

No. **12216**

Supreme Court of Illinois

Garrett

vs.

Tuttle, et al

71641  7

Copy of Bill of Complaint filed January 12th 1884 in
Chancery in Circuit Court of Peoria County)

Bill.

To the Honorable the Judge of the sixteenth
Judicial Circuit in Chancery, sitting,

Humbly complaining sheweth unto your Honor Your Orator
Augustus C. Garrett, that heretofore to wit: on the twenty sixth
day of September A.D. 1882, at the County of Peoria and State of
Illinois, Your Orator was anxious to procure one John Tuttle
to become his your Orator security for the payment of certain de-
mands then due and owing from your orator to certain persons
and also being desirous of procuring said John Tuttle to become
security for costs in certain suits then pending in which your orator
was a party and in certain appeals then about to be prosecuted by
your orator from the judgments of certain Circuit Courts then about
to be and afterwards to be rendered and pronounced against
your orator by certain Circuit Courts in the State of Illinois, to the
Supreme Court of the said State, Your Orator for the purpose
of securing the said John Tuttle in becoming your Orator secu-
rity as aforesaid, and for no other purpose whatever and upon
the express agreement and understanding of your the said
John Tuttle that he would become your Orator security as
aforesaid executed to the said John Tuttle a certain deed of
conveyance bearing date the said 26th day of September A.D. 1882
by which deed your orator conveyed to said John Tuttle certain
real estate situated in the then Town (now City) of Peoria, in the
County of Peoria and State of Illinois, known as lots three (3),
four (4), and five (5) in Block Eight (8) as described on the
recorded plat of said town which deed is herewith filed,
marked exhibit A, and made a part hereof for the pur-
poses of evidence and reference and which deed was duly ac-
knowledgeed and recorded as by the certificate thereon fully appears
and to which your Orator for greater certainty refers.

And your Orator shows that although the said deed
is absolute on its face and purports to convey a fee simple absolute

in said lots to said Tittle in said lots, yet that said deed was executed and delivered solely and exclusively for the purpose of securing said Tittle in becoming the surety of your orator as above set forth, and to no other intent nor upon any other condition whatever.

And your Orator shows that subject to the mortgage in said deed mentioned, which is now extinguished, your orator was the owner in fee of said lot three and that said lots four and five were owned in fee by Mary G. Garrett your Orator's wife and that your Orator had no interest in the said last two mentioned lots except as tenant by the curtesy to your Orator's said wife.

And your Orator shows that at the time of the execution of said deed there was pending against your Orator and his wife Mary G. Garrett a certain suit upon the petition for a Mechanics lien of Andrew Stenson and Crinn Wardwell in the circuit court in and for the said county of Peoria, in which your Orator expected that it would be necessary for the sustaining and preserving of your Orator's rights and interests for your Orator to take an appeal to the Supreme Court of this State, and that your Orator specially executed and delivered said deed to said Tittle to secure said Tittle in becoming your Orator's security in taking said appeal if it should be necessary and that said Tittle accepted the delivery of said deed for that purpose. And your Orator shows that afterwards the said suit remaining undetermined, to-wit: in the year A. D. 1844, the venue of said suit was changed to the county of Tazewell in said State where judgment was rendered and decree made therein against your Orator at the Spring Term of the Circuit Court of said Tazewell county at the Spring Term thereof A. D. 1846, and an appeal was taken from the said judgment and decree by your Orator to the Supreme Court of the State of Illinois and for the purpose of taking which appeal your Orator was required to enter into an appeal bond with good and sufficient security, and the

said John Little by reason of the said understanding and agreement between him and your Orator and relying upon his security of the said ^{deed}, upon request of your orator consented to become and did become your Orator's security in the said appeal bond, and thereupon the said cause was appealed to the said Supreme Court, and afterwards, that is at the December Term A.D. 1846 of the said Supreme Court the said cause was heard and determined in the said Supreme Court and the decree and judgment of the said Circuit Court of Hazard County is modified as that by decree and judgment of said Supreme Court the said Stevenson and Wardwell recovered off your Orator the sum of twelve hundred and eighty four dollars and six cents and their costs in the Court below, and interest thereon, which decree and judgment of the said Supreme Court are reported and set forth in the third volume of Gilman's Reports on pages from 261 to 282 inclusive and to which your Honor is referred for greater certainty. And your Orator shows that since the rendition of the said judgment and decree of the said Supreme Court your Orator has fully paid and satisfied the said judgment, principal, interest and costs, and that thereby the liability of the said John Little as security upon the said appeal bond has become entirely extinguished, and that ~~the~~ Altho' until the payment of said last mentioned judgment the said John Little might fully held the said deed to secure and indemnify him in being and becoming your Orator's security in said appeal bond, yet that upon the payment of said last mentioned judgment and the extinguishment of his liability on said appeal bond the entire equity in the premises conveyed by said deed became re-vested in your orator, and only the legal title remained in said Little as naked Trustee to your orator, subject to be reconveyed to your Orator discharged of all trusts and uses at any time, that is so far as regards any rights of said Little under said deed by reason of his becoming security for your Orator in said appeal bond, are or had been or might be concerned,

And your Orator shows that before and at the time of executing said deed your Orator was justly indebted to one Alvin Kidder in the sum of thirteen hundred and fifty ⁹³/₁₀₀ dollars, for which afterwards, to wit: on or about the 23rd day of May A. D. 1843, your Orator gave his promissory note to said Kidder payable three years after date with six per centum interest per annum and that afterwards, to wit: on the 9th day of July A. D. 1845, the said John Fittle relying upon his security in said deed and upon the request of your Orator executed to the said Alvin Kidder his the said Fittle's promissory note for the amount then due on the said promissory note of your Orator as a substitute for your Orator's said promissory note; for the giving of which note the said Fittle received no consideration whatever, and the giving which note by said Fittle was only intended as a security to said Kidder for the aforesaid debt of your Orator and afterwards and before the death of the said John Fittle hereinafter mentioned your Orator fully paid and satisfied the said note of the said Fittle to the said Kidder whereby all liability of said Fittle on his note so given as aforesaid was extinguished, and whereby all the rights of said Fittle under said deed were ended and determined.

And your Orator shows that said Fittle never acquired any other equitable rights under said deed except those which have been fully discharged during his life time in manner aforesaid and so your Orator shows that in no manner did said Fittle have any rights under said deed except as naked trustee as aforesaid, at the time of his death hereinafter mentioned.

And your Orator shows that afterwards, to wit: on or about the 15th day of November A. D. 1851, the said John Fittle died intestate and solvent at the county of Rona aforesaid without having conveyed to your Orator the legal title to the said premises in said deed described, and that at the time

of his said death the said John Tuttle left as his only heirs at law John T. Tuttle, Herbert A. Tuttle, Martha Tuttle and Eugene Tuttle all of whom are now infants under lawful age and that James Haylor is the legally appointed guardian of each and every of the said heirs and infants.

And your Orator shows that by reason of the premises your Orator was before and at the time of the death of said John Tuttle entitled to a release of all the right of said John Tuttle in law to the said premises in said deed described, and that only the strictly legal title to said premises descended to his ^{said} heirs, so that your Orator is entitled to a deed of release of said premises from the said heirs.

But inasmuch as said heirs are still infants and altho' being infants refuse to convey their said interests descended to them as aforesaid and pretend that your Orator is not entitled to any conveyance of said premises from them, and that they are not trustees to your Orator in any manner and inasmuch as your Orator can only obtain adequate relief in the premises in a court of equity where such matters are properly cognizable and relievable.

To the end therefore that the said John T. Tuttle, Herbert A. Tuttle, Martha Tuttle and Eugene Tuttle and their said Guardian (for them) James Haylor may be made parties defendant hereto and required to answer all and singular the matters aforesaid specifically, and that upon a final hearing of this bill the said heirs of the said John Tuttle deceased may be required to convey by proper deed of quit claim and release all the estate which hath descended to them from their said Ancestor John Tuttle deceased by reason of said deed to your Orator and that your Orator may have such other and further relief as unto your Honor may seem meet and as shall accord with equity and good conscience,

May it please your Honor that a summons in Chancery
issue in due form of law summoning the said defendants
to answer the matters aforesaid and abide the decree of
your Honor in the premises and your Orator will ever
pray &c.

Manning & Merriman
for Compl't.

Copy of Bill

Garrett vs Tuttle & Co.

(1.)

(Copy of Exhibit filed in Circuit Court of Peoria County, Illinois
in cause of Garrett vs Tuttle & Co. January 12th 1854.)

This Indenture made this twenty sixth day of September in the
year of our Lord one thousand eight hundred and forty two
between Augustus C. Garrett of Peoria County in the State
of Illinois of the first part and John Tuttle of said Peoria
County, in the State of Illinois of the second part, witnesseth, that
the said party of the first part, for and in consideration of the sum
of four hundred and twenty dollars paid by the said party of the
second part, the receipt of which is hereby acknowledged, do by
these presents bargain, sell, transfer and quit claim, unto the said
party of the second part, his heirs and assigns, all his right, title,
interest and claim, both legal and equitable, of, in and to three certain
tracts or parcels of land, situated in the Town and County of Peoria
aforesaid and known and described on the recorded plat of said
Town as Lots Three (3), Four (4) and Five (5) in Block
Eight (8) reference being had to said recorded plat;

Together with all and singular the hindrances and appurte-
nances thereunto belonging or in any wise appertaining. To have and
to hold the said premises as above described, with the appur-
tenances, unto the said party of the second part, his heirs and assigns
forever. And the said party of the first part does hereby covenant
and agree to and with the said party of the second part, and his
heirs, that he will forever warrant and defend the title to the
premises above conveyed to be free from the claim of himself and
his heirs and from the claim of all and every person claiming
by, through or under him or his heirs, except a certain mortgage
given to William S. Moss on said lot No. Three but against
none others. In Testimony whereof, the said Augustus C. Garrett
has hereunto set his hand and seal the day and year first
above written.

Signed, Sealed and
delivered in presence
of Geo. S. Metcalfe.

Augustus C. Garrett

State of Illinois, } I, Edward Dickinson a Justice of
Peoria County, ss } the Peace in and for said county do certify,
that on this day appeared before me Augustus C. Garret
whose name appears signed to the foregoing deed of conveyance,
and who is personally known to me to be the identical person who
signed the same, and acknowledged that he had executed
the same as his voluntary act and deed, for the uses and
purposes therein expressed. Given under my hand and seal
at Peoria, this 26th day of September A.D. 1842,
Edward Dickinson J. P. (Seal)

I, Ch^s. Kettelle Recorder of the County of Peoria in the State
of Illinois, do hereby certify the foregoing deed is duly recorded
in said office in book N. pages 51 & 52, and that the same
was filed for record on the 26th day of September A.D. 1842,
Charles Kettelle R. P. Co.

(Endorsed) Exhibit A.

And thereupon on the same twelfth day of January A.D.
1854, the Clerk of the Circuit Court issued out
of said Court under the seal thereof a summons
to the Sheriff of said Peoria county which with the returns thereon endorsed
are in the words and figures following to wit

A Deed of Garret.
It is further stated,
2

(Copy of Summons & return endorsed)

The People of the State of Illinois To the Sheriff of Peoria County
Greeting; We command you to summon John S. Tuttle,
Herbert A. Tuttle, Martha Tuttle & Eugene Tuttle, infant heirs
of John Tuttle, deceased and James Taylor as the guardian of
said infant heirs if they may be found in your county to ap-
pear before our circuit court on the first day of the next term
thereof, to be held at Peoria, within and for the said county of Peoria,
on the fourth Monday of January instant, then and there in
our said court, to answer the matters and things contained in
a certain bill of complaint, exhibited against them in our
said court on the chancery side thereof. by Augustus C. Garrett
and make return of this writ, with an endorsement of the
time and manner of serving the same, on or before the first
day of the term of the said court to be held as aforesaid.

Witness Jacob Gale Clerk of our said court, and
the seal thereof at Peoria, this twelfth day of January
in the year of our Lord one thousand eight hundred
and fifty four, Jacob Gale, Clerk,



[Endorsed]

State of Illinois, ss. I hereby certify and return that I served this
Peoria County, Ill. writ by reading the same to James Taylor and
also by delivering to him a true copy of the same. I also served the
same on John S. Tuttle by leaving a copy of the same at his usual place
of abode with James Taylor a white person above the age of ten years and in-
formed him of the ^{its} contents. I also served on Herbert Tuttle by leaving a copy
at his usual place of abode with Mrs. Hudson a white person above the
age of ten years and informed her of its contents. I also served this
writ on the within named Martha Tuttle and Eugene Tuttle by deliv-
ing to each a true copy of the same and informing ^{them of} their contents
January 13th 1854, L. B. Cornwell, Sheriff P. C. Ill.

Amended return

State of Illinois } ss.
Peoria County } I hereby certify and return that I served
this writ by reading the same to C. James Taylor and also by
delivering to him a true copy of the same, I also served the
same on John B. Tuttle by leaving a copy of the same at
his usual place of abode with James Taylor a white person of
the family in which said John B. Tuttle resided above the age
of ten years and informing him of the contents thereof, I also
served the same on Herbert A. Tuttle within named by
leaving a copy of the same at his usual place of abode
with Mrs. Hudson a white person of the family in which said
Herbert A. Tuttle resided above the age of ten years and
by informing her of the contents thereof. I also served this
writ on the within named Martha Tuttle and Eugene Tuttle
by delivering to each of them a true copy of the same and
informing them of the contents of the same, All which
was done on the 13th day of January A.D. 1854 at and within
the county of Peoria.

March 31, 1855

Leonard B. Cornwell } Late Sheriff of
Peoria County.

State of Illinois, } ss.
Peoria County, } Leonard B. Cornwell Late Sheriff
of Peoria County aforesaid being duly sworn according to
law says that the amended return by him within made
and the facts therein stated are true & further saith not
Leonard B. Cornwell

Subscribed and sworn to before
me this 21 March A.D. 1855

W. H. Purple

Notary Public

Peoria City, Ill.

And afterwards on the fourth day of February A.D. 1854 there was
filed in said cause an answer to said Bill of Complaint, which

1
~~(Answer of James Taylor, guardian, filed February 4th 1854
in Circuit Court of Peoria County)~~
is in the words and figures following, to wit,

Augustus C. Garrett

Peoria Circuit Court
May Term 1854.

^{vs}
John G. Tuttle, Herbert Tuttle,
Martha Tuttle, Eugene Tuttle
infant heirs at law of
John Tuttle, deceased &
James Taylor their Guardian.

In Chancery.

Your Respondent James Taylor
Guardian of the said infant Defendants John G. Tuttle, Herbert Tuttle,
Martha Tuttle & Eugene Tuttle in answer to the said bill filed in
this cause, saith that it is true that the John Tuttle he
came deceased as stated in said bill of complainant that
he left the infant heirs John G. Tuttle, Martha & Eugene;
that respondent was duly appointed their Guardian by the
County Court of Peoria County as will more fully appear by
reference to the Letters of Guardianship issued by said court to
respondent & which will be produced upon the hearing of this
cause as this Court shall direct.

Respondent further answering saith that he knows no
thing of the said several allegations in said bill contained
except as above answered and calls for strict proof of the
same,

And having fully answered Respon-
dent prays to be hence dismissed with his costs &c.

James Taylor, as Guardian of the
Heirs of John Tuttle.

Copy of Answer
Garrett vs. Tuttle-Hale,

(4)

Proceedings in Chancery before the Circuit at a term thereof
begun and held at the Court-House in the City of Peoria
in and for the county of Peoria in the State of Illinois
on Monday the twenty third day of January in the
year of our Lord one thousand eight hundred and
fifty four - The Honorable Orslove Peters, Judge of the
sixteenth Judicial Circuit in the State of Illinois
presiding, to wit:

Saturday, February 4th A.D. 1854

Augustus C. Garrett } Florida Circuit Court
vs } January Term 1854.
John L. Tuttle & others }

And now on this day this cause came on to be heard upon the answer of James Taylor guardian of said infant defendants and the matter having been fully considered by the court, upon motion of complainant's counsel this cause is referred to the Master of this court to take proofs and it is further ordered that the said Master make his report at the earliest opportunity.

Copy of Order of Reference
Garrett vs Duttle et al.

(5)

And afterwards on the thirtieth day of March A.D. 1854
The report of the Master in Chancery in this cause was
filed in the words and figures following, to wit.

~~(Copy of Report of Master in Chancery filed in Circuit Court of
Peoria County, Illinois, March 30th 1854)~~

Augustus C. Garrett, } Circuit Court, Peoria County,
March term 1854.
John G. Tuttle vs. } In Chancery.

The Master in Chancery of said court to
whom the above cause was by an order of this court referred to take
proofs &c, begs leave to report the testimony in the case as follows,

Deposition of Eldrick Smith junior.

Interrogatory 1st. Are you acquainted with the parties to this suit?
Answer, I am,

Interrogatory 2nd. Were you acquainted with John Tuttle in
his life time?
Answer, I was.

Interrogatory 3rd. Did you ever have any conversation with
said John Tuttle in his life time in relation to the manner in
which he held the title to lots three, four & five in Block Eight
in the City of Peoria? If you state what the conversation was,
when and where it took place and the circumstances under which
it was had?

Answer. I did have a conversation with said Tuttle
in his life time in relation to the manner in which he held the
title to said lots three, four & five above referred to, said Tuttle
told me that he did not own the property referred to, but the
same belonged to and was actually owned by Augustus C.
Garrett & wife, that said lots were deeded to him by Augustus C.
Garrett to secure him said Tuttle against any loss he might
incur by having executed bonds as security for said Garrett, said Tuttle
also informed me that there ought to be a writing executed by him
to said Garrett to show in whom the title was, that if he (Tuttle)
should die without any such evidence of title, that his heirs would

be entitled to the property and that the premises did not belong to him. It was in the year 1847, in the summer I think, the conversation was had in Peoria. The circumstances under which said conversation was had, were these, said Tuttle & myself were agents of Mr. Garrett in taking charge & selling said property and as such agents had leased said property & some difficulty arising in relation thereto, said Tuttle then informed me of the history of the title as it then stood & as I have related.

Oliver Smith Jr.

Deposition of Alvan Kidder

Interrogatory 1st. Are you acquainted with the parties to this suit.
Answer. I am acquainted with Augustus C. Garrett & James Taylor, the other parties I do not know.

Interrogatory 2nd. Were you acquainted with John Tuttle in his life time.
Answer. I was

Interrogatory 3^d. Did or not said Tuttle execute to you this note for an indebtedness of said Garrett, if yes, state when, for how much & who paid said note.
Answer. Said Tuttle did execute to me a note for an indebtedness of said Garrett. It was about the Spring of the year 1845 said note was given for between three & four hundred dollars said note was paid by said Augustus C. Garrett, a few dollars which was due as a balance on said note was paid as follows, said Garrett came to me and asked how much was then due on the note. I informed him of the amount said Garrett then said to me to go to John Tuttle, he had the money & to get it, I then went and obtained the said balance of said Tuttle which I duly paid & discharged the note.

Alvan Kidder.

I further certify that from the testimony as herein set forth,
I am of the opinion that the allegations & charges in the Com-
plainant's bill in this cause & that the prayer thereof should
be granted as to the conveyance of the lots & the payment of the
promissory note.

George D. Makiety
Master in Chancery, S. C.

copy of Masters Report

Garrett vs Untle Vals.

(6)

Proceedings in Chancery before the Circuit Court at a term thereof begun and held at the Court House in the City of Peoria in and for the county of Peoria in the State of Illinois on the first Monday of March in the year of our Lord one thousand eight hundred and fifty four, it being the sixth day of said month - The Honorable Orslew Peters, Judge of the sixteenth Judicial Circuit in the State of Illinois presiding, to wit.

Thursday, March 30th A.D. 1854

Augustus C. Garrett } Poria Circuit Court March Term 1854
vs }
John G. Tuttle & als } March 30, 1854,

And now on this day this cause came on to be heard upon the report of the Master of this Court and it appearing from said report and the evidence therein reported that John Tuttle in his life time received from said complainant a deed for lots three, four & five in Block Eight in the Town & County of Poria in the State of Illinois to secure said Tuttle against any loss by reason of becoming security for said Garrett in said suits & for other debts which were settled by said Garrett and that said Tuttle never had or claimed any interest in said lots other than as security as aforesaid but on the other hand during the latter portion of his life acted as agent for complainant in taking charge of and leasing said lots, that said John Tuttle became deceased as alleged in said bill leaving four children, to wit: said defendants John G. Tuttle, Herbert Tuttle, Martha Tuttle & Eugene Tuttle all minors and that said defendant James Taylor is their guardian duly appointed. It is therefore ordered, adjudged and decreed that said James Taylor be and he is hereby appointed a Commissioner to execute and deliver to said complainant a deed conveying to said Complainant all the legal title which said John Tuttle possessed at the time of his decease, and that said Commissioner make his report at the earliest opportunity.

Copy of Deeds of conveyance
Garrett vs Little & Co.,

(7)

And afterwards on the 25th day of May A.D. 1854 there
was filed in said cause a Commissioners Report in
the words and figures following. to wit:

Copy of Report of Commissioner of Execution of Deed,
filed May 25th A.D. 1854 in Circuit Court of Peoria County

Augustus C. Garrett } Peoria Circuit Court
vs } May Term 1854
John G. Littlevals }

The undersigned who was appointed a
Commissioner to execute to said complainant a deed of lots three,
four & five in block Eight in the Town & County of Peoria in the
State of Illinois makes the following report

That in pursuance
of said decree he did on the day of the date hereof execute a
deed in conformity therewith to said complainant
Dated May 21, 1854, James Taylor

Copy of Report of Comynance
Garrett vs Tuttle & Co.

(8)

Proceedings in Chancery before the Circuit Court at a term thereof begun and held at the Court-house in the City of Peoria in and for the County of Peoria in the State of Illinois on the second Monday of May in the year of our Lord one thousand eight hundred and fifty four, it being the eighth day of said month - The Honorable Onslow Peters, Judge of the sixteenth Judicial Circuit in the State of Illinois presiding, to wit -

Thursday, May 25th A.D. 1854.

Augustus G. Garrett

vs

His Conveyances.

John G. Tuttle, Herbert A. Tuttle,
Martha Tuttle & Eugene Tuttle,
infant heirs of John Tuttle, deceased
& James Taylor their Guardian.

And now on this day this cause
came on to be heard upon the report of the commissioner ap-
pointed by this court to execute deed, which report is as follows,
to wit: "Augustus G. Garrett vs John G. Tuttle & als,
Peoria Circuit Court, May Term 1854. The undersigned who
was appointed a Commissioner to execute to said Complainant a
deed of lots three, four & five in Block Eight in the Town and
County of Peoria, in the State of Illinois makes the following report.
That in pursuance of said Decree, he did on the day of the
date hereof execute a deed in conformity therewith to said
Complainant. Dated May 24, 1854,
James Taylor."

and the same being duly considered the same is hereby
approved.

And afterwards on the 21st day of March A.D. 1855 there was filed
in said cause a notice with affidavit of service thereon endorsed in
the words and figures following, to wit.

Augustus G. Garrett

vs

In the Circuit Court of Peoria County,
January Term 1854,
In Chancery.

John G. Tuttle, Herbert Tuttle,
Martha Tuttle, Eugene Tuttle
infant heirs at law of John Tuttle, deceased
& James Taylor their Guardians.

The defendants are notified that on
Wednesday the 21st day of March inst a motion will be made in

said Court in the above entitled cause for leave to the late Sheriff of
Peoria County to amend his return to the summons issued in said cause.
March 16th 1855

Manning & Merriman
Compt. Solicitors

State of Illinois, Ill.

Peoria County, Ill. Alfred R. Tidwell being duly sworn according
to law says that he served the within notice on James Taylor
Guardian within named and John G. Tuttle on the 16th day of March
A.D. 1855, and on Herbert, Martha and Eugene Tuttle within
named on the 17th day of March A.D. 1855 by giving each of them a
true copy of the same.

A. R. Tidwell

Subscribed & sworn to before me this
17th March A.D. 1855,

W. H. Purple
Notary Public, Peoria City, Ill.

Proceedings in Chancery before the Circuit Court at a term thereof
begun and held at the Court House in the City of Peoria, in and for
the County of Peoria, in the State of Illinois on the first Monday in March
in the year of our Lord one thousand eight hundred and fifty five,
it being the fifth day of said month. The Honorable Andrew C. Stearns
Judge of the Sixteenth Judicial Circuit in said Circuit presiding
to wit:

Wednesday March 21st A. D. 1855

Augustus C. Barnett

In Chancery.

John G. Tuttle, Herbert Tuttle
Martha Tuttle, Eugene Tuttle

Motion for leave to the late Sheriff
to amend his return in this cause.

infant heirs at law of

John Tuttle deceased &

James Taylor then Guardian.

An motion of the counsel for the com-
plainant in this cause, it appearing to the court that due notice had
been given to the defendants of an application for leave to the late

Sheriff to Amend his return herein. It is ordered and adjudged by the court that said Sheriff have leave to amend his said return as he may be advised according to the facts of the case at the proper costs and charges of the said complainants, which said amendment is now made and is as follows.

Amended return
State of Illinois, ss.

Peoria County, ss. I hereby certify and return that I served this writ by reading the same to James Taylor and also by delivering to him a true copy of the same, I also served the same on John G. Tuttle by leaving a copy of the same at his usual place of abode with James Taylor a white person of the family in which said John G. Tuttle resided, above the age of ten years and informing him of the contents thereof, I also served the same on Herbert H. Tuttle within named by leaving a copy of the same at his usual place of abode with Mrs. Hudson a white person of the family in which said Herbert H. Tuttle resided, above the age of ten years and by informing her of the contents thereof, I also served this writ on the within named Martha Tuttle and Eugene Tuttle by delivering to each of them a true copy of the same and informing them of the contents of the same, all which was done on the 13 day of January A.D. 1855 at and within the County of Peoria,
March 31, 1855, Leonard B. Cornwell (Late Sheriff of Peoria County.)

State of Illinois, ss.
Peoria County, ss. Leonard B. Cornwell (Late Sheriff of Peoria County aforesaid) being duly sworn according to law says, that the amended return by him within made and the facts therein stated are true & further saith not.
Leonard B. Cornwell.

Subscribed and sworn to before me this
21 March A.D. 1855,

W. H. Purple

Notary Public

Peoria City, Ill.

State of Illinois
Peoria County ss I Jacob Gale, clerk of the Circuit Court in and
for the County of Peoria do hereby certify, that the foregoing is a full and correct
Transcript from the Records of all the proceedings in a certain cause
in Chancery in said Court wherein Augustus O. Garrett is Complainant
and John G. Tuttle, Herbert Tuttle, Martha Tuttle, Eugene Tuttle
infant heirs at law of John Tuttle deceased and James Taylor their
Guardian are defendants as the same remain of record and on
file in my office.

In witness whereof I hereto set my hand and
affix the seal of said Court at my office
in Peoria this 28th day of April in
the year of our Lord one thousand eight
hundred and fifty five -
Jacob Gale, clerk.

44
Augustus O. Garrett

vs
John G. Tuttle et al.
infants by their Guardian -

Record

Filed April 30, 1855.
L. Ireland Clerk.

File only on

Be it remembered that heretofore, to wit, on the
twelfth day of January in the year of our Lord
one thousand eight hundred and fifty four there
was filed in the office of the clerk of the Circuit
Court within and for the County of Peoria in
the State of Illinois a precept - Bill of Complaint
and Exhibit marked A - which are in the words
and figures following to wit:

Precept: State of Illinois }
County of Peoria }

Peoria Circuit Court -

January (Special) Term A.D. 1854

Augustus O. Garrett, complainant.

vs
John G. Guttle,
Herbert A. Guttle,
Martha Guttle &
Eugene Guttle infant heirs
of John Guttle, deceased
and James Gaylor as the Guardian of
said infant heirs. defendants

Clerk of said Court upon the
filing of the bill in said cause please issue a summons
in Chancery in said cause returnable as aforesaid.

Manning Merriman
Solrs. for complt.

Plover May 12th 1855

Iceland Egg
Dear Sir

Are you dead; or only sleeping?
If so why dont you send along the
Mits of Error in the case of Somitt
vs Yattys heirs & City of Plover vs
Beezman. It is important that the
Portus should be served at once

Most Respectfully

Yours
J. H. Pople

Augustus O Sanet

John S. Tuttle

Herbert A. Tuttle

Martha Tuttle

Eugene Tuttle infants
heirs of John Tuttle decd
Samuel Taylor Guardian
of said Infant heirs

The Supreme
Court

Northwestern
Ill

Plum Mt of Error & Sci fa
against Defendants Returnable to next
Term

Island Esq CCR

A. H. Purple
Compts Co, Ill

Augustus C. Garrett
Wm G. Tuttle & Co.

Receipt

Filed Apr. 30. 1858.
L. Island Ct.

STATE OF ILLINOIS,

Supreme Court,

ss.

The People of the State of Illinois,

To the Sheriff of the County of Peoria — Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the judgment of a plea which was in the circuit court of *Peoria* county, before the Judge there-

of, between *Augustus C. Garrett, complainant & John G. Tuttle, Herbert A. Tuttle, Martha Tuttle, Eugene Tuttle infant heirs of John Tuttle decd., & James Taylor Guardian of said infant heirs*

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

as we are informed by *his* complaint, the record and proceedings of which said judgment we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the Justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

Defendants

that *they* be and appear before the Justices of our said Supreme Court, at the next term of said court, to be holden at Ottawa, in said state, on the *2nd* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *they* shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Defendants*

notice, together with this writ.

John D. Caton
WITNESS, the Hon. *Samuel H. Treat*, Clk of Justice of our said Court, and the Seal thereof, at Ottawa, this *14th* day of *May* in the Year of Our Lord One Thousand Eight Hundred and Fifty-*five*.

L. Leland

Clerk of the Supreme Court.

Warrant 41

vs

Tuttle

John Tuttle et al vs

Served on John B Tuttle, Herbert A.
Tuttle, Martha Tuttle, Eugene
Tuttle infant heirs of John Tuttle
dec'd and James Taylor Guardian of
said infant heirs by reading to
them this writ May 28th 1835

David D Irons Sheriff P. Co.
By A. R. Kidwell Deputy

5 services	2.50
25 Miles	1.25
Return	.10
	\$ 3.85

Received the above fees of
A O Garrett D. D Irons Sheriff
By A. R. Kidwell Deputy

~~44~~ 41

A. O. Garrett

J. G. Tuttle & Co.

41

12216

1855

Certs taxed