

No. 3076

Supreme Court of Illinois

Henry R. Dickerson.

vs.

Jas W
~~Cas W. Breeden.~~ *Breeden*

" State of Illinois }
" Hancock County } Sec

" Pleas before the Honorable Joseph Sibley
" Judge of the Fifteenth Judicial Circuit
" of the State of Illinois. At a circuit
" Court begun and held at the Court
" House in the Town of Carthage on
" the first Monday in the Month of
" October in the year of our Lord one
" Thousand Eight Hundred and Sixty
" it being the first day of said Month

" Present the Honorable

Joseph Sibley Judge &c

Calvin A Warren State Attorney

Samuel R Davis Clerk

William R Hamilton Sheriff

" James H Breeden

Plaintiff

2461 " " } Ejectment

" Henry R. Dickinson

Defendant

Be it remembered that heretofore to wit: on the 7th Day
of March A D 1859, the Plaintiff by his attorneys filed herein
his Declaration and bond for costs, which said Declaration
and bond for costs are in the words and figures following to
wit:

" State of Illinois }

Of the March Term A D 1859.

" Hancock County }
" Henry R. Dickinson

Of the Hancock Circuit Court

Henry R Dickinson was summoned to answer and

2

" James H Breeden of a Plea of trespass and Ejectment
" For that, whereas, heretofore to wit, on the first day of
" May in the year Eighteen Hundred and Fifty Eight; at
" and within the County of Hancock and State of Illinois
" the said Plaintiff was possessed as of his own demesne in
" fee simple of a certain tract of land situate, at and within
" the said County and State, and known as the North West
" quarter of section No. Twenty Six (26) in Township Nine (9)
" North, Range Eight West, and the said Plaintiff then and
" there so possessed of said premises he the said defendant
" there afterward to wit, on the day and year aforesaid
" entered into the said described premises, and from the time
" last aforesaid has unlawfully withheld, and does now
" unlawfully withhold from the said Plaintiff the possession
" of the said premises to the damage of the said Plaintiff
" the sum of one Hundred dollars, and therefore he
" brings suit re,

Williamus Grinnshaw & Williams
Attorneys for Plaintiff

" To Mr. Henry R Dickinson

" You are hereby notified that the above declaration
" with a copy of which you are now herewith served and
" to which copy this notice is subjoined, will be filed in the
" Hancock Circuit Court in the State of Illinois on the
" first day of the March term thereof A.D. 1859, and that
" upon filing the same, a rule will be entered requiring
" you to appear and plead to the said declaration within
" twenty days after the entry of said rule, and that if you
" neglect so to appear, and plead a judgment of default

Filed March 9th 1859.
J. R. Davis Clerk

will be entered against you, and the plaintiff will recover possession of the premises specified in the said declaration sealed this eighth day of February AD 1859

Williams Grunshaw & Williams
Attorneys for Plaintiff

State of Illinois
Hancock County & p.
March Term AD 1859

James W. Brecken

§ In Exemption

Henry R. Dickinson

We do hereby enter ourselves security for costs in this case, and acknowledge ourselves bound to pay or cause to be paid all costs which may accrue in this action either to the opposite party or to any of the officers of this Court, in pursuance of the laws of this State.

Dated this Seventh day of March AD 1859.

Williams Grunshaw & Williams

and afterwards to wit on the 1st day of March AD 1859 the defendant by his attorney filed herein his plea in the words and figures following to wit:

And the said defendant comes and defends to and says that he is not guilty of unlawfully withholding the premises in said declaration mentioned in manner and form as therein set forth and of this he binds himself upon the Country to
Dennis Hooker & Edmunds, p. d.

and afterwards to wit on the 16th day of October AD 1860 the defendant by his attorney filed herein his

2
5
" in consideration of the sum of one thousand dollars to
" him in hand paid by the said Grant, Granted Bargained
" & sold aliened and confirmed and by these presents doth
" Grant Bargain sell alien convey and confirm unto the
" said Grant and his heirs, a certain tract or parcel of
" Land situate lying and being in the County of Hancock
" in the State of Illinois containing one hundred and
" sixty acres, be the same more or less, Being & so
" 26 North, 5. W. 8. of the Bounty Lands and being the
" same 2d. Section patented by the United States to Edward
" Crow, a Soldier in the late war who deeded the
" same to the said Dozier. Do here and to hold
" the said tract of Land together with all the privileges
" immunities the rights and appurtenances thereto
" belonging to the said Grant and his heirs forever
" and the said James J. Dozier for himself and
" his heirs doth covenant with the said Grant and
" his heirs that he will and his heirs shall warrant
" to the said Grant & his heirs and forever defend to
" him and them the title to the said before described
" tract of Land to his and their only proper use benefit
" and behoof against the claims of all and every
" person or persons claiming or to claim the same.

" In witness whereof the said James J. Dozier hath hereunto
" set his hand and affixed his seal the day and year
" herein before written. James J. Dozier Seal
" State of Kentucky, City of Louisville 1st.
" John J. Jones Mayor of the City of Louisville

1. " 1854 and recorded June 10th 1854 which said deed
 " was executed and acknowledged on said 13th May
 " 1854, in the County of Jefferson and State of Kentucky
2. " Also a deed from Bryant Bartlett to Henry R. Dickinson
 " for the premises in question dated February 1st 1856
3. " and recorded August 12th 1856. Defendant also proved
 " that the said Edward Crow died in the year 1832, and
 " that the above named Samuel Crow Elizabeth Crow
 " and Mary Louisa Griffith were his legitimate and
 " only children and heirs at law and that the said
 " Mary Louisa had intermarried with the said John
 " Griffith prior to the 13th May 1854
4. " Also a deed from Stephen B. Munn to Charles
 " D. Moulton and Rufel H. Nevins for the premises in
 " question dated December 7th 1835.
5. " Also a deed from Charles D. Moulton & Rufel
 " H. Nevins to Robert Schuyler Rufel H. Nevins William
 " Conch Abijah Fisher and David Lee for the same
 " premises dated 1st March 1836, as joint tenants
 " and not as tenants in common, —
6. " Also a deed from Robert Schuyler William Conch
 " and Abijah Fisher to William Conch Abijah
 " Fisher and David H. Nevins for the premises in question
 " dated September 20th 1854
7. " Also a Power of Attorney duly proved from Robert Schuyler
 " to Sontrunk Shaw dated July 12th 1854 as follows

11
" Know all men by these presents that I Robert Schuyler
" of the City of New York have made constituted and appointed
" and by these presents do make constitute and appoint
" Southworth Shaw of Boston Irrevocably my true and
" lawful Attorney for me and in my name place and
" stead and as my act and deed to execute and deliver
" to such person as William Couch and Abijah Fisher
" shall name a bargain and sale deed for the
" nominal consideration of one dollar of all the lands
" tenements and hereditaments situate lying and
" being in the State of Illinois now belonging to or standing
" in the name of myself Abijah Fisher & William Couch
" as joint tenants and not as tenants in common
" giving and granting unto my said Attorney full
" power and authority to do and perform all and
" Every act and thing whatsoever requisite and necessary
" to be done in and about the premises as fully to all intents
" and purposes as I might or could do if personally
" present, with full power of substitution and revocation
" hereby ratifying and confirming all that my said
" Attorney or his substitutes shall lawfully do or cause
" to be done by virtue hereof

" In witness whereof I have hereunto set my hand
" and seal the twelfth day of July in the year one thousand
" Eight Hundred and fifty four. Robert Schuyler (seal)
" Sealed and delivered in presence
" of C. Schuyler & G. W. Schuyler

State of New York

12 City & County of New York 3^d p.

Be it remembered that on this Twenty Eighth day of
July 1854 in said City of New York before me Moses B
Maclay, a Commissioner residing in said City, duly
appointed and commissioned by the Governor of the State
of Illinois to take the acknowledgment and proof of
the execution of deeds and other instruments in writing
under seal to be read recorded in said State of
Illinois, personally appeared George W Schuyler to me
personally known to be a subscribing witness to the
within power of attorney who after being duly sworn
according to Law did depose and say that Robert
Schuyler whose name appears subscribed to the said
Power of attorney is the real person who executed the
same, and that he the said George W Schuyler subscribed
his name as a witness thereto in the presence of and at
the request of the said Robert Schuyler which is sufficient
evidence to me of the execution of said Power of attorney
In witness whereof I have hereunto set my
hand and affixed my official seal as
Commissioner of the said State of Illinois
in the City of New York the 28th day of
July A.D. 1854



Moses B Maclay Commissioner of
the State of Illinois in the City of
New York

11 State of New York

13 City & County of New York &c. It is remembered that on this
28th day of July 1854 in said City before me Moses B
Macclay a Notary Public of the State of New York residing in
said City duly Commissioned, and - the laws thereof and
qualified personally appeared George W Schuyler to me
personally known to be a subscribing outref to the within
power of Attorney who after being duly sworn according
to law did depose and say that Robert Schuyler whose
name appears subscribed to said power of Attorney is the
real person who executed the same and that he the
said George W Schuyler subscribed his name as a
witness thereto in the presence of and at the request of
the said Robert Schuyler which is sufficient evidence
to me of the execution of said Power of Attorney

SS

Subscribed whereof I have hereunto subscribed
my name and affixed my seal of Office
the day and year last aforesaid.

Moses B Macclay

Notary Public 51 Liberty Street

Also in Connection therewith a designation by William
Conch and Abijah Fisher as follows

Whereas in the annexed Power of Attorney dated the
twelfth day of July one thousand eight hundred and
fifty four from Robert Schuyler to Southworth Shaw
said Shaw is authorized as attorney of said Schuyler
to execute and deliver to such person as William Conch
and Abijah Fisher shall name a bargain and
sale deed for the nominal consideration of one dollar

" of all the Lands tenements and hereditaments situate
 " lying and being in the State of Union belonging to or
 " Standing in the name of Robert Schuyler, Abijah
 " Fisher and William Conch as joint tenants and not as
 " tenants in Common, Now we the above referred to
 " William Conch and Abijah Fisher do hereby name
 " David H Nevins of the City of New York to be the person
 " to whom said Lands Tenements and hereditaments
 " shall be conveyed by said Shaw as attorney for said
 " Schuyler.

" In witness whereof we have hereunto set our
 " hands and seals this nineteenth day of September
 " 1854

William Conch (S)

Abijah Fisher (S)

" In the presence of
 " Joseph Perkins

" State of New York
 " City & County of New York

" On this Twentyseventh day of October AD 1854
 " before me James M Baldwin a Notary public and
 " Commissioner of Deeds in and for the State of New York
 " residing in the aforesaid City personally came William
 " Conch and Abijah Fisher to me known to be the
 " individuals described in and who executed the
 " foregoing instrument and acknowledged that they
 " executed the same

" In testimony whereof and that this deed
 " or instrument is executed according to
 " the Laws of the State of New York I have
 " hereunto set my hand and official

15
" Seal at said city the day and year
" aforesaid
" J M Baldwin
" Not Public

8. " Also proved by Charles Savage that the said Rufus H Nevins
" and David Lee died, the latter named in January 1853.
" and the former in October or November 1853.

9. " also a Deed from William Couch, Abijah Fisher and
" David H Nevins to Abijah Fisher David H Nevins and
" Nathan Carryl for the same premises dated October
" 4th AD 1854

10. " Also a Deed from Abijah Fisher, David H Nevins and
" Nathan Carryl to Henry R Dickinson for the premises
" in question dated 26th September 1856

11. " Also a Bond for a Deed of said premises in question from
" William Couch, Abijah Fisher, and Robert Schuyler to
" Bryant Scofield dated April AD 1854

12. " also an assignment of said Bond by said Scofield to
" Bryant Bartlett & Henry R Dickinson dated June 1st
" 1854,

13. " It was admitted that said Bartlett & Dickinson took
" possession of said premises in June 1854 and that the
" defendant has been in possession thereof ever since
" and that before that time the said premises had always

" been vacant.

16

14.

" Also receipts for the Taxes of 1846, and 1847, on said premises
" paid of Robert Schuyler, William Louch, Abijah Fisher
" Rufus H. Nevins and David Lee both dated February
" 4th 1848. Also receipts for the Taxes of 1848, 1849, 1850, 1851
" 1852 and 1853, paid of the same parties the last receipt
" dated April 24th 1854 on same premises,

15.

" Also receipts for Taxes on same premises for 1854
" on 8th Feb 1855, and for 1855 on 5th Dec 1855, paid
" by said Bartlett & Dickinson

16.

" Also Receipts for Taxes on said premises for the year
" 1856 on 22nd Dec 1856, and for 1857 on the 29th Jan^y
" 1858 paid by the said Henry R. Dickinson

" Declaration was served March 7th AD 1859.

" This was all the evidence on behalf of the defendant

" The Plaintiff to rebut the evidence on the part of the
" defendant introduced the following evidence -

1.

" The deposition of James S. Dozier taken at Souville
" Ky where said Dozier has resided for 25. Years -
" as was testified to by him. Deposition taken 31st May
" 1859. Said Witness testified that he knew Edward Crow
" & Benjamin Hughes, in their lifetime and formerly

5. 17
" lived near them in Shepherdsville. Bullitt Co. Ky
" and that he knows Elisha E Leonard - Thence formerly
" sold and conveyed the land in Controversy to Leonard
" in 1835. Thence was then asked the following questions
" & testified as follows.

" 17th Interrogatory.

" Do you or not know one Bryant Bartlett? If you state when
" you first saw him and where & state if you know where
" he then lived either from his information to you or from
" any other source. State how you know his place of residence

" In answer to the 17th Interrogatory I say I have seen a
" man who told me his name was Bartlett or Bartley. I believe
" he said Bartell but I can't say on oath whether it was
" Bartlett - whether I should know him by the name he told
" me he bore I do not know. I think I should not. I was
" sick I cannot state the time I saw him. and I have
" never seen him but once that I know of he told me he
" lived in Illinois - at the time I saw him I was unwell as
" I have been for more than ten years past more or less. I
" can and do say all the time. He came to my Office in
" Louisville in the first part of the day - He inquired of me
" about the Crow Land and I told him I had nothing
" to do with it. That I had sold it to E E Leonard and that
" I had not been paid for it. Still I had sold it to
" Leonard and it was his. He inquired for Leonard's whereabouts
" - I couldn't tell him where he was. I told him I had
" received many letters about this land. and spoke of
" one rec'd of a Mr. Scofield whom I supposed he knew

" This supposition ~~was~~ induced because Scot Seller showed
 " that he knew the Land and lived at no great distance
 " from it. - and the man Bartlett or Bartly without telling
 " me his point of residence told me that he was well
 " acquainted with the land. He said he didnt think
 " the Land had ever belonged to Hughes or to me, that he
 " had understood that when Crow had sold it to Hughes
 " he Crow was insane. I had never before heard of
 " Crow's Insanity and knowing him well before he
 " sold - and for more than three years after he had sold
 " it. I knew the charge of Insanity was false and
 " ~~so~~ told him. I told him it was an infamous lie.
 " and that any man who said it was so. he knew it was
 " a Lie. He told me that he and a Mr. Rankin & others
 " he named some other man whose name I dont remember
 " were about buying it from Crow's heirs expecting
 " to hold it because Crow at the time of the sale & execution
 " of the deed to Hughes, was insane and incapable of
 " making a Contract or deed to it. he said that Rankin
 " his partner had received information from Colo Thompson
 " then living in Louisville and who was the Father in law
 " of Rankin. He said they were about purchasing the
 " land from one Johnson who was the agent of Crow's
 " heirs - I told him I knew Johnson from General report
 " to be a very bad man. he said he had advanced \$100.
 " towards the completion of the Contract and that Johnson
 " had got it. My recollection is that he said that the
 " \$100. had been paid to Johnson by Rankin and that

Rankin had got the money from him. He said he would
 see to that matter. & if I was right about the condition of
 Crow's mind when he made the deed to Hughes, he must have
 his money back & he would go to see Thompson about it &
 left my room which was about 70 or 80 Yards from Thompson's
 office. And this is my best recollection of what passed between
 Mr Bartlett or Bartly if that was his name, as he told
 me it was one or the other and myself - I can't recollect
 the time more accurately than I have herein before
 stated, there was no one present at the time but
 ourselves

19th. Interrogatory

Did you or not then learn from said Bartlett that
 he knew that Crow had conveyed the Land to Hughes and
 Hughes had conveyed it to you? State what he said
 touching that matter?

In Answer to the 19th. Interrogatory I can say
 no more than I have said in my answer to the 17th. Interrogatory
 except this; I did tell the man Bartlett or Bartly
 that Crow had conveyed to Hughes & Hughes to me and
 that I had sold and conveyed to Conant.

2. ✓ Also the Deposition of Elisha E Conant as follows

Interrogatory 2. Do you know one Dr. and Bartlett. If yes, please state
 how you first became acquainted with him?

Ans. I do I first became acquainted with him by Correspondence
 in April (1854) in the Spring of 1854 or 1855, or 56
 I saw him personally at the Town of Hamilton in January

" County in the State of Illinois

20

Ques. 3. " Did said Bryant Bartlett ever apply to you to purchase
" a tract of land situated in Hancock County Illinois
" described as the North West qr. of Sec (26) in Township
" (5) North and Range (8) west of the 4th Principal meridian
Ans. " He did, I received a Letter from Mr. Bartlett from
" Illinois Relative to the aforesaid Land asking me if I had
" any claims to said Land & if I would sell it, I think
" this was about the last of April or the first of May (1854)
" I answered his Letter but did not keep a copy of it, I cannot
" say whether I directed my answer to Keokuk, Carthage or
" Hamilton, A short time after this I received one or two Letters
" from Bartlett from Louisville Ky. the tenor of the Louisville
" Letters were of about the same purport of the other Letter above
" mentioned, asking if I had any claim to said Land and
" wished me to write to him at Louisville, I think he wished
" me to say the lowest price I would take for said Claim
" I think he wrote two Letters from Louisville. In consequence
" of not having kept a copy of said Letters above referred to
" I have referred to some Letters from Huston & Scofield
" (now before me) I find it must have been the last of April
" or the first of May (1854) I refer particularly to the first
" Letter from Bryant Bartlett from Ill

Ques. 4. " If said Bryant Bartlett did apply to you to purchase said
" Land please state whether such application was in person
" or by Letter

Ans. 21. At first by letter, as above referred to in answer to Int. third
" afterwards in person he asked me what I would take for
" my interest or claim

Int 5. Please state what reply you made to such proposition,
" or application & whether such reply was by letter or by word
" of mouth

Ans. " I replied by letter to Mr Bartlett stating I owned said
" tract of land.

Int 6. " If the application to purchase made to you by said
" Bartlett & your reply to him were by letter, please state
" whether you have his letter or letters to you and your
" letter or letters, or a copy or copies of your reply or
" replies to him: if you have any of them please attach
" such as you have to your deposition mark them
" respectively, a. 2, 3 & 4, &c and refer to them by
" their respective marks & if you have not such letters
" or copies, please state what became of them & then state
" the contents of each as accurately as you can remember

Ans. " His application & my reply to him in the first instance
" was by letter I believe his letters to me are misplaced, I cannot
" find them now. I may have given some of them to Mr
" Brecken if I did he has them now I kept no copies of
" my replies, I think I received 3 letters from Mr Bartlett
" the main subjects contained in the letters, was asking me
" if I had any interest in the above tract of land and

" the lowest price I would take for it. It may be that he
 " spoke of going to Cincinnati and urged the necessity of
 " an immediate reply, which I did. I replied I had an
 " interest that I owned the above tract of land but did not
 " state the terms of sale so far as I now remember.

Ques. 7. " If you say that you have not the said letters from Bryant
 " Bartlett to yourself please examine your papers and
 " state whether you are able to find the same or if you
 " have heretofore searched for the same please state
 " whether you have been able to find the same?

Ans. " I have taken a partial hunt for them but have not found
 " them for this occasion.

Ques. 8. " Please state what you informed Bartlett when he
 " applied to you to purchase the Land - did you or not
 " inform him that you had parted with your title and
 " also that Edward Crow had in his life time sold and
 " conveyed said Land?

Ans. " I do not recollect of saying anything about the Crow deed
 " in my letter. I think Mr Winston or Scofield as my
 " friends did.

Ques. 9. " Did you not inform the said Bartlett that the title which
 " you had formerly owned was derived through a deed
 " of conveyance from Edward Crow to Benjamin Hughes

ans " I cannot say positively that I did as I have not
" a copy of my letter though I presume I did of which
23. " Mr. Winston or Scofield did. I supposed Bartlett
" knew the fact of the loss of his letter to me.

Sub 10 " Did or did not said Bryant Bartlett when he made such applic-
" ation state that it appeared from the records of Hancock County,
" Illinois, that you had some claim to said land and that
" he had for some time been endeavoring to learn your
" whereabouts, ?

ans " I cannot say that he did

Sub 11 " If you know anything further of interest or advantage to
" either of the parties to this suit please state it fully

ans. " I know nothing further -

Cross Interrogatories

Cross
Sub 1st " When and where did you first see Bryant Bartlett how many
" times did you ever see him & where was he at each time you
" saw him, and how long were you with him each time
" respectively ?

Ans. " I saw Mr. Bartlett at Hamilton Ill and I think I only
" saw him once in the summer of 1854, or 55 or 56. Cannot
" say for certain which of those three years. It may have

24

" directly after his trip to Louisville Ky which was in
" 1854. I do not think I was with him more than one or
" two hours

Exhibit 2 " If you say in reply to the direct Interrogatories that
" Bryant Bartlett ever communicated with you in any
" manner in relation to the North West quarter of 26.5.22
" 8 W. in Hancock County Illinois, at what ~~precise~~ time
" or times was such communication - was it in writing - if
" Yes attach the communication to your deposition - if
" Oral who was present at each time and state all that
" said Bartlett said to you at that time in relation
" thereto?

Answer " I received a communication from Mr. Bartlett asking
" me if I had any interest in the aforesaid quarter section
" of Land, the first was from Carthage or Hamilton, I think it
" bears date about the last of April or first of May 1854.
" his letters I cannot find at this time By referring to letters
" from Peasfield Whiston relative to said Land I think
" it was from the 15th of April to the first of May 1854. The
" other letters which he wrote to me was from Louisville Ky.
" immediately after the above mentioned letters, all of
" which was relative to my owning an interest in the
" said Lands. After Mr ~~Bryant~~ Bartlett made the trip
" to Louisville Ky I met him at Hamilton Illinois
" I saw him alone at which time I asked him if his name
" was Bartlett and if he was the man who wrote to me

" about the land, he replied he was after talking a few
 " moments, he said he had sold it I think he said to
 " a man of the name of Dickerson he said he would
 " introduce me to him, I think we found Dickerson in the
 " Garden at work in Hamilton, I offered to pay Dickerson
 " for all the Taxes he had paid if he would give it up to
 " me, Dickerson told me his title was good as Bartlett
 " had procured the seed from Crow's heirs, I told Dickerson
 " I did not care for his title for I could prove that said
 " Bartlett had notice of my title before purchasing from
 " the heirs of Crow, at this instance Bartlett and Dickerson
 " stepped a few steps aside and after consulting a few
 " minutes about the time of my leaving them, one of
 " them said we will give you about the expense of a
 " Land suit for my interest supposing it to be about Fifty
 " dollars, Bartlett previous to introducing me to Dickerson
 " wished to know of me what I asked for my interest in the
 " Lands as described above,

Ques. Sub 3. " Did not said Bartlett inform you at the time he made
 " such Communication to you either written or oral that
 " he had purchased said premises from the heirs of
 " Edward Crow.

Ans. " He did not except as above mentioned in answer to the
 " Record book Interrogatory No 2.

Ques. Sub 4. " Did not said Bartlett at the time of such Communication
 " with you inform you at the time he purchased said

" premises from the heirs of said Edward Crow, he had no
 " knowledge or notice of said Crow ever having received
 " said premises to any person, or that any person
 " other than the heirs of said Crow claimed the Patent
 " title to said Land, or words to that effect and declare
 " fully what he did say in such communications with you

Ans

" I do not remember that in any communication either
 " written or oral that he spoke of having purchased from
 " Crow's heirs
 " E. L. Conant "

" Also the affidavit of James W. Breden as follows,
 " James W. Breden } Circuit Court in and for Hancock
 " " } County Illinois
 " Henry R. Dickinson } In Effectment

" James W. Breden plaintiff aforesaid being first
 " duly sworn deposes and says that he has not now and
 " never has had in his possession nor under his control a
 " letter written by Bryant Bartlett, from Illinois to Elisha
 " L. Conant about April or the first of May 1854 alluded
 " to by said Conant in his deposition taken in this case
 " and that he does not know in whose custody nor under
 " whose control said letter is and never has known
 " and has both written to Conant and pressed him verbally
 " to try to find said letter, and that he cannot, always
 " replies he cannot find it, after much search for it
 " J. W. Breden

27

State of Kentucky
County of Jefferson
Nich^l Murphy a Commissioner of deeds for the State of
Illinois in Kentucky by said James H. Bredem well known
to me this 29th day of February A.D. 1860. at my Office in
said City of Louisville and County aforesaid.

In Testimony whereof I have hereunto
set my hand and affixed my official
Seal as Commissioner in Ky. for State of
Illinois the day and year aforesaid
Nich^l Murphy

E. S. Canaugh

Comm. for St. of Ill.

To the reading of Each of which answers in said Comants
deposition and said affidavit of Bredem, said defendant
at the time objected which objection was overruled by the
Court and the defendant then excepted. No objection
being made to the form of either said deposition or
affidavit but only to their legal effect

also a Letter dated June 2nd 1854 admitted to be in
the hand writing of Bryant Bartlett and also the direction
thereon admitted to be in his hand writing as follows,
Louisville June 2nd 1854

E. S. Canaugh Esqr

Dr Sir

I find by the records of Hancock County Illinois
that you have or have had some claims upon a quarter
section of Land in said County of Hancock viz North west qr. of
Sec^y twenty six. The artee is in possession of said Land - and

" desirous of perfecting title to the same - can afford
 " probably to give you more for your right to the same
 " than can other applicants which you will probably have
 " about this time. So if you have not sold you had
 " better not do so until I see or hear from you.

" I have but this moment learned your present whereabouts
 " had expected to find you here. Please drop me a
 " line upon receipt of this direct to Keokuk Iowa

" If you should receive this in time to have an
 " answer reach me at Cincinnati Ohio before 10th day of
 " this month, I would come down and see you before
 " my return home, that is, if you have not sold. please
 " write however to both places whether you have sold or
 " not. - I can have your Cincinnati Note (should it not reach
 " me in time) forwarded to some other point in the neigh-
 " borhood of Cincinnati, several of which I have to visit
 " before I return home. Will you be kind enough
 " to answer this instant as requested, whether you have
 " sold or not as it will make considerable difference
 " with my other arrangements.

Yours in haste

Bryant Bartlett

on the back of said letter appears the following

Recd. in Louisville Ky by me as the
 15th March / 58. from Grant &
 Carefully copied verbatim on
 same date J. W. Brecken
 Letter Book 105.

E. L. Conant Esq.

Memphis Tennessee

Entered 18th Aug 4

" This was all the evidence in said cause

" And thereupon the Court found the defendant
 " guilty of unlawfully with holding from the plaintiff
 " the possession of the said premises, and rendered judg-
 " ment against the defendant for said premises
 " and for damages and the costs of this suit ~~to which~~
 " opinion of the Court in finding ~~for~~ the said defen-
 " dant guilty, and in rendering judgment against
 " him for said land, and for damages and costs
 " the said defendant then other excepted,

~~And the said defendant having excepted~~
 " to the several opinions and decisions of the Court
 " as herein before stated prays the Court to sign and
 " seal this his bill of exceptions which is done accor-
 " dingly
 J^d Sibley Seal

and afterwards to wit as the 16th day of October 1886
 an order was made and entered of record herein
 in the words and figures following to wit.

" And now this day came the parties by their
 " respective attorneys and by consent a jury is waived
 " and the cause is submitted to the Court for trial without
 " the intervention of a jury by consent and thereupon
 " the Court having heard the evidence finds the Issue
 " joined herein for the plaintiff and that plaintiff is
 " the owner of the premises described ~~for the plaintiff~~
 " ~~and that plaintiff is the owner of the premises~~
 " ~~described in plaintiffs declaration to wit.~~ The North
 " west quarter of Section No. Twenty Six (26) in Township

" Five (5) Acre Range Eight Acre, in fee simple and that
 " defendant is guilty of unlawfully withholding
 " from plaintiff, the possession of said premises in
 " manner and form as alleged in said declaration
 " and assessed plaintiff's damages therefor at one cent
 " and it is therefore considered and adjudged by the
 " Court that plaintiff recover of defendant the premises
 " aforesaid in fee simple according to the finding of the
 " Court, and also his damages and costs in this behalf
 " expended - That a writ of Possession issue to the Sheriff
 " of Hancock County aforesaid to cause plaintiff to have
 " possession of said premises, according to the finding
 " of the Court & that plaintiff also have an execution
 " for his damages and costs herein.

" Thereupon the defendant by his Counsel entered his
 " Motion herein for the appointment of Commissioners to
 " assess the value of such lasting & valuable improvements
 " which shall have been made on said premises prior to
 " the Commencement of this suit; The said defendant
 " also prays an appeal herein which is allowed
 " by the Court upon his entering into bond in the penal
 " sum of Two Hundred Dollars with George Edmunds Jr
 " as security Conditioned according to law, Said Bond
 " to be filed within thirty days from the date hereof

" And hereupon the said defendant filed his
 " Bill of Exceptions herein in the words and figures
 " following to wit:

and afterwards to wit on the 16th day of October A.D. 1860
as aforesaid a further order was made and entered of
record herein in the words and figures following to wit:

Now comes the defendant by his attorney and files
his appeal to wit to the Supreme Court herein;

State of Illinois }
Hancock County } Jct. I Lemie R Davis clerk of the Circuit
Court in and for said County and state hereby certify
that the foregoing transcript contains a full true perfect
and complete copy of the convening order of the Hancock
Circuit Court at the October Term A.D. 1860 - declaration &
Pleadings - Plea - Bill of exceptions. and for Judge -
order on filing Bill of exceptions & order on filing appeal
And in as full and ample a manner as the same
appear from the records and files of my office.

In testimony whereof I have hereto set
my hand and affixed the seal of
said Court at my office at Carthage
this 15th day of November, A.D. 1860

Lemie R Davis clerk
By A N Hawley deputy

And now comes the said Henry R. Dickinson, Appellant,
and assigns for error herein, the following causes viz:

- 1st The Court was in overruling the defendant's objection
to the copy of deed offered by plaintiff from Dozier to Conant,
and allowing the same to be read in evidence - and also in granting

and allowing the same to be read in evidence

the defendant's objection to the sufficiency of the affidavit of the plaintiff in the last thing
2nd The Court erred in overruling the defendant's objection to the deposition of Elisha S. Conant
and allowing the same to be read in evidence.

3rd The Court erred in receiving secondary evidence of the contents of letters of
Bryant & Bartlett, when objected to by defendant, without the originals
being sufficiently accounted for -

4th The Court erred in ~~allowing~~^{holding} the affidavit of James W. Brecken
to sufficiently account for the absence of the original letters
of said Bartlett, when objected to by defendant -

5th The Court erred in finding the defendant guilty, and rendering
judgment against him for said promises and damages
and costs

6th The ~~finding~~ finding and judgment of the Court was against the evidence -
and should have been for the defendant -

For which manifest error the Appellant prays that said
judgment may be reversed & a new one entered -

Fris. Hooker & Edmunds
Browning & Bushnell

Attys for Appellant

There is no such
error

Williams, Wms. & Williams
for Appellee

James W. Brecken

" & Breckenridge

Henry R. Dickerson

131

Wm. S. May Jr
J. C. May
ad

131.

Dickinson

m.

Bridges

{ Appeal from Hancock —

Evidence {
Ded —

This action was commenced to recover
N.W. qr. Sec. 26. T. 5. N. R. 8. W. 4th P. Meridian —

The first error presented is the admission
a copy of the deed from Dogus to Cozant for "N.W. 26. North
5. West 8. of the Bounty land" as evidence in the Cause —

There is no such land land for as "N.W.
26. North 5. West 8." the deed would convey the
N.W. qr of same quarter section in Township
26 North in Range 5. West. and may be
in the 2^d 3^d 4th or 5th P. Meridian — There
is no such land in the Bounty land district —

2^d

The acknowledgment does not ^{show} that
the ~~maker~~ person who signed & acknowledged
the deed, was "the real person described in
"and who executed said deed" — who, and in
"whose name such ~~ack~~ deed was made" R.S. 107.
Sec. 20 — or that he was personally known —

The Certificate of Conformity
does not help it out. The deed is dated
8th Oct 1835. The acknowledgment was
made on 24th Oct. 1835. The Certificate
of Conformity is that it was executed according
to law at the date of the deed not at the
time of acknowledgment — The Clerk is not Clerk
of a Court of Record — Certificate is not attested by the Seal of
a Court of record —

The absence of original deed was not sufficiently accounted for - The plaintiff should have shown by Deposition of Conant that the deed or that he could not find it after diligent search was lost, ~~and~~ The aff. of Plff - that he had applied to Conant for the deed & that he did not get it is not sufficient. Brth vs Cook 20 Ill. 131-

Brth vs Cook traces the deed to Conant and fails to "prove by him that the deed is lost or cannot be found after diligent search" 20 Ill. 131-

Lost Instrument -
4th

The loss of the letters of Barth to Conant spoken of by Conant is not shown either by aff. of Plff - or by Deposition of Conant -

Conant says "he has made a partial search for them but don't find them for this occasion" - Conant's Dep -
Interrogatory 7 - and answer -

The law is well settled that before you can give oral testimony of a written instrument you must show its loss or destruction - Neither the aff. of Plff or Dep. proves the loss or

Barthett that Crow had no Conveyance -
but taking what Conant swears
together with Barthett's letter
introduced in evidence the fair
conclusion is that Barthett's letter
dated & mailed at Louisville June
1854, is the first communication
of Barthett to Conant - and
that the name Barthett,
other letters are not found
is that they must show the
fact - when to defeat the
title of the Crow heirs to
Barthett & Dickinson on
the ground of notice - it was
necessary that Conant should
swear that the other letters
he received were before the
letter introduced & before their
purchase - which purchase
was on 13th May 1854 -

If there was any notice to Barthett, which we totally deny
there was no notice to Dickinson, and he was not
bound by the notice to Barthett. Therefore he must
be protected as the purchaser of undivided half
from Crow heirs - and having no notice of
the Conant claim prior to his purchase from
Barthett must be protected in that purchase -

The rule laid down in Case of Ogden & Haun 24 Ill. 59.
does not affect this Case, Dickerson had no notice
whatever of Conant's title until after his purchase
from Bartlett. He was not bound to take notice
of the Record of a ~~deed~~ the deed from Dogier
to Conant & the recitation therein - Kennedy vs
Northrup 15 Ill. 149, 154 & 157.

Our Statute does not require Numerical indexes
only, alphabetical - and upon an examination
of the title of N. W. 26. 5. 8. from any light to be
derived from the index required by law, it
would not appear that any such deed existed -
the County Clerk's record would show who
was the patentee. but no record would
appear to have gone out of him - Therefore there
can be no presumption that the deed was true - and it cannot
be held to be notice -

Limitation - The depositions show, Color of title in Schuyler & Stals,
in 1839, as joint tenants and a Continuance of such
Color in them up to 1854, after partition taken -
That in 1853. Two of the joint tenants, died -
That while Schuyler & Stals, had such Color of
title & while the land was vacant they paid
the taxes of 1846, 7, 8, 9, 1850, 1, 2, 3, in all eight
years. That the first of said payments, was of
1846, 7, 8, on 4th Feb. 1848 - so the Color of title
& payment of taxes commenced, on the 4th of
Feb. 1848, and the Statute commenced to run -
Schuyler & Stals - Continued such payment of taxes until

the Color of title & payment of taxes had Concurred
for some years, and ~~until~~ six years two months
and twenty days, elapsed between the first and
last payment of taxes - Schuyler & others then
sold and in June following the Defendant
below, took possession & has paid taxes since -
but no other taxes were paid until more than
some years had elapsed after the Color of title
& payment of taxes had Concurred -

This Case then presents this naked question
(upon this point) - Will the taking possession
after Color of title & payment of some less than
years taxes had Concurred, but before the full
term some years have elapsed from the first
payment of taxes, deprive the occupant of
the benefit of the limitation - We think not -

This Case does not present the Case of the
payment of a part of the time which land
was vacant & a part after possession
taken, but one of full payment while
vacant & possession afterwards taken
This Court say 19 Ell. 385. The Statute Commences
to run when the party having Color of title begins
payment of the series of taxes, and the bar is
complete when the payment of that series of taxes
under the Color of title is completed -

R.S. 104, Sec 8, 9.

131-33

Dickinson

Dr. { Appellant & Amicus

Produce

~~~~~

Suggestion by

Ch. Edmunds Jr

for Appellant



JAMES W. BREEDEN,  
ats.  
HENRY R. DICKINSON,

} Appeal from Hancock.

The authentication of the copy of deed from Dozier to Conant is perfect, it is acknowledged before the Mayor of Louisville and has attached to it a certificate of conformity under sec. 16, chap. 24, Revised Code 1845, p. 106, and act of 15th Feb. 1851, p. 123, sec. 5.

If the affidavit in this case will not account for want of original, it will be hard ever to lay a foundation for a copy. The affidavit in case of Booth vs. Cook referred to, shows that Booth did not have the deed and did not know where it was.

In this case (see abstract p. 2,) the affidavit shows that Breeden never had the deed, that he applied to Conant for it in person, and by letter, but never procured it nor could get any information from him or any one else, as to where the original could be found or procured, and that Conant lives in Indiana, out of the jurisdiction of the court.

Is not that enough to enable a court to see that it was out of his power to produce the original.

See Bester vs. Powell, 2 Gil. 125; Newcome vs. Luster, 13 Ills. 179.

The description of land in the deed from Dozier to Conant was sufficient. The patent was to Edward Crow, and the deed conveys land patented to Edward Crow, describing it as N. W. 26, north 5, west 8. On the question of description, see Worden et. als. vs. Williams, 24 Ills. 74; Dougherty vs. Purdy, 18 Ills. 208.

The plaintiff, Breeden's title was, patent to Edward Crow, deed from Edward Crow to Ben. Hughes, dated December 18 1818, Hughes to Dozier, Dozier to Conant, Conant to plaintiff.

To defeat a recovery on that title Dickinson sets up:

1st. A title derived from the heirs of Edward Crow, the patentee by deed dated May 13 1854, and recorded June 10 1854, to Bartlett and Dickinson, and a deed from Bartlett to Dickinson, defendant below. The deed from Crow to Hughes aforesaid through which plaintiff Breeden claims was not recorded until the 9th of October, 1859. Breeden as we think by his rebutting evidence shows that Bartlett, one of grantees from heirs of Crow, had full notice of the prior conveyance by Crow the ancestor to Ben. Hughes before and at the time he took a deed from the heirs of Crow. Notice to Bartlett the co-grantee with Dickinson, was notice to Dickinson the defendant, who was the grantee of said Bartlett, for the evidence of notice, we refer to pages 4, 5, 6, 7, of abstract.

As to effect of such proof of notice, we refer to Doyle et al. vs. Teas et al. 4 Scam. 250; Cox vs. Milner, 23 Ills. 477; Ogden vs. Haven, 24 Ills. 57.

The Circuit Court, trying the fact of notice, under the rules of law expounded in above cases, has decided that the proof did impute notice to Bartlett that Crow had conveyed the land to Hughes before the heirs of Crow conveyed to Bartlett and Dickinson. We are entitled to all the weight that the finding of a jury would have had on that question of fact. The proof of notice is strong, and disposes of all defence under the deed from the heirs of Crow.

2d. Dickinson attempts to defend under the 9th section of Conveyance Act, Rev. Code 1845, p. 104.

The land is proved to have been vacant until June 1854, at which time Bartlett and Dickinson took possession of it. See abstract page 4.

The suit was brought March 7th, 1859, consequently the 8th section of Conveyance Act can have no effect in deciding the case.

We insist that no defence has been made out under the 9th section.

The defendant Dickinson starts out by offering as color of title, a deed from Stephen B. Munn to Moulton and Nevins. This court never has held that a deed not emanating from a source of title, but made by a private person who had no title to a piece of vacant land, was "color of title, made in good faith." It has no appearance of title, and to treat such a deed as color under said 9th section will be to encourage men to convey land to which they have no shadow of title, in order to speculate on the chances of being able to pay taxes on it for seven years as vacant land, before any one can discover that such "color of title" has been created. Under the 8th section, if a party in possession conveys to another party who goes into possession, the possession of the grantor when transferred in fact and by deed is "color of title" in the grantee, because possession is prima facie evidence of ownership. But where land is vacant, and a man who has no possession and no shadow of title, makes a deed to it, how can such deed be said to constitute "color of title made in good faith." The cases that may be referred to on the other side to show that it would be "color of title," were all decided under laws that did not use the expression at all, and in that class of cases the phrase "color of title" was used by the court as a sort of interpolation into those statutes to define the extent of actual possession, and to show that such possession was under claim of right to the extent of deed and to show it was not a mere trespass.

The first taxes were paid on 4th February 1848, in name of Robert Schuyler. William Couch, Abijah Fisher, Russell H. Nevins and David Lee, the land was then vacant, and those taxes were paid for the years 1846 and 1847. Under decision in Stearns vs. Gittings, 23 Ills. 392, the payment of taxes in this case commenced to concur with the color of title, (such as it was,) on 4th Feb. 1848. On 4th Feb. 1848, the color, (such as it was,) existed in the said parties, Schuyler, Couch,



Fisher, R. H. Nevins and Lee, and for the sake of argument, we will concede that payment of taxes was made by the parties who claimed such color after said 4th Feb. 1848 for the years 1848, 1849, 1850, 1851, 1852, 1853, the receipt for taxes of 1853 being dated 24 April 1854. The land ceased to be vacant in June 1854, and even if the court holds that Dickinson had color of title, his payment of taxes commenced on 4th Feb. 1848, and ended as to payment on vacant and unoccupied land on April 24, 1854, a total period of six years, two months and twenty days, and according to above case of Stearns vs. Gittings, defendant below failed to show a concurrence for seven years of payment of taxes on vacant and unoccupied land under color of title made in good faith.

We suppose that the attempt will be made to ask the court to unite the 8th and 9th sections of Conveyance Act together, as the record shows that on 8th Feb. 1855, after land became occupied Bartlett and Dickinson paid the taxes for 1854, and on 5th December 1855, the same parties paid the taxes on such land, (after it was occupied,) for the year 1855, and afterwards while the land was occupied Dickinson paid the taxes for 1856, 1857 and 1858.

This court has drawn the most marked distinction between the 8th and 9th sections of Conveyance Act, and it will be impossible to unite the two sections for purposes of defense without virtually making a new section of law, providing that where taxes have been paid on vacant and unoccupied land under "color of title made in good faith" for a period short of seven years and had afterwards been paid on land in actual possession "under claim and color of title made in good faith" for a period sufficient to make up seven years, that such circumstances shall constitute a defense. Is the law so written? Did Dickinson make out a defense under any law? It seems to us not, and that it would require legislation to reach any case where a union of the two sections would be required to make a defense; see Dunlap vs. Dougherty, 20 Ills. 403; Stearns vs. Gittings, 23 Ills. 391; Dawley vs. Vancourt, 21 Ills. 463; see also Cofield vs. Furry, 19 Ills. 183; Darst vs. Marshall, 20 Ills. 227.

WILLIAMS, GRIMSHAW & WILLIAMS,  
Attorneys for appellee.



131

Dickinson

vs

Boeden

appellee's brief

Filed Jan 17. 6  
J. H. C. C. C.  
C. C. C.



State of Illinois, }  
SUPREME COURT. } ss.

The People of the State of Illinois,  
To the Clerk of the Circuit Court for the County of *Heaven* GREETING:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of *Heaven* county, before the Judge thereof, between *James W. Braden*

plaintiff and

*Henry R. Dickerson*

defendant it is said manifest error hath intervened to the injury of the aforesaid *Defendant* as we are informed by *his* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Springfield in the county of Sangamon, on the *first Monday after the first Monday in January* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

Witness, the Hon. *John A. Leaton* Chief

Justice of the Supreme Court, and the seal thereof, at Springfield, this *17th* day of *January* in the year of our Lord, one thousand eight hundred and *forty one*.

*Wm. H. Hume*  
Clerk of the Supreme Court.



131

Supreme Court.

*Henry R. Dickerson*

Plaintiff in error

vs.

*James W. Preston*

Defendant in error,

Writ of error,

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Filed

*Jan 7-67*  
*Watney*  
*clerk*



State of Illinois,

SUPREME COURT.

SS.

THE PEOPLE OF THE STATE OF ILLINOIS,

To the Sheriff of *Keanock* County:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of *Keanock* County, before the Judge thereof, between *Jane W. Brown Plaintiff*

And  
*Henry R. Dickerson*

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

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 Springfield, 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 *Plaintiff*

that *he* be and appear before the Justices of our said Supreme Court, at the next term of said Court to be holden at Springfield, in said State on the first Tuesday after the first Monday in January next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then and there the names of those by whom you shall give the said *Plaintiff* notice, together with this writ.

Witness, the HON. JOHN D. CATON, Chief Justice of our said Court, and the seal thereof at Springfield, this  
*7<sup>th</sup>* day of *January*  
in the year of our Lord, one thousand eight hundred and  
*sixty-one*.

*John D. Caton*  
Clerk of the Supreme Court.



131

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Supreme Court,  
SECOND GRAND DIVISION

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*Mary A. Dickinson*

Plaintiff in Error.

vs.

*James W. Butler*

Defendant in Error.

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SCIRE FACIAS.

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*Filed* .....

.....  
*Clerk J. C.*

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# Supreme Court---Second Grand Division.

JANUARY TERM, 1861.

## ABSTRACT.

HENRY R. DICKINSON, Appellant,  
vs.  
JAMES W. BREEDEN, Appellee. } Appeal from Hancock.

- 2 March 7, 1859. Declaration in Ejectment filed for N. W. qr. sec. 26, T. 5, N. R., 8 W., 4th principal meridian—State of Illinois.
- 3 March 10, 1859. Plea filed.  
October 16, 1860. Jury waived. Trial by Court.
- 4 Possession admitted.
- 4 1. Plaintiff then gave in evidence patent from United States to Edward Crow, dated 5th November, 1818, for premises in question, and in due form.  
2. Also deed from Edward Crow to Benjamin Hughes for same premises, dated December 18, 1818—and recorded October 6, 1859, and in due form.  
3. Also deed from Benjamin Hughes to James I. Dozier for same premises, dated November 16, 1822, and recorded October 6, 1859.  
4. Also copy of deed from James I. Dozier to Elisha L. Conant, dated October 8, 1835, and recorded September 10, 1836, as follows:

This Indenture of bargain and sale, made and entered this 8th day of October, 1835, between James I. Dozier and E. L. Conant, both of the city of Louisville, State of Kentucky, witnesseth that the said Dozier hath this day, for and in consideration of the sum of one hundred dollars to him in hand paid by the said Conant, granted, bargained and sold, aliened and confirmed, and by these presents doth grant, bargain, sell, alien, convey and confirm unto the said Conant and his heirs, a certain tract or parcel of land, situate, lying and being in the county of Hancock, in the state of Illinois, containing one hundred and sixty acres, be the same more or less, being N. W. 26, North, 5 W. 8, of the Bounty lands, and being the same quarter section patented by the United States to Edward Crow, a soldier in the late war, who deeded the same to the said Dozier—to have and to hold the said tract of land, together with all the privileges, immunities, the rights and appurtenances thereunto belonging, to the said Conant and his heirs forever.—And the said James I. Dozier, for himself and his heirs, doth covenant with the said Conant and his heirs, that he will, and his heirs shall, warrant to the said Conant and his heirs, and forever defend to him and them, the title to the said before described tract of land, to his and their only proper use, benefit and behoof, against the claims of all and every person or persons claiming or to claim the same. In witness whereof the said James I. Dozier hath hereunto set his hand and affixed his seal the day and year herein before written.

JAMES I. DOZIER, [SEAL.]

STATE OF KENTUCKY, CITY OF LOUISVILLE, sct.

- I, John Joyes, Mayor of the City of Louisville, aforesaid, do certify that James I. Dozier, whose name is signed to the above and foregoing Indenture, as grantor, is well known to me, and he personally appeared before me in my office and signed, sealed, acknowledged and delivered the same as and for his voluntary act and deed, and is willing the same be admitted to record in the proper office. In testimony whereof I have signed my name and affixed the seal of the city aforesaid on the 24th day of October A. D. 1835.

(SEAL)

JOHN JOYES, Mayor.

- 6 Recorded in volume "13" of deeds, page 464, September 10, 1836.

STATE OF ILLINOIS, }  
HANCOCK COUNTY. } ss.

I, Squire R. Davis, clerk of the circuit court and ex-officio recorder in and for said county and state, do hereby certify that the above and foregoing is a true and correct copy of a deed of conveyance from James I. Dozier to E. L. Conant, as recorded in book "B" of deeds, page 464, which is one of the records of my office; and that the same was recorded September tenth A. D. 1836.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this third day of June A. D. 1859.

(SEAL)

S. R. DAVIS, Clerk.



STATE OF KENTUCKY, } ss.  
COUNTY OF JEFFERSON.

I, Charles M. Thurston, clerk of the county court aforesaid, do hereby certify that  
7 the foregoing deed was executed and acknowledged in conformity with the laws of the state of Kentucky in force at the date thereof.

Witness my hand and official seal this 23th day of June, 1859.

(SEAL)

CH. M. THURSTON, Clk. Jeff. Co. Ct.

To the reading of which deed in evidence the defendant at the time objected because it was a copy, and for want of proper authentication and discription of the land.

Also an affidavit as follows:

JAMES W. BREEDEN,

vs.

HENRY R. DICKINSON,

} Circuit Court, Hancock Co., Illinois.  
Ejectment.

James W. Breedden, the aforesaid plaintiff, being first only sworn, deposes and says, That it is not in his power to produce upon the trial of said cause the original of a deed from James I. Dozier to E. L. Conant, dated 8th October, 1835, and for the premises in controversy in this case and recorded in Hancock County, Illinois, in book "B" of deeds, page 464; that the original of said deed has never been in affiant's possession or under his control; affiant purchased said premises of said Conant and received a deed of conveyance therefor from him, but neither when he so purchased nor at any time before or since did he receive from said Conant the original of said deed from Dozier to Conant; affiant resides at Louisville in the state of Kentucky, and said Conant resides in the state of Indiana, at Evansville, and resides in said state of Indiana when he conveyed said land to affiant. Affiant has applied to said Conant, both in person and by letter, for said original deed, but has never been able to procure said original deed from said Conant, nor get any information from him or any one else as to where said original could be found or procured. And further, as to Dozier's deed to said Breedden, (the original,) said affiant states he was in Keokuk, Iowa, in December, 1855, and then mailed, paid postage and directed said deed to David E. Head, then Clerk of Hancock County, Illinois, and enclosed pay for recording it and requested said Head to record and forward it to him at Chicago, which he told me since, *personally*, he had done, but I never saw it, and made all diligent enquiry for it at Chicago Post Office for months after, but could never get or obtain it, and have no knowledge of where it is now or can be found.

J. W. BREEDDEN.

9 To which defendant objected that it is not sufficient to account for absence of the original deed and enable plaintiff to read a copy, but the court overruled objection to said deed and affidavit and permitted said deed to be read in evidence, to which opinion of the court in overruling said objections and permitting said deed to be read in evidence defendant, by his counsel, excepted.

6. Also deed from Elisha L. Conant to James W. Breedden for same premises, dated January 2d, 1858—and in due form, which was all the evidence in chief on the part of plaintiff.

To sustain issues on part of defense, defendant introduced in evidence the following,—to the legal effect of all said evidence the plaintiff objected.

1. A deed from Samuel Crow, Elizabeth Crow, Mary Louisa Griffith and John Griffith to Bryant Bartlett and Henry R. Dickinson for the said land in question,  
10 dated May 13, 1854, and recorded June 10, 1854, executed and acknowledged on said May 13, 1854, in the County of Jefferson and State of Kentucky.

2. Also a deed from Bryant Bartlett to Henry R. Dickinson for the premises in question, dated February 1, 1856, and recorded August 12, 1856.

3. Defendant also proved that said Edward Crow died in the year 1832, and that the above named Samuel Crow and Mary Louisa Griffith were his legitimate and only children and heirs at law, and that the said Mary Louisa had intermarried with the John Griffith prior to the 13th May, 1854.

4. Also a deed from Stephen B. Munn to Charles F. Moulton and Russel H. Nevins for the premises in question, dated December 7, 1835.

5. Also a deed from Charles F. Moulton and Russel H. Nevins to Robert Schuyler, Russel H. Nevins, William Couch, Abijah Fisher, and Daniel Lee, for said land, dated 1st March, 1839, as joint tenants, and not as tenants in common.

6. Also a deed from Robert Schuyler, William Couch and Abijah Fisher to William Couch, Abijah Fisher and David H. Nevins for said land, dated September 20, 1854.

7. Also a power of attorney, duly proved, from Robert Schuyler to Southworth Shaw, dated July 12, 1854, as follows: "Know all men by these presents, that I,



Robert Schuyler, of the City of New York, have made, constituted and appointed, and by these presents do make, constitute and appoint Southworth Shaw of Boston, irrevocably my true and lawful attorney, for me and in my name, place and stead, and as my act and deed, to execute and deliver to such persons as William Couch and Abijah Fisher shall name, a bargain and sale deed for the nominal consideration of one dollar, of all the lands, tenements and hereditaments, situate, lying and being in the State of Illinois, now belonging to, or standing in the name of myself, Abijah Fisher and William Couch, as joint tenants and not as tenants in common, giving and granting unto my said attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises, as fully, to all intents and purposes, as I might or could do if personally present, with full power of substitution and revocation, hereby ratifying and confirming all that my said attorney or his substitute shall lawfully do or cause to be done by virtue hereof. In witness whereof, I have hereunto set my hand and seal the twelfth day of July, in the year one thousand eight hundred and fifty four.

ROBERT SCHUYLER, (L.S.)

Sealed and delivered in presence of C. L. Schuyler and G. W. Schuyler.

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

12 Be it remembered, that on this twenty-eighth day of July, 1854, in said City of New York, before me, Moses B. Maclary, a commissioner residing in said City, duly appointed and commissioned by the Governor of the State of Illinois, to take the acknowledgment and proof of the execution of deeds and other instruments in writing under seal, to be read, recorded in said State of Illinois, personally appeared George W. Schuyler, to me personally known to be a subscribing witness to the within power of attorney, who, after being duly sworn according to law, did depose and say, that Robert Schuyler, whose name appears subscribed to the said power of attorney, is the real person who executed the same, and that he, the said George W. Schuyler, subscribed his name as a witness thereto in the presence, and at the request of the said Robert Schuyler, which is sufficient evidence to me of the execution of said power of attorney.

In witness whereof I have herunto set my hand and affixed my official seal as commissioner of the said State of Illinois, in the City of New York, the 28th day of July, A. D., 1854.

(L.S.)

MOSES B. MACLAY,  
Commissioner of the State of Illinois,  
in the City of New York.

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

13 Be it remembered, that on this 28th day of July, 1854, in said City, before me, Moses B. Maclay, a notary public of the State of New York, residing in said City, duly commissioned under the laws thereof, and qualified, personally appeared George W. Schuyler, to me personally known to be a subscribing witness to the within power of attorney, who, after being duly sworn according to law, did depose and say, that Robert Schuyler, whose name appears subscribed to said power of attorney, is the real person, who executed the same, and that he, the said George W. Schuyler, subscribed his name as a witness thereto in the presence, and at the request of the said Robert Schuyler, which is sufficient evidence to me of the execution of said power of attorney.

In witness whereof I have hereunto subscribed my name and affixed my seal of office, the day and year last aforesaid.

(L.S.)

MOSES B. MACLAY,  
Notary Public, 51 Liberty street.

Also in connection therewith a designation by William Couch and Abijah Fisher as follows:

"Whereas in the annexed power of attorney, dated the twelfth day of July, one thousand eight hundred and fifty four, from Robert Schuyler to Southworth Shaw, said Shaw is authorized as attorney of said Schuyler to execute and deliver to such persons as William Couch and Abijah Fisher shall name, a bargain and sale deed for the nominal consideration of one dollar, of all the lands, tenements and hereditaments, situate, lying and being in the State of Illinois, belonging to or standing in the name of Robert Schuyler, Abijah Fisher and William Couch as joint tenants and not as tenants in common: Now we, the above-referred-to William Couch and Abijah Fisher, do hereby name David H. Nevins of the City of New York, to be the person to whom said lands, tenements and hereditaments, shall be conveyed by said Shaw as attorney for said Schuyler. In witness whereof, we have hereunto set our hands and seals this nineteenth day of September, 1854.

WILLIAM COUCH, (L.S.)  
ABIJAH FISHER, (L.S.)

In the presence of JOSEPH PERKINS.



"STATE OF NEW YORK, )  
CITY AND COUNTY OF NEW YORK.) ss.

On this twenty-seventh day of October, A. D., 1854, before me, James M. Baldwin, a notary public and commissioner of deeds in and for the State of New York, residing in the aforesaid City, personally came William Couch and Abijah Fisher, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they executed the same.

In testimony whereof, and that this deed or instrument is executed, according to the laws of the State of New York, I have hereunto set my hand and official seal,  
15 at the said City, the day and year aforesaid.

(L.S.)

J. M. BALDWIN, Not. Public."

8. Also proved by Charles A. Savage, that the said Russel H. Nevins and David Lee died, the latter-named in January, 1853, and the former in October or November, 1853.

9. Also a deed from William Couch, Abijah Fisher and David H. Nevins to Abijah Fisher, David H. Nevins and Nathan T. Carryl for said land, dated October 4, 1854.

10. Also a deed from Abijah Fisher, David H. Nevins and Nathan T. Carryl to Henry R. Dickinson for said land, dated 26th September, 1856.

11. Also a bond for a deed of said premises from William Couch, Abijah Fisher and Robert Schuyler to Bryant T. Scofield, dated April, A. D., 1854.

12. Also an assignment of said bond by said Scofield to Bryant Bartlett and Henry R. Dickinson, dated June 1, 1854.

13. It was admitted that said Bartlett and Dickinson took possession of the said premises in June, 1854, and that the defendant has been in possession thereof ever since; and that before that time the said premises had always been vacant.

14. Also receipts for the taxes of 1846 and 1847 on premises, paid by Robert Schuyler, William Couch, Abijah Fisher, Russel H. Nevins and David Lee, both dated February 4, 1848; also, receipts for the taxes of 1848, 1849, 1850, 1851, 1852 and 1853, paid by the same parties, the last receipt dated April 24, 1854, on same premises.

15. Also receipts for tax on same premises for 1854, on 8th February, 1855, and for 1855 on 5th December, 1855, paid by said Bartlett and Dickinson.

16. Also receipts for the taxes of said land for the year 1856, dated December 22, 1856, and for 1857, dated 29th January, 1858, paid by the said Henry R. Dickinson.

Declaration was served 7th of March, 1859.

This was all the evidence on the part of the defendant.

The plaintiff, to rebut the evidence on the part of the defendant, introduced the following evidence:—

17 1. The deposition of James I. Dozier, taken in Louisville, Ky., where he has resided for twenty-five years, as was testified by him, on the 31st May, 1859. Said witness testified that he knew Edward Crow and Benjamin Hughes in their lifetime, and formerly lived near them in Shepherdsville, Bullitt County, Ky., and that he knew Elisha L. Conant. Witness formerly sold and conveyed the land in controversy to Conant in 1835. Witness was then asked the following questions, and testified as follows:

17th Interrogatory. Do you or not know one Bryant Bartlett? If yea, state when you first knew him, and where; and state if you know where he then lived, either from his information to you or any other source; state how you knew his place of residence.

Ans. I say I have seen a man who told me his name was Bartlett or Bartley; I believe he said *Bartell* but I cannot say on oath whether it was Bartlett; whether I should know him by the name he told me he bore I do not know—I think I should not. I was sick, and cannot state the time I saw him, and have never seen him but once that I know of. He told me he lived in Illinois. At the time I saw him I was unwell as I have been for more than ten years past, more or less. I can and do say all the time, he came to my office in Louisville in the first part of the day. He inquired of me about the Crow land and I told him I had nothing to do with it, that I had sold it to E. L. Conant, and that I had not been paid for it: still I had sold it to Conant and it was his. He inquired for Conant's whereabouts. I couldn't tell him where he was. I told him I had received many letters about this land,  
18 and spoke of one received of Mr. Scofield, whom I supposed he knew. This supposition was induced because Scooby's letter showed that he knew the land and lived at no great distance from it—and the man Bartlett or Bartly, without telling me his point of residence, told me he was well acquainted with the land. He said he didn't think the land had ever belonged to Hughes or to me; that he had under-



stood that when Crow had sold it to Hughes, he, Crow, was insane. I had never before heard of Crow's insanity, and knowing him well before he sold, and for more than three years after he had sold it, I knew the charge of insanity was false, and so told him. I told him it was an infamous *lie*, and that any man who said it was so, and he knew it, was a liar. He told me that he and a Mr. Rankin, and I believe he named some other man, whose name I don't remember, were about buying it of Crow's heirs, expecting to hold it, because Crow at the time of the sale and execution of the deed to Hughes was insane and incapable of making a contract or deed to it. He said that Rankin, his partner, had received information from Cole Thomasson, then living in Louisville, and who was the father-in-law of Rankin. He said they were about purchasing the land from one Johnson, who was the agent of Crow's heirs. I told him I knew Johnson from general report to be a very bad man. He said he had advanced \$100 toward the completion of the contract, and that Johnson had got it. My recollection is that he said that the

19 \$100 had been paid to Johnson by Rankin, and that Rankin had got the money of him. He said he would see to that matter, and if I was right about the condition of Crow's mind when he made the deed to Hughes, he must have the money back, and he would go to see Thompson about it, and left my room, which was about seventy or eighty yards from Thompson's office, and this is my best recollection of what passed between Mr. Bartlett or Bartly, if that was his name, as he told me it was, one or the other, and myself. I can't recollect the time more accurately than I have hereinbefore stated. There was no one present at the time but ourselves.

Int. 1. Did you or not then learn from said Bartlett that he knew that Crow had conveyed the land to Hughes and Hughes had conveyed it to you? State what he said touching that matter?

In answer to the 19th interrogatory, I can say no more than I have said in my answer to the 17th interrogatory except this. I did tell the man Bartlett or Bartly, that Crow had conveyed to Hughes and Hughes to me, and that I had sold and conveyed to Conant.

2 Also the deposition of Elisha L. Conant of follows:

Int. 2. Do you know one Bryant Bartlett? If you please, state how you first became acquainted with him.

Ans. I do. I first became acquainted with him by correspondence in April, (1854,) in the spring of 1854 or 1855 or '56. I saw him personally at the town

20 of Hamilton, in Hancock county, in the State of Illinois.

Int. 3. Did said Bryant Bartlett ever apply to you to purchase a tract of land situated in Hancock county, Illinois, described as the North West quarter of Section (26), in Township 5 North, and Range 8 West of the 4th Principal Meridian?

Ans. He did. I received a letter from Mr. Bartlett from Illinois relative to the aforesaid land, asking me if I had any claims to said land and if I would sell it. I think this was about the last of April or the first of May 1854. I answered his letter but did not keep a copy of it. I cannot say whether I directed my answer to Keokuk, Carthage or Hamilton. A short time after this I received one or two letters from Bartlett from Louisville, Kentucky. The tenor of the Louisville letters was about the same purport of the other letter above mentioned, asking if I had any claim to said land and wished me to write to him at Louisville. I think he wished me to say the lowest price I would take for said claim. I think he wrote two letters from Louisville. In consequence of not having kept a copy of said letter above referred to, I have referred to some letters from Winston & Scofield (now before me). I find it must have been the last of April or first of May, 1854. I refer particularly to the first letter from Bryant Bartlett from Illinois.

Int. 4. If said Bryant Bartlett did apply to you to purchase said land, please state whether such application was in person or by letter.

21 Ans. At first by letter as above referred to in answer to interrogatory third. Afterwards in person he asked me what I would take for my interest or claim.

Int. 5. Please state what reply you made to such proposition or application, and whether such reply was by letter or word of mouth?

Ans. I replied by letter to Mr. Bartlett stating that I owned said tract of land.

Int. 6. The application to purchase made to you by said Bartlett and your reply to him were by letter, please state whether you have his letter or letters to you and your letter or letters, or a copy or copies of your reply or replies to him; if you have any of them please attach such as you have to your deposition, mark them respectively A. 2, 3 and 4, &c., and refer to them by their respective marks, and if you have not such letters or copies, please state what became of them, and then state the contents of each as accurately as you can remember?

Ans. His application and my reply to him in the first instance was by letter. I believe his letters to me are mislaid. I cannot find them now. I may have given some of them to Mr. Breeden. If I did he has them now. I keep no copies of my replies. I think I received three letters from Mr. Bartlett. The



main subject contained in the letters was asking me if I had any interest in the  
22 above tract of land and the lowest price I would take for it. It may be that he spoke of going to Cincinnati and urged the necessity of an immediate reply, which I did. I replied I had an interest, that I owned the above tract of land, but did not state the terms of sale, so far as I now remember.

Int. 7. If you say you have not the said letters from Bryant Bartlett to yourself, please examine your papers and state whether you are able to find the same, or if you have heretofore searched for the same, please state whether you have been able to find the same?

Ans. I have taken a partial hunt for them, but have not found them for this occasion.

Int. 8. Please state what you informed Bartlett when he applied to you to purchase the land—did you or not inform him that you had parted with your title, and also that Edward Crow had in his life time sold and conveyed said land?

Ans. I do not recollect of saying anything about the Crow deed in my letter. I think Mr. Winston or Scofield, as my friends, did.

Int. 9. Did you not inform the said Bartlett that the title you had formerly owned was derived through a deed of conveyance from Edward Crow to Benjamin Hughes?

23 Ans. I cannot say positively that I did, as I have not a copy of my letter, though I presume I did. I think Mr. Winston or Scofield did. I supposed Bartlett knew the fact by the tenor of his letters to me.

Int. 10. Did or did not said Bryant Bartlett, when he made such application, state that it appeared from the records of Hancock County, Illinois, that you had some claim to said land, and that he had for some time been endeavoring to learn your whereabouts?

Ans. I cannot say that he did.

Int. 11. If you know anything further of interest or advantage to either of the parties to this suit, please state it fully.

Ans. I know nothing further.

CROSS INTERROGATORIES.

Cross Int. 1. When and where did you first see Bryant Bartlett? How many times did you ever see him, and where was he at each time you saw him, and how long were you with him at each time, respectively?

24 Ans. I saw Mr. Bartlett at Hamilton, Illinois, and I think I only saw him once, in the summer of 1854, or 1855 or 1856. Cannot say for certain which of those three years. It may have been directly after his trip to Louisville, Kentucky, which was in 1854. I do not think I was with him more than one or two hours.

Cross Int. 2. If you say in reply to the direct interrogatories that Bryant Bartlett ever communicated with you in any manner in relation to the north-west quarter of 26, 5 N., 8 W., in Hancock County, Illinois, at what precise time or times was such communication? Was it in writing? If yea, attach the communication to your deposition—if oral, who was present at each time, and state all that said Bartlett said to you at that time in relation thereto?

25 Ans. I received a communication from Mr. Bartlett asking me if I had any interest in the aforesaid quarter section of land. The first was from Carthage or Hamilton. I think it bears date about the last of April or first of May, 1854. His letter I cannot find at this time. By referring to letters from Scofield & Winston relative to said land, I think it was from the 15th of April to the first of May, 1854. The other letter which he wrote me was from Louisville, Kentucky, immediately after the above mentioned letters—all of which were relative to my owning an interest in the said lands. After Mr. Bartlett made the trip to Louisville, Kentucky, I met him at Hamilton, Illinois. I saw him alone, at which time I asked him if his name was Bartlett and if he was the man who wrote to me about the land. He replied he was. After talking a few minutes he said he had sold it—I think he said to a man by the name of Dickerson. He said he would introduce me to him. I think we found Dickerson in the garden at work in Hamilton. I offered to pay Dickerson for all the taxes he had paid if he would give it up to me. Dickerson told me his title was good as Bartlett had procured the deed from Crow's heirs. I told Dickerson I did not care for his title, for I could prove that said Bartlett had notice of my title before purchasing from the heirs of Crow. At this this instance Bartlett and Dickerson stepped a few steps aside, and after consulting a few minutes about the time of my leaving them, one of them said—we will give you about the expense of a law suit for my interest, supposing it to be about fifty dollars. Bartlett, previous to introducing me to Dickinson, wished to know of me what I asked for my interest in the lands as described above.

Cross Int. 3. Did not said Bartlett inform you at the time he made such communication to you, either written or oral, that he had purchased said premises from the heirs of Edward Crow?

*See Crow's Case 22 M.*



Ans. He did not, except as above mentioned in answer to second cross interrogatory No. 2.

Cross Int. 4. Did not said Bartlett at the time of said communication with you, inform you at the time he purchased said premises from the heirs of said Edward Crow, he had no knowledge or notice of said Crow ever having deeded said premises to any person, or that any person other than the heirs of said Crow claimed the patent title to said land, or words to that effect; and declare fully what he did say in said communication with you?

Ans. I do not remember that in communication, either written or oral, that he spoke of having purchased from Crow's heirs.

E. L. CONANT."

Also the affidavit of James W. Breeden, as follows:

JAMES W. BREEDEN,

vs.

HENRY R. DICKINSON.

} Circuit Court in and for Hancock County, Illinois—in Ejectment.

James W. Breeden, plaintiff aforesaid, being first duly sworn, deposes and says that he has not now and never has had in his possession or under his control a letter written by Bryant Bartlett from Illinois to Elisha L. Conant, about April or the first of May, 1854, alluded to by said Conant in his deposition taken in this case, and that he does not know in whose custody nor under whose control said letter is, and never has known, and has both written to Conant and pressed him *verbally* to try to find said letter—and that he, CONANT, always replies that he cannot find it after much search for it.

J. W. BREEDEN.

STATE OF KENTUCKY,

COUNTY OF JEFFERSON.

ss.

27 Sworn to and subscribed before me, Michael Murphy, a commissioner of deeds for the State of Illinois in Kentucky, by said James W. Breeden, well known to me, this 29th day of February, A. D., 1860, at my office in said City of Louisville and county aforesaid.

In testimony whereof I have hereunto set my hand and affixed my official seal, as commissioner in Kentucky for the State of Illinois, the day and year aforesaid.

(L.S.)

MICHAEL MURYHY, Comm. for State of Ills.

To the reading of each of which answers in Conant's deposition, and said affidavit of Breeden, said defendant at the time objected—which objection was overruled by the Court and the defendant then excepted, no objection being made to the form of either said deposition or affidavit but only to their legal effect.

Also a letter, dated June 2nd, 1854, admitted to be in the hand writing of Bryant Bartlett and also the directions thereon, admitted to be in his hand writing, as follows:

E. L. CONANT, Esq.

Dear Sir:—I find by the records of Hancock County, Illinois, that—have or have had same claim upon a quarter section of land in said County of Hancock, viz: north west quarter of section twenty-six.

28 The writer is in possession of said land—and desirous of perfecting the title to the same—can afford probably to give you more for your rights to the same than can other applicants, which you will probably have about this time. So if you have not sold you had better not do so until I see or hear from you. I have but this moment learned your present whereabouts; had expected to find you here. Please drop me a line upon the receipt of this; direct to Keokuk, Iowa. If you should receive this in time to have an answer reach me at Cincinnati, Ohio, before 10th day of this month, I could come down and see you before my return home, that is if you have not sold. Please write, however, to both places whether you have sold or not. I can have your Cincinnati note (should it not reach me in time) forwarded to some other point in the neighborhood of Cincinnati, several of which I have to visit before I return home. Will you, sir, be kind enough to answer this instant, as requested, whether you have sold or not, as it will make considerable difference with my other arrangements.

Yours, in haste,

BRYANT BARTLETT.

On the back of said letter appears the following:

(STAMP.)

Louisville, Ky., July 4.

E. L. CONANT, Esq.,  
Memphis, Tennessee.



Received in Louisville, Ky., by me on the 15th March, 1858, from Conant and carefully copied, *verbatim*, on same date.

J. W. BREEDEN, Letter Book, 105.

29 This was all the evidence in said cause.

And thereupon the court found defendant guilty of unlawfully withholding from the plaintiff the possession of said premises, and for damages and the costs of this suit.

To which opinion of the court, in finding defendant guilty and in rendering judgment against him, for said land and for damages and costs, defendant then and there excepted.

29 Judgement order, and motion of defendant for appointment of commissioners to assess value of lasting and valuable improvements.

30 Appeal prayed and allowed on defendant entering into bond of two hundred dollars, with Geo. Edmunds, jr., as surety. Bond filed.

31 32 Assignments of error as follows, viz:

1. Court erred in overruling defendant's objection to the copy of deed offered by plaintiff from Dozier to Conant, and allowing the same to be read in evidence, and also in overruling the defendant's objection to the sufficiency of the affidavit of the plaintiff, as to the loss thereof, and allowing the same to be read in evidence.

2. The court erred in overruling the defendant's objection to the deposition of Elisha L. Conant and allowing the same to be read in evidence.

3. The court erred in receiving secondary evidence of the contents of letters of Bryant Bartlett, when objected to be defendant, without the originals being sufficiently accounted for.

4. The court erred in holding the affidavit of James W. Breeden to sufficiently account for the absence of the original letters of said Bartlett, when objected to by the defendant.

5. The court erred in finding the defendant guilty and rendering judgment against him for said premises and damages and costs.

6. The finding and judgment of the court was against the evidence and should have been for the defendant.

BROWNING & BUSHNELL and

FERRIS, HOOKER & EDMUNDS,

Attorneys for Appellants.



POINTS AND BRIEF OF APPELLANT:

1st. The copy of deed from Dozier to Conant was improperly admitted—First, because of the absence of the original was not sufficiently accounted for.—Booth vs. Cook, 20 Ill., 131.

Second—The deed was not sufficiently authenticated.

Third—The N.W. 26, north 5, west 8, of 4th principal meridian, does not describe the land.

2. Parol evidence of the contents of Bartlett's letters to Conant, improperly admitted.

3. The answer of Conant improperly allowed to be read in evidence.

4. There was no notice to Bartlett or Dickinson at the purchase by them of Crow's heirs, of prior deed by Crow.

15. Ill. 149, 154, 157.

5. The land was always vacant up to June, 1854, and occupied by Dickinson after that.

6. Taxes were paid under color of title from 1846, to 1853, inclusive while vacant, and from 1854, to 1858, inclusive while occupied.

R. S., 104, sections 8 and 9.

19 Ill. 385- 20. Ill. 397, 23 Ill. 387, 391.

23 Ill. 507, 502-



Dickinson

24

Breden

Abstract & Brief

POINTS AND BRIEF OF V.P. IVANT:

[ 3 ]

Filed Jan 11 - by  
W. A. T. money  
ch

Second—The deed was not sufficiently authenticated.

Third—The N.W. 38' north & west 1/4 of 4th principal meridian does not describe the land.

Fourth—The reference of the contents of Breden's deed to County improperly.

Now, held, of record by Gov.

and was duly recorded in the land and accepted by Dickinson

and was duly recorded in the land and accepted by Dickinson



33

**SUPREME COURT**

OF

**ILLINOIS.**

**SECOND GRAND DIVISION.**

**131**

3076

Breeden  
vs  
Dickinson

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1861