

No. 12971

• Supreme Court of Illinois

Ford

vs.

Dougherty

71641  7

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 14.

Land
vs

Dougherty

12975
1800

Ellen Ford tal
or } In Supreme Court
Hugh Dougherty tal } 3 April T. 1839

Reply to the objections of Mr Ballance

1.st Mr Ballance has no right to be heard in this case. He does not appear, and yet does appear & is heard. I object to his reasons being considered unless he first enters his appearance. When he does that I will answer his arguments, ~~but~~ until he does so, I do not think he ought to be heard. It is decidedly a new method, to let a man appear and file an argument in a cause while he alleges continually that he is not in court.

2. The record in this case was filed on the 20th of April 1838, several months before the Rules published in the 19th of Illinois Reports were adopted. I suppose the case comes under the old rule, and not under the new one, as I conclude ~~those~~ ^{the} rules adopted at above Term 1838 were ^{not} intended to operate on cases pending in Court. The notice was originally published before the new rules

were published or known to the profession

The old rule upon this subject is in 11. Illinois Page 2, and the notice & affidavit of publication are in exact compliance with that rule except that no certificate is filed ~~showing~~ showing that the Clerk put one of the notices in the Post office, directed to the defendants. The rule does not require any statement or affidavit to be filed showing this. In this case, the Bill alleges that the defendants reside in Ireland in the Kingdom of Great Britain. The affidavit on file states the same. Of what use would it be to put a letter in the Post office directed to them unless the postage was prepaid? It would never leave the office, because the government has so enacted, and by such action, this part of the rule is, of necessity, abrogated. There is no rule requiring a party to prepay postage to Ireland, & without this, the letter would not go. But I will file an affidavit of the Clerk & myself showing that neither of us know, & where the defendants do reside

3. The old rule did not require a summons or Seize Facias to be issued - & in this case it would be useless, as the Bill sets forth that defendants reside in Ireland nor do I think a Seize Facias, necessary by the new rule.

4. The proper construction of the new rule, should be that the notice should be published in "some County in the Division in which the Court is to be held" & this is its meaning. The old rule required it to be published in the County where the case came from,

5. Mr Ballance says it was not published 4 weeks ago exactly - the printer says it was, and I believe he knows best

I again insist that Mr Ballance shall not be heard or his arguments considered until he enters his appearance in the case

J M Mead

14.

Fordal

or

Maugherty

Suggestions by

J. M. Wood

State of Illinois
Peoria County, ss }

Ellen Ford & others
vs
Hugh Dougherty &
Margaret Dougherty }

In the Supreme Court
of Illinois,
April Term 1860

It is Mead of lawful age being
duly sworn deposes & says that he is Attorney
for the plaintiffs in the above entitled cause
and that defendants live in Ireland in
the Kingdom of Great Britain beyond seas,
as he is informed & believes, and that they
have always resided there & have not been
in the United States, That this affiant has
made diligent enquiry for the residence &
Post office address of said defendants
of every person who would be likely to know
them, but could not hear or learn anything
about them except of Mr Charles Ballance
their attorney, That he enquired of Mr Ballance
three or four months since for the Post
office address & residence of said defendants
& stated to him at the same time, That he
made the enquiry for the purpose of for-
warding them the paper containing
the notice published in this case, but

Mr Ballance declined to tell this
affiant the place of residence or
address of said defendants. This
affiant was anxious to forward the
notice of publication to defendants
as required by the rules of this Court
& would have done so, if he could
have ascertained where to direct it,
and so but for want of proper infor-
mation he was unable to send them.
This affiant informed Mr Ballance, that
the notice had been published & that
he was desirous of forwarding it to
defendants, but he ~~would~~ Mr Ballance
would not & did not furnish the
 requisite information. A. W. Woods

Subscribed & sworn to this 16th day of
April A.D. 1860 before me a
Notary public in & for the
City & County of Peoria in
the State of Illinois, as
Witness my hand & seal
Notarial this date
Bernard Bailly Jr

14
Ellen Ford & others
vs
Hugh Dougherty & al
Affidavit of A. M. Ward

Filed April 17, 1860
L. Leland
Clerk

STATE OF ILLINOIS, } ss. The People of the State of Illinois,
SUPREME COURT,

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 thereof, between Hugh Dougherty and Margaret Dougherty plaintiffs and Ellen Ford, George Ford and George Oakley defendant,

it is said that manifest error hath intervened, to the injury of the said Ellen Ford

as we are informed by her 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

Margaret Hugh Dougherty and Margaret Dougherty

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 first Tuesday after the third Monday in April 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 Hugh Dougherty and Margaret Dougherty notice, together with this writ.

Witness, The Hon. JOHN D. CATON, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this 11th day of October in the Year of Our Lord One Thousand Eight Hundred and Fifty-nine.

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

Ellen Ford imploranda

Hugh Dougherty
Margaret Dougherty

Sci for

Non Resident

The within named
Hugh Dougherty and
Margaret Dougherty
are not found in my
county.

Feb 24 1860

John B. Kinschiff

Pr. County Clerk

Filed May 1, 1860

L. L. Leland
Clerk

Ellen Ford tal }
 12 } In the Supreme
 Hugh Dougherty tal } Court April 21. 1859

Attest Mead being duly sworn states that
 he is attorney for plaintiffs & that it is satisfied
 & believed that defendants in error are
 residents of Ireland and he does not know,
 & does not think said plaintiffs or any
 one of them know, the place, or town
 in Ireland where they reside

Subscribed & sworn before
 me this 21st day of April 21. 1859
 L. Leland Clerk of the Supreme Court
 by J. B. Rice Deputy

Attest Mead

L. Leland Clerk of said Court being
 sworn deposes & says that he does not
 know the place of residence of Hugh Dougherty
 & Margaret Dougherty the defendants
 in the above case L. Leland

Subscribed & sworn to before
 me this 24th day of April 1859
 W. C. Hollister

Judge of LaSalle Co. Cir. Court

37 14.

Ford

vs

Daugherty

Appdnt.

Filed April 22. 1889

L. Leland

clerk

Ellen Ford etals
vs Emma & Perna } In the Supreme
Hugh Daugherty etal } Court April Term
A.D. 1860.

The Plaintiff in Error, moves the Court for a rule on the Defendant to join in Error - and sets forth the following reasons, to wit:

1st Because said Defendants have been notified of this proceeding as required by the rules of this Court, &

2nd Because said Plaintiff is desirous of having said Cause heard and determined as speedily as possible —

He therefore ask that the rule be entered as desired above.

N. M. & Co. Med.

Atty for Plaintiffs.

No 14
Ellen Ford et al
vs Emto Lucia

Hugh Daugherty

Notion + Notion

Filed April 27, 1860
L. Leland
Clerk

Supreme Court of Illinois
Third Grand Division,

April Term,
A.D. 1859.

Ellen Ford
vs.
Hugh Dougherty et al. } Error to Peoria.

Said defendants move the court to set aside the rule herein entered, requiring them to join in error for the reasons;

1st, No Summons ^{or *single process*} appears to have been issued against said defendants.

2nd There is nothing in the case showing "that a copy of said notice has been mailed to said defendants at their usual post office;" nor in line thereof an affidavit, "showing that upon diligent inquiring the residence or post office of the parties" "could not be ascertained."

3rd The advertisement against defendants, as amended was not published, "in some newspaper published in the county where said court for said division" is held, but in a paper published in the city of Peoria. This is not good without being accompanied with an affidavit that no public newspaper is published in LaSalle county.

4. Said advertisement was not "published for four consecutive weeks." If it was published but four times, and the first was "in the

paper dated December 18th 1858, and the last
in the paper dated January 25th 1859, then
there ~~was~~ ^{were two} weeks in which it was not pub-
lished, for more than ~~four~~ ^{six} weeks intervened
between the 18th of December, and the 25th of Janu-
ary. See rule 30, 19 Illinois XVII

C. Ballance,
For Defendants.

14
Ellen Ford

vs

Hugh Doughty & Co

Motion to rescind
rule

Be it Remembered that heretofore to wit on the second day of April in the year of our Lord one thousand eight hundred and forty seven, there was filed in the office of the Clerk of the Circuit Court in and for the County of Peoria in the State of Illinois a Declaration, which with the exhibits thereto attached is in the words and figures following to wit:

To the Honorable John Dean Catton one of the Judges of the Supreme Court of the Supreme Court of the State of Illinois, and assigned to hold Circuit Courts in the ninth judicial circuit in Chancery sitting; Humbly complaining, sheweth unto your Honor, your Orator Patrick Dougherty, that one John Ford, then of Peoria, previously to fourteenth day of September, in the year of Christ one thousand eight hundred and forty three, was indebted to one John Moran, then of Peoria County, in the sum of one hundred and twenty five dollars, and was not then able to pay the same, and said Moran was willing to give time thereon, for the period of three years, by said Ford securing the payment thereof, with six per cent, per annum, said Ford did on said day, together with his wife Bridget Ford, execute to said Moran @ deed of Mortgage to @ certain lot in the town (now city) of Peoria, known and described as lot Eleven, in Block Eighteen being the same conveyed by the county commissioners to said Ford, by deed dated December 8th 1840 together with all the appurtenances thereunto belonging, or in any wise appertaining. @ copy of which Mortgage, together with the certificate of Thomas Bryant Esq and Charles Kettelle Esq are herunto attached, and made part of this bill.

Your Orator further sheweth unto your Honor that after the execution of the said Mortgage, to wit, sometime in the fall of the year A.D. 1844, said John Moran departed this life, leaving no heirs of his body, but by will appointed Charles Ballance of Peoria his executor, who was duly qualified as such which will appear by his letter of Executorship which are herewith shown to your Honor and made @ part hereof.

Your Orator further sheweth unto your Honor, that said Moran devised by will all his effects real and personal, after payment of his debts, to Margaret Dougherty, who is the mother of your Orator, and that said Margaret together with her husband, Hugh Dougherty, who is the father of your Orator, executed to your Orator @ letter of Attorney fully authorizing and empowering your Orator to act for them in the premises, which will and letter of Attorney are herewith shown to your Honor and prayed to be made @ part hereof. Your Orator further sheweth unto your Honor that afterwards, to wit, on the first day of March 1847, said Ballance as executor as aforesaid assigned said Mortgage to your Orator, by an endorsement made on said Mortgage, which endorsement is herewith shown to your Honor, and made @ part hereof.

Your Orator further sheweth unto your Honor, that since the execution said Mortgage; but at what precise time is unknown to your Orator, said John Ford, and Bridget Ford, his wife, have departed this life, leaving two infant heirs, to wit, George Ford and Ellen Ford, and no other heirs at law, which George & Ellen are hereby prayed to be made defendants to this bill.

Your Orator further sheweth unto your Honor, that said John Ford and Bridget, did not during their lives, nor has any one for them since their deaths, paid to said John Moran in his lifetime, nor to said Ballance, or any one else authorized to receive it, said sum of one hundred and twenty five dollars, or any part thereof, but the whole of said sum is now unpaid and due to your Orator, together with the interest in said Mortgage specified.

Your Orator further sheweth unto your Honor that George Oakley, of Peoria, some time shortly before the death of said Ford, obtained from said Ford, @ deed for said lot, by which the equity of redemption appears to have become vested in said Oakley, who is also hereby prayed to be made @ defendant to this bill. Whether this last conveyance, is @ bona fide conveyance for the use of said Oakley; or whether it is held in trust for said heirs, or whether it is in trust for creditors, your Orator has no means of knowing. Your Orator only knows that such @ deed is on record.

Your Orator charges, that said John Ford, in his lifetime,

2) ought to have paid to said Moran or Ballance said sum of money, and interest, and that said heirs, or said Oakley ought to have paid it to said Ballance, or your Orator since the death of said John and Bridget Ford, but now so it is, may it please your Honor, that said money and interest remains wholly unpaid, as aforesaid by reason whereof the estate of your Orator, in said mortgaged premises hath become and is absolute in law, subject only to the equity of redemption in this court. He therefore solicits the aid of this court to compel said complainants full true and perfect answers to make, to all and singular the statements and charges above set forth, (but answers under oath are waived) according to the best of their knowledge, remembrance and belief, and that the said George and Ellen Ford or the said George Oakley may be decreed to pay your Orator said principal sum and interest, according to the tenor and effect of said mortgage together with the costs and charges in this behalf expended, by @ day to be appointed by your Honor, and in default thereof, that said defendants, above named, and all persons claiming and to claim under them, or either of them, or otherwise, may be foreclosed of, and from, all equity of redemption, and claim in and to said mortgaged premises, and every part thereof, with the appurtenances; and may deliver over to your Orator, all deeds, demises and writings, relating to or concerning the same, and that the said mortgaged premises, and appurtenances, may be sold, under @ decree of this Honorable court; and that out of the money arising from the sale thereof, he may be paid the said principal sum and interest, as aforesaid, together with all costs and charges by him in this behalf incurred, and that he may have such other and further relief in the premises, as may seem proper, and shall be agreeable to equity and good conscience.

May it please your Honor to grant the people's writ of summons to be issued under the seal of this Honorable court, directed to the said defendants, therein and truly commanding them, on @ certain day, and under @ certain penalty to be and appear before your Honor in this Honorable court, then and there to answer this bill, and to stand to and perform and abide by such order and decree in the premises as shall seem meet,

and agreeable to equity, and good conscience.

And that your Orator shall have such other and further relief in the premises, as shall be equitable and just, and the circumstances of this case will justify. your Orator will ever pray &c.

Patrick Dougherty
By C Ballance Solicitor

Copy of Mortgage referred to.

" This deed, made and entered into this 14th day of September, A. D. 1843, between John Ford, of the first part, and John Moran, of the second part, witnesseth that the said party of the first part, for and in consideration of the sum of money herein after named, has granted, bargained and sold, and by these presents, doth grant, bargain and sell, unto the said party of the second part, his heirs and assigns, @ certain lot in the town of Peoria known and described as lot eleven, in Block Eighteen, being the same conveyed by the County Commissioners to said Ford, by deed dated December 8th 1840 together with all the appurtenances thereunto belonging, or in any wise appertaining—

To have and to hold. the said lot and its appurtenances, to the said Moran, his heirs and assigns forever—

And the said party of the first part, the aforesaid lot, and its appurtenances, to the said party of the second part, his heirs, executors and administrators, against the claims of all persons, and of every person, doth and will warrant and forever defend, by these presents, In witness whereof the said party of the second part, as also Bridget Ford his wife, who hereby relinquishes her right of dower in said premises, have hereunto set their hands, and seals the day and year aforesaid—

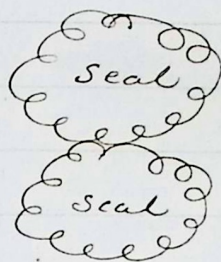
The condition of the above obligation is such, that whereas the said Ford is indebted to said Moran in the sum of one hundred and twenty five dollars, and which he is unable to pay, at present, and the said Moran is willing to give time on the same, provided it be secured, with interest

at the rate of six per cent per annum; Now therefore if said John Ford shall well and truly pay said sum of money with interest thereon at the rate aforesaid at any time within three years then the above conveyance to be null and void, but otherwise to remain in full force and virtue.

his
John X Ford

mark

Bridget Ford



Copy of Magistrate's certificate to the same.

" State of Illinois }
Peoria County } Jp.

I, Thomas Bryant @ Justice of the Peace for said County, do certify that on the 14th day of September, 1843 appeared before me John Ford and, whose name appears signed to the foregoing instrument, and who are personally known to me to be the identical persons, whose names are subscribed to said instrument of writing, as having executed the same, and acknowledged that they had executed the same, as their voluntary act and deed, for the uses and purposes therein expressed, and Bridget Ford wife of the said John Ford, having been by me made acquainted with the contents of said instruments, and being by me examined separate from her said husband acknowledged that she had executed the same, and relinquishes her dower to the premises therein mortgaged, voluntarily, freely, and without compulsion of her said husband.

Given under my hand and seal at Peoria, this 14th day of September A.D. 1843

Thomas Bryant JP "

Copy of the Recorder's Certificate
" State of Illinois }
County of Peoria } Recorder's Office

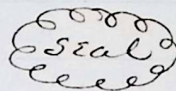
I, Charles Kettelle, Recorder in and for the County
aforesaid, do certify the foregoing is duly recorded. in
said Office, in Book N^o 2, page 181, on this 24 day of
November, A.D. 1843.

Charles Kettelle, R.P.C. "

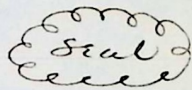
Copy of said Assignment

For value received, I hereby assign to Patrick Dougherty,
the within mortgage, and authorize him to foreclose the
same, for his benefit.

Witness my hand and seal, this 15th March 1847

C. Ballance 
Executor of John Moran
Dec'd.

I, Charles Ballance do hereby enter myself security for costs
in the above cause and obligate myself to pay or cause to be
paid all costs therein that may accrue to the parties herein
or to any of the Officers of Court. Dated this 31st March 1847

C Ballance 

And thereupon on the same day the clerk of said Court issued out
of said Court under the seal thereof a summons, directed to the Sheriff
of Peoria County to serve which is in the words and figures following
to wit

Summons The People of the State of Illinois

To the Sheriff of Peoria County. Greeting
We command you to summon George Ford, Ellen Ford &
George Oakley if they may be found in your county, to appear before
our Circuit Court, on the first day of the term thereof, to be held at
Peoria, within and for the said County of Peoria, on the fourth
Monday of May next 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 Patrick Dougherty and perform and abide whatever
order may be made by said court in the premises. 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 second day of April in the year of our Lord one thousand eight hundred and forty seven.

Seal
ccc

Jacob Gale Clerk

Which summons was afterwards returned by the said Sheriff re-
endorsed as follows to wit:

State of Illinois

Peoria County Jb.

Served the within writ by leaving
a copy of the same with each of the within
named persons April 7. 1847

Wm Compher Shf P. Co.

Proceedings in Chancery before the Circuit Court began 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 fourth Monday
of May in the year of our Lord one thousand eight hundred
and forty seven, it being the twenty fourth day of said month,
Present the Honorable John D Catron associate Justice of
the Supreme Court of the State of Illinois and presiding Judge
of the Ninth Judicial Circuit in said State: to wit:

Thursday May 27th 1847

Patrick Dougherty

vs

to fore close Mortgage

George Ford

Ellen Ford

George Oakley

on motion of Charles Ballance counsel for the complainant

It is ordered that John Y Lindsay be appointed guardian ad litem
in this cause of the infant defendants George Ford and Ellen Ford -
and thereupon the said John Y Lindsay accepted said appointment.
And on motion of the said Charles Ballance, Ordered that the
said defendants answer the complainants Bill herein by
to-morrow morning.

And afterwards to wit on the 31st day of May 1847 there was filed
in the Clerk's office of said Court the answer of George Oakley
by his solicitor in words and figures following to wit:

Answer of
George Oakley

Patrick Dougherty }
vs } In Chancery: Bill to foreclose Mortgage =
George Oakley et als } The several answers of George Oakley to the
Bill of complaint, exhibited against him
to thus by said Dougherty =

This respondent answering he says, whether any such indebtedness
existed from said Ford to said Moran, whether any such mortgage
was made or delivered: if it existed, or was made, whether it has
been paid, or is now due & unpaid, this respondent does not
know, & calls for the proof to sustain all those allegations in com-
plainant's bill of complaint.

Respondent further answering says, that he became the purchaser
of said lot of land in good faith, without any knowledge or inti-
mation that there was any valid or subsisting lien upon - or
claim to said land whatsoever = and he hereby states, that he
paid @ full & valuable consideration for said lot & no deduction
whatsoever was made on account of the said mortgage or of any
other lien or supposed lien thereon =

Respondent further says that since he became the purchaser of
said lot, he has been informed & he believes the charges the same
to be true, that the said supposed mortgage was fraudulent - that
the said Ford in his life owed debts & for the purpose of keeping
said lot from his creditors & to prevent their levying upon the same,
& to hinder, delay, & defraud his creditors he conveyed the same
to said Moran & that the said Moran took the said mortgage
for the purpose of aiding the said Ford in his purposes & intentions
as aforesaid =

Respondent further answering says, that if said mortgage was
originally made in good faith & for @ valuable consideration,
& to secure an actual indebtedness, such indebtedness has long
since been paid & discharged by said Ford, to said Moran in
his lifetime - so that the same is not now, & ought not to be @ lien
upon said land - All which statements and allegations in this

3.
answer returned this respondent charges to be true =

Respondent is an innocent & bona fide purchaser of said lot - and had no knowledge of the fraud aforesaid - but on the other hand at the time he purchased the same, the said Ford declared to this respondent & assured him, that there was no lien, mortgage or other incumbrance thereon =

This respondent having fully answered the said Bill prays hence to be discharged with his costs &c.

George Oakley
By his Solicitor
Oswell Peters

And thereupon to wit on the 1st day of June A D 1847 there was filed in the Clerks office of said Court the answer of John T. Lindsay in this cause in words and figures following to wit:

The Answer of John T. Lindsay guardian ad litem of George Ford and Ellen Ford infant heirs of John Ford deceased to a bill in Chancery filed against them and one George Oakley -

This respondent for answer therunto or to so much thereof as he is advised to be material for him to answer unto answering saith That from an examination he has made of the subject of this suit it appears that the interest of said minor heirs is in no wise in danger of being compromised by any proceedings that may be had in this cause. It seems to respondent that said John Ford executed said Mortgage as set forth in said bill and afterwards died but before his death conveyed away the equity of redemption in said premises to said Oakley and that consequently said heirs have no interest in the subject.

John T. Lindsay

Proceedings in Chancery before the Circuit Court began 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 fourth Monday of May in the year of our Lord one thousand eight hundred and forty seven, it being the twenty fourth day of said month, Present the Honorable John D. Catron, associate Justice of the Supreme

Court of the State of Illinois and presiding Judge of the
Ninth Judicial Circuit in said State: to wit:

Thursday, June 3rd A.D. 1847

Patrick Dougherty

vs

to foreclose Mortgage

George Ford }
Ellen Ford } heirs of John Ford dec'd
George Oakley

And now upon this day comes the plaintiff by his solicitor Charles Ballance and moves the Court here that the said bill be taken as confessed as against said George Oakley, whereupon it appearing that the said George Oakley had been duly summoned according to law, more than ten days before the commencement of this court, and the said Oakley being three times solemnly called came not but made default: It is therefore ordered, adjudged and decreed that the said Bill and the matter and things therein contained be taken as confessed as against said Oakley. And it appearing to the court that said George Ford and Ellen Ford are minors under the age of twenty one years of age John T Lindsay Esqr is hereby appointed guardian ad litem of said minor heirs, and the said guardian having examined into the subject matter of this suit files herein court his answer to said Bill admitting the equity therein set forth. Whereupon this cause coming on to be heard on the said bill, answer and exhibits, and it appearing, that the said John Ford in his lifetime had executed said Mortgage to one John Moran for the consideration and in the manner set forth in said bill, and that no part of said sum of money had been paid. And it further appearing that said John Ford had since deceased leaving said George Ford and Ellen Ford his only heirs at law; And it further appearing that said Moran had departed this life, before the commencement of this suit, and that Charles Ballance Executor of said Moran had assigned for @ valuable consideration said Mortgage to said complainant; It is therefore ordered, adjudged and decreed, that said George Ford, Ellen Ford or George

Oakley pay to said complainant the amount of said sum of money so secured by said mortgage as aforesaid together with interest thereon from the date of said mortgage, to wit, the sum of one hundred and twenty five dollars principal and twenty seven dollars and seventy four cents interest, making altogether the sum of one hundred and fifty two dollars and seventy four cents, together with interest on said last mentioned sum at the rate of six per centum per annum from this date until paid. It is further ordered and decreed, that if said sum of money and interest shall not be paid within twenty days from this date, that the said premises shall be sold by the Master in Chancery at the door of the Court House in the City of Peoria after his having given notice thereof for three months in some public newspaper, published in said City, and out of the proceeds of said sale to pay all cost incident to this proceeding and then the said debt and interest and the balance if any to pay to said Oakley. It is further ordered that this cause be continued to next term of this court and that the Master then report to this court his proceedings had herein.

Saturday June 5th A.D. 1847

Patrick Dougherty

vs

to foreclose Mortgage

George Ford

Ellen Ford

George Oakley

This day came the defendant George Oakley by Onslow Peters his solicitor and on his motion and for good cause shown the default of the said Oakley and the decree heretofore entered herein on Thursday last is set aside, but at the costs of the said defendant George Oakley, and the said Oakley has leave to answer said Bill, and on motion of the complainant by Charles Ballance his solicitor leave is given him to amend his Bill complaint herein:

Therefore it is considered that the said Patrick Dougherty have and recover of the said George Oakley his costs

and charges by him about his suit in this behalf expended occasioned by said default and the setting aside thereof and that execution issue therefor as on judgments at law.

Proceedings in Chancery before the Circuit Court 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 October in the year of our Lord one thousand eight hundred and forty seven, it being the eleventh day of said month, Present the Honorable John D Caton, associate Justice of the Supreme Court of the State of Illinois and Presiding Judge of the ninth Judicial Circuit in said State, to wit.

Tuesday October 19th A.D. 1847.

Patrick Dougherty

vs

to foreclose Mortgage

George Ford, Ellen Ford.

George Oakley

This day came the defendant Oakley by A. Peters his solicitor and on his motion leave is granted to said Oakley to amend his answer to the bill of complaint herein.

And there upon on the same day there was filed in the Clerks office of said Court the amended answer of George Oakley which is in the words and figures following to wit;

Patrick Dougherty

vs

Geo. Oakley et al

Peoria Cir. Ct, Oct 3/47

The amended answer of George Oakley to the bill of complaint of Patrick Dougherty. exhibited against him =

This respondent, by leave of the Court for this purpose first had obtained for further answer to the complainants bill of complaint, says, that since the filing of his original answer herein, this respondent has obtained @ full & perfect title in fee simple to the lot of land in the bill of complaint mentioned in the following manner, to wit, at the May term of this

Court, Ad. 1845, @ judgment of this court was rendered against said lot in favor of the State of Illinois, for taxes, interest & costs due the State of Illinois & the county of Peoria. And afterwards on the 11th day of June 1845 the Sheriff of said county, by virtue of an Execution duly issued upon the said Judgment & to him delivered, sold the said lot to one Edward F Norrland and delivered to him a certificate of purchase therefor & the said Edward F afterwards assigned said certificate to Daniel E Oakley and afterwards, to wit, on the 10th day of August 1847 the said lot remaining wholly unredeemed the said Sheriff of said county, W^m Compher made executed & delivered to the said Daniel E Oakley @ deed of said lot = and afterwards on the 18th day of October 1847 the said Daniel E Oakley by his deed of that date by him duly, executed & delivered, sold & conveyed said lot to this respondent = whereby & by force of said last mentioned deed this respondent became & is now seized in fee simple, of the said lot - & this respondent hereby refers to the records & papers on file in said case of the State of Illinois, & to the records of the County Commissioners of said county so far as the same relate to said lot, or the sale thereof, & makes the same part hereof - He also refers to said deeds, which will in due time be filed herewith & made part hereof - & said Dft George Oakley having fully answered prays hence to be discharged &c

By his Atty & Sol^r
Ondron Peters

And afterwards to wit on the 8th day of June A D 1848, the plaintiff filed in the clerk's office of said Court his amended bill in this cause which is in the words and figures following to wit:

To the Honorable John D Catron Judge &c. the amended bill of Patrick Dougherty, to @ bill in Chancery heretofore filed by him, against the heirs of John Ford; and also against George Oakley, humbly sheweth, that your Orator is informed and believes, and therefore charges, that said George Oakley never purchased said lot of said John Ford, for any consideration whatever; and that said supposed deed was

never delivered to him, by said Ford. That whatever transactions were had with said Ford, about it, were had with Edward F Norrland, a brother in law of said Oakley. That said Norrland never gave @ full price for the same, but that said Ford being indebted to said Norrland, in @ small sum for butchers meat, and not being able to pay him therefor, said Norrland procured from him the said supposed deed, hoping the lot, on foreclosure, would sell for enough to pay said mortgage, and said demand for butchers meat. Your Orator charges that said lot is of sufficient value to pay both the demand due on said mortgage and the demand due said Norrland. Your Orator further charges that said Ford, in his lifetime, and said Oakley afterwards, (provided as he alleges he was, after the execution of said deed, the owner of the equity of redemption in said lot) bound to pay all legal taxes, that might be assessed against said lot but yet they did not do so, but permitted it be sold by the Sheriff of Provia County, in June 1845 for the State and County tax of 1844, and the said Edward F Norrland, then bought said lot of said Sheriff, for the sum of one dollar and fifty cents from which sale your Orator as attorney in fact of his Mother Margaret Dougherty, was compelled to redeem said lot, to relieve it from said incumbrance, and accordingly your Orator did in the name of his said Mother, and for her benefit, on the nineteenth day of May 1848, redeem said lot, with the sum of two dollars and seventy two cents, all of which will more fully appear by reference to the certificate of William Mitchell, which is herunto referred, and prayed to be made @ part hereof.

Your Orator further sheweth unto your Honor that he also paid the taxes of AD 1847 and costs of advertising the same on said lots amounting to one dollar and seventeen cents, and your Orator's reason for doing so, was that said Oakley had so long neglected paying the same, that it was again advertised for sale for said taxes. Your Orator charges that said sums, so paid by him, ought to be taken in to the account, and they ought to be refunded to him out of the money to arise from the sale of said lot.

Your Orator further charges that said George never has had any interest in said tax title, that he never paid any thing therefor, and that said Sheriff's deed never was delivered to him. He further charges that said Daniel E Oakley, who is @ brother to said George, and brother in-law to said Nowland, never paid any money for it, or had any interest in it. That said Nowland bought it with his own money, with the fraudulent intention of cheating the estate of said Moran, or those entitled to it, out of said lot; and that said assignments were without consideration and void.

Your Orator further charges that said Nowland is now the secret owner of both the titles, set up by said George Oakley. That said Nowland employed the counsel, and is now managing the defense of this suit, and if any thing is made, by it, it will belong to said Nowland - Wherefore your Orator prays that said Nowland may also be made @ party defendant to this bill; and may be required, full, true and perfect answers to make, under oath; but particularly that he answer who purchased said lot from said Ford, and what did the person buying it give for it, and how was the payment made? Was any part or all of it for an account for butcher's meat? If yes, in whose books was it charged? and who was written as the creditor in said account? To whom did said Ford deliver said deed? Was said deed ever delivered to said George Oakley, or did he ever see it, or hear of it, during the life of said John Ford? Was said tax deed ever delivered to said George Oakley? If yes, by whom, and when? And may said George Oakley be forever enjoined from setting up title to said lot on account of said sale for taxes, and said Sheriff's deed; and may all the right title and interest of said Nowland, whatever it may be be forever foreclosed, the same as by the original bill herein is prayed, with regard to the interest of said George Oakley, and said heirs of John Ford; and that your Orator may have such other and further relief in the premises, as shall be equitable and just - your Orator will ever pray &c

C. Bullance
for Patrick Dougherty

And afterwards to wit on the 24th day of October A.D. 1848 there was filed in the Clerk's office of said Court a declaration in said cause, which with the affidavit of C. Ballance, thereto attached is in the words and figures following to wit:

To the Honorable John D. Catron, one of the Judges of the Supreme Court of Illinois, and assigned to hold circuit courts in the Ninth Judicial Circuit, in Chancery sitting; Humbly complaining sheweth unto your Honor your Orator and Oratrix that she your Oratrix is the sister and heir at law of John Moran deceased late of Peoria County - and that she is the wife of said Hugh Dougherty, and the legatee in the will of said Moran mentioned @ copy of which will is hereto attached, marked (A) and prayed to be made @ part hereof. Your Orator and Oratrix further sheweth unto your Honor, that Charles Ballance, the Executor named in said will, duly administered on the estate of said Moran, and out of the proceeds of the sale of the personal estate of said Moran, paid all the debts of said Estate without selling any of the Real Estate or Mortgage securities.

Your Orator and Oratrix further shew unto your Honor that @ certain deed of Mortgage executed by one John Ford and his wife Bridget to said Moran, on the 14th day of September A.D. 1843, and on which @ bill of foreclosure has been filed by Patrick Dougherty in this Honorable Court is by virtue of said will, said heirship and the payment of all the debts due from said Estate, the property of your Orator and Oratrix. Your Orator and Oratrix are residents of Ireland, and have never been in the United States, but since the death of their relative, the said Moran, and receiving @ copy of said will, they sent their son Patrick Dougherty to this place, to wit, Peoria, with full power to sue for and collect any moneys that might be due to them, as devisees and heirs at law of said Moran. That said Mortgage was then in the possession of said Ballance, as Executor of said Moran; and the debts of said Estate being paid, without resorting to said Mortgage, said Executor assigned the same to said Patrick, which will more fully appear, by reference to said Mortgage

5
and the assignment thereof, in the suit hereinafter spoken of.

Your Orator and Oratrix further shew unto your Honor, that said Patrick was their agent, and attorney in fact, to collect the money due on said mortgage but he had no interest in it whatever. However for the convenience of suing on said mortgage, by bill of foreclosure, it was thought advisable to have it assigned to said Patrick, and @ suit of foreclosure brought in his name and it was accordingly so assigned and the suit was so brought, but the said Patrick as aforesaid, had no interest in the matter, but only acted as the agent and attorney in fact of your Orator and Oratrix.

Your Orator and Oratrix further shew unto your Honor that to said bill there was an answer, and amended answer filed by one George Oakley, @ defendant to said bill; and also an answer by George Ford and Ellen Ford. infant heirs of said John Ford, by their guardian ad litem - John T Lindsay, but all of said answers applied to the original bill, in said case no answers having been filed to said complainants amended bill, nor has any replication been filed, or deposition taken in said case. In this state of the case, and since the last term of this Court, said Patrick deceased, leaving said suit undisposed of, and said money uncollected, and said mortgage undischarged.

Your Orator and Oratrix therefore pray that they may be admitted as parties complainant to said bill, in place of said Patrick. That they may be admitted to adopt all the allegations in said bill and amended bill, and that said Oakley and Norland may be required to answer said amended bill, and that your Orator and Oratrix may be permitted to proceed with said cause, in all respects as if they had been the original complainants; and that they may to all intents and purposes, have the same relief in the premises as if they had been the original complainants. And they will ever pray &c.

Hugh Dougherty
Margaret Dougherty
By their Solicitor C Ballance

I Charles Ballance, on oath state, that I am the Executor of John Moran deceased, and the Solicitor who brought the above suit, and was the attorney of John Moran aforesaid, in the transaction out of which the above indebtedness grew, and drew the mortgage to foreclose which the above suit was brought, and I drew the above bill of said Hugh Dougherty and wife, and drew it with @ design to have the facts therein set forth to be true, and I believe said bill to be true in substance and in fact. I have not seen said Patrick Dougherty for some time, but have been informed and believe he is dead.

C. Ballance

Subscribed & sworn to before me this 24th day of October A.D. 1848
Jacob Gale Clerk

I Jonathan K Cooper do enter myself security for costs in the above cause, and bind myself to pay, or cause to be paid, all costs that may accrue either to the opposite party, or to any of the Officers of this Court.

Dated this 24th day of October, 1848.

Seal

Proceedings in Chancery before the Circuit Court 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 third Monday of October in the year of our Lord one thousand eight hundred and forty eight, it being the sixteenth day of said month. Present the Honorable John Dean Catton, a Associate Justice of the Supreme Court of the State of Illinois and Presiding Judge of the Ninth Judicial Circuit in said State, to wit,
Tuesday, October 24th A.D. 1848.
Patrick Dougherty

vs

to foreclose Mortgage

George Ford - Ellen Ford
George Oakley

This day, came the complainant by Ballance his Solicitor and on his motion leave is given him to file a supplemental Bill in this cause.

Saturday October 28th AD 1848

Patrick Dougherty

vs

to foreclose Mortgage

George Ford. Ellen Ford

George Oakley

on motion of complainant's solicitor

Charles Ballance it is ordered that the defendants answer the supplemental Bill filed herein by the first day of January next.

And afterwards to wit on the 1st day of June AD 1849 there was filed in the clerks office of said Court an agreement in said cause in words and figures following to wit:

Patrick Dougherty

vs

Peoria Circuit Court

George Ford & al

In Chy on mortgage

I Geo Oakley having sold to Charles Ballance all my interest in Lot 11, in Block 18, in the City of Peoria, and it is agreed in consideration thereof that said Ballance may take such steps in said cause, as he shall deem proper it being understood that said Ballance is to pay all costs in said cause that have or may hereafter accrue and save and keep said Oakley harmless therefrom

Peoria April 3^d 1849

G. Oakley

May Term AD 1849

Proceedings in Chancery before the Circuit Court held in and for Peoria County at the May term thereof in the year of our Lord one thousand eight hundred and forty nine to wit, Monday May 28th AD 1849. No Judge of the Circuit Court attending in Peoria County on this day. The Court stands adjourned until to-morrow.

Tuesday May 29th AD 1849

Present the Honorable Theophilus L Dickey Judge of the Ninth Judicial Circuit in the State of Illinois, William Mitchell Master in Chancery, William Compher Sheriff & Jacob Gale, Clerk.

Tuesday June 5th A.D. 1849

Hugh Dougherty

Margaret Dougherty

vs

to foreclose Mortgage

George Ford

Ellen Ford } heirs of John Ford dec'd

And now upon this day comes the complainants by their Solicitor, Charles Ballance, and it appearing to the Court that said George Ford and Ellen Ford are minors under the age of twenty one years, John T Lindsay Esq is hereby appointed guardian ad litem of said minor heirs; and the said guardian having examined into the subject matter of this suit files here in Court his answer to said bill, admitting the equity therein set forth, And thereupon this cause coming on to be heard upon the said bill, answer and exhibits and it appearing to the court that said John Ford in his lifetime had executed said mortgage to said John Moran for the consideration and in the manner set forth in said bill; and that no part of said sum of money has been paid either to the said Moran in his lifetime, or to any one authorized to receive the same since his death. And it further appearing that said John Ford had since deceased leaving said George Ford and Ellen Ford his only heirs at law, And it further appearing that said Moran had departed this life before the commencement of this suit, and that Charles Ballance executor of said Moran had assigned said mortgage to said Patrick Dougherty. - And it further appearing to the court that said Patrick Dougherty the original plaintiff, since the commencement of this suit has deceased, and at the commencement of this suit and when said mortgage was assigned to him he was the attorney in fact of said Hugh Dougherty and Margaret Dougherty, and had no interest otherwise in the matter but that said endorsement on said mortgage was made to said Patrick merely for convenience to enable him in his own name to sue thereon, And it further appearing, that said Hugh and Margaret are the devisees and heirs at law of said John Moran and are in equity and good conscience entitled to said mortgage and the proceeds thereof. It is therefore ordered, adjudged and decreed, that said George Ford and Ellen Ford pay to said complainants Hugh Dougherty and Margaret Dougherty the amount of said sum of money ~~80~~ second

6
by said mortgage, as aforesaid together with interest thereon from the date of said mortgage, to wit, the sum of one hundred and twenty five dollars principal and forty two dollars and eighty five cents interest, making altogether one hundred and sixty seven dollars and eighty five cents together with interest on said last mentioned sum, at the rate of six per cent per annum from this date until paid. It is further ordered and decreed that if said sum of money and interest shall not be paid within twenty days from this date, that the said premises shall be sold by Elisha M. Powell (who is hereby appointed a special master or commissioner for that purpose) at the door of the court-house in the City of Peoria, after his having given notice thereof for three weeks in some public newspaper, published in said City, and out of the proceeds of said sale, pay all costs incident to this proceeding, and then the said debt and interest; and the balance (if any) to pay to said George and Ellen Ford. It is further ordered that this cause be continued to next term of this court, and that the said special master then report to this court his proceedings had herein.

Also on the same day there was filed in the clerks office of said Court the Report of the Master in Chancery in this cause which is in the words and figures following to wit:

Patrick Dougherty	In the Peoria County Circuit Court
vs	In Chancery - to foreclose Mortgage
George Ford	
Ellen Ford	To the Chancellor of said Court

In pursuance of an order of said Court made on the first day of June AD 1849 referring it to me to compute the amount due the complainant upon the mortgage in this cause I do hereby certify and report that it appears that on the 14th day of September AD 1843 John Ford made & executed to John Moran an instrument of writing whereby he acknowledged himself indebted in the sum of one hundred and twenty five dollars and secured the payment thereof by executing a conveyance for lot number Eleven in Block number Eighteen in the town of Peoria to be paid in three years from said date with interest, the amount now due thereupon is as follows.

amount acknowledged & secured as aforesaid

125.00

Int at 6% from Sep 14 1843 to June 1st 1849

5 yrs - 8 mos - 17 days

42.85

\$ 167.85

making the amount due upon said mortgage the sum of
one hundred and sixty seven dollars and eighty five cents

All of which is respectfully submitted

dated this 1st June AD 1849

William Mitchell

Master in Chancery

Peoria Co Ills

And afterwards to wit on the 29th day of August AD 1850, there
was filed in the office of the Clerk of said Circuit Court the Report of
the Special Master heretofore appointed by the Court in this cause, which
is in the words and figures following to wit:

Hugh Dougherty

Margaret Dougherty

vs

George Ford

Ellen Ford

In the Peoria County Circuit Court

In Chancery

To foreclose Mortgage

In pursuance of a decretal order of said
Court bearing date June 5th 1849 wherein among other things
it was ordered, adjudged and decreed, that in default of the
payment of the sum of one hundred and twenty five dollars,
principal and forty two dollars and eighty five cents interest,
making altogether one hundred and sixty seven dollars and
eighty five cents together with interest on said last mentioned
sum, at the rate of six per cent, per annum from said date
until paid within twenty days from the date of said decree,
the mortgaged premises, to wit a certain lot in the city of
Peoria known and described as lot Eleven in Block Eighteen
in said Peoria be sold at public auction, to the highest and
best bidder, for cash, after having given notice of the time
and place of said sale for three weeks, in some public news-
paper, published in said city; and out of the proceeds of
said sale pay all costs incident to this proceeding, and then
the said debt and interest and the balance (if any) to pay to

said George and Ellen Ford. And in which decree I was appointed @ special Master in Chancery to carry out said decretal order. I do therefore report that no part of said sum of money having been paid I did on the 26th day of October AD 1849 between the hours of 12 o'clock M and 6 P.M., at the front door of the court house in the City of Peoria after having advertised the same in the Peoria Register @ public newspaper published in Peoria four weeks successively immediately preceeding said day I did offer said lot of ground to the highest and best bidder for cash and James Dougherty bid therefor thirty dollars which being the highest bid made for the same it was struck off to him at that price whereupon I executed certificates of purchase of the same one of which I delivered to said James Dougherty and the other I filed in the Records Office of said county as required by law

All of which is respectfully submitted.

Dated this 26th day of October AD 1849

E. W. Powell
Special Master

Fees sale \$5.00
Report 2.00
7.00

In the Peoria Circuit Court; State of Ill
In Chancery to foreclose Mortgage.

Hugh Dougherty, et al - Complainants

vs

Geo Ford et al Defendants.

Notice is hereby given that in pursuance of @ decree of said Court; made on the fifth day of June, AD, 1849, in the above entitled cause I shall on the 26th day of October next, at the front door of the court house, in the city of Peoria, between the hours of 12 M and 6 P.M. expose at public sale, to the highest and best bidder, a certain lot of ground, known as lot eleven in in block eighteen, as described in said decree. And upon such sale I shall execute to the purchaser or purchasers thereof, @ certificate of purchase therefor, and such purchaser

or purchasers will be entitled to @ deed for the same,
upon the expiration of the time of redemption allowed
by law. Dated this 7th day of August A. D. 1849-

E. M. Powell,

Special Master in Chancery

Co. Ballance Sol'r

I do hereby certify that the annexed notice was published for four weeks successively in the Peoria Register @ public newspaper printed in Peoria, Illinois, and that the first publication was made on the 21st day of September, A. D. 1849.

J. J. Pickett

Publisher

Also on the same day the said Special Master filed in the clerks office of said Court a certificate of purchase which is in the words and figures following to wit:

I Elisha M. Powell @ special commissioner appointed by the Circuit Court of Peoria County, on the fifth day of June A. D. 1849, to sell lot numbered eleven in block numbered eighteen, in the City of Peoria, to satisfy @ certain mortgage executed by John Ford deceased, in his lifetime to John Moran deceased, in his lifetime, pursuant to @ final decree made on the day aforesaid, do certify, That by virtue of said decree, I did on the 26th day of October A. D. 1849, offer said lot for sale, to the highest bidder, between the hours of twelve o'clock M, and six o'clock P. M. at the door of the court house, in the City of Peoria, after having given four weeks notice thereof in the Peoria Register, a public newspaper published in said Peoria, and James Daugherty bid therefor thirty dollars, which was the highest sum bid for the same, and I struck said lot off to him at that price, and that the said James Daugherty will be entitled to @ deed for the premises so sold to him, on the twenty sixth day of January, A. D. 1851

E. M. Powell

Special Master or
Commissioner

7
Proceedings in Chancery before the Circuit Court begun and held in the City of Peoria, within and for the County of Peoria and State of Illinois on Monday the Twenty sixth day of August in the year of our Lord One Thousand Eight Hundred and fifty - the Honorable William Kellogg Judge of the tenth Judicial Circuit presiding.

Thursday August 29th 1850

Hugh Dougherty

Margaret Dougherty

vs

To foreclose Mortgage

George Ford, Ellen Ford

And now upon this day comes the complainants by their Solicitor Charles Ballance and files the report of Elisha W Powell Special Master in Chancery shewing that he had sold the mortgaged premises pursuant to said decree and that the same had been struck off to James Dougherty, and exhibits in court @ certificate of purchase executed by said special commissioner to said James Dougherty all which is approved by the court, and said report ordered to be filed which is done.

And afterwards to wit on the 8th day of March A.D. 1851 there was filed in the Clerks office of said Court, the final report of the Special Commissioner in this cause which is in the words and figures following to wit:

Hugh Dougherty

Margaret Dougherty

vs

George Ford

Ellen Ford

In the Peoria County

Circuit Court

In Chancery

Bill to foreclose Mortgage-

To the Hon William Kellogg Judge of said Court.

Elisha W Powell heretofore made @ special Commissioner in the above cause reports that more than fifteen months having transpired since the sale of said premises to said James Dougherty and the said premises not having been redeemed from said sale I have made @ deed thereof to him which is respectfully submitted to the approval of your Honor

E. W. Powell
Special Commissioner

Proceedings in Chancery before the Circuit Court begun
and held in the City of Peoria in and for the County of
Peoria on Monday the third day of March in the year of
our Lord one thousand eight hundred and fifty one -
The Honorable William Kellogg Judge of the Tenth
Judicial Circuit in the State of Illinois presiding, to wit,
Saturday March 8th A.D. 1851

Hugh Dougherty

Margaret Dougherty

vs

to foreclose Mortgage

George Ford

Ellen Ford

This cause again came on to be heard upon
the report of Elisha N. Powell special Commissioner herein,
from which it appears among other things that said Lot of
ground that had been sold to said James Dougherty has
not been redeemed from said sale and that more than fifteen
months have intervened since, and that the said Commissioner
had executed a deed to said James Dougherty for said
premises, which deed is presented to the court for its ap-
proval, all of which is approved by the court and said
deed ordered to be delivered to said James Dougherty.

State of Illinois }
Peoria County } ss I Enoch P. Sloan Clerk of the Circuit Court in and
for the County of Peoria in the State of Illinois do certify that the foregoing
is a full and complete transcript of papers filed and of the proceeding
of said Court in the cause wherein Patrick Dougherty is complainant
and George Ford, Ellen Ford and George Oakley are defendants
as the same appears on file and of record in my office

Given under my hand and the Seal
of said Court at my office in Peoria
this 12th day of March 1858
Enoch P. Sloan, Clerk

Ellen Ford impleaded with } State of Illinois
George Ford & George Oakley } In the Supreme Court
vs } Spring Term 1869
Hugh Daugherty & Margaret } Error to Peoria
Daugherty }

And now comes the said plaintiffs in Error say that in the record proceedings aforesaid and in the judgment aforesaid manifest error hath intervened to his injury in this 1st The original Bill filed herein shows that complainants had no equitable interest in the subject matter of the suit

2 There is no equity in the Bill

3. The service of the summons on
is insufficient

4th It does not appear that balance as the Executor of Moran had any authority or power to assign said Mortgage to Patrick Daugherty

5th The answer of the guardian ad litem for the minor defendants is his own individual answer and not theirs, and is insufficient to authorize the complainant to proceed against such minors

6th The Court erred in rendering a decree in the cause when when the infant defendants had not answered the amended bill or the supplemental bill

7 The Court did not allow said Hugh & Margaret Daugherty to become parties complainants to said Bill

8 Said proceedings should have abated upon the death of Patrick Daugherty

9 The Court erred in permitting Hugh & Margaret Daugherty to file ~~the~~ what is called a supplemental Bill to the Bill of Patrick Daugherty

10. The Court erred in rendering a decree against George & Ellen Ford without any disposition of the proceedings as to Oakley & Howland

11. The report of the Master in Chancery upon which the decree was founded was not made in the same cause in which the decree was rendered

12. There was no evidence to sustain the decree

13. There was no day given the infants to appear & object after they became of age for which and other errors the manifest, said plaintiffs pray that said judgment may be reversed set aside & for new judgment

By Atty Genl
Atty for P.W.

14. 37 1838/10
Ellen Ford in
pleaded with George
Ford & George Oakley
vs
Hugh Daugherty
Margaret Daugherty
Transcript

Filed April 20. 1838
L. de laune
J. W.

Supreme Court of Illinois } April Term
Third Grand Division } 4th 1860
Ellen Ford et al.

vs } Error to Periculi
Hugh Dougherty et al. }

Said dependants move the court to set aside the order entered herein, at the present term, reversing the decree of said circuit court, because appellant was not in a situation to be entitled to the motion for said order.

1st No summons or scire facias to hear errors appears ever to have been issued in this case. See rules 5 and 30, in 1st Ill. It is only "where a writ of error and scire facias shall be sued out" that an affidavit may be filed, and advertisement made against the defendant.

2nd The publication does not appear to have been in this case. If it had been in the case of Ellen Ford et al. it might do, but it is in a case in which Ellen Ford, George Ford and George Oakley are plaintiffs. In the first case we would be led by the "et al." to look to the record for the real plaintiffs, but when they purport all to have been given, we naturally rest, and look no further. But as a matter of fact Edward F. Newland was a party in the court below, and so it is understood by Mr. Weed, see both his advertisement filed at the ^{last} ~~next~~ term.

3rd This advertisement in fact ~~states~~ ~~that~~ that a sine fees had been issued, returnable on the first Tuesday after the third Monday in April next, when none such had been issued.

4th This advertisement is bad because it was published before the affidavit was sworn to or filed. The advertisement was published Nov. 5th 1859. The affidavit was not filed until April 27th 1860. See rule 30. It is only after the sine fees has been issued, and the affidavit filed, that "it shall be the duty of said clerk of the proper division to cause publication of notice to be made, to said dependant or dependants" "Setting forth the pendency of said writ of error, the names of the parties, the title, term and time of said court to which the sine fees may be returnable."

It will not do to say that an affidavit was filed on the 15th Dec. 1858, for that affidavit was decided by this court to be insufficient, hence the filing of the latter. This deposition does not appear to have been taken in this case, and ^{but} in a case where there were other dependants besides Hugh Daugherty and Margaret Daugherty are dependants. It says that Hugh Daugherty and Margaret Daugherty two of the dependants in this case, who the other dependants are, we are not told.

~~Attorney~~

5th Plaintiff was not entitled to this motion. She had not complied with the law with

regard to filing abstracts. That which purports to be an abstract is so defective, both formally and substantially, that this court will deem him in default, in that particular. The abstract is formally bad in not containing a reference to the paging of the abstract, and it is substantially bad, in not giving any correct view of the case. In fact in giving a false view of it throughout. For example, the record shows that the master made a report that the money not having been paid, pursuant to the decree he advertised and sold the property pursuant to the decree, and that James Dougherty was the purchaser. Nothing of this is contained in the abstract. Again the ^{Record} bill sets out a copy of the advertisement, under which the sale was made, that the court might see that it was according to the decree. There is no allusion to this in the abstract. Again in the record the order of the court approving this sale is set forth, but not named in the abstract. Again the record contains a report of the master that fifteen months having transpired since the sale, and the lot not redeemed he had made a deed of the same to said Dougherty. Not a word of which is in the abstract. Once more the record contains an order of the court approving said sale and conveyance, and ordering said deed

to be delivered to said Dougherty. On all this the abstract is as silent as death. For all of which reasons said dependants, by their attorney Ballance, pray that the order herein, at this time made, be set aside, and they permitted to defend this writ. see rule 10 in C. Ballance 19 Ill. Rep. This I insist was not "a full and complete abstract or abridgement of said record, referring to the appropriate pages of the record abstracted, by numerals on the margin"

Insist that he who would insist upon so unreasonable ^{an} advantage as the plaintiff is here insisting upon a snap judgement against a brother lawyer, obtained when he was professionally engaged, should first see whether he himself was not living in a glass house

C. Ballance

14 For oral at
Ellen Fordel at

vs
Hugh Dougherty & al

Motion to set aside
Leave

Filed April 30, 1860

L. Deland

Clk

to be delivered to said Dougherty. On all this the abstract is as silent as death. For all of which reasons said dependants, by their attorney Ballance, pray that the order herein, at this time made, be set aside, and they permitted to defend this writ. see rule 10 in C. Ballance 19 Ill. Rep. This I insist was not "a full and complete abstract or abridgement of said record, referring to the appropriate pages of the record abstracted, by numerals on the margin"

Insist that he who would insist upon so unreasonable ^{an} advantage as the plaintiff is here insisting upon a snap judgement against a brother lawyer, obtained when he was professionally engaged, should first see whether he himself was not living in a glass house

C. Ballance

14 For oral at
Ellen Fordel at

vs
Hugh Dougherty & al

Motion to set aside
Leave

Filed April 30, 1860

L. Deland
Clerk

STATE OF ILLINOIS, *Supreme Court within and for the Third Grand Division of said State.* Ellen Ford, by John C. Fannagan, her next friend, impleaded with George Ford and George Oakley, plaintiffs in error, vs. Hugh Dougherty and Margaret Dougherty, defendants in error—Error to Peoria.

It appearing by affidavit, on file in the Clerk's Office of said Supreme Court, in the above entitled cause, that Hugh Dougherty and Margaret Dougherty, the above named defendants in error, are non-residents of the State of Illinois, and a writ of error having been duly sued out from said Supreme Court herein, which said writ of error is now pending in said Supreme Court, and a writ of *scire facias* having been issued here'in according to law, returnable to the next term of said Supreme Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, A. D. 1860.

Now you, the said Hugh Dougherty and Margaret Dougherty, defendants in error as aforesaid, whose non-residence appears as above, are hereby notified to be and appear before the Justices of the said Supreme Court, at the next term of said Supreme Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, A. D. 1860, to hear the record and proceedings of the said Circuit Court of Peoria County herein brought into said Supreme Court by writ of error, and the errors assigned if you shall see fit; and further, to do and receive what said Supreme Court shall order in this behalf. Attest:

L. LELAND, *Clerk of said Supreme Court.*

H. M. WEAD, att'y for plffs. in error.

ac15

STATE OF ILLINOIS, Supreme Court within and for
the Third Grand Division of said State. Ellen Ford,
by John C. Fannagan, her next friend, impleaded
with George Ford and George Oakley, plaintiffs in error,
vs. Hugh Dougherty and Margaret Dougherty,
defendants in error.—Error to Peoria.
Appearing by affidavit, on file in the Clerk's Office
of said Supreme Court, in the above entitled cause,
that Hugh Dougherty and Margaret Dougherty, the
above named defendants in error, are non-residents of
the State of Illinois, and a writ of error having been
duly sued out from said Supreme Court herein, which
said writ of error is now pending in said Supreme Court,
and a writ of *scire facias* having been issued here'in
according to law, returnable to the next term of said
Supreme Court, to be holden at Ottawa, in said State, on
the first Tuesday after the third Monday in April next,
A. D. 1860.

Now you, the said Hugh Dougherty and Margaret
Dougherty, defendants in error as aforesaid, whose
non-residence appears as above, are hereby notified to
be and appear before the Justices of the said Supreme
Court, at the next term of said Supreme Court, to be
holden at Ottawa, in said State, on the first Tuesday after
the third Monday in April next, A. D. 1860, to hear
the record and proceedings of the said Circuit Court of
Peoria County herein brought into said Supreme Court
by writ of error, and the errors assigned if you shall see
fit; and further, to do and receive what said Supreme
Court shall order in this behalf. Attest:
L. LELAND, Clerk of said Supreme Court.
H. M. WEAVER, att'y for pl'ffs, in error. ec15

I William Osman publisher of the
"Ottawa Free Trader" a public week-
ly newspaper printed and pub-
lished in the City of Ottawa
County of LaSalle, and State of Ill-
inois do hereby Certify, that the adver-
tisement or notice hereto attached, was
published four weeks successively
in the paper aforesaid, once in each
week, the first publication in said
paper being, on the 13th day of October
A.D. 1859, and the last publication therein
being on the 5th day of November A.D.
1859.— And I do further Certify, that the
places of residence of the said Hugh
Dougherty, and Margaret Dougherty,
are unknown to me; and that I
have made diligent inquiry of persons
who might be supposed to know their
places of residence, but have been
unable to ascertain where they reside,
Given under my hand this 17th day
of April 1860

Wm Osman

William Osman, being duly sworn
on his oath saith; that the contents

of the foregoing Certificate by him
subscribed are true in substance
and in fact. And further saith
not,

Subscribed & sworn

Wm. S. Sman

to before me this

17th day of April 1860.

D. W. Fuller
Notary Public



Ellen Ford et al.

No. 14

Hugh Daugherty et al.

Certificate of Public
Cation

Filed April 17. 1860
J. Deland Clk.

**Supreme Court within and for the Third
Grand Division of said State.**

Ellen Ford by John C. Flannagan, her next friend, impleaded with George Ford and George Oakley, and Edward F. Newland, vs Hugh Daugherty and Margaret Daugherty.—Error to Peoria.

IT appearing by affidavit, on file in the Clerks office of said Supreme Court, in the above entitled cause, that Hugh Daugherty and Margaret Daugherty the above named defendants in error, are now residents of the state of Illinois, and a writ of error having been duly sued out from said Supreme Court herein, and a writ of scire facies having been issued herein according to law, returnable to the next term of said Supreme Court to be holden at Ottawa, in said state, on the first Tuesday after the third Monday in April next, A. D 1859.

Now, you the said Hugh Daugherty and Margaret Daugherty, defendants in error as aforesaid, whosonow residence appears as above, are hereby notified to be and appear before the Justices of the said Supreme Court, at the next term of said Supreme Court to be holden at Ottawa, in said state on the first Tuesday after the third Monday in April next, A. D. 1859, to hear the records and proceedings herein and the errors assigned if you shall see fit, and further to do and receive what said Supreme Court shall order in this behalf.

Dated at Ottawa, December 15th, 1858.

Attest

L. LELAND, Clerk of said Court.

H. M. WEAD, Attorney for p^lf in error—dec 18 w4t

STATE OF ILLINOIS, } ss

**Supreme Court within and for the Third
Grand Division of said State.**

Ellen Ford by John C. Flanagan, her next friend, impleaded with George Ford and George Oakley, and Edward P. Newland, vs Hugh Daugherty and Margaret Daugherty.—Error to Peoria.

It appearing by affidavit, on file in the Clerk's office of said Supreme Court, in the above entitled cause, that Hugh Daugherty and Margaret Daugherty the above named defendants in error, are now residents of the state of Illinois, and a writ of error having been duly sued out from said Supreme Court herein, and a writ of scire facies having been issued herein according to law, returnable to the next term of said Supreme Court to be holden at Ottawa, in said state, on the first Tuesday after the third Monday in April next, A. D. 1859.

Now, you the said Hugh Daugherty and Margaret Daugherty, defendants in error as aforesaid, whose now residence appears as above, are hereby notified to be and appear before the Justices of the said Supreme Court, at the next term of said Supreme Court to be holden at Ottawa, in said state on the first Tuesday after the third Monday in April next, A. D. 1859, to hear the records and proceedings herein and the errors assigned if you shall see fit, and further to do and receive what said Supreme Court shall order in this behalf.

Dated at Ottawa, December 15th, 1858.

Attest L. LELAND, Clerk of said Court.
H. M. WEAR, Attorney for plaintiff in error—decls writ

I, William French one of the Sub-

lishers of the **PEORIA MESSAGE**, a newspaper printed daily and weekly in Peoria, Peoria County, Illinois, hereby certify, that the annexed Advertisement has been published weeks, successively, in the papers aforesaid, once in each week; the first publication of said advertisement being in the paper dated December 18th 1858, and the last in the paper dated January 14th 1859

In Testimony Whereof, I have hereunto subscribed my name, at Peoria, this fourteenth day of February

A. D. 1859

Wm French

Fee for Publication, \$6

~~37~~ 14

Ellen Ford by ~~no~~

vs

Hugh Daugherty et al
Ct. of Publn

Filed April 12, 1889
L. Deland
Clerk

STATE OF ILLINOIS,

**Supreme Court within and for the Third
Grand Division of said State.**

Ellen Ford by John O. Flanagan, her next friend, impleaded with George Ford and George Oakley, and Edward F. Nowland; vs Hugh Daugherty and Margaret Daugherty.—Error to Peoria.

IT appearing by affidavit, on file in the Clerk's office of said Supreme Court, in the above entitled cause, that Hugh Daugherty and Margaret Daugherty the above named defendants in error, are now residents of the state of Illinois, and a writ of error having been duly sued out from said Supreme Court herein, and a writ of scire facies having been issued herein according to law, returnable to the next term of said Supreme Court to be holden at Ottawa, in said state, on the first Tuesday after the third Monday in April next, A. D. 1859.

Now, you the said Hugh Daugherty and Margaret Daugherty, defendants in error as aforesaid, whose now residence appears as above, are hereby notified to be and appear before the Justices of the said Supreme Court, at the next term of said Supreme Court to be holden at Ottawa, in said state on the first Tuesday after the third Monday in April next, A. D. 1859, to hear the records and proceedings herein and the errors assigned if you shall see fit, and further to do and receive what said Supreme Court shall order in this behalf.

Dated at Ottawa, December 15th, 1858.

Attest

L. LELAND, Clerk of said Court.

H. M. WEAD, Attorney for pl^{ff} in error—decls wit

STATE OF ILLINOIS,

Supreme Court within and for the Third
Grand Division of said State.

Ellen Ford by John C. Flanagan, her next friend, im-
pleaded with George Ford and George Oakley, and Ed-
ward F. Nowland, as Hugh Daugherty and Margaret
Daugherty.—Error to Peoria.

It appearing by affidavit, on file in the Clerks office of
said Supreme Court, in the above entitled cause, that
Hugh Daugherty and Margaret Daugherty the above nam-
ed defendants in error, are now residents of the state of
Illinois, and a writ of error having been duly sued out
from said Supreme Court herein, and a writ of scire facies
having been issued herein according to law, returnable to
the next term of said Supreme Court to be holden at Otta-
wa, in said state, on the first Tuesday after the third Mon-
day in April next, A. D. 1859.

Now, you the said Hugh Daugherty and Margaret Daugh-
erty, defendants in error as aforesaid, whose now residence
appears as above, are hereby notified to be and appear be-
fore the Justices of the said Supreme Court, at the next
term of said Supreme Court to be holden at Ottawa, in
said state on the first Tuesday after the third Monday in
April next, A. D. 1859, to hear the records and proceedings
herein and the errors assigned if you shall see fit, and
further to do and receive what said Supreme Court shall
order in this behalf.

Dated at Ottawa, December 15th, 1858.

Attest L. LELAND, Clerk of said Court.

H. M. WEAD, Attorney for pl'n in error—decls wit

I, William French one of the Sub-

lishers of the **PEORIA MESSAGE**, a newspaper printed daily
and weekly in Peoria, Peoria County, Illinois, hereby certify,

that the annexed Advertisement has been published four
times, successively, in the paper aforesaid, once in each week;
first publication of said advertisement being in the paper
dated December 18th 1858 and the last in the

paper dated January 25th 1859

In Testimony Whereof, I have hereunto subscribed my
name, at Peoria, this 25th day of January

A. D. 1859

Wm French

Fee for Publication, \$6.00—Paid by plaintiff

37 14

Ford

²⁷

Daughter by

Proof of Publv.

Filed April 26. 1859

L. Leland

clock

Ellen Ford +
others :
vs Error to Peoria
Hugh Daugherty et al

} In the Supreme
Court. Third
Grand Division
April Term 1860.

Suggestions on Motion of ^{defendants in Error} ~~Appellants~~ to
set aside the default. entered herein
at a former day -

1. The first point made by Defendant
in Error is not true, because there is
on file herein a Sci Fa, on file here-
in, issued from the Office of the Clerk
of this Court, dated Oct 11th 1859, and
returned February 9th 1860.

2. The second point is a mere quibble,
and so small, that no one but Bal-
lance would have thought seriously
of arguing it. We know of nothing that
makes it imperative, for Edward F
Howland to join in a Writ of Error, even
if he were a Defendant in the Court
below -

3rd The third point, is sufficiently an-
swered by the fact that Sci Fa was duly

issued and has been returned

4th The fourth objection to the sufficiency of the service of process, is answered by referring to the Affidavit of George Ford of December 11th 1858, and the additional affidavits of Mr. Head & L. Ireland of the date April 27th 1859.

5th Mr. Ballance, is hardly in a position to urge the insufficiency of abstracts until he is in a position to be prejudiced by their defects. If upon the hearing of the cause upon its merits, the abstracts were found insufficient then, the Court would order the Plaintiff in Error, to file such as are required by the rule. The abstracts in this case, however, were made and filed, before the adoption of Rule 10th in 19th Illinois Reports -

6th As to the insinuation of unfairness and, the taking of "snap judgments", we have only to say, that we are not aware of any rule of professional etiquette, that requires an Attorney to disregard the injunctions, and interests -

of his clients merely for the purpose of gratifying an unreasonable request on the part of a ~~brother~~ Attorney -

H. M. & S. J. Mead
For Plaintiffs in Error

Ellen Ford + others

vs Evert & Ponda

Reugh Daugherty et al

Apr 14

Suggestions by Reu-
tiff on Motion to set
aside default -

State of Illinois
Peoria County

Ellen Ford

vs

Hugh Dougherty &
Others

} In the Supreme
Court for the
3^d Division
at Ottawa

George Ford of lawful age and a credible person who resides in the City of Peoria in the State of Illinois being first duly sworn deposes & says that Hugh Dougherty and Margaret Dougherty two of the defendants in this case are not residents of the State of Illinois, but they reside or this deponent is informed & verily believes in Ireland in the Kingdom of Great Britain, but at what place this deponent is not informed, so that process can not be served on them

George Ford

Subscribed & sworn to this
11th day of December A.D.
1858 before me a Notary Public
in and for the City of Peoria in said
County of Peoria

Burnard Daily NP

Allen Ford implemented
14. 107 37
Hugh Dougherty et al

Appoint of non resident

Filed Dec 15: 1888
L. Leland atty



Ellen Ford vs
 vs
 Hugh Daugherty vs } In the Supreme
 Court April 7
 1859.

Mr Justice moves the Court
 for a rule on defendants to join in Error
 and sets forth the following reasons:

1st It is contended the notice of publication is insufficient. This I deny.

The notice by the rule, must contain 5 things only

1st The pendency of the writ of Error

2nd The names of the parties

3rd The title of the cause.

4th The term when returnable

5th The time in the term when returnable

All these were contained in the notice

The notice further says the affidavit states & shows that defendants are now (not) residents of Illinois

The Clerk had no right to put this in the affidavit. All he can do is what the law requires, all else is misplacage. The Court does not care from the notice, whether the defendants are non residents or not

That fact must appear from the affidavit on file. Because the Notice contained too much, it is not void. The ~~notice~~ affidavit is in proper form and the Bill alleges that the defendants are residents of Ireland.

The notice then contains all that is required viz — the pendency of the writ, the names of the parties, the title of the cause, the time & place, & all the law requires — and because it added something which no one had a right to put there, it amounts to nothing.

The affidavit was filed before the rules in the 19th of Illinois were made or published. The affidavit is in proper form. I therefore ask with confidence for the rule.

Wm Wend

for P. T. in Error

37 14

Ellen Ford sul

12

Hugh Daugherty
sul

Motion Treason

Ellen Ford by
John C. Flanagan
her next friend

vs

Hugh Dougherty &
Morganat Dougherty

} From the
Supreme
Court of
the State
of Illinois

April Term A.D. 1858

Error from Record

I John C. Flanagan do hereby enter
myself security for costs
in the above entitled cause
& acknowledge myself bound
to pay or cause to be paid all
cost which may accrue to
the adverse party or to any of the
officers of this Court in pur-
suance of law

John C. Flanagan (Real)

April 19, 1858.

14 ~~13~~ 27
Ellen Ford by
L. C. Flanagan her
next friend

v2
Hugh Dougherty &
Margaret Dougherty
Bond for Cost

Filed April 20, 1858
L. Leland
Clk