and occupation?

Ans. My name is Ezekiel Lawrence; my age is seventy-two; my residence Waukegan, Lake County; occupation, a farmer.

2. Are you acquainted with Rufus Soules, now a resident of Waukegan, Lake County, Illinois? If yea, how long have you been acquainted with him.

Ans. I am acquainted with said Soules. Have known him five or six years.

3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances. If yea, please state what it is.

Ans. I am acquainted somewhat with his general reputation. His reputation is bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I should be loth to if he was interested in his oath. I should hate to have him swear against me, when he was to be benefitted thereby.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. When have you heard any person speak of the reputation of Rufus Soules for truth?

Ans. The Lord knows, I can't tell; have heard it spoken of several times; can't swear when.

2. Has it been within the last few months previous to your giving your direct testimony in this case?

Ans. I do not remember.

3. Have you had any conversations with William H. Stow, of Chicago, about the reputation of Mr. Soules for truth?

Ans. I have never had any conversation with Mr. Stow except in this office.

4. Have you had a law suit with Mr. Soules?

Ans. I had a road suit.

EZEKIEL LAWRENCE.

DEPOSITION OF D. S. DEWEY.

INT. 1. What is your age, name, residence and occupation?

Ans. My age is forty-six, my name is Dennis S. Dewey, my residence Waukegan, Lake County, Illinois. I have no occupation at present.

2. Are you acquainted with Rufus Soules, now a resident of Waukegan, Lake county, Illinois? If yea, how long have you been acquainted with him?

Ans. I am acquainted with him; have known him somewhere about twenty years.

3. Are you acquainted with the general reputation of said Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I am acquainted with the general reputation for truth and veracity and so far as I have heard it is bad.

4. From your knowledge of his general reputation, would you believe him on his oath?

Ans. I would not believe him if he was interested or biased.

D. S. DEWEY.

DEPOSITION OF NORMAN BROWN.

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

Ans. My name is Norman Brown, my age is thirty-seven years, my occupation is keeper of a public house, and my residence is Waukegan, Lake county, Illinois.

2. Are you acquainted with Rufus Soules now resident of Waukegan, Lake county, Illinois? If yea, how long have you been acquainted with him?

Ans. I am acquainted with him; have known him about thirteen years.

3. Are you acquainted with the general reputation of said Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I believe I am acquainted with the general reputation. It is generally considered bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I think I would not believe him on oath where he was interested or biased in any way.

NORMAN BROWN.

Filed
March 28: 1836

DEPOSITION OF EDWARD D. GUNN.

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

Ans. My name is Edward D. Gunn; my age is thirty nine years; my occupation is keeper of a livery stable, at Waukegan, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now a resident of Waukegan, Lake county, Ill.; if yea, how long have you been acquainted with him?

Ans. Some acquaintance with him; have known him fourteen years.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what it is?

Ans. I am acquainted with his reputation; it is bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I would not believe him if he was interested.

E. D. GUNN.

CROSS-EXAMINED BY MR. WALLER.

CROSS 1st: 1. Who did you ever hear speak of the reputation of Rufus Soules for truth?

Ans. I have heard William H. Stow speak disrespectfully of Mr. Soules, and Mr. Ezekiel Lawrence and Orange Brace.

2. Have you ever had any business transactions with Mr. Soules?

Ans. I have had a great many.

3. Was there anything unfair in his conduct in these transactions?

Ans. Couldn't say that there was; I should think not.

4. From your own knowledge of Mr. Soules would you or not believe him on his oath?

Ans. Yes, sir, I would.

5. Are you a partner of Mr. E. M. Dennis?

Ans. I am.

E. D. GUNN.

Filed
March 28, 1886

DEPOSITION OF MATTHIAS MASON.

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

Ans. My name is Matthias Mason; my age is nearly fifty-five years; my occupation is that of a farmer; I reside at Vernon, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now a resident of Waukegan, Lake county Ill.; if yea, how long have you known him?

Ans. I am acquainted with him; have known him about twenty years.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what it is?

Ans. I am not fully acquainted with the said reputation; I know nothing of it since he left Halfday; don't know whether it is good or bad.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. Have you ever had any dealings with Rufus Soules?

Ans. Yes, sir, considerable, and for a considerable length of time.

2. Were his dealings all fair or not?

Ans. Yes, sir, they were fair.

3. From your own knowledge of Mr. Soules would you believe him on his oath?

Ans. I know of no reason why I should not; think I should believe him.

MATTHIAS MASON.

Filed
March 28, 1886.

DEPOSITION OF JOHN BISHOP.

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

Ans. My name is John Bishop, my age is thirty-three, my occupation a mason, and I reside at Waukegan, Lake county, Illinois.

2. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I suppose I am acquainted with his said reputation. I should call his reputation a little mixed—rather hard.

4. From his general reputation would you believe him on his oath?

Ans. I should believe him on his oath if he was not interested; I should hate to have him testify against me if he had a very big interest at stake.

Cross-Examined by Mr. Waller.

Cross-Int. 1. Who did you ever hear speak of the reputation of Rufus Soules for truth among his neighbors?

Ans. Well, I don't know as I can recollect the names of any persons.

2. Have you ever had any dealings with Mr. Soules?

Ans. Yes, sir, I have.

3. Was any thing in his conduct in these transactions, unfair or improper?

Ans. Nothing unfair in the transactions. He paid me every copper a short time after it was due.

4. Is Cornelius Veley your father-in-law?

Ans. He is.

JOHN BISHOP.

*Filed
March 28: 1856.*

DEPOSITION OF THOMAS CARROLL.

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

Ans. My name is Thomas Carroll? my age is about forty-nine years; my occupation a farmer; I reside in the town of Shields, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing in Waukegan, Lake county, Ill.; if yea, state how long you have known him?

Ans. I know a man of that name in Waukegan; have known him somewhat for twelve or thirteen years.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I am acquainted with his reputation by hearsay; his reputation is that he would swear to most anything and do most anything.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. From his general reputation, I would not believe him on his oath.

Cross-Examined by Mr. Waller.

Cross Int: 1. How far do you live from Waukegan?

Ans. Four miles or little over.

2. How long have you lived there?

Ans. Between sixteen and seventeen years.

3. When did you return from California?

Ans. Two years ago the 15th of June last.

4. How long were you there?

Ans. I left this town the 26th day of March, 1850.

5. Name those persons in Waukegan whom you have heard speak of the reputation of Rufus Soules for truth.

Ans. I have heard it spoken of a great many times. Can't recollect any person in particular. I paid no particular attention to what was said.

6. Can you name any person living outside of Waukegan whom you have heard speak of his reputation?

Ans. I don't know that I could now; I never paid any attention to any thing of the kind.

7. Did you ever have a law suit with Rufus Soules?

Ans. I have.

8. When was that?

Ans. Some time last winter or spring.

his
THOMAS X CARROLL.
mark.

In presence of

ISAAC L. CLARKE.

Filed
March 28: 1856

DEPOSITION OF JAMES SELKRIG.

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

Ans. My name is James Selkrig; my age is thirty-nine years; my occupation is that of land agent; I reside at Waukegan, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Ill.; If yea, how long have you known him?

Ans. I am acquainted with him—have known him since the year 1842.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I am acquainted with his said reputation; it is not good.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. When he has no pecuniary interest I think I would.

CROSS-EXAMINED BY MR. WALLER.

Cross Int: 1. Who have you ever heard speak of the reputation of Rufus Soules for truth and veracity among his neighbors?

Ans. I have heard John Easton, Dr. Theodore Mills, Sith Washburn, John C. Mills, Orange Brace, Theron Parsons, Jarvis Barker, Matthias Mason and William Bruce.

2. Are you acquainted with the reputation of Mr. Soules for truth among his neighbors since he resided in Waukegan?

Ans. I have never heard his reputation for truth talked of, or questioned since he lived here; have heard his neighbors speak of his being dishonest and tricky.

(The part of this answer not responsive to the question is objected to by complainant's attorney.)

3. From your own knowledge would you believe Mr. Soules on his oath?

Ans. Where he is not interested I would.

JOHN SELKRIG.

Filed
March 28; 1856.

DEPOSITION OF DUNCAN McNABB.

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

Ans. My name is Duncan McNabb; my age is fifty-two years; my occupation is a farmer; I reside at Vernon, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Ill.; if yea, how long have you known him?

Ans. I am acquainted with the said Soules; I knew him well from about the time of the land sales in the year 1840 or 1841 till he removed from Halfday, since then I have seen him frequently, and know him still.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what it is?

Ans. Well, I suppose I am; his reputation is not considered good.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I should not think his oath could be relied on.

CROSS-EXAMINED BY MR. WALLER.

Cross Int: 1. Did you ever have any law suit or difficulty with Rufus Soules?

Ans. No other than that I was Def't in a suit with him.

2. Have you or not been on good terms with Mr. Soules for some years.

Ans. We are not on very friendly terms, but I have no particular spite towards him; we regard each other about as would naturally be expected, having had a law suit.

3. Have you been on speaking terms for several years?

Ans. I have not—not to be sociable, have not.

4. Have you been acquainted with the reputation of Rufus Soules for truth among his neighbors since his residence in Waukegan?

Ans. No further than that I have gathered from slight reports upon inquiry.

DUNCAN McNABB.

Filed
March 28; 1856

DEPOSITION OF ORANGE BRACE.

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

Ans. My name is Orange Brace; my age is forty-eight years; my occupation is keeper of public house, and I reside at Vernon, Lake co., Ill.

2. Are you acquainted with Rufus Soule, now residing in Waukegan, Lake county, Ill.; if yea, how long have you known him?

Ans. I am acquainted with him; have known him since the 17th of November, A. D. 1840.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what it is?

Ans. I am acquainted with his said reputation; it is not good generally I believe.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I should not where he was interested?

CROSS-EXAMINED BY H. WALLER.

CROSS INT: 1. Have you had dealings with Rufus Soules, and if so, to what amount?

Ans. I have.

2. Has his conduct in those dealings been fair or unfair?

Ans. There is only one or two transactions that I think of when there was any thing unfair. On one occasion I was at Mr. Soules', and he said he had some money that he was not going to use right away and asked me if I did not want some; I told him I could use some, and he let me have some fifteen or twenty dollars on the State Bank of Illinois; a few

days after I learned that the money was depreciated so that I was obliged to sell it at a discount. On another occasion we traded cattle; I was to let him have an odd ox for young cattle; he took the ox and when I went to get the young cattle he declined letting me have the ones we talked of; he let me have one of the ones, and refused one. I took another not worth as much as the one I was to have.

3. When did the fifteen dollar transaction take place?

Ans. I cannot recollect the date now; I think in the winter of 1841 or 1842.

4. Were not the notes of the State Bank of Illinois gradually declining for a long time?

Ans. I do not recollect how that was.

5. How long did you keep the notes before selling them?

Ans. I can't tell to a day, not more than a month or two, and perhaps not half that time.

6. What reason did Mr. Soules give for not letting you have the heifer he had promised you.

Ans. He said that was not the heifer he agreed to let me have.

7. Did you and he have a quarrel about it?

Ans. I don't know what you call a quarrel; we had a few words about it; we had no fight and no law suit.

8. Do you know from his present neighbors in Waukegan, what the general reputation of Mr. Soules now is amongst them?

Ans. I do not, sir.

9. Have you not spoken very freely and very frequently of Mr. Soules?

Ans. Yes, I have; just as I have of other persons.

ORANGE BRACE.

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DEPOSITION OF THEO. S. MILLS.

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

Ans. My name is Theo. S. Mills; my age is sixty years; my occupation is a physician; I reside at Vernon, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Ill.; if yea, how long have you known him?

Ans. I know him now; I first became acquainted with him in the year 1838; was acquainted with him some ten years thereafter while he lived in our neighborhood; since that time I have seen him but seldom.

3. Are you acquainted with the general reputation of the said Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I am not acquainted with his reputation among his neighbors and acquaintances.

4. What was his general reputation among his neighbors and acquaintances for truth and veracity when you knew him?

Ans. It was not very good.

5. From your knowledge of his general reputation at the time you knew him would you believe him on his oath?

Ans. When he was interested in a contested suit I should not think it safe to believe him.

THEO. S. MILLS.

DEPOSITION OF JOHN EASTON.

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

Ans. My name is John Easton; my age forty-five years; my occupation merchant; my residence Vernon, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing in Waukegan, Lake county, Ill.; if yea, how long have you known him?

Ans. I am acquainted with him; have known him since 1837.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is?

Ans. I am not acquainted with his present reputation among his neighbors and acquaintances, but have heard him spoken of unfavorably frequently since he lived in Waukegan by the citizens of Waukegan.

4. What was his general reputation for truth and veracity among his neighbors and acquaintances when he lived at Halfday, in Lake county, Ill.

Ans. It was bad.

5. From your knowledge of his general reputation when you were acquainted with him would you believe him on his oath?

Ans. I think I would not.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. Did you ever have any dealings with Mr. Soules?

Ans. I have.

2. Was his conduct in these transactions fair or unfair?

Ans. I considered it unfair.

3. Have you and Mr. Soules been on good terms since?

Ans. For any thing that I know; I have no ill will against Mr. Soules.

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4. State why you consider the conduct of Mr. Soules unfair in the transactions with you.

Ans. The transaction to which I refer, that was unfair as I consider it, was in relation to some Ypsilanti money which Mr. Soules' hired man had passed on to me after the bank was down, which Mr. Soules refused to take back till he and his hired man had a falling out, then the hired man told me that the money was Soules', and Mr. Soules then redeemed it.

5. Was not the transaction between you and the man who worked for Mr. Soules, and had Mr. Soules any interest in the trade?

Ans. The trade was made with Mr. Hitchcock, the man who worked for Mr. Soules. I think Mr. Soules had the whole interest in the trade.

6. Do you know when Mr. Soules gave Mr. Hitchcock the money and that Mr. Soules knew the bank was down at the time he gave him the money?

Ans. I do not know when Mr. Soules gave Mr. Hitchcock the money, and I do not of my own knowledge know that Mr. Soules knew the bank was down when he gave it to him.

7. When Mr. Soules refused to take back the money, on what ground did he do it?

Ans. He claimed that it was Hitchcock's transaction.

8. Did he not then claim that he was not aware that the bank was down when he let Hitchcock have the money?

Ans. No, sir.

9. Did he admit that he had knowingly passed bad money on Hitchcock?

Ans. I do not remember that he said anything about that.

10. Did he not admit that Hitchcock got the money from him?

Ans. I don't know that he did, sir.

11. When he paid you what reason did he give for refusing first and paying afterwards?

Ans. Couldn't say what reason he gave; don't remember that he gave any reason.

12. How did you know that Mr. Soules and Mr. Hitchcock had a falling out?

Ans. From Mr. Hitchcock.

13. Did not Mr. Soules redeem every cent that you claimed?

Ans. I think he did.

14. When did this transaction occur?

Ans. Should say that it was between 1840 and 1843.

15. Did not you and Mr. Soules have a transaction about oats by

which he delivered a quantity of oats to you at a low price, below the market value, and when you could not have compelled him to deliver them?

Ans. I do not recollect any such transaction.

16. Did you not believe this money was good at the time you received it from Hitchcock, and did you not after that pay it out yourself?

Ans. I believed the money was down at the time I took it; I did not pay it out after that.

17. Whom among the citizens of Waukegan have you heard speak of the reputation of Mr. Soules for truth?

Ans. I don't know as I can tell you now.

DEPOSITION OF ASABEL TALCOTT.

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

Ans. My name is Asabel Talcott; my age is fifty-two years; my occupation a farmer; I reside at Vernon, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county Ill.; if yea, how long have you known him?

Ans. I am acquainted with him; have known him since about the year 1837.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. I am acquainted with his said reputation; it was not called very good down there on the river for truth and veracity.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I should not like to believe him if the suit was depending on him.

CROSS-EXAMINED BY MR. WALLER.

Cross Int: 1. Did you or not ever have any law suits with Rufus Soules?

Ans. Yes, sir.

2. Have you or not been unfriendly with him.

Ans. I don't consider that I have; I never saw the time when I would not do him a favor as soon one time as another.

3. Have you known any thing of the reputation of Mr. Soules for truth among his neighbors since he has resided in Waukegan?

Ans. None that I know of. No, sir.

A. TALCOTT.

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DEPOSITION OF DANIEL K. PRATT.

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

Ans. My name is Daniel K. Pratt; my age is thirty-nine years; my occupation is a daily laborer; I reside at Waukegan, Lake co., Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Ill.; if yea, how long have you been acquainted with him?

Ans. I am acquainted with said Soules; have known him for ten or twelve years.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what it is?

Ans. I am; it is bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. No.

CROSS-EXAMINED BY MR. WALLER.

Cross INT: 1. Who did you ever hear speak of the general reputation of Rufus Soules for truth among his neighbors?

Ans. I heard a man by the name of Parsons who kept the tavern at Halfday, also a man that they called Dandy John Mills, and my father and mother, and William Strobe; this was as early as 1844.

2. Have you been acquainted with the reputation of Mr. Soules for truth among his neighbors since he has lived in Waukegan?

Ans. I don't know as I have.

3. Did you ever know any thing in Mr. Soules yourself which led you to doubt his character for truth and veracity?

Ans. I never did.

4. Was not Dandy John Mills a man of bad character and put in jail for felony?

Ans. He was a man of bad reputation, and I believe was in jail for stealing horses.

5. Was not Mr. Strobe a very dissipated man?

Ans. Well, yes, he used to get boozy.

6. What did you ever hear Mr. Parsons say about Mr. Soules?

Ans. He said that he was a pretty hard case; I think he said that his word was not worth much under oath or otherwise.

7. Who was this Parsons?

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Ans. He was a tavern keeper at Indiana Creek on the north side.

DANIEL K. PRATT.

DEPOSITION OF MOSES PATTERSON.

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

Ans. My name is Moses Patterson; my age is about thirty-three years; my occupation a keeper of public house; I reside at Waukegan, Lake county Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake County, Illinois? If yea, how long have you known him.

Ans. I am acquainted with him partially for the last three years, and have known him by reputation for ten or twelve years.

3. Are you acquainted with the general reputation of said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what it is?

Ans. I am acquainted with his said reputation; it is not very good.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. From his general reputation I should think not.

CROSS-EXAMINED BY H. WALLER.

CROSS INT. 1. Who have you heard speak of the reputation of Rufus Soules for truth among his neighbors?

Ans. I cannot now recollect the names of any persons whom I have heard speak of it.

2. Did you ever have any dealings with Mr. Soules?

Ans. Yes, sir.

3. Was there any thing unfair in his conduct in any of those transactions?

Ans. No, sir.

4. From your own knowledge of Mr. Soules would you or not believe him on his oath?

Ans. From any transactions that I ever had with him I should believe him on his oath.

MOSES PATTERSON.

DEPOSITION OF IRA STONE TAKEN FEB. 25, 1856.

INT. 1. What is your name, age, residence, and business?

Ans. My name is Ira Stone; my age is thirty-seven years; I am in no

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particular business at the present time; I reside at Waukegan, Lake Co., Illinois.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Illinois? If yea, please state how long you have known him?

Ans. I am acquainted with said Soules; have known him some twelve or fifteen years.

3. Are you acquainted with the general reputation of Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what his said reputation is.

Ans. I suppose I am somewhat acquainted with it; of those that I have heard speak of him more have spoken against him than in his favor.

4. From your knowledge of his general reputation, would you believe him on his oath?

Ans. When he is disinterested I would, I think; when he is interested I think I should not.

CROSS-EXAMINED BY MR. WALLER.

Cross-INT. 1. Who have you heard speak of the reputation of Rufus Soules for truth?

Ans. I do not recollect any particular person at present.

2. How long since you have heard any one speak of the reputation of Mr. Soules for truth?

Ans. I should think that it had been some two or three months since I have heard some persons speaking of it about town here.

3. Was William H. Stow of Chicago, among them?

Ans. He was not; I think that they were the hands about Waukegan shop where Mr. Soules worked that were speaking of it.

4. How many did you hear speak of it?

Ans. I cannot say how many; I should think I have heard Mr. E. S. Hubbard, a cooper, speak of it; he is all I can think of; may be one more in Soules' shop whom I have heard speak of it—think it was Mr. Lloyd.

5. Can you state how many persons you have heard speak of him favorably.

Ans. I have heard different persons speak of him favorably; can't exactly tell how many; think I have heard Mr. S. H. Flenn speak of him favorably; also Mr. David Marsh.

6. Previous to the time you have just spoken of, (some two or three months back) had you heard any persons speak of the reputation of Mr. Soules for truth.

Ans. Yes, sir, I think I have.

7. State when and who?

Ans. Well, some years since I heard Mr. John Easton speak of it.

8. Have you ever had any difficulty with Mr. Soules?

Ans. I have.

9. Do you not know that William H. Stow had been at Waukegan before, or was here at the time when you heard the conversation concerning Mr. Soules' reputation spoken of by you above as occurring two or three months ago?

Ans. Well, it was about the time he was here; I think he has been here several times; I think I have heard more about it since he was here; I guess he had been here once before this conversation.

10. Had not the said Stow at that time applied to you to be a witness?

Ans. I think that the conversations at the shop of Soules were before Mr. Stow said any thing to me about testifying, but I had heard that he had been here and wanted to have me testify, and I kept out of the way; the second time he came he spoke to me about it.

IRA STONE.

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DEPOSITION OF URSULA SOULES.

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

Ans. My name is Ursula Soules; my age is about fifty years; my occupation is a house-keeper; I reside at Waukegan, Lake county, Ill.

2. Please state when you were married to Rufus Soules and at what place, and by whom?

Ans. I was married to Rufus Soules at the town of Lodus, Wayne Co., in the State of New York by Judge Green.

3. Please state the day of the month and year you were married, and the length of time you resided at that place after it?

Ans. We were married Feb'y 12, 1831, and we remained there till the August following.

4. On the return of Mr. Soules from Chicago and Indiana last summer, when he had been examined on this case, what amount of money did he show you or say to you he had got for swearing in this case at Chicago?

Ans. He did not say that he had got any, neither did he show me any money.

URSULA SOULES.

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DEPOSITION OF LEROY CURTISS.

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

Ans. My name is Leroy Curtiss; my age is forty-two years; my business is a carpenter and joiner, and I reside at Waukegan, Lake co., Ill.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Ill.; if yea, how long have you known him?

Ans. I am somewhat acquainted with him and have been for about nine years I think.

3. Please state what conversation you had with Rufus Soules last season in Chicago; at what time; what amount of money he showed you; what he stated he received it for?

Ans. The time of the conversation I cannot exactly state; think it was some time in the fore part of May. I had come up from the south part of the State and found Mr. Soules at the New York house. He said that he had been down to Indiana; was on his way back; and he told me about a matter that I knew nothing of before; and said the parties or some body wanted to take his deposition in the matter, and that they were going to take his deposition that evening somewhere in the city; he then went out and came in after I had retired to bed. He slept in the same room; he said a good deal more than I can recollect; said he had been sworn several times on the same matter, and something was said about what he would probably get for his testimony that evening; I knew nothing more about it till we were coming up on the cars the next day; he was sitting on the opposite side of the aisle and handed me a roll of bills which I counted and think there was twenty or twenty-five dollars; I then asked him if that was what he got for testifying the last evening; he said it was, and that it was more than he expected to get.

3. Please state what remuneration he said that he was promised by the parties, or expected to receive if the parties were successful in their suit?

Ans. Not anything of the kind was talked of.

4. Please state what he said at the New York house at the time spoken of by you in your answer to the several interrogatories above previous to his going out to testify, about having been remunerated for testifying in the matter on former occasions.

Ans. I don't think he told me anything about any amount that he had received, and only that he had been paid, and that he was a principal witness.

CROSS-EXAMINED BY MR. WALLER.

Cross Int: 1. Are you acquainted with the general reputation of Rufus Soules of Waukegan for truth and veracity among his neighbors and acquaintances? If so, please state what it is.

Ans. I am pretty well acquainted with Rufus Soules, and have been for the last six or eight years; I know nothing of Mr. Soules so far as I am concerned but that his testimony is as good as any man's. I have heard other men speak otherwise in regard to it.

2. From your own knowledge of Mr. Soules' character, would you or not believe him on his oath.

Ans. I think I should believe him.

L. CURTISS.

DEPOSITION OF ELBRIDGE G. UPHAM.

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

Ans. My name is Elbridge G. Upham; my age thirty-eight years; I am a wagon maker, and reside at Waukegan, Lake county, Ill.

2. Are you acquainted with Rufus Soule, now residing in Waukegan, Lake county, Ill.; if yea, how long have you known him?

Ans. I am acquainted with him; have known him about five years.

3. Please state about what time or times Rufus Soules went to Indiana last spring and about what time did he return?

Ans. I cannot recollect the exact date but think it was in April or May last; don't certainly remember whether he went more than once in the spring, but think not; I think he returned about the first of May.

4. On his return from Indiana about the first of May, did you have any conversation with him in which he said anything about having testified in this case or having received any remuneration for so testifying; if you please state the conversation fully?

Ans. On his way up to his house from the cars he stopped at the shop and showed me some money which he had received on business there; he opened his pocket-book and showed me twenty-five dollars, and said something like this: "There is twenty-five dollars that I got on that Chicago case."

5. Previous to the time mentioned in your last answer, had you had any conversation with him about being remunerated for testifying on for-

nier occasions in the same matter ; if yea, please state what the conversation was, and what he said about it?

Ans. I never had any conversation with him about his receiving or expecting to receive anything for his testifying previous to that time, only he had told me generally that there was a large land case at Chicago, and that he was the main witness in it.

CROSS-EXAMINED BY MR. WALLER.

CROSS INT: 1. Are you acquainted with the general reputation of Rufus Soules for truth among his neighbors? If yea, please state whether it is good or bad.

Ans. I am acquainted with his said reputation. It is good.

2. From your knowledge of his reputation would you believe him on his oath?

Ans. I would.

ELBRIDGE G. UPHAM.

DEPOSITION OF HENRY F. PORTER.

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

Ans. My name is Henry F. Porter; my age is thirty-three years; I am engaged in pressing hay, and reside at Waukegan, Lake county, Ill.

2. Are you acquainted with Rufus Soules, now residing in Waukegan, Lake county, Ill.; if yea, state how long you have known him?

Ans. I am acquainted with him; have known him about five years.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what his reputation is.

Ans. I am; it is not very good so far as I know.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I think I should believe him.

CROSS EXAMINED BY MR. WALLER.

CROSS INT: 1. Who have you heard speak of the reputation of Rufus Soules for truth among his neighbors?

Ans. I don't know as I can tell; I never heard his reputation for truth

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called in question except in connection with a calf transaction with John W. Tiffany, a few months since, at which time the general opinion seemed to be that Mr. Soules was right.

2. Have you ever had any transactions with Mr. Soules? If so, was his conduct unfair in any respect?

Ans. I have had transactions with Mr. Soules; he has always settled honorably.

H. F. PORTER.

DEPOSITION OF DAVID BRADLEY, TAKEN FEB. 13, 1856.

INT. 1. What is your age, name, residence and occupation?

Ans. My name is David Bradley, am forty-four old, I reside at Evanston, Cook County. I am manufacturing plows and wagons.

2. Are you acquainted with Rufus Soules, now residing at Waukegan, Lake county, Ill.; If yea, how long have you known him?

Ans. Yes, sir, I used to be; it is about sixteen or seventeen years since I first knew him.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, please state what it is.

Ans. Yes, I have something of a knowledge of his reputation. It is generally bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. I don't know as I should if he was interested.

D. BRADLEY.

DEPOSITION OF HENRY L. McNABB.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is Henry L. McNabb. I am twenty-six years old. I reside in the town of Wheeling in Cook county. I am a farmer.

2. Are you acquainted with Rufus Soules of Lake County? If yea, how long have you known him?

Ans. I have not been much acquainted with him for the past three or four years; he lived near me for six or seven years prior to the last three or four years.

3. Are you acquainted with the general reputation of the said Rufus Soules for truth and veracity among his neighbors and acquaintances; if yea, please state what his reputation is?

Ans. I am acquainted with his general reputation for truth and veracity. His reputation is bad.

4. From your knowledge of his general reputation would you believe him on his oath?

Ans. No, sir, I would not.

HENRY L. McNABB.

DEPOSITION OF EZEKIEL MORRISON.

INT. 1. What is your name, age, residence and occupation?

Ans. My name is Ezekiel Morrison. I am forty-five years old. I reside in the City of Chicago. I am a carpenter and joiner.

2. Are you acquainted with Rufus Soules of Lake County? If yea, how long have you known him?

Ans. I am acquainted with Rufus Soules, and have known him some fifteen or sixteen years.

3. State whether or not you are acquainted with the general reputation of said Soules for truth and veracity among his neighbors and acquaintances. If yea, what is it?

Ans. I cannot state what his general reputation for truth and veracity is at present. It is seven or eight years since I knew much of him. At that time his general reputation for truth and veracity was bad.

4. From your knowledge of his general reputation for truth and veracity would you believe him on his oath?

Ans. I should not.

CROSS-EXAMINED BY MR. WALLER.

Cross INT: 1. Have you had difficulties with Mr. Soules?

Ans. I never had any particular difficulty with him, as I know of.

2. Did he not appear as a witness against you in court on one occasion?

Ans. No, sir, not as I know of.

3. Was he not sworn as a witness in reference to a case in which you were a party?

Ans. I can't say positive as to that.

4. Did you not have a case in court, and had not Mr. Soules, as Constable, returned a summons as served upon you.

Ans. Yes, sir.

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5. Was he not sworn in that case in reference to the service of that summons?

Ans. I could not say as to that. I have no recollection of it. I was informed that he was.

6. Did not you and he have a quarrel about that?

Ans. No, sir; we never had any words about that.

7. Have you not been unfriendly to Mr. Soules on that and other accounts?

Ans. No, sir; he marked the summons as served upon me when he had served it upon my brother.

8. Did not he and your brother Charles have a fight?

Ans. Well, sir, I can't say; I don't know of their ever having a fight.

9. Don't you know that they were inimical to each other.

Ans. I don't know that they had any difficulty with each other; they might have had, however.

10. Do you now say that you have had no unfriendly feelings towards Mr. Soules?

Ans. I thought that the oath Mr. Soules took to act as constable—that according to his oath he returned the summons as served upon me—that I would not believe him under oath. I am willing to swear that he never served a summons on me in his life.

11. Do you mean to say that because he returned that summons as served on you, instead of your brother, that you would not believe him on oath.

Ans. Not only from that, but what I have heard other people say in regard to his character.

12. Have you not frequently spoken of Mr. Soules very harshly on account of this return of service on you?

Ans. No, sir. Well, I don't know that I have very harshly; I don't know but I have said that Mr. Soules returned the summons served upon me, which he never did.

13. Have you not said that you lost three hundred dollars wrongfully in that suit?

Ans. I don't know that I can say it was wrongfully. The man that had the suit beat me at the end, and got judgment of fifteen dollars; but the suit was lingering along for three or four years, and the costs amounted to some three hundred dollars and upwards.

14. Have you not attributed your loss of that suit to the return that Mr. Soules made of which you have spoken.

Ans. No, sir, I have not.

15. Have you not said that it would not have been tried at the time it was if Mr. Soules had not made the return?

Ans. No, sir, I never said that it would not have been tried at the time.

16. Have you not said that there was a deposition which had been taken or stolen out of the cause which you had not time to replace on account of being forced into trial?

Ans. I said that a deposition was taken or stolen out of the cause; I said that Judge Pierson was acting as Judge at that time; and I was out of town some three or four miles, and that he would not put over the suit till they could send for me to come in.

17. Did you not say that Mr. Soules was questioned about the return that he had made, and that on account of what he stated the case was tried?

Ans. Well, the idea I meant was, that Mr. Soules returning the summons that it had been served on me, when it had not; I could have broke the suit down by its not being served on me, because I swore that he never did serve the summons on me, and my brother swore that Mr. Soules served one on him.

18. Were not you and your brother very much alike in appearance?

Ans. We bear a resemblance to each other; some think we resemble each other, and others think we do not.

19. Are you both not quite large men?

Ans. Yes, we are; I am six feet high and he is a little less; we both weigh about the same.

20. Have you not been mistaken one for the other?

Ans. Well, I have had men speak to me supposing it to be him when they first spoke to me.

21. Might not Mr. Soules have mistaken your brother for you?

Ans. He might have been mistaken at the time he served the summons.

22. Who have you heard speak of the reputation of Mr. Soules for truth?

Ans. I think I have heard Filkins, Edwin Strong and George Strong; I think there was a man by the name of Bradwell; I have heard several; don't recollect who.

(Direct examination resumed by Mr. Barker, counsel for Stow.)

INT. 1. Were you acquainted generally with the neighbors and acquaintances of Mr. Soules near Wheeling?

Ans. Yes, sir.

2. How long since you knew them, and how long did you know them?

Ans. I think from fifteen to sixteen years—perhaps eighteen since I knew them; I sold out up there thirteen or fourteen years ago, but my father lived up there and I used to go up there backwards and forwards. Well, I think I knew him pretty well for three or four years.

3. How was your knowledge of Mr. Soules' reputation for truth obtained?

Ans. From the neighbors generally; that was the first thing; then his serving this summons; I was told that he did testify at the time of the trial of that suit that he served the summons on me, which he never did.

4. Whose neighbors do you refer to?

Ans. Mr. Soules' neighbors and mine.

RE-CROSS-EXAMINED BY COUNSEL FOR COMPLAINANTS.

Cross-INT. 1. Can you name any other neighbors who have spoke of Mr. Soules besides those that you have already named?

Ans. I don't know that I can.

E. MORRISON.

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PART IV.

TESTIMONY TAKEN BY DEFENDANT, BENNETT, TO IMPEACH RUFUS SOULES.

[The notices, captions, and certificates of the depositions are considered regular by counsel, and their publication is dispensed with.]

DEPOSITION OF ELIAS B. SUTHERLAND.

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

Answer. My name is Elias B. Sutherland; I am forty two years old; I reside in Chicago at present; I have no occupation.

Int. 2. Are you acquainted with Rufus Soules? If yea, how long, and where have you known him?

Ans. I am acquainted with Rufus Soules; I have known him, I should think, about twelve years. At that time he lived, I think, north of Wheeling. I don't know what town he lived in. It was either in this county or Lake, I don't know which. It was near the line.

Int. 3. Are you acquainted with the general reputation of Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation for truth and veracity, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I should believe him from my knowledge, but should not from what people said of him—I mean general reputation of his neighbors.

*Filed
June 14: 1856.*

Cross-Examined by Mr. Waller.

Int. 1. Have you been acquainted with Mr. Soules for the last five years?

Ans. I hav'nt—I have not.

Int. 2. Who have you heard speak of Mr. Soules' reputation concerning his truth and veracity?

Ans. I think I have heard Joseph Filkins speak against it. I don't know that I can think of all that I have heard speak against him. I think I have heard one of his neighbors speak against him. I think his name is Tripp.

Int. 3. How long since you heard them speak of him?

Ans. I think about nine years ago.

Int. 4. Do you not know that Joseph Filkins was a bitter enemy of Soules.

Ans. I don't know.

Int. 5. Do you not know, or did you not hear, that they had had difficulties. Objected to by counsel for Bennett, because it is hear-say testimony.

Ans. I have heard that they have had some difficulties.

Int. 6. Do you pretend to know what Mr. Soules' reputation now is for truth amongst his neighbors and acquaintances, where he now lives?

Ans. No sir.

Int. 7. Who urged you to come here to testify, and who accompanied you to this place this morning?

Ans. I was subpoenaed; no one urged me; no one accompanied me.

Int. 8. Did you not say when you came in, that William H. Stow had spoken to you to come here, and wished you to testify about Soules?

Ans. I did, but not until after I was subpoenaed.

Int. 9. Did you not hold a consultation with Stow, after getting here, and before testifying,

Ans. I had a consultation with him.

ELIAS B. SUTHERLAND.

DEPOSITION OF NATHANIEL PITKIN.

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

Answer. My name is Nathaniel Pitkin; I am thirty-eight years old; I reside at Waukegan; I am selling goods and farming.

Filed

June 14, 1836

Int. 2. Are you acquainted with Rufus Soules? If yea, how long and where have you known him?

Ans. I am acquainted with Rufes Soules; I have known him for five years at Waukegan.

Int. 3. Are you acquainted with the general reputation of Rufus Soules for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation. It is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath.

Ans. No.

Cross-Examined by Mr. Waller.

Int. 1. Who requested you to come here and testify?

Ans. I was subpoenaed last evening.

Int. 2. Did no one beside the subpoena request you to testify?

Ans. No sir.

Int. 3. Did no one speak to you on the subject?

Ans. Mr. Stow did after I was subpoenaed.

Int. 4. Have you had any difficulty with Mr. Soules?

Ans. No, none. We are good friends.

Int. 5. Did you ever have any dealings with Mr. Soules?

Ans. No sir.

Int. 6. Have you been well acquainted with him?

Ans. Quite well, sir.

Int. 7. From your knowledge of him, would you or not believe him on oath? Objected to by counsel for Bennett.

Ans. If he was not interested, perhaps I should. It would depend upon circumstances.

Int. 8. Did he ever treat you unfairly or dishonestly?

Ans. Never. I speak from common reputation.

Int. 9. What do you consider general reputation?

Ans. I consider the estimate the public place upon a man; his acts speak for themselves.

Int. 10. What acts do you refer to?

Ans. I have none to refer to particularly.

Int. 11. Who have you heard speak of him and when?

Ans. I have heard H. H. Hendee, David Rich, Wm. M. Case, J. B. Ingalls, James Boutwell, Obed Crawford, within the last year.

Int. 12. Has it not been within the last six months?

Ans. I could not say.

Int. 13. Has it not been since William H. Stow went up there to procure witnesses?

Ans. I have not seen Mr. Stow, I think, in three years, until last evening.

Int. 14. Did each of those men you have named speak of Mr. Soules' reputation for truth?

Ans. They spoke of him as a man whose word could not be relied upon.

Int. 15. Do you know how you happened to be subpoenaed in this case?

Ans. No sir, I do not.

Int. 16. Have you ever been in the habit of speaking disparagingly of Mr. Soules?

Ans. Never.

NATHANIEL PITKIN.

Filed
June 14, 1886

DEPOSITION OF SAMUEL H. GILBERT.

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

Answer. My name is Samuel H. Gilbert; I am some fifty-four years of age; my family resides in Waukegan; I do business here; my occupation is selling goods.

Int. 2. Are you acquainted with Rufus Soules? If yea, how long, and where have you known him?

Ans. I am acquainted with Rufus Soules, of Waukegan. I guess I have known him since about 1837. I knew him at Wheeling first, where he kept tavern. I afterwards knew him in Chicago, and subsequently at Waukegan.

Int. 3. Are you acquainted with the general reputation of Rufus Soules, for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. From what I have heard of it in the community, I should say it was bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. That depends on how much his interest was concerned.

Int. 5. Judging from what the people say of him in regard to his truth and veracity, in the community where he lives, would you believe him on his oath? (Objected to by complainant's counsel.)

Ans. It would depend upon how much interest he had at stake. I would not believe him on his oath in a suit against him, if it was his interest to swear against me, judging from his reputation.

Cross-Examined by Complainant's Counsel.

Int. 1. Have you ever had any dealings or difficulties with Mr. Soules?

Ans. I never had any difficulties, and don't remember that I ever had any dealings with him.

Int. 2. Did not the reputation of which you have spoken, originate from his litigation in land claims in early times in this State, and did he not make enemies by the different suits in which he was engaged?

Ans. That was the first that I knew any thing of it, but it has continued all along since. That is more than I can tell you whether he made enemies in his suits, but I presume he did.

Int. 3. Were you acquainted with the merits of the different claims and suits in which Soules was interested?

(Objected to by counsel for Bennett.)

Ans. No sir.

Int. 4. How long have you been doing business in Chicago?

Ans. I have been in Chicago since 1836, less three years in New York, and three years in Waukegan.

Int. 5. When did you live in New York and when in Waukegan?

Ans. I think I left New York four years ago last fall. I was there three years prior. I think I moved to Waukegan in the fall of 1837, from there to Chicago in the fall of 1838. I left Chicago and went to New York in the fall of 1847, and remained there three seasons, but came home during the fall of each year; was there only through the business seasons. I then left New York and returned to Waukegan. I removed my family from Chicago to Waukegan, I should think, in 1846.

Int. 6. Did you see or hear much of Soules, during the time you were doing business in New York?

Ans. I don't recollect. I was out there during the winter all of the time. I might and I might not—cant say.

Int. 7. What portion of the time do you spend at Waukegan now?

Ans. I generally go home once in two weeks. The last time I went home on Friday, and returned the next Monday afternoon.

Int. 8. Could you say that you are now acquainted with the general reputation of Soules for truth, amongst his neighbors and acquaintances at Waukegan?

Ans. I suppose I could, sir.

Int. 9. Did you know Mr. Soules as constable?

Ans. I didn't know that he was constable.

Int. 10. Did you ever live at Wheeling?

Ans. No, sir.

Int. 11. Who requested you to come and give your deposition in this case?

Ans. Mr. Stow, I think.

Re-Examination Resumed.

Int. 6. Were you not subpoenaed by Stow?

Ans. Yes sir.

Int. 7. State the occasions and reasons you have had to know Soules, and his character for truth.

(Objected to by complainant's counsel.)

Ans. It was from his general reputation. I was up there, last winter, three months, and what I heard then only confirmed what I had heard before.

Cross Examination Resumed.

Int. 12. Who did you hear speak of Lim last winter?

(Objected to by counsel for Bennett.)

Ans. I don't know as I could say. I was in conversation with some individuals there last winter; I don't now recollect who. I know it was about the time he was indicted there. The conversation was in relation to his family and the mode in which he governed them, and the example he set before them.

(The latter part of the answer not responsive to the question, objected to by complainants' counsel.)

Int. 13. What indictment do you refer to?

Ans. An indictment in relation to the alteration of a note.

Int. 14. Were you on the grand jury which brought in that indictment?

(Objected to by counsel for Bennett.)

Ans. I was.

Int. 15. Did you refer to that circumstance in your answer to the defendant's seventh interrogatory on re examination?

(Objected to by counsel for Bennett.)

Ans. I refer to the whole. That in part with the rest. It was all of a piece.

SAMUEL H. GILBERT.

Filed

June 14, 1856.

DEPOSITION OF MANCEL TALCOTT, JUNIOR.

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

Answer. My name is Mancel Talcott; I am thirty-eight years old; I reside in Chicago; am a stone dealer.

Int. 2. Do you know Rufus Soules? If yea, how long, and where have you known him?

Ans. I know Rufus Soules, and have known him about twenty or twenty one years; I don't know which. When I first became acquainted with him, he resided on the O'Plain river. At that time he lived about a mile and a half above Doty's

place. He sold out there, and bought a place about four miles from my father's. He sold out there, and went about two miles above Wheeling. His next move was to about a mile and a half west of where he first settled. Since he left there, I have no knowledge of his whereabouts; I have not seen him but twice during the last two years.

Int. 3. Are you acquainted with the general reputation of Rufus Soules, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. Up to the time he left his farm, some six years ago, I was. Since then, I have seen but little of him, and have heard but little of him. It was bad during my acquaintance with him.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. That would depend upon circumstances. If I knew that he had no interest at stake, I should believe him.

Int. 5. Is his reputation alone for truth and veracity among his neighbors and acquaintances such, that, judging from that alone, and not from what you yourself know of the man, would you believe him on his oath?

(Objected to by complainants' counsel.)

Ans. I would not.

Cross Examined by Counsel for Complainants.

Int. 1. Did you ever have any dealings with Rufus Soules?

Ans. I have been at his house while he kept a public house. Don't know whether I ever ate there or not. Never had any other dealings with him.

Int. 2. Who have you heard speak of his reputation for truth?

Ans. I have heard it called in question a good many times, at public gatherings, such as raisings, etc. I have heard Stephen R. Forbes speak of him. General Peet. I can't call to mind others. Have heard his character called in question generally, as standing pretty low.

Int. 3. Did not that sort of talk originate from the litigation he had in early times, and had he not made enemies then, by the different suits in which he had been engaged?

Ans. In part, but not wholly.

MANCEL TALCOTT.

Filed

June 14, 1856.

DEPOSITION OF IRA SNOW.

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

Answer. My name is Ira Snow; I am fifty years old; I reside in the town of West Chicago; by occupation, deputy sheriff.

Int. 2. Are you acquainted with Rufus Soules? If yea, how long, and where have you been acquainted with him?

Ans. I have been, but not for the last four or five years. I first got acquainted with him in 1843, or 1844; am not certain which; and was acquainted with him until about 1851. Since then, have only seen him occasionally. Mr. Soules lived near Wheeling when I first knew him. He lived there for a number of years; then moved into Chicago; he then moved back from Chicago to near the old place where I first knew him. Don't know, from my own knowledge, where he went to from there.

Int. 3. Are you acquainted with the general reputation of Rufus Soules, for truth, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his reputation by hearsay only, and it is bad.

Int. 4. Judging from your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not, from what I have heard.

Cross Examined by Complainants' Counsel.

Interrogatory 1. When did you hear any one speak of his reputation for truth and veracity?

Answer. I don't recollect any particular time; cannot give the dates.

Int. 2. Have you heard any one speak of it during the last year?

Ans. I don't know as I have. I don't think I have during the last year.

Int. 3. Can you recollect of hearing any one speak of it since he left his last place, near Wheeling?

Ans. Yes.

Int. 4. State who.

Ans. Selah Rodgers; I think no one else since then.

Int. 5. When did you have the conversation with Mr. Rodgers, and where?

Ans. It was some time last season, but I can't tell what time. I think it must have been a year ago. It was in Chicago.

Int. 6. Where did Mr. Rodgers live?

Ans. Mr. Rodgers lived in Chicago at that time.

Int. 7. What brought up that conversation?

Ans. Speaking of an old law suit betwixt him and Mr. Soules.

Int. 8. Who commenced it?

Ans. I think I did.

Int. 9. Why did you commence it?

Ans. I think I asked him how he got through with that old matter. We were old acquaintances, and were talking of various subjects. Nothing particularly induced the conversation.

Int. 10. Was there any one else present?

Ans. Not that I know of. There were other people round. It was at the cars. Don't recollect who.

Int. 11. Can you recollect of any other conversation you have had about Mr. Soules' character for truth?

Ans. No particular one.

Int. 12. Did you ever have any dealings with Mr. Soules?

Ans. Not of any account.

Int. 13. Did you know him well, or intimately?

Ans. As well as I generally know neighbors, that live the distance of a couple of miles, or three.

Int. 14. From your own knowledge of him, would you or not believe him on his oath?

(Objected to by Bennett's counsel.)

Ans. I could not say whether I would or would not, from my own knowledge.

Int. 15. Do you know of anything, of your own knowledge, that would cause you to doubt his word on oath?

Ans. No.

Int. 16. You said, in a previous answer, that you had had no dealings, of any account, with Soules. State now whether you have had any of any kind. If so, state what they were.

(Objected to by counsel for Bennett.)

Ans. All the dealings that I have had with him was when he lived on the farm I have last mentioned. He came to me, and hired my son to work for him through the season. He was not satisfied to stay. I settled with him, and he returned home. That is all of the dealings.

Int. 17. Did you and he have any unpleasant words about it?

Ans. No.

Int. 18. Did you have perfectly friendly feelings for him afterwards?

Ans. As much afterwards as before.

Int. 19. Did any one speak to you on the subject of coming here to testify, or ask you to come? If so, who was it, and when?

Ans. Mr. Stow came to my stable as I was putting out my horse, and read a subpoena to me. I told him I didn't know anything about the case. It was this morning—

(Part of the answer not responsive to the question, objected to by complainants' counsel.)

Int. 20. Are you acquainted with Mr. Soules' reputation for truth amongst his neighbors and acquaintances at Waukegan, or since he has lived there?

Ans. No.

Direct Examination Resumed.

Int. 5. Has the reputation of Mr. Soules, for truth and veracity, among those who knew him before he went to Waukegan, been changed, to your knowledge?
(Objected to by complainants' counsel.)

Ans. It has not.

Cross Examination Resumed.

Int. 21. Have you any knowledge on the subject?

Ans. Yes. The reason is, I have often heard it talked of.

Int. 22. By whom, and when?

(Objected to by counsel for Bennett.)

Ans. I can't tell any particular dates or persons.

Int. 23. Can you name a single one?

(Objected to by counsel for Bennett.)

Ans. I can't particularly recollect one, to name him.

Int. 24. Did you ever hear any one say what his reputation for truth was, at Waukegan?

(Objected to by counsel for Bennett.)

Ans. I think not.

IRA SNOW.

DEPOSITION OF ALBERT A. DEXTER.

Filed
June 14; 1886

Int. 1. What is your name, age, residence and occupation?

Ans. My name is Albert A. Dexter; I was thirty-six years old last month; I reside in the City of Chicago; my occupation now is packing beef and pork.

Int. 2. Do you know Rufus Soules? If yea, how long, and where have you known him?

Ans. If it is the man, by that name, that used to keep tavern two miles and a half from Wheeling, from forty to forty-three, I know him. I knew him two years—stopped at his house; had considerable acquaintance with him. Have since seen him in town. I knew him when he kept the red tavern about half-way between Wheeling and Half Day, on the right hand side of the road as you go north.

Int. 3. Are you acquainted with the general reputation of Rufus Soules, for truth among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I was at that time, but of late years I have not heard much of it. At that time it was bad for truth and veracity.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir, I think not.

Cross Examined by Complainants' Counsel.

Int. 1. Do you know any thing of his reputation for truth among his neighbors at Waukegan?

Ans. I do not. I didn't know that he was at Waukegan until last week. I didn't know where he was.

Int. 2. Can you name any of his neighbors who spoke to you of the reputation of Soules for truth? If so, name them.

Ans. Yes sir, I can. I have heard Charles W. Daniels, Henry Wilson, Joseph Filkins, John Shingley, Nicholas H. Phillips and Noble R. Hays, and a great many more, but I don't recollect their names.

Int. 3. Had not these men, or some of them, had law suits or difficulties with Soules?

Ans. Not to my knowledge.

Int. 4. Did you ever have any dealing with Mr. Soules yourself?

Ans. I never did. I sold him some goods once, when I was a clerk for R. & J. Wadsworth, either in 1840 or 1841. This was all, except that I stopped at his house and took dinner there, but never stayed over night with him.

Int. 5. Did he ever act improperly or dishonestly toward you?

Ans. No sir.

Int. 6. From your knowledge of him would you not believe him on oath?
(Objected to by counsel for Bennett.)

Ans. I should. I have very little knowledge of him.

ALBERT A. DEXTER.

DEPOSITION OF SAMUEL HOARD.

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

Answer. My name is Samuel Hoard; I am fifty-seven; I reside in Chicago; occupation, jewelry business.

Int. 2. Do you know Rufus Soules? If yea, how long and where have you known him?

*Filed
June 14, 1886*

Ans. I know Rufus Soules, and have known him about twenty years. I first knew him on the O'Plain river. He lived on a farm adjoining mine. From there he moved up near the mills. He afterwards moved into Chicago, and subsequently returned to his farm, I think, near Kennicott's Mills. I have lost sight of him for the past few years.

Int. 3. Are you acquainted with the general reputation of Rufus Soules for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I have often heard his reputation spoken of. I should think it was generally considered bad.

Int. 4. Judging from his said reputation alone, and not from what you know of the man, would you believe him on his oath?

(Objected to by complainants' counsel.)

Ans. I don't wish to give any answer to that question. We have been neighbors and have had some things that were not most pleasant, and I don't wish to answer the question. I do not think that I have heard enough about him to warrant me in saying that I should or should not believe him under oath. I have heard other persons say they would not believe him under oath, but my own observations of his character would not warrant me to express an opinion. That is all that I feel inclined to answer.

Cross Examined by Complainants' Counsel.

Int. 1. Have you heard any of his present neighbors and acquaintances speak of his reputation for truth, since his removal to Waukegan?

Ans. I didn't know that he had removed to Waukegan, and don't know who his neighbors and acquaintances are.

SAMUEL HOARD.

Filed

June 14: 1856

DEPOSITION OF JAMES F. ALDRICH.

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

Answer. My name is James F. Aldrich; I am thirty-four years old; I reside in Chicago; occupation, lumber business.

Int. 2. Are you acquainted with Rufus Soules? If yea, how long, and where have you known him?

Ans. I am somewhat acquainted with Rufus Soules, and have been acquainted with him a little over a year, at Waukegan.

Int. 3. Are you acquainted with the general reputation of Rufus Soules, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. To some extent I am acquainted with his general reputation, and to that extent, it is bad.

Cross Examined by Complainants' Counsel.

Interrogatory 1. Have you had any dealings with Mr. Soules?

Answer. No, not directly.

Int. 2. State whether you have had any, of any kind, directly or indirectly.

Ans. I had a wagon, bought of parties who purchased from him.

Int. 3. Do you consider yourself well acquainted with Mr. Soules?

Ans. No, not personally.

Int. 4. Have you lived in Waukegan within the last year?

Ans. I moved there, with my family, in May, 1855, and returned to Chicago in October of the same year.

Int. 5. Were you doing business in Chicago whilst your family resided in Waukegan?

Ans. I was.

Int. 6. Who have you heard speak, within the last year, of the reputation for truth, of Rufus Soules?

Ans. Dr. George Capron, Mr. Tiffany, A. L. Keith, William Whipple, and some others I do not remember. I think Mr. Tiffany's name is John, but am not positive. These parties all reside in Waukegan, except George Capron, who has since removed from there.

JAMES F. ALDRICH.

DEPOSITION OF THOMAS H. ALLISON.

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

Answer. My age is sixty-three years; Thomas F. Allison; tailor; town of Northfield, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. Yes, sir, I do; I think about twenty years on the Babcock farm, in the town of Wheeling.

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Int. 3. Are you acquainted with his general reputation for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I was acquainted with his character for truth and veracity while he lived neighbor to me. His reputation for truth and veracity was very bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not.

THOMAS H. ALLISON.

DEPOSITION OF DANIEL WRIGHT.

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

Answer. Daniel Wright; seventy eight years, by the first day of June; my occupation, farmer; my place of residence, town of Vernon, county of Lake.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know Rufus Soules; fifteen years; I knew him at the Babcock arm, in the town of Wheeling, Cook county.

Int. 3. Have you ever heard Mr. Soules' reputation for truth and veracity talked about among his neighbors?

Ans. Some neighbors said he was a man of truth, and others did not.

D. WRIGHT.

DEPOSITION OF STEPHEN LAMB.

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

Answer. My name is Stephen Lamb; my age, forty-two years old; my occupation, farmer; my place of residence, in the town of Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I did know him about fifteen years; I knew him in the town of Vernon, Lake county.

Int. 3. Are you acquainted with Mr. Soules' reputation, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I have been acquainted with it. His reputation was not very good.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. From what I have heard spoken of him, I should not.

STEPHEN LAMB.

DEPOSITION OF GEORGE HELM.

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

Answer. My name is George Helm; my age, about forty-two years; occupation, a farmer; my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him; have known him since 1837; he was constable in Lake county.

Int. 3. Are you acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances? If yea, was it good or bad?

Ans. I am acquainted with it. It is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I think I would not.

GEO. HELM.

DEPOSITION OF JOHN HELM.

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

Answer. My name is John Helm; my age about forty-four years; occupation, farmer; residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him. I have known him since 1837. I got acquainted with him here.

Int. 3. Are you acquainted with his general reputation for truth and veracity? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation for truth and veracity among his neighbors; it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I don't think I could.

JOHN HELM.

DEPOSITION OF JOHN W. WALTON.

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

Answer. My name is John W. Walton; my age, forty-one years; my occupation, farmer; my place of residence, Maine, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him, and have known him for twenty-one years.

Int. 3. Are you acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it; it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not.

J. WILSON WALTON.

DEPOSITION OF ABIRAM W. PEET.

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

Answer. My name is Abiram W. Peet; my age, thirty-three years; my occupation, farmer; my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him, and have known him since 1833. I knew him at Lyons, Wheeling, and in the town of Vernon, Lake county.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it; it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not.

ABIRAM W. PEET.

DEPOSITION OF SOCRATES RAND.

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

Ans. My name is S. Rand; my age, fifty-one years old; my occupation, farmer; my place of residence, in Maine, Cook County.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know him; have known him personally since 1835, in the County of Cook, while he lived in it, and I have known him since.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it; it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No.

SOCRATES RAND.

DEPOSITION OF DAVID STUDLEY.

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

Answer. My name, David Studley; I am forty-nine years old; my occupation, farmer; my place of residence, Northfield, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know R. Soules; I have known him about twelve years; I first knew him in Lake county.

Int. 3. Are you acquainted with his general reputation for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it; and his reputation for truth and veracity among his neighbors is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No.

DAVID STUDLEY.

DEPOSITION OF JAMES KELLY.

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

Answer. My name is James Kelly; my age, forty-nine years old; my occupation, farmer; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know him, and I have known him for seventeen or eighteen years; I knew him when he lived two miles north from here. I worked for him some.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his character for truth and veracity among his neighbors, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir.

JAMES KELLY.

DEPOSITION OF BENJAMIN C. LUCE.

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

Answer. My name is Benjamin C. Luce; my age, forty years; occupation, farmer; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know Rufus Soules, and have known him for nineteen years, in the town of Vernon, Lake county, and elsewhere.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation for truth and veracity among his neighbors and acquaintances, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir, I would not.

BENJAMIN C. LUCE.

DEPOSITION OF WILLIAM HOPPS.

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

Answer. William Hopps is my name; my age, fifty years; my occupation, farmer; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know Rufus Soules, and have known him for eighteen years, in Vernon, Lake county, and elsewhere.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation for truth and veracity among his neighbors and acquaintances, and it is bad?

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I should not feel safe in believing him on his oath.

WILLIAM HOPPS.

DEPOSITION OF MILO WINCHELL.

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

Answer. My name is Milo Winchell; my age, fifty-three years; my occupation, farmer; my place of residence, Northfield, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know him, and have been personally acquainted with him for about eighteen years; for the last few years he has not lived in this neighborhood.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. From his reputation, I could not believe him.

MILO WINCHELL.

DEPOSITION OF ASHER G. SKINNER.

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

Ans. My name is Asher G. Skinner; my age, forty years; my occupation, farmer; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know him, and I have known him for about eighteen years, in Vernon, Lake county. I was well acquainted with him while he was here. Since he left, I have not known much about him.

Int. 3. Are you acquainted with his general reputation for truth and veracity among his neighbors and acquaintances, while he lived in this neighborhood? If yea, what is it, good or bad?

Ans. I was acquainted with his general reputation for truth, while he lived in this neighborhood, among his acquaintances, and it was bad enough.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not.

ASHER G. SKINNER.

DEPOSITION OF PETER SCHENCK.

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

Answer. My name is Peter Schenck; my age, forty-five years; my occupation, farmer; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know Rufus Soules; I have been acquainted with him about ten years; I first knew him in Vernon, Lake county, and have frequently seen him since he lived in Waukegan.

Int. 3. Are you acquainted with his general reputation for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation among his neighbors and acquaintances for truth and veracity, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I don't think I could.

PETER SCHENCK.

DEPOSITION OF FRANCIS EDWARDS.

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

Answer. My name is Francis Edwards; my age, forty years old; occupation, farmer; my place of residence, in Northfield, Cook county.

Int. 2. Are you acquainted with the general reputation of Rufus Soules, in

Northfield, Wheeling and Vernon, in the counties Cook and Lake, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation for truth and veracity, and have heard his character talked about a great deal; and, from common report, his reputation for truth and veracity is bad.

Int. 3. From your knowledge of his said reputation, and from common report, would you believe him on his oath?

Ans. I would not believe him, unless he had some pecuniary interest in him to swear to the truth.

FRANCIS EDWARDS.

DEPOSITION OF ROBERT A. HOPPS.

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

Answer. My name is Robert A. Hopps; my age, thirty-five years, in July; my occupation, carpenter and joiner; my place of residence, in Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him, and have known him for eighteen years; during that time I have known him, most of this time, in Lake county; for about two years, in McHenry county.

Int. 3. Are you acquainted with his general reputation for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances, and it is very bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not.

ROBERT A. HOPPS.

DEPOSITION OF JOHN ROTHCHILD.

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

Ans. My name is John Rothchild; my age, forty years; my occupation, merchant; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him, and have known him since 1846, in Vernon, Lake county.

Int. 3. Are you acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with his general reputation for truth and veracity among his neighbors and acquaintances, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. I would not.

JOHN ROTHCHILD.

DEPOSITION OF PETER FILBERT.

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

Answer. My name is Peter Filbert; my age, forty years; my occupation, shoemaker; my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him; about eight or nine years, in Vernon, Lake county.

Int. 3. Are you acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I do know his reputation for truth and veracity, from what people say, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir.

PETER FILBERT

DEPOSITION OF HENRY H. McNAB.

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

Answer. My name is Henry L. McNab; my age twenty-six years; my occupation, farmer; my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him, and have known him from the Fall of 1839, until he moved to Waukegan, in Vernon, Lake county, and lived neighbor to him several years.

Int. 3. Are you acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it, and it is bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir, I would not.

HENRY L. McNAB.

DEPOSITION OF GEORGE FULLAGER.

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

Answer. My name is George Fullager; my age, forty years and over; my occupation, farmer; my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him; have known him from sixteen to twenty years, in Vernon, Lake county, and elsewhere.

Int. 3. Are you acquainted with his general reputation, for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I was acquainted with it at the time he lived at Vernon, Lake county. From the report, it was bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. From common report, I would not believe him on his oath.

GEORGE FULLAGER.

DEPOSITION OF JOHN SIGWOLT.

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

Answer. My name is John Sigwolt; my age, about twenty-four years; my occupation, brewer; and my place of residence, Wheeling, Cook county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him and where?

Ans. I do know him, and have known him since 1845, in Vernon, Lake county.

Int. 3. Are you acquainted with his general reputation for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it, and it is pretty hard.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir, I would not.

JOHN SIGWOLT.

DEPOSITION OF EDWARD KEOUGH.

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

Answer. My name is Edward Keough; my age, about forty-eight years; my occupation, farmer; my place of residence, Vernon, Lake county.

Int. 2. Do you know Rufus Soules? If yea, how long have you known him, and where?

Ans. I do know him, and have known him for about nineteen years, in Vernon, Lake county.

Int. 3. Are you acquainted with his general reputation for truth and veracity, among his neighbors and acquaintances? If yea, what is it, good or bad?

Ans. I am acquainted with it, and have been until he moved to Waukegan; and his reputation for truth and veracity was bad.

Int. 4. From your knowledge of his said reputation, would you believe him on his oath?

Ans. No sir.

EDWARD KEOUGH.