No. 14780 A

Supreme Court of Illinois

Deltzer et al

vs.

Scheuster et al.

71641

STATE OF ILLINOIS,

SUPREME COURT,

THIRD GRAND DIVISION.

No. 172

J. W. Middleton & Co., Stationers, 196 Lake St.

14780

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION,

APRIL TERM, 1865, AT OTTAWA.

AUGUST DELTZER & SALLY DELTZER,
Appellants,
vs.
OTTO SCHEUSTER & EDWARD SCHEUSTER, by GEORGE SCHEUSTER, their Guardian,
Appellees.
} *Appeal from Marshall.*

ABSTRACT OF THE RECORD.

1 This is a bill filed by appellees to obtain an injunction against Sally Deltzer, one of appellants, as executrix of Anthony Scheuster, to injoin
11 her from selling the real estatate of the testator under a decree of the county court of Marshall county, to obtain funds to pay the debts of testator; and to have an account of assets.

2 Appellees allege that they are minors and the only children of Anthony Scheuster, deceased, who died about 28th March 1861, leaving appellees and Sally Scheuster, his widow, now Sally Deltzer, his devisees and only heirs. That, on 22d Feb. 1861, he made his last will and testament, referred to as an exhibit, and copy attached to, and made part of bill; by which will he devised to said widow the SE pt. of lot 141, in city of Henry, (which was improved and occupied by testator in
3 his lifetime, of value of $2,000,) and all his personal effects, after payment of debts and funeral expenses; to hold for life, then go to appellees.

And all his other real estate in Henry, Ill., and in France, he bequeathed to her during widowhood for support of appellees; and the residue of his estate he bequeathed to appellees, as described in said will, and appointed said widow his executrix.

That said will was, on 18th April 1861, proven and admitted to probate, and said widow qualified as executrix and accepted said trust.

4 That, at March term of county court of said county, three appraisers were appointed and qualified to appraise the personal estate of deceased, and set off to widow her separate property, and appraised personal estate at $151.50, and appraised and set off to widow $785, and made their report, which was filed and approved by the county court.

And afterwards, on 29th July 1862, said court deducted from widow's allowance $45, and ordered that she recover residue, $740.50, as her separate property.

5 That, at March term of said county court Sally Deltzer filed her petition for sale of real estate of deceased, to pay her claims; said Sally having married August Deltzer; which petition is exhibited in said bill; and such proceedings had thereon that she obtained a decree to sell all the real estate of deceased in Henry aforesaid, excepting the lot bequeathed to her, and the homestead of herself and children, or so much as is necessary to pay the debts, upon the terms stated in said decree, which is made an exhibit; and that she, in pursuance of said decree, advertised said lands for sale on the premises, on 30th day of
6 June 1863, according to the notice set out in bill, describing said lands and specifying the time, place, and terms of sale, and conveyance.

That said deceased, at his death, owned said lands described in said will, of the value of $4,800.

7 That said widow was, in county of Putnam, Ill., married to said August Deltzer, on 12th day of Nov. 1861.

That said widow did not relinquish any of the devises and bequests made to her under said will; but claims the same, and also her separate property.

8 That deceased resided at Henry, Ill., and kept a saloon, where he sold liquors, cigars, and other things usually sold in saloons; was a man of wealth; lived in a house of his own, well furnished with furniture and conveniences usual in dwellings; and owned the building occupied as a saloon, which was well stocked with furniture, cigars, liquors, and other things usually kept in a saloon.

That deceased, at his death, had on hand a large sum of money, to wit: $1,000 gold, and ten barrels or more of liquor, of the value of $500, and other property, amount and kind not stated.

That appellants, conspiring to defraud and cheat appellees, concealed from the appraisers the fact that deceased had any money, or property, or liquors, as set forth in bill; and that same has not been appraised or return thereof made to probate court by said executrix, or been otherwise accounted for, but has been appropriated by appellants.

9 Appraisement bill is exhibited.

That the principal, if not the only indebtedness of said estate is the $740.50 allowed said widow, which allowance is alleged to be illegal, as she did not relinquish her bequest under will, &c.

That said decree was obtained by fraud; and that said real estate should not be sold, because said executrix has used and concealed the money and personal property of greater value than the amount due her and the debts of said estate, and has not had said property appraised.

10 That appellees, since their marriage, have collected rents from said real estate, and have occupied the house and saloon occupied by deceased in his lifetime, without paying rents therefor.

That appellants have driven appellees from their father's house, refused them home, food, clothing, and turned them out among strangers, fatherless and friendless, and sought to rob them of their property, and refused to pay the rents over received by them, and to pay rent for the house and store used by them.

That said guardian was duly appointed by the county court of said county.

11 *Prayer*—That an injunction issue injoining sale of said property or proceeding further in said sale; and that appellants be made defendants, and answer under oath, and answer the following direct interrogatories, viz:

What rents they have received from said real estate described in will, and how much from each piece of property; what property they have occupied, belonging to deceased in his lifetime; how long they occupied same; what the rent is worth, and value of the property; and that they render a full account of all property and money left by said deceased at time of his decease.

That decree of county court be set aside, and said executrix be perpetually injoined from proceeding further in sale of said lands.

12 That an account be taken of money and property left by deceased; and said appellees account therefor, and for general relief, ~~generally~~.

The bill is sworn to by guardian.

13 Injunction is ordered by judge.

Bond for costs is filed by guardian.

14–16 The will, substantially as set out in bill of complaint, is set out.

17–19 The petition to the county court is set out substantially, as alleged in bill of complaint.

20 The record of the proceeding of county court, attached to and made part of the bill, shows an approval of the report of said executrix reporting inventory of personal estate of deceased and the appraisement of said estate.

21 Also, show an appointment of executor *ad litem*, to investigate claim of executrix;

22 And an adjudication upon said claim.

23 Also, an adjudication and decree of the county court, determining the right of said widow to the dwelling and saloon occupied by appellants, and exempting them from payment of rent therefor to appellees.

25–27 The decree of the county court, authorising the sale by executrix of real estate of deceased, substantially, as alleged in the bill of complaint, is set out in substance.

29 The warrant of the appraisers of said estate is set out in proper form.

30 Also, the oaths of the appraisers, in due form;

33–35 And their appraisement of widow's separate property;

And the appraisement bill of personal estate.

The answer of appellants to the bill of complaints admits,—

38 That complainants are the only children of deceased; that the testator died at time and place alleged in said bill, and left appellees and said widow his only heirs and devisees; and that deceased made his will, devising his estate as alleged in said bill.

But denies that the lot bequeathed to said widow is of value of $2,000; but alleges that it is of value of about $1,300, or $1,400.

39 It admits the appointment of said widow executrix and guardian; that said will was duly proven and recorded, and said widow appointed executrix of said estate by county court, as alleged in said bill; that appraisers were appointed and qualified, and set off to said widow her separate property, and appraised the personal estate, and made report thereof to county court, which was approved; and that a deduction was made from the allowance of separate property; and that the said county court decreed to her said separate property, as alleged in bill.

39 It admits the marriage of appellants, the filing of the petition for leave to sell the real estate to pay the debts, and the claim of widow, less $269, the amount of personal property received by her in part payment of her claim; that she is seeking to sell said real estate, to pay the debts of the estate generally, with interest and costs of administration.

40 That said debts, beside her claim, exclusive of interest and costs, amount to $459.75; most of which debts she has paid out of her own funds, being all thereof but $185.21; and that all said debts remain to be paid.

41 That, about $500 now remain to be paid, beside the widow's claim; and that there is no property or effects to pay any of said claims, excepting said real estate, said widow having exhausted the personal estate in payment of part of her claim.

It admits the obtaining the decree in county court, advertisement for sale, and her intention to sell a portion of said real estate, as alleged in bill of complaint.

Admits that deceased owned real estate mentioned in will; but denies the value as alleged in bill.

Admits that she did not relinquish bequest of lot made to her; and says she has not received the benefits of personal estate; that it has all been exhausted in paying portion of her claim against estate; that the personal estate will not pay the claims again said estate; and will come short thereof from $700 to $900.

Claims she is entitled to her share of personal estate, or specific articles set off by appraisers, and her homestead, described in bill, whether she relinquishes said bequest or not.

42 Admits that deceased lived in a house in Henry, and kept a saloon under same roof, with his family.

Denies that he had any money, liquors, cigars, or other effects than those appraised and accounted for, and denies that the saloon was plentifully stocked, as alleged in bill.

Denies that he had $1,000 in gold, or liquors to amount of $500, and other property, as alleged in the bill. Says there were $8 or $10 on hand, which were applied for necessaries for appellees after their father's decease. The liquors on hand were appraised by appraisers, and she received it as part of her separate property, or in lien thereof.

43 And all other property and effects of said estate were appraised, or has since been returned by her and accounted for to county court.

Denies all conspiracy by appellants, or either of them, to cheat or wrong appellees of their money or property. Denies the appropriation by the appellants of any money or property of appellees to their own use.

Alleges that widow's claim for specific articles is not illegal or unjust; and denies that it is the principal claim against said estate.

Denies that decree of county court was obtained by fraud; and alleges that said land should be sold to pay widow's claim, established thereby.

Denies that there was money and personal property sufficient or more than sufficient to pay the debts of deceased.

44 Admits that said Sallie has collected rents to amount of $58,85 from said real estate, which have been applied entirely to the mentenance, education and support of appellees.

Admits that appellants with appellees occupy the dwelling occupied by deceased and his family at and before his decease, which the said Sallie and her family, including appellees, have occupied ever since testator's decease.

Alleges that said building is not large enough for said family, but appellants have used one small room in front for a saloon, and that whole building and lot are only worth $700 or $800.

45 Denies that appellants have driven appellees from their home and turned them out among strangers, nor sought to rob them of their property, nor refused them food and clothing, nor refused to account for rents, excepting the rent of homestead occupied by appellants and appellees, which is the only home of the parties.

Alleges that said widow did, from decease of testator till time of her marriage with said Deltzer, feed and clothe, mend and wash for, and lodge and school appellees, and have so been provided since said marriage with all necessaries for their natural sustenance and education at great expense and with great care.

That the present guardian has appropriated all the rents of said real estate to useless litigation; and has applied none thereof for the support of appellees, or their education. That appellants have provided all necessaries for said minors, by their own exertions; and always furnished them with a home; which appellants are not able to do, without some compensation, or means out of said estate.

46 In answer to the direct interrogatories, appellants answer:

That said Sallie received rents for a house and lot in Henry, Ill., used as a shoemaker shop, being on lot 174, from decease of testator, till 1861, $6,60; and from lot 194 in Henry, for same time $52,25; which is all either of appellees received at any time; which rents were appropriated by said Sallie, as guardian, for benefit of wards, before her last marriage.

That said Sallie, with her family, have occupied said homestead, as mentioned in bill and answer; and she has collected the rents on the lot bequeathed to her, being SE pt. of lot 141 in Henry, to amount of $225, or thereabouts, in all.

47 Which answer is duly sworn to by the appellants.

A replication in due form is filed.

The testimony of the following witnesses is also submitted by agreement of the parties.

JOHN P. BOICE testifies:

49 Knew deceased; lived in Henry; kept saloon; sold cigars; was one of appraisers, who appraised his estate. Refers to appraisement bill; says it is the original, $151,50 was amount of bill; are liquors in bill worth $8. They were in cellar; I wrote; other appraisers went to cellar. I supposed were some liquors in bar, and part box cigars. I did not go to cellar; did not see liquors; did no more than agree with others; knew from what they said liquors on hand were appraised. I was never in cellar. Knew deceased from 1855; knew he was indebted. He bought property of a man in St. Louis, Mr. Clark, worth $600 or $700. Was in saloon eight or ten chairs; similar to chairs at bar; was
50 table there; furniture was plain, consisted of bureau, chairs, table, looking-glass, cupboard, lounge, sofa, two bedsteads, cooking-stove, and usual kitchen furniture; hollow-ware, and other little articles. I saw everything excepting what was in cellar. Was two stands, wardrobe, dishes, crockery, pictures, frames and ice box. Appellants gave account of property in cellar, and we appraised it as it was. Geo. Scheuster was there and assisted in showing property. Widow and children lived in house; she spoke broken English—he plainer. George gave us part of information about property. Remember inquiring what was down cellar, of George, and he said there was part of three or four barrels of rot gut whiskey, and a few bottles of wine; don't recollect of anything else.

Kept whiskey and beer there, usually—not very good. Don't know of any other debts he was owing. Recollect inquiring of George, myself, and he said there was part of three or four barrels whiskey, &c. Judge Judge Janny and Mr. Weis were there, so they could hear it.

CHAS. WHIMPLE testified:

51 Knew Anthony Scheuster two or three years before his death. Knew of his receiving liquors not a great while before his death. Six barrels from Peoria. I was in the cellar. He asked me to go in. Were two cellars—back one small—other good size. Found lot barrels, kegs, &c. He was making arrangements in cellar. Had rack made on side, to put barrels on. Helped him put them in cellar. Was quite a number of barrels and kegs and some bottles, in cellar. Took hold of one. Had something in some of them. He told me of having some liquor which cost him $1[illegible] to $2[illegible] a barrel. Knew of him having some wine in bottles. Went to back cellar, found some kegs, barrels there. Nothing was said about back cellar. Might have been ten or fifteen barrels and kegs, besides the six. Think there were. Said he could not live long, and wanted me to go with him to Dr. Swanzy's. I went. It fixed in my mind, time, or about time. Can't say positively what time it was. I was in house the day before he died. I don't know what was in barrels. He said there was whiskey. Swanzy gave him medicine, with
52 instructions. He was sick some little time. Don't know what time of year this was. Drank some very good whiskey there that time. Think he was not in debt at all.

FRANK LIPPENCOT testified:

Knew Anthany Scheuster, while in Henry. He kept saloon. Did not live with him, but was there often—five or six times a day. Was there for several days before he died. Knew about his liquors. Was eight barrels week or eight days before he died. Got at Peoria. Was common whiskey. Was in back cellar. Was no other liquors there. Was some brandy in front cellar. Don't know how much. Was cherry brandy. Some liquor in decanters in bar. Were five or six barrels and kegs in front cellar. Don't know what was in them. Were some bottles wine. Mrs. Scheuster got me to go there. Was alone there. If she wanted anything, I got it. Anthony was sick. Was there doing
53 chores. Attending for some time. Went to cellar to get liquor for bar. Did it while Scheuster was well and sick. Not after his death. Was common liquor,—some brandy and cherry and rye whiskey. Don't know its worth. Were 40, 41 or 42 gallons in barrels. Scheuster always had some money. Don't know how much. Don't know he had any just before his death. Saw gold and silver, year before his death, was in his pocket, don't know amount. I knew there were whiskey barrels in back cellar. Were not tapped. Bought in Peoria. Were four, five or

six empty barrels. Was worth 15, 18 or 20 cts. per gallon. Scheuster sold considerable whiskey.

ANTHONY FALING testified:

I knew Scheuster while he lived in Henry. Was often at his place, till his death. Don't know what liquors he had at or before death. He had $35, which he gave me in gold. Saw other money—was in shot bag. Thought bag was half full. Picked it out in three pieces: $20, $10 and $5. Took bag out of trunk. Stated he had some yet. This was in fall. He died in spring. Was an ordinary shot bag.

MARGARET THOMAS testified:

54 Knew deceased in his life-time, four or five years. Lived eight years with him, next before his death. Was not there when he died. Left three months before his death. Went back two months after his death to live with Mrs. Scheuster. Used to go down cellar to get liquor for bar. Think there was every kind,—twelve or thirteen barrels of liquor. Think were filled. Were kegs with wine and cherry brandy, and other things, three or four. Got brandy and cherry out of them. Was wine in keg and bottles. When I went back some barrels were there. Drew from them, and took liquors to bar. It was sold by Mrs. Deltzer. Mr. Deltzer told what kinds of liquors to get, and I got them. She told me she had nice lot of liquors in cellar before I went into cellar. I staid there till she got married, and a little after,—eight months in all. She bought no liquors while I was there, that I know of. She would take in sometimes two, three and four dollars. Was pretty uniform. Sold cigars, candy and tobacco. Was some of these things there when I left. Was less there when I came back. Was there when appraisers were there. Was in kitchen. Don't know whether same liquors were there when I came back, as when I left. Don't know of her buying liquors while I was there. The barrels in back cellar were all full.

BARNARD YEAGER testified:

Knew deceased since 1854 in Co. He showed me between seven and nine barrels in back cellar. Had in front cellar, brandy, gin, cherry bounce, rye whiskey, and I think some bottles wine, and some in kegs. Don't know for sure. I knew liquors. He paid 35 cts. for some rye whiskey. I don't know, think there were $200 worth, on close inventory. Wrote most all his letters, the three or four last years of his life. He had cigars, candy and tobacco; kept them below counter, mostly. Sold cheese, crackers, and such things. Barrels in back cellar were full. Was whiskey in them. Did not taste it. Knew what kind it was without tasting it. Did know but forget what he paid. He told

me all about it. Am on good terms with Deltzer. Am in same business.

MICHAEL KLEMHAUS testifies:

I knew deceased from time he came to Henry. Was there when he died, and often before. Saw he had some money. He exchanged $5 bill with me. Got his sack out of bureau drawer, and gave $5 to me in silver. Was in shot-bag, nearly half full. Did not see what was in sack. This was month before he was sick; don't know how long before his death; not long. Got some paper and paid it back to him. He borrowed some money of Mr. Syphers, and borrowed $300 of me where he bought brick house, and paid it back in two weeks. He told me a day or two before he died that he loaned some money to Gregory. Syphers had some money and would not take it home, but gave it to Scheuster, who said he would not have it after one year, and gave it to me. This was in 1857 or 1858.

WM. SYPHERS testifies:

The first money I loaned deceased was in 1857 or 1858,—$300, for
57 one year, at 10 per cent. He paid it when due. About 9th June 1860, loaned him $185, and took his note, which is on file in probate court. He wanted to borrow the money, I told him I could take it home and put it into the partnership, but he could have it. Don't know what he done with it. Think he wanted to pay for or improve property. Was in Henry. Gave him certificate of deposite on bank in Peoria. No
58 one present but his wife; was June 1860, at his house. Knew of Scheuster loaning Gregory money after that time,—I think $90, which is or ought to be indorsed on my $184 note Was indorsed by widow after his death.

VALENTINE WEIS testified on part of defendants:

Am one of appraisers. We appraised everything in bar and cellar;
59 were pointed out to us by Mrs. Scheuster and Geo. Scheuster. They told us there were some things there, and we did not go down, but appappraised it at $8. Was not much in bar. Furniture was common. George and Mrs. Scheuster said there was not much in the cellar. We appraised all in cellar and bar at $8.

MICHAEL SIMADER testified on part of defendants:

I knew deceased in life time. Knew his widow who kept on with his business in same place. She bought or ordered some goods from Peoria, three or four weeks after his death.

58 LOUIS HELPER testifies on part of defendants:

Knew deceased in his life-time. Was often at his premises at work four or five times a week. Was friend of mine. Had liquors on hand for two years before his death. Took always lowest priced. About ten days after his death, I found there five or six barrels, not all full; one-half barrel wine. Other was common liquor. Widow was doing busi-
59 ness there. Knew of her buying some at Peoria, once or twice. Once about month and half after his death. The quality was little better. In eight or ten days was first I was there after his death. In ten or twelve days I went to get some liquor for myself, and went into back cellar, to see what was there. Was there five or ten minutes. Knew some of barrels were part full by knocking on them with my fingers. Knocked on three. Could not exactly tell what was in them. Were not full. Were plenty of empty barrels there. Not more than four barrels full. Two or three barrels in front cellar—nearly empty. She told me he left only $5 in money. She had shot-bag too, in which he kept his little change. Was small keg of gin. One cellar is small, eight or ten feet wide, eight or ten long. Little one, five by six.

SAMUEL J. MCFADDIN testifies on part of defendants:

Knew deceased. He kept whiskey, wine, brandy, beer, &c., a poor quality. I wrote his will a little time before his death. He said he had
60 no money, excepting $5. This was not to exceed a month before he died. His furniture was common.

P. M. JANNY testifies on part of appellees:

Knew Scheuster, was one of appraisers. Did not appraise anything
70 in cellar. Appraised only liquors in bar. Asked Mrs. Scheuster if there was anything else. She shook her head. Asked George Scheuster to ask her if there was anything else, and he stated that she said there was not.

77 The decree dated Feb. 2d, 1865, declares the equity of the case with complainants, so far as the right of the executrix to sell the lands to satisfy her claim against said estate is concerned, which claim is found to be $740.50.

And decrees, that defendant, Sallie Deltzer, executrix of estate of Anthony Scheuster, be perpetually enjoined and prohibited from making any sale of the lands mentioned in the order of the County Court ~~is concerned~~; excepting such portion as may be necessary to pay the debts
78 proved against said estate, and not including the widow's claim, and that she pay individually the costs of the suit, but not as executrix.

The defendants pray an appeal to the Supreme Court, which is allowed
79 upon their entering into bond conditioned as the law directs, in the sum of $200, to be filed in 30 days by agreement of parties and sureties to be approved by the clerk by agreement.

80 Appeal bond filed as required, by the order of court and agreement of parties.

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82 ASSIGNMENT OF ERRORS.

The Court erred in finding the equity of the case with appellees, (complainants in the court below.)

The court erred in not setting aside the finding, and giving appellants (the defendants in the court below) a new hearing.

The decree is contrary to equity.

The finding is against the evidence.

The court should have found for the appellants (the defendants below), and should have dismissed complainants bill and rendered a decree for appellants.

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August Kellyn
et al
vs
Otto Schuster
et al

Abstract.

Filed Apl 7, 1865
L. Schandelk

Supreme Court of Illinois
3d Grand Division
April Term 1865

August Dettzer et al
Alb Schuster et al } Appeal

The Appellants in reply to the points made by Appellees submit the following.

That the widow has forfeited her dower in consequence of accepting under the will.

She has forfeited all the Statute provides for.

When the Statute has fixed the rights of the parties and provided what shall forfeit can the court add to the forfeiture, and say it shall be more, or something else? The expression of of one thing in law is the exclusion of another.

The common law as applied to the case, by a court of Equity would as between devisees & as between heirs forfeit all the legal estate of the party bequeathed to other persons by the will, but as to these the Statute has made no

provision & therefore the common law is in force

But as to the widow, as such, and as to her rights in her husbands estate, the statute provides that she shall by failing to renounce the benefits under the will of her husband forfeit dower in his estate and nothing more.

The statute of course was not intended to make the widows case worse than the heirs: and in addition to forfeiting her rights in an estate devised by the will, other than dower, defeat dower also.

The widow claiming as creditor her seperate property dowed stands as other creditors in all respects as to her right to collect her claim by sale of the real estate, excepting in this respect: that her rights to this seperate property & to collect this claim would not be prevented by the failure

to renounce; even if other creditors would be, by taking under the will; because the statute interposes by express provision to save her rights, to this separate share of the estate.

But the construction put upon the law would not prohibit any creditor it is apprehended from collecting a claim against an estate merely because a devise was made to such creditor in the will of the testator of such estate, unless the will provided that the devise should be in satisfaction of the claim.

The rule is the claimant shall not take the property which he had by the law & which is devised to another, and at the same time take other property devised by the will to another so as to defeat the will.

Burnside Cummings
for Appellant

August Deltzer
et al
vs
Otto Schenster
et al
Additional Points
made by the
Appellants in
reply

Pleas before the Circuit Court of Marshall County in the State of Illinois [On the Chancery side thereof] at a term thereof begun and holden at the Court House in the City of Lacon in said County and State. On Monday the the third day of October in the year of Our Lord One thousand Eight Hundred and fifty four, Present the Hon Samuel D. Richmond Judge of the 23rd Judicial Circuit of the State of Illinois, James St. C. Boal States Attorney for said Judicial Circuit, Joseph R. Taggart Sheriff of said Marshall County & Sheldon Arnold Clerk of said Circuit Court,

Otto Schuester & Edward Schuester By George Schuester their Guardian
vs
August Deltzer & Sally Deltzer
} Chancery
Bill for Injunction,

Be it Remembered that heretofore Come the Complainants by their solicitors, "to wit" On the 11th day of June AD 1863, and file their Bill of Complaint herein, which is in the words and figures following "to wit"

State of Illinois
Marshall County

Edward Schuster & Otto Schuster by their Guardian George Schuster
vs
Sally Deltzer & August Deltzer her husband
} In the Marshall Circuit Court of Term AD 1863

In Chancery

To the Hon Samuel L. Richmond Judge of the 23d. Judicial Circuit Court inn & for the State of Illinois in Chancery Sitting

Humbly complaining shew-eth unto your Honor, Your Orators Otto Schuster and Edward Schuster who are infants under the age of Twenty One years — the said Edward being about years of age, & the said Otto being about years of age, and who sue by the Guardian George Schuster

That they are children and the only children of Anthony Schuster late of the City of Henry in the County of Marshall deceased, — that the said Anthony Schuster departed this life at Henry aforesaid about the 28th day of March A.D. 1861, leaving as his sole & only heirs & devisees your Orators and his widow Sally Schuster now Sally Dettzer as hereinafter shown

That before his decease the said Anthony Schuster made his last Will & Testament viz. on the 22d day of February A.D. 1861 — a copy of which last will & Testament is hereto attached and made a part of this Bill

That in and by said last Will & Testament the said Anthony Schuster gave & devised to his wife Sally a part of Lot No. 141 in the City of Henry the same being the S.E. part of said Lot fronting 20 feet on Edwards Street & running back Eighty feet, which said Lot was occupied & improved by said Schuster during his lifetime and was of great value, to wit,

of the value of Two Thousand Dollars or thereabouts

Also he bequeathed to his said wife all of his personal property, after disposing of sufficient thereof to pay his debts & funeral expenses, to be held by her during her natural life, & then to your Orators

He also bequeathed unto his said wife Sally for the benefit of your Orators, during her widowhood all the rents arising from his other property in the City of Henry

He also bequeathed unto his said wife the rents of certain property owned by him and situate in the Kingdom or Empire of France (of great value, to wit, of the value of dollars yearly) during her widowhood for the purpose of supporting your Orators. which property is described in said last Will.

And in and by said Will the said Anthony Schuster bequeathed unto your Orators certain other lots in the City of Henry owned by him at his decease & described in said Will, & also the property situate in France & fully described in said Will, after the limited interest of the said Sally therein should cease

And in and by said Will the said Sally Schuster was appointed Executrix of said last Will & Testament

That afterwards, to Wit: on or about the 18th day of April A D 1861 the said last Will & Testament was duly proven & admitted to Probate by the County Court of said Marshall County, and the said Sally was duly appointed Executrix thereof & entered upon the discharge of her duties as such

That afterwards, to wit, at the March Term A.D. 1861 of said County Court of Marshall County as aforesaid three persons were appointed appraisers to appraise the Goods Chattels and personal estate of the said Anthony and also to estimate or appraise the value of the property to be set off to the Widow of said Anthony under & by virtue of the provisions of the Act of the Legislature of the State of Illinois approved Feby 11, 1847 entitled "An Act to amend an Act concerning Wills"

That said appraisers were duly Sworn and proceeded to appraise all the property shown to them, and appraised the same at the sum of One Hundred & fifty One Dollars and fifty Cents $151, 50

They also appraised or estimated the value of the articles to be set off to the widow under the act aforesaid at ($785) Seven Hundred & Eighty five dollars, which said appraisements were duly returned into the Court aforesaid and approved by said Court & the same ordered to be filed & recorded

And afterwards, to wit, on the 29th day of July A.D. 1862 it was by said Court Ordered that a deduction of Forty Two Dollars be made from the allowance to said Widow for articles of Specific property due her and that the said Sally have & recover of the estate of said Anthony Schuster the sum of $740, 50, as the value of the personal property under & by virtue of the act of the Legislature of the State of Illinois as aforesaid

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That afterwards, to wit, at the March Term A D 1863 of said County Court, the said Sally Schuster, under the name of Sally Deltzer (she having in the mean time married August Deltzer as hereinafter set forth) filed her Petition in said County Court for the sale of the real estate to pay the amount of the judgment in her own favor as aforesaid a copy of which application is hereto attached and made a part of this Bill

And such proceedings were had upon such Petition that said Court Ordered adjudged & decreed that all the real estate described in said Will as being situate in the City of Henry aforesaid, should be sold. "Except the lot bequeathed to said Widow and the homestead occupied by her as aforesaid." or so much thereof as might be necessary to pay the debts of said deceased, upon giving notice for the time and in the manner prescribed in said Decree, a copy whereof is herewith filed & made a part of this Bill

And in pursuance of such Decree the said Sally Deltzer has advertised all the lands described in said Will as being situate in the City of Henry, except as above excepted, to be sold at Henry aforesaid on the premises, on the Thirteenth day of June A D 1863, at which time and place the said Sally Deltzer threatens & purposes to sell said premises according to the following notice

Sale of Real Estate

Notice is hereby given that by virtue of a decree

of the County Court of the County of Marshall and State of Illinois, made at the March term, 1863, in the cause wherein Sally Deltzer, Executrix of the Estate of Anthony Schuster, deceased, and August Deltzer her husband are Complainants and Edward Shuster, Otto Shuster and George Shuster their guardian are defendants. I will on the Thirteenth day of June A D 1863 between the hours of 10 O'clock A M and 4 O'clock P M, sell at public auction to the highest and best bidder on a credit of six months, to draw six per cent interest, the following Real Estate the property of said deceased to satisfy said decree, to Wit: Part of Lot 174 in Henry in said County fronting 18 feet on Second Street and running back to the line of said lot, Also part of lot 174 deeded to said deceased by Samuel Baker and wife fronting 18 feet on Second Street and running back 60 feet, being the East half of 36 feet Out of said lot, Also, part of lot 194 in Henry Commencing at the South East Corner of said lot, running thence Northward along Edwards Street 20 feet, thence East at right angles with Edwards Street 70 feet to the alley, thence South parallel with Edwards Street Twenty feet, thence East along the line of said Lot to the place of beginning, Also, part of lot 194 Henry, being the South East part thereof, being 20 by 90 feet fronting towards the Public Square and extending back towards Edwards Street 90 feet, being in the County of Marshall and State of Illinois, which lots are more particularly described in deeds of Conveyance to the said deceased

The Sale to take place on the said premises and I will take notes with personal Security and a Mortgage on the premises to secure the deferred payments, and will convey the lots to the purchaser

Sally Deltzer

Executrix of Estate of A. Shuester dec.

May 2 1863. — no 4 6W

And your Orators further set forth & show that at the time of his decease, the said Anthony Schuster owned all the lands described in his said last Will & Testament and that the actual cash value thereof was about Four Thousand Eight Hundred Dollars

That afterwards to wit on the 12th day of November A D 1861 at & within the County of Putnam in the State of Illinois the said Sally Schuster, under the name of "Salma Ruprecht" her maiden name, was duly united in marriage to August Deltzer her present husband by John P. Hayes a Justice of the Peace in & for said County of Putnam

Your Orators further show unto your Honor that the said Sally Schuster never did relinquish any of the bequests or devises made to her in & by said Will, but that she claims & pretends that she is entitled to receive said bequests and devises, and also the allowance under & by virtue of the Act of the Legislature as herein before set forth

That the said Anthony Schuster during the last years of his life and at the time of his death resided at the City of Henry in the County of Marshall and State of Illinois, and was engaged in the business of keeping a Saloon for the sale of liquors cigars and other things usually kept in a Saloon; That he was a man of considerable wealth, lived in a house of his own, which was well furnished with all the conveniences & furniture usual in dwellings, and also owned & occupied the building used by him as a Saloon, which Saloon was well stocked with furniture liquors cigars & other things usually kept in a Saloon

That at the time of his decease he had on hand a large sum of money in gold, to wit, the sum of One Thousand dollars (the exact amount thereof being unknown to your Orators)
And he also left a large amount of liquors, to wit; Ten Barrels or more, of the value of Five Hundred Dollars as your Orators are informed & believe, and also many other articles of personal property the value of which is unknown to your Orators

And your Orators further show that the said Sally Deltzer conspiring with the said August Deltzer to cheat injure & defraud your Orators out of the property left them by their said father, wilfully concealed from the appraisers aforesaid all knowledge that said Anthony Schuster had left any money in gold as above set forth, or any liquors or other property as above set forth, and said gold, and

other property was not appraised by them, nor has any return thereof been made by the said Sally to the Court of Probate, or accounted for in any way or manner, but said money and property has been appropriated to her own use & that her husband the said the said August Deltzer

Your Orators hereto attach a copy of the appraisement made by said appraisers & make the same a part of their Bill, by which it will appear that no money liquors were appraised by them, and no money was returned by them as belonging to the estate of said Anthony Schuster

And your Orators further show, that the principal if not the only indebtedness of said estate is for the allowance of $740,50 to said Sally as above set forth, which allowance is unlawful and illegal independent of the fraud above alleged, because she did not relinquish all claim to the property bequeathed to her under & by virtue of the last Will & Testament of the said Anthony Deltzer

And your Orators further show, that said judgment was obtained by fraud and that said real Estate ought not to be sold because as above set forth, the said Sally Deltzer has concealed and used the money and property left by the said Anthony of far greater value than the amount due her by said judgment and has fraudulently & corruptly refused to account for a large amount of property left by the said Anthony of value sufficient to pay & more than pay, all outstanding indebtedness of said

Estate of whatever kind or nature, and has refused and neglected to have the same appraised and now pretend that said Anthony did not leave such property or money

Your Orators further show that since the marriage of the said Sally with the said August Deltzer, they have collected rents, from the real Estate described in said Will, which was intended for your Orators support, that they have occupied the dwelling and Store or Saloon used by the said Anthony in his lifetime, & refuse to pay rent therefor

And have driven your Orators from the home of their fathers and refused to permit them to board or lodge therein, but have turned them out among Strangers, young, penniless & friendless, & sought to rob them of their property left them by their father, & refused to supply them with food & clothing, and refused to account for the rents received by them, and also to account for the use of the House & Store so occupied by them

Your Orator further shows that he has been duly appointed Guardian of the said Otto & Edward Schuster by the County Court of Marshall County aforesaid, which said appointment has not been revoked or annulled

Your Orators therefore pray that an injunction may be ordered to issue prohibiting and restraining the said Sally & August Deltzer or either of them from selling the property so advertised for sale as aforesaid & from proceeding any further with such sale

That they may be made defendants to this Bill & compelled to answer the same under their & each of their Corporal Oaths according to their best knowledge information & belief as fully & particularly as if the facts herein stated were again set forth & they especially interogated thereto

That they may set forth & show particularly what rents they have received from any & all the property described in said Will, & showing fully how much has been received from each piece of property therein described; and also what property they have occupied belonging to said Anthony Schuster in his life time, and how long they have occupied it & what the rent thereof is worth & the value of such property

Also that they may render a full just & complete account of all monies & property left by the said Anthony Schuster at the time of his decease

And that upon a final hearing said Decree of the County Court authorizing the sale of said lands may be set aside or the said Sally perpetually enjoined from proceeding any further in the sale of said lands

That an account may be taken of the property & money left by the said Anthony Schuster & the said Sally & August Deltzer compelled to account for the same, and that they may have such other & further relief as to your Honor may seem meet & proper

Otto Schuster
Edward Schuster by
George Schuster their
Guardian

State of Illinois
Marshall County ss } Henry June 10th 1863

This day Came before me George Schuster Guardian of Otto & Edward Schuster & made oath that he had heard the above Bill read, & that the matters & things therein set forth as of his own knowledge are true, & those set forth upon information & belief he believes to be true

Subscribed and Sworn to before me }
this 10th day of June AD 1863 }

William Gallaher Justice of the Peace

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State of Illinois
Marshall County ss. Upon the Compts. entering into Bond in the penal sum of One Thousand Dollars conditioned according to law with Phineas M Janney and Peter German as securities let an injunction issue according to the prayer of the foregoing Bill

S. L. Richmond
Judge 23d Judicial Distinct

To Sheldon Arnold Clk
Marshall Co. Circuit Court
July 27th 1863

Otto Schuster & Edward Schuster
who sue by their Guardian
George Schuster
Vs
Sally Deltzer & August Deltzer

In the Marshall Circuit Court in Chancery

Bill for Injunction & relief.

I do hereby enter myself security for Cost in the above entitled Cause & acknowledge myself bound to pay all Cost which may accrue to the opposite party or any of the Offices of this Court

June 10 1863

G. Ball.
George Schuster

State of Illinois
Marshall County ss.

Upon filing the foregoing Bill let an injunction issue thereon according to the prayer thereof, restraining the defts. therein

named as therein prayed for until the 29th day of June inst

S. L. Richmond
Judge 23d Judicial
District

I Anthony Schuster of Henry in the County of Marshall and State of Illinois do hereby make and declare this my last Will and Testament in manner & form following. To Wit;

1st It is my will that my funeral expenses and all my just debts be paid

2nd After the payment of such funeral expenses & debts I give and devise & bequeathe unto my wife Sallie Schuster a part of Lot No. 141 as numbered in the Original plat of the City of Henry, the same being the S.E. part of 2d Lot fronting 20 feet on Edward Street & running back 80 feet, also all of the personal during her natural life, after having disposed of enough to pay and discharge the expenses & debts aforesaid and at her death, all of the aforesaid bequeathed to my two sons Edward Schuster & Otto Schuster and their heirs forever

3d I give devise & bequeathe unto my two sons Edward Schuster & Otto Schuster the following, to wit, part of Lot 174 as numbered in the Original plat plat of the Town of Henry (now City of Henry) in the County

of Marshall & State of Illinois, being the same fronting on 2nd Street 80 feet more or less, & running back to the line of 2d Lot. Also a part of the Lot above described known as & deeded to me by Samuel Baker & wife 18 feet front on 2nd Street & running back the width 60 feet & is the easterly half of 36 feet out of said Lot No 174 above described. Also a part of No 194 in the City of Henry. Commencing at the S. Easterly corner of 2d Lot No 194 thence running Northwardly along Edward Street 20 feet, thence Westerly at right angles with Edward Street 70 feet to an alley 10 feet wide thence Southwardly parallel with Edward Street 20 feet, thence Easterly along the line of said lot to Edward Street to the place of beginning. Also a part of Lot 194 in 2d City of Henry being situated in the SE part of said Lot 194 & being 20 by 90 feet - say 20 feet fronting on or towards the Public Square & extending back towards Edward Street 90 feet in the Lot above described, fronting on Edward Street

4th I give devise & bequeathe unto my wife Sallie Schuster for the benefit of my two sons above described during her widowhood, or so long as she shall continue my widow, all the rents arising from the above described lands & tenements bequeathed to my sons, for their support

5th I give & bequeath & devise & forever release unto my two sons Edward & Otto Schuster a certain tract and all Lands lying & being in the village of Hutten Canton Soultz Sanfoint departement Du Bois Rhine in France and to their heirs & assigns forever

6th I give devise & bequeath unto my wife Sallie Schuster the rents of the above described property for the benefit of my said wife during her widowhood or so long as she remains my Widow for the purpose of supporting my Two Sons Edward & Otto Schuster

Seventh It is my will & intention & make it the duty of the Judge of the Judge of the County Court of Marshall County State of Illinois upon the marriage of my wife Sallie Schuster to appoint a Guardian for my two sons Edward & Otto Schuster whose duty it shall be to collect all rents & emoluments of the above described property bequeathed to my two sons Edward & Otto Schuster a good education & attend to all of the duties enjoined upon my wife Sallie Schuster

Lastly I hereby Constitute & appoint my said wife Sallie Schuster Executrix of this my last Will and Testament revoking & annulling all former wills by me made and ratifying & confirming this and no other to be my last Will & Testament

In Witness Whereof I the said Anthony Schuster have hereunto set my hand & seal this 22nd day of February A. D. 1861

his
Anthony + Schuster
mark

Witness

Michael Klemhaus

S. J. Mc Fadden

George Schuster

Franz Lippert

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State of Illinois } ss
Marshall County }

In County Court March Term
A D 1863

Estate of
Anthony Schuster deceased

To the Hon S. J. Mc Fadden Judge of the County Court of said County

Your Petitioner Sally Deltzer Executrix of the Estate of Anthony Schuster deceased with August Deltzer her husband respectfully represents: That the said Anthony Schuster departed this life at Henry in said County of Marshall on or about the Twenty Eighth day of March 1861; That your Petitioner was on the 18th day of April 1861 duly appointed by the County Court of said Marshall County Executrix of the estate of said deceased as aforesaid, as will appear by letters testamentary on file in the Clerks Office of this Court

That Inventory, appraisement Bill and Sale Bill in said Estate have been duly filed in the Office of the Clerk of this Court and that the undersigned have rendered to said Court a just and true account of the personal Estate of said deceased

That the personal Estate of said deceased as appears from the aforesaid account and exhibit amounts to one hundred and fifty one dollars; That the debts and demands allowed against and liabilities of the said Estate amount to about the sum of Eight hundred & fifty Dollars as will more particularly appear from said account; That

your petitioner has applied all the proceeds of said personal Estate which have come to her possession towards the payment of said debts as by the account and vouchers on file in this Court will more particularly appear and that there is a deficiency of personal property to pay the debts of the said deceased

And your petitioner further represents that the said Anthony Schuster died seized in fee of Certain Real Estate in said County described as follows, to wit; Part of Lot 141 in Henry in said County Willed and bequeathed to your petitioner, being the South East part of said lot, fronting 20 feet on Edwards Street & running back Eighty feet, part of Lot 174 in Henry fronting on Second Street 18 feet & running back to the line of said lot, Also part of Lot 174 deeded to deceased by Samuel Baker & wife, fronting 18 feet on Second Street & running back 60 feet being the E half of 36 feet out of said lot; Also part of lot 194 in Henry Commencing at the S.E. Corner of Lot 194 in Henry, running thence Northerly along Edwards Street 20 feet, thence West at right angles with Edwards Street 70 feet to an alley 10 feet wide, thence South parallel with Edwards Street 20 ft thence Easterly along the line of said lot to the place of beginning, Also part of said lot 194 in Henry situate in the S.E. part of said lot being 20 by 90 feet, fronting towards the public square & extending back towards Edwards Street 90 feet, all in the County of Marshall and State of Illinois, all of said Real Estate excepting the first lot being willed & bequeathed to Edward Schuster & Otto Schuster sons & heirs of said deceased. But one of the above lots being

the homestead of said Petitioner she resides upon & holds as a homestead, to wit;

That the said deceased left him surviving Sally Schuster as his widow and the following named Children Edward Schuster & Otto Schuster his minor Children and sons & that George Schuster of said County is their Guardian resident in said County the Children being under 21 years of age

Wherefore in consideration of the premises your petitioner prays that this Court may appoint some discreet person as ad litem for said minors heirs to appear for them and defend their interest herein

And that this court will order and direct your petitioner to sell the Real Estate according to law, or so much thereof as may be necessary to pay the debts of said Estate, excepting the lot bequeathed to petitioner & her homestead aforesaid and to make such further order herein as this Honorable Court may seem meet

Sally Deltzer Executrix of
Anthony Schuster deceased
August Deltzer
By John Burns their Solt.

Record of the proceedings of the County Court of Marshall County at a regular term thereof began and held at the Court House in the City of Lacon in said County on Monday the Sixteenth day of June A D 1862

Present. Hon. Saml J. McFaddin Judge R S Hester Sheriff and Jason R Chapman Clerk

Court opened by Proclamation

In the matter of the Estate of Anthony Schuster Dec'd } Inventory and appraisement Bill returned

On this day comes Sallie Schuster Executrix of the Estate of said deceased and presents to the Court the inventory of the personal Estate of the said Anthony Schuster deceased so far as the same have come to the possession or knowledge of the said Executrix; And now the Court having inspected said Inventory, and being sufficiently advised concerning the same it is Ordered that the said inventory be approved filed and recorded

And now again comes the said Executrix and presents to the Court the appraisment bill of the personal property belonging to the estate of said deceased at the time of his death; And the Court having examined the same and being sufficiently advised concerning said appraisement, it is Ordered that said appraisement be approved and it is further;

Ordered that said appraisment be filed and recorded

Ordered that P M Janney be appointed to make a specific set off to the widow, and that he make a report of his doings herein at the next term of this Court

Record of the procedings of the County Court of Marshall County at a regular Term thereof begun and held at the Court House in the City of Lacon in said County on Monday the Twenty first day of July A D 1862
Present- Hon. Saml J McFadden Judge Jason R Chapman Clerk and R S Nester Sheriff

Tuesday Morning July 29th A.D. 1862

In the matter of the Estate of Anthony Schuster Dec'd } Order rescinded & Ext ad. litem appointed

Now on this day it is ordered by the Court, that the Order of this Court appointing P M Janney Executor Ad litem of the Estate of Anthony Schuster dec'd be and the same is hereby rescinded and it is further ordered that Mark Bangs be appointed Executor ad litem to make a Specific set off to the widow of said deceased

And now comes said Executor ad litem and presents the Widows claim for allowance amounting to the sum of Seven Hundred and Eighty two dollars and fifty Cents, and the Court having examined

said claim and being now sufficiently advised in the premises is of opinion that a deduction of Forty two dollars be made on the amount of said Claim for specific property and that the said Sallie Schuster have and recover from the Estate of said Anthony Schuster dec'd the sum of Seven Hundred and Forty dollars and fifty Cents

Record of the proceedings of the County Court of Marshall County at a regular term thereof began and held at the Court House in the City of Lacon in said County on Monday the Eighteenth day of August A.D. 1862

Present— Hon. Sam'l. J. Mc. Faddin Judge Jason R Chapman Clerk— and R. S. Hester Sheriff

In the matter of Edevard Schuster and Otto Schuster by George Schuster their Guardians
vs
August Deltzer and Sallie Deltzer his wife
} Claim for Rent

On this day came the plaintiffs by their attorney Mark Bangs as well the defendants by John Burns their Attorney, and the defendants having waived the service of process herein and entered their appearance and the plaintiffs by agreement of parties

as herein filed present their claim against the defendants for the rent of the house in which the defendants reside, which house and the premises upon which the same is situated being admitted by the agreement aforesaid to be the Homestead of Anthony Schuster the former husband of the said Sallie, and the Homestead of the said Sallie his widow who resided thereon after the death of said Anthony with the minor Children who are the heirs at law of the said Anthony Schuster, And it further appearing that said Anthony Schuster died on or about the Twenty Seventh day of February A D 1861 and that said Sallie his widow intermarried with said August Dellzer who is now her husband and resides with her and her minor Children upon said lot, on the first day of November A D 1861. It appearing also that said Anthony Schuster made his last Will and Testament by which he bequeathed to his minor Children the plaintiffs herein the premises and house aforesaid with other property, and bequeathed to said Sallie his widow other portions of his real and personal estate which she has accepted under the will, and it being further submitted to the Court by the agreement aforesaid whether said Sallie Schuster is entitled to said premises as a homestead as such widow, or as entitled under the circumstances to occupy the same as such or whether she is with her husband liable to pay rent to said minor Children, said premises being occupied in right of said widow, and it being admitted that the use of

said premises is worth Nine dollars per month since the first day of November A D 1861 till the present time, upon the facts aforesaid, the Court is of opinion that said defendant Sallie has no right to Homestead therein and is bound to pay rent together with her said husband

It is further considered by the Court that the plaintiffs recover of the defendants Nine dollars per month for said premises from the first day of November A D 1861. until this time, being the sum of Eighty seven dollars and Twenty two Cents and that they have execution therefor, together with the costs herein by the plaintiff expended,

And now come the said defendants and pray for an appeal to the Circuit Court of Marshall County, Whereupon it is ordered by the court, that said appeal be granted upon condition that the said defendants file their individual bond within Sixty days from this date in the penal sum of Five Hundred Dollars

Record of the proceedings of the County Court of Marshall County at a regular term thereof began and held at the Court House in the City of Lacon in said County on Monday the 16th. day of March A D 1863

Present — Hon. Saml. J. McFaddin County Judge. Joseph R Taggart Sheriff and Jason R Chapman Clerk

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Tuesday March 17th 1863

Sally Deltzer Executrix of Estate of Anthony Schuster Deceased & August Deltzer her husband
vs
Edward Schuster, Otto Schuster and George Schuster their Guardian

Petition to sell Real Estate

On this day this cause came on to be heard upon the bill of complaint, the answer of the defendants and the proofs and exhibits of the parties, and it appearing to the satisfaction of the Court that the above named defendants have been duly served with notice of the pendency of this petition and the minor defendants Edward Schuster & Otto Schuster who under twenty One years of age having filed herein their answer denying the allegations of the petition & calling for proofs thereof, and after hearing the proofs & allegations of the parties the Court is of opinion from the evidence that the said Anthony Schuster died on or about the 28th day of March A.D. 1861, That before his death he made a Will whereby he appointed said Sally Deltzer Executrix, and that she duly qualified & Entered upon the duties of her trust as such in this Court on the 18th day of April A D 1861, That she has filed in this Court an inventory & appraisement bill of the personal assets belonging to said Estate, and it appears from the records & files in the office of the Clerk of this Court that

the assets are insufficient to pay the debts and claims against said Estate, said Claims amounting to about the sum of Eight Hundred & fifty dollars, and it appearing further that said Anthony Schuster being the Owner of the following Real Estate, to wit; Part of lot 141 in Henry in said County, being the South East part of said lot, fronting 20 feet on Edwards Street & extending back Eighty feet, which he willed to said Sally, Also part of lot 174 in Henry fronting Eighteen feet on Second Street & running back to the line of said lot, Also part of lot 174 deeded to said deceased by Samuel Baker & wife fronting Eighteen feet on Second Street and running back 60 feet being the East half of 36 feet out of said lot, Also part of lot 194 in Henry commencing at the South East corner of said lot, running thence Northward along Edwards Street 20 feet, thence East at right angles with Edwards Street 70 feet, to the alley, thence South parallel with Edwards Street twenty feet thence East along the line of said lot to the place of beginning; Also part of lot 194 in Henry being the South East part thereof, being twenty by ninety feet, fronting towards the public square and extending back towards Edwards Street 90 feet, being in the County of Marshall & State of Illinois, which lots are more particularly described in deeds of Conveyance to the said deceased, One of the above lots being as it appears to the Court occupied as a homestead by the said Sally Schuster and her family, to wit;

It further appearing to the ~~said~~ Court that the said deceased left him surviving said Sally his widow, who has since married said August Deltzer, Also said Edward & Otto his minor sons & only heirs,

It is therefore Ordered by the Court that said Real Estate excepting the lot bequeathed to said Widow and the homestead occupied by her as aforesaid, or so much thereof as may be necessary to pay the debts aforesaid, and the expenses of administration be sold at public vendue by said Executrix to the highest and best bidder on a credit of six months, the purchaser giving bond with good security & a mortgage on the premises sold & convey the premises to the purchaser by deed she first publishing said Sale for six weeks successively by putting up notices thereof in four public places in said County & publishing the said notice in One of the public Newspapers in said County of Marshall containing the time terms & place of sale & a description of the premises sold, which sale shall be made on the premises & between the hours of ten Oclock in the forenoon & five Oclock in the afternoon of said day

March 17th 1863

Saml J. McFadden
County Judge M Co Ills.

State of Illinois }
Marshall County } ss

I Jason R Chapman Clerk of the County Court in and for said County and State do hereby Certify that the foregoing is a true Copy of the petition for the sale of certain Real Estate belonging to the estate of Anthony Schuster Deceased — Also of certain Orders and decrees made by the Probate Judge of said Marshall County in the matters of said Estate as the same appears from the records and files in my said office

Seal

U S Revenue Stamp 5 cts Cancelled

In Testimony Whereof I have hereunto set my hand and affixed the seal of said County Court at my Office in the City of Lacon in said County this 6th day of June A.D. 1863

Jason R. Chapman Clerk
By H. W. Crane Deputy

Appraisement Bill

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Warrant to Appraisers

Estate of Anthony Schuster deceased

State of Illinois } ss In County Court
Marshall County } March Term A.D. 1861

The People of the State of Illinois, To P. M. Janney, Valentine Weis and J. P. Boice of the County of Marshall and State of Illinois- Greeting

This is to authorize you, jointly, to appraise the goods, Chattels and personal Estate of Anthony Schuster, late of the County of Marshall and State of Illinois, deceased, so far as the same shall come to your sight and knowledge, each of you having first taken the oath hereto annexed; a certificate whereof you are to return, annexed to an Appraisement Bill of said goods, chattels and personal Estate by you appraised in dollars and Cents, and in said bill of appraisement you are to set down in a column or columns, opposite to each article appraised, the value thereof

Seal

Witness Washington E Cook Clerk of the County Court for the said County of Marshall at his Office in Lacon this Eighteenth day of March A.D. 1861 and the Probate Seal of said Court hereunto affixed

Washington E Cook Clerk
By D G Wanner Deputy

Oath of Appraisers

You, each of you, do Solemnly Swear that you will well and truly, without partiality or prejudice, value and appraise the goods, Chattels and personal estate of Anthony Schuster deceased so far as the same shall come to your sight and knowledge; and that you will in all respects perform your duty as appraisers, to the best of your skill and judgment

Subscribed and Sworn to
this 28th day of May
A D 1861, before me
John P. Boice Justice of the Peace

John P. Boice
P. M. Janney
V. Weis

Please Read This Law

By the Act of the Legislature of this State of February 11th 1847, it is declared that "Widows living in this State, of persons whose estates are administered upon in this State, shall be allowed in all cases, in exclusion of creditors as their sole and exclusive property, forever, necessary beds, bedsteads and bedding for themselves and families, necessary household and kitchen furniture, One Spinning Wheel, one loom, and its appendages, one pair of Cards, One Stove and necessary pipe therefor, the wearing apparel of themselves and families One Milch Cow and Calf for every four persons in the family, One Horse at the value of forty dollars, One Womans saddle and bridle at the value of fifteen dollars, provisions

for themselves and families for one year, two sheep for each member of the family, and the fleeces taken from the same, food for the Stock above described for six months, fuel for themselves and families for three months, and Sixty dollars worth of other property. By the same act it is directed that the appraisers shall make out and certify to the Court of Probate, an estimate of the value of each article of specific property herein allowed to the widow

☞ On this page will be found a blank to be filled up and signed by the appraisers for this purpose

☞ Much difficulty is occasioned in many instances by appraisers mistaking the estimate for the widow as a part of the appraisement. It is no part of the appraisement and it is no matter whether the estate has the particular articles mentioned in the following table, or whether there is nothing of the sort among the property of the estate. The appraisers will take each item in its order, and estimate what it ought to be worth, and then set down the estimated value, on the column headed Dollars, Cents. Begin with necessary beds, bedsteads and bedding for the widow and family, Estimate what you think would be fair to allow the widow for that, and set it down in the Columns, when you come to "One Spinning wheel" "One loom and its appendages" and other items, dont pass one of them by but set down what in your opinion such things ought to be worth, and if the Estate has not got these articles the Widow can take their estimated value in other things or in Cash. Dont alter the printed Amounts in the Column, as they are established by law and cannot be changed

Having finished your estimate, foot it up, and that foot will be the amount of the Widows allowance which she can take in the above articles, if the Estate has them, or in other things at the appraised value or in money

☞ Recollect that the above estimate is not appraising. Having Completed that estimate, go on and appraise every article of personal property belonging to the Estate, Omitting nothing, and set them down with their prices in the appraisement Bill following

The appraisers having nothing to do with Notes, Accounts, Stocks in Companies, or any other papers as they Cannot be appraised, such things must be left out of the Appraisement Bill entirely. They are proper matters to be listed in the inventory filed by the Executor or Administrator, which is a separate matter from the appraisement Bill

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Appraisers Estimate for the Widow

We the undersigned, appraisers, appointed by the Judge of the County Court of Marshall County, to appraise and value the Goods, Chattels and personal Estate of Anthony Schuster deceased do hereby make and certify to said Court, the following estimate of the value of each article of specific property allowed by law to the Widow for herself and family, to wit

Items	Dollars	Cents
Necessary Beds Bedsteads and Bedding for the Widow and family	75	—
Necessary Household and Kitchen furniture	100	—
One Spinning Wheel	5	—
One Loom and its appendages	12	—
One Pair Cards	1	50
One Stove and necessary Pipe therefor	25	—
Wearing apparel for Widow and family	100	—
Milch Cow and Calf (being one for every four in the family)	20	—
One Horse	40	—
One Womens Saddle and Bridle	15	—
Provisions for One year	250	—
Sheep and Fleece (being two for each member of the family)	12	—
Food for the above Stock Six months	50	—
Fuel for three months	20	—
Other property	60	—
	785	50
The court is of the opinion that the sum named as specific property should be	42	—
	743	50

Given under our hands

} Appraisers

Appraisers Bill

Estate of Anthony Schuster deceased

State of Illinois } In County Court
County } Term 186

An Appraisement Bill of Goods Chattels and Personal Estate of Anthony Schuster late of said County deceased, so far as the same have come to our sight and knowledge, which appraisement has been made by us by virtue of the annexed warrant from the County Court of said County, we having been first duly sworn, as required by law

Articles	Dollars	Cents
1 Cupboard	10	—
1 Large Table	4	—
1½ Doz of Chairs	18	—
2 Stands	6	—
1 Lounge	2	—
1 Bureau & Looking Glass	10	—
1 Common Safe	4	—
1 Wardrobe	6	—
1 Double Bedstead	6	—

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1 Single Bedstead	2 —
2 Feather Beds & Bedding	25 —
1 Cooking Stove	25 —
1 Dough Trough	1 50
1 Lot of Dishes & Crockery Ware	5 —
2 Looking Glasses	2 —
1 Clock	3 —
1 Lot of Pictures & Picture Frames	1 —
1 Ice Box	5 —
Bottles, Jars, Barrels & remnants of a grocery	5 —
1 Lot of Liquors	8 —
1 Coal Stove	3 —
Total	$ 151 50

Certified by us this Twenty Eighth day of May A. D. 1861

John P. Boice
P. M. Jamney
V. Weis
} Appraisers

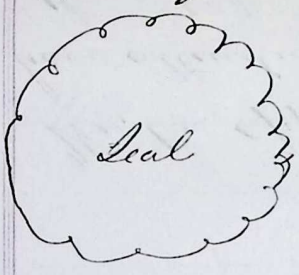
We, the appraisers above named, do Certify that we have attended and served One day each, in appraising the estate of said deceased

John P Boice
V. Weis
P M Jamney
} Appraisers

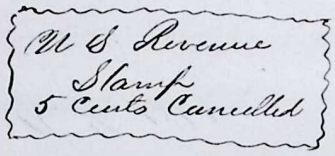
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State of Illinois } ss
Marshall County }

I Jason R. Chapman Clerk of the County Court in and for said County and State do hereby certify that the within is a true Copy of the Appraisement Bill of the estate of Anthony Schuster Deceased as the same appears from the records and files in my Office



In Testimony Whereof I have hereunto set my hand and affixed the seal of said County Court at my office in the City of Lacon this Twenty Eighth day of May A D 1863



Jason R Chapman Clerk
By A W Crane Deputy

Answer

Afterwards. to Wit; On the 10th day of July A D 1863 Came the defendants herein by their Solicitor and filed their answer to the foregoing Bill of Complaint, which is in words and figures as follows

State of Illinois
Marshall County and Circuit Court
October Term A D 1863

Edward Shenster & Otto Shenster
by their Guardian George Shenster
vs
Sally Deltzer and
August Deltzer her husband
} In Chancery

The answer of Sally Deltzer and August Deltzer her husband to the bill of Complaint of Edward Shenster and Otto Shenster appearing by their Guardian George Shenster in the above entitled cause saving all manner of benefit of exception to said bill of Complaint on account of the many informalities & errors therein appearing for answer thereto or to so much thereof as they deem it essential to answer, say

The said complainants are as they believe the only Children of Anthony Shenster who departed this life at Henry in said County leaving Complainants & said Sally his only

Heirs & Devisees, and that before his decease he made his last Will and Testament devising his estate substantially as alleged in said bill. But they deny that the said lot bequeathed to the said Sally was or is of the value of Two Thousand Dollars and does not exceed in value the sum of Thirteen or Fourteen Hundred Dollars, defendants admit that by the said Will the said Sally Shuster, now Sally Deltzer was appointed Executrix of said Estate and Guardian of the said Complainants so long as she should remain the Widow of said Testator and that said Last Will was duly proven and recorded and said Sally appointed Executrix by the County Court of said County and that she has qualified and taken upon her the administration of said estate

Respondents say that three persons were by the said County Court, duly appointed & qualified to appraise the personal estate of deceased & set off to the said Sally the widow of deceased her separate property in said estate as alleged in said bill and that said appraisers did appraise said estate at the sum of $151.50 as alleged in said bill of complaint And did as therein alleged appraise and set off to the said Respondent Sally her separate property which they appraised & reported to the said County Court at the sum of $785. which report was approved and

recorded & filed in said County Court and that it was afterwards Ordered by the said County Court that a deduction of Forty two Dollars $42. be made from said allowance to said widow, and thereupon the said County Court did render a judgment or order in favor of said Sally Deltzer and against said estate, that she have & recover as & for her separate property the sum of Seven Hundred & forty Dollars & fifty Cents $740.50 as stated in said bill of Complaint

Respondents further admit that said Sally Shuster did marry August Deltzer who is now her husband and that her name is now Sally Deltzer & that she did as Executrix file her petition in said County Court for the sale of a portion of the Real Estate of said deceased to pay the debts against said Estate of her deceased husband Anthony Shuster among which debts is this claim of hers due upon the judgment of the County Court in her favor for the sum of seven hundred & forty Dollars & fifty Cents & the interest & Costs, less the amount of the value of the personal estate being Two hundred & Sixty nine dollars ($269.00) which she has accepted in part payment of said sum due on said judgment

And Respondents say that said Executrix is not seeking to sell said Real Estate as aforesaid to pay her claim alone but to pay & satisfy the debts & claims allowed against said Estate with the interest & costs due thereon & the Costs & Charges of Administration

Respondants say that the debts & Claims presented & allowed against said Estate by the County Court of said County beside the claim of the said Sally Exclusive of interest & the Costs & Charges of Administration amount to about the sum of four hundred & fifty nine dollars & twenty five cents a great portion of which the said Sally, Executrix has paid out of her own individual monies & property earned by her by her own labor & exertions being about the sum of One Hundred & Eighty five 21/100 Dollars and for which she is entitled to be paid & have refunded out of said estate, And that the whole sum for claims against said Estate remains due from said estate & unpaid with the interest & Costs aforesaid

Respondants say there remains of the debts originally filed & allowed against said Estate and Costs of Administration over & above what the Executrix has paid out of her own funds & the amount of her individual claims against said estate to be paid about the sum of five Hundred Dollars

And there are no funds belonging to said estate out of which to pay the same or any portion of the debts of said Estate without the sale of Real Estate the whole of the personal Estate having been exhausted as aforesaid in payment of a portion of the Widows share of the personal estate

Respondants admit that the said Sally Executrix did obtain a decree in the County Court of said County substantially as stated in the bill of complaint for the sale of the Real Estate described therein and advertised to sell the same under the notice substantially as alleged in complainants bill of complaint and Respondants admit that said Executrix did threaten & intended to sell a portion of said Real Estate sufficient to pay the claims interst & costs of administration as aforesaid

Respondants say they are informed and believe that said Anthony Shuster owned all the Real Estate in the last Will and Testament described but they are ignorant of the real value thereof but say they do not believe it is of the value alleged in said bill of Complaint

Respondants say the said Sally the defendand herein did not relinquish the bequest of the lot of ground & building bequeathed to her in & by said last Will & Testament but say she has never received the benefits of the said personal estate or any portion thereof under the said will, but that the personal estate has all been exhausted in peyment of her claims against said estate & that it lacks from seven to nine hundred dollars in value sufficient to pay the claims & costs charge & expenses which will have to be paid by said estate which now actually exist & remain to be paid, And they further say that she is entitled to her share of the personal estate set off to her by

the appraisers & allowed to her by the said County
Court and her homestead in said bill described
whether she elects to receive the bequest made to
her under the said Will or not

Respondants admit that said Anthony Shuster
the deceased kept a saloon & resided in a house under
the same roof with the saloon in the town of Henry
+ with his family but they deny that he had any great
quantity of furniture in his dwelling or saloon or that
he had liquors Segars & other things in said saloon
other than have been appraised by the appraisers
aforesaid, and they say said dwelling & saloon were
not plentifully stocked as alleged in said bill.

Respondants deny that said deceased had at the
time of his death on hand the sum of One Thousand
dollars in gold nor had he on hand ten barrels of
Liquor of the value of five hundred dollars & other
property, but say he had on hand in Cash about the
3 sum of Eight or ten Dollars in which was appropriated
for the necessaries of life to support the Complainants
+ after their said Fathers decease

That there was on hand the liquors appraised by
4 the appraisers who appraised the personal estate, which
was disposed of by her, she having returned the same
as part of her share of the personal estate as herein
mentioned

And they say all other property on hand within the knowledge of respondants was returned duly appraised to the said County Court or has been since returned by her to the Co. Court

Respondants deny all conspiracy by them or either of them to cheat injure or defraud complainants out of the property left them by their Father and they deny the concealment of any property money or other thing or things which should be reported to the said appraisers nor have they appropriated any money or property to their own use or that of said Sally and they say for the reasons aforesaid no money or property excepting as before herein stated have been reported to County Court of said County

Respondants say further that the said sum of $740.50 is not an illegal & unjust claim for the reason that said Sally refused to relinquish her bequest, nor is said claim the principal claim against said Estate

Respondants deny that said judgment was obtained by fraud and they say that said real estate should be sold to pay the same, and they say said Sally has not concealed the money & property of said deceased nor refused to to account for the same, nor was there money & property sufficient & more than sufficient to pay the debts against said estate

Respondants say that said Sally has collected
5 rents from said real Estate to the amount of fifty
Eight dollars & Eighty five cents $58,85 Only which
have been applied entirely to the maintainance educa-
tion & support of Complainants, and that the said
Sally with her husband & her two sons the compla-
inants occupy the dwelling occupied by deceased
at & before his death with his family, and said
Sally so has occupied the same as a homestead with
her family ever since the decease of the said Anthony
her husband

And they say that the said building is not large
enough for the accommodation and convenience of
said family but at the same time Complainants
have used one small room in front thereof as a Saloon
& still do use the same and say that the whole
value of the house & lot on which the same is pla-
ced is not One thousand dollars, and would not
6 in fact exceed in value Seven or Eight Hundred dol-
lars or thereabouts

Respondants deny that they have driven the
said Complainants from the house of their father
and refused to permit them to board or lodge therein
and have not turned them out among strangers
young, penniless & friendless, nor have they sought to
rob them of the property left them by their father
nor have they refused to supply them with food

& clothing nor have they refused to account for the rents received by them but they say they do refuse to account for the use of the said homestead occupied by the said Sally with her family as it is her own property and her only house of which she should not be deprived

Respondants say that said Sally did from the time of the death of the said Anthony Shuster up to the time of her intermarriage with said August Deltzer feed clothe mend & wash for, lodge School and furnish said Complainants, and since her intermarriage with said August Deltzer they have been provided for as aforesaid with every thing necessary for their nurture Sustenance & Education, with great care & expense and that the said rents & profits of the Real Estate intended for such purpose have been appropriated by the present acting guardian of said Complainants in litigation and unnecessary expenditures not for the benefit of said Wards but greatly to their detriment, and said guardian refuses to appropriate any part thereof for the support or education of said wards. Respondants say the Complainants have been entirely provided for with all the necessaries of life by the exertions of respondants and they have always lived with respondants & have had no other home since their marriage and that they - respondants are not able to support them without some compensation therefor out of said Estate

And in answer to the direct interrogatories in complainants bill say

The said Respondant Sally Shenster Received
7 rent for the house & lot whereon is a Shoe maker Shop being on lot 174 in Henry Illinois, from the death of Anthony Shenster till the year 1861 the sum of six Dollars & sixty Cents which is all she has received or that either of Respondants have received

And that they received rent for the lot described in
8 said last will & testament as being on lot 194 in Henry Illinois on which is a Butcher Shop from the death of said Anthony till 1861, the sum of the sum of Fifty two Dollars & twenty five Cents being all received at any time by both or either of Respondants for either of said lots

Which sums have all been credited and allowed to complainants having been appropriated by said Sally while Guardian of Complainants for necessaries furnished them before her marriage with August Deltzer

Respondants say that said Sally and the said Respondants together have with the family of said occupied the homestead as mentioned in the said bill of Complaint & this answer, and the said Sally has received the rents for the said S. E. part of lot 141 being 20 feet on Edwards Street & running back 80 feet in the City of Henry being the lot

bequeathed to her aforesaid to the amount of
$225, or thereabouts which rents she is entitled to
under said will which are all the rents which
have been received by either of respondants,

And now having fully answered said Bill
Respondants ask to be discharged with their
costs and that the Injunction be dissolved &
the bill herein filed be dismissed

Sally Deltzer &
August Deltzer

Bunn & Cummins
their Solicitors

State of Illinois
Marshall County

Sally Deltzer & August Deltzer
being duly Sworn deposes & says the matter by them
alleged in the foregoing Bill by them subscribed
as being upon their information or belief are true
as they verily believe, and those things stated as
within their knowledge are true in fact

Subscribed and Sworn to
before me the 24th day
of June 1863

Samuel J McFadden
Justice of the Peace

Sally Deltzer
August Deltzer

Afterwards, to wit; On the 15th day of October A.D. 1863 came the Complainants herein by Mead their Solicitor and filed their replication to the foregoing answer in words and figures as follows

Edward Schuster & Otto Schuster by their Guardian George Schuster vs Sally Deltzer & August Deltzer her husband	In the Marshall Circuit Court Oct. T. 1863 In Chancery Replication

And now come the said Complainants by Mead their Solicitor, and for replication to the answer filed by the respondents herein & say that said answer is not true, but on the contrary alleges that the matters & things contained in their said Bill of Complaint are true, and they are ready to prove & maintain in such manner as the Court shall direct

By Mead their Solicitor

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The following is the evidence submitted to the Court by agreement of the parties herein and is in words and figures as follows

George Schuster &c
vs
Sally Delzer Et al

Marshall County Ill. Circuit Court Chancery – Issue to Jury Oct Term 1863 – Oct 16, 1863

John P Boice

I knew Anthony Schuster – Lived in Henry, Kept a Saloon, Sold beer Cigars &c, died March 1861 I was one of the appraisers that appraised his Estate, (looks at the original appraisement Bill) this is the Orig, Bill – $151.50/100 was the amount of the Bill – There are liquors in the bill – $8. worth, they were in the Cellar – I wrote and the other appraisers went down Cellar I suppose – was some Liquors in the bar – a part of a box of Cigars in the bar – I did not go into the Cellar – I did not see any liquors – I did nothing more than agree with the others – I knew from what they said that they appraised liquors in the bank – I was never in the Cellar – dont know whether there is more than One room in the Cellar – I knew him from 1855 – knew of his being indebted – dont that he was

in debt when he died – He bought property of a man in St Louis – a Mr Clark – some $600. or $700. worth – There was in the said Saloon from 8 to 12 chairs similar to the chairs at the bar here – was a table much like the table at which Mr Burns is sitting perhaps 2 feet longer

Cross Examined

The furniture was plain – Bureau, Chairs & Table. Looking-Glass. Cupboard – Lounge. Safe 2 Bedsteads. Cooking Stove & the usual kitchen furniture, hollow ware and some other little articles – I saw every thing except what was in the Cellar – two Stands, Wardrobe, dishes & crockery ware, pictures & frames & One Ice Box

Mr George Schuster & Mrs Sally Schuster gave information of the amount of property in the Cellar, we appraised it as it was. The widow & children lived in the house at the time and all – George was there and appeared to assisting the widow in showing us the property. She spoke broken English. He spoke planner English – My impression is that George gave us a portion of the information about the property – The most I know about it is that I went there to appraise the property as one of the appraisers &c. I remember of enquiring of what there was down Cellar of George Schuster and he said there was a part of 3 or 4 bbls of Rot gut whiskey there – Also that there was a small quantity, a few bottles of wine – dont recollect of any thing else. He kept whiskey & beer there usually I suppose – not

very good — dont know of any other debts he was owing

Re Ex^m^d

My recollection is that I inquired myself of Geo. & that he said there were a part of 3 or 4 bbls of Whiskey &c — Judge Janney was there & Mr Wise so that they could all hear it

Charles Wimple.

Says knew Anthony Schuster 2 or 3 years before his death — I knew of his receiving liquors — dont know how long but not a great while before his death — 6 bbls from Peoria — I was in the Cellar — He asked me to go in — were two Cellars. back one small, the other good sized — found lot bbls kegs — He was making arangements in the Cellar, had a sort of a rack made on one side of the Cellar to put the bbls on. I helped him put them in to the Cellar — Was quite a number of bbls & kegs & some bottles in the Cellar besides — Couldnt tell the No. I took hold of some of them, had something in some of them — He told me about having some liquor that cost him $1.50 to $2.00 a bbl. I think — Not how much was whiskey — I knew of his having some wine in bottles — Went into the back Cellar — some few kegs there no bbls — nothing said about the back Cellar — There might have been 10 or 15 bbls & kegs besides the 6. — I think there was 10 or 15 — Anthony Schuster, before his death there at that time, that he could not live long, or didnt think he would live long, and wanted me to go with him to Dr Sweazey — I went. That fixes in my mind the time

or about the time was 14 or 15 miles from Henry — could'nt state positively what time it was — I was in the house the day before he died — was not there when the appraisement was made

Cross Exmd

I dont know what was in the bbls — he said there was whiskey &c as I took hold of them — Swaney gave him some medicine and told him how to use it, and how to exercise himself — He was sick some little time — dont remember what time of year that was — I drank some very good whiskey there that time — Think he was not in debt at all

Frank Lippert (German) (wants an interpreter) (has Mr Klemkens)

Knew Anthony Schuster — so long as he was in Henry — He kept a Grocery there — I didint lived with him but was often there — 5 or 6 times a day sometimes, was there for several days before he died — I Knew about the liquors he had on hand — there was 8 bbls week or Eight days before his death — I think it was from Peoria — was Common Liquors it was in the back Cellar — was no other Liquor in the back Cellar — Was some brandy &c lying there in front Cellar, but dont know how much — was Cherry brandy &c — He had in the bar some liquor in the decanters — in the front Cellar there was 5 or 6 bbls & Kegs — dont know what was in them — was some bottles of wine — Mrs Schuster got me to go in there — I was alone there. If she

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wanted anything he had to go & get it - Anthony was sick - I was there attending for Schuster & doing Chores - attending bar sometimes - I went to the Cellar to get the liquor for the bar - to fill the bottles - I did it while Schuster was well & while he was sick but not after his death - was common liquor some brandy & Cherry & Rye Whiskey - dont know what it was worth - Was 40, 41, 42 galls. in bbl. - Schuster always had some Money but cant say how much - I didnt see that he had any - not lately before his death - saw some in earlier times - but not later - some Silver & some gold the year before he died - He carried it in his pocket - dont know how much

Cross Examined

The bbls in the back Cellar were not tapped
I knew there was whiskey - as he bot them in Peoria
4, 5 or 6 Empty bbls - was worth 15, 18 to 20 Cents per Gallon
- Schuster sold Considerable Whiskey in his business

Anthony Taking

Knew Schuster in his life as long as he lived in Henry - was often at his place of business - till his death - dont know what liquor he had on hand he died - nor before - He had $35 and gave me that in gold - I saw other money - He had it in a shot bag, and I thought it was half full yet - it was goold - he picked it out in 3 pieces $20 $10 & a $5 piece - took the bag out of a trunk and he stated that "I have got some yet" Was in the fall & he died

the next Spring – Was an ordinary sized shot bag

Cross Examined

Didnt see in the bag

Margaret Thomas

Knew him in his life time 4 or 5 years – lived 8 months with him next before his death – not there when he died – left about 3 Mos before – He had been dead 2 months when I went back there to live with Mrs Schuster – I used to go down cellar & draw the liquor for the bar. – I think there
x was every kind – 12 or 13 bbls of liquor – I think they were filled – some kegs – with wine & Cherry Brandy and other things – about 3 or 4 – I got some brandy & some Cherry out of them – was some wine in keg & some bottles – I went back 2 months after his death some barrels were there – I drew from them and took the liquors to the bar, and it was sold – it was done for Mrs Delzer – Mr Delzer told what kinds of liquor to get and I got them – She said told me before I ever went into the cellar that she had a nice lot of liquors in the cellar – I staid there about 8 months – till she got married and a little after – She bot no liquors while I was there that I know of – She would take in sometimes 2 or 3 or 3 or 4 dollars – was pretty uniform – She sold cigars candy & tobacco &c – was some of those things there when I left – was less there when I came back –

I was there at the time the appraisers were there – I was in the kitchen – The Cigars &c were in the bar & the liquors in the Cellar

Cros Exm?.

Dont know whether they were the same liquors when I came back that I left – She told me she ded'nt bot a drop when I came back – I ded'nt know of her buying liquor while I was there – I swore the same before the Judge as I swear now – the bbls in back cellar were all full

Barnhard Yaeger

Knew him since June 1854 in this County – Know about liquors – He showed me between 7 & 9 bbls in back Cellar – was in front Cellar. he had there brandy, gin, Cherry whiskey, Cherry bounce Rye whiskey, and I think he had some bottles & wine in bottles – I think he had some Port wine in a Keg, dont know for sure – I know what liquors he had – He paid 35 cents for some rye whiskey he had there – I am same kind of business – I dont know exactly but I think there was more $200 upon a close inventory – I saw his bill – He ded'nt keep much of books – I wrote his letters in the last 3 or 4 years before he died almost all – Had Cigars, Candy, tobacco, in his bar – He had only Only Common bottles – & kept them below Counter mostly – Sold Cheese Crackers & all such things

5th C.

Cross Examined

× Bbls in back Cellar were full — I knew there was whiskey in them — I didn't taste the whiskey — I know what kind it was without tasting it — I took a middle price I did know, but forgot what he paid — He told me all about it — I am on good terms with Delzer — am in same business

Michael Kleinhans

Knew him from the first hour when he came in Henry — I was there the night he died 'till 12 O'clock after that he died — I was often there before his death — I saw that he had some money — I exchanged a $ 5. bill with me. got his sack out of the Bureau drawer & gave me $ 5 in silver — was a shot bag nearly half full — didn't see what was in the sack — about a month before he laid down sick — dont know how long this was before his death, not long though — I got some paper & paid it back in paper

Cross Exm.

He borrowed some money of Mr Syphers — He borrowed 300 $ of me when he paid for brick house & in about 2 weeks he paid it back — Schuster told me the day or two before he died that he had lent 90 dollars to Gregory

Re Exm.

Syphers had some money and wouldn't take it

home and he gave it to Schuster & Schuster said he wouldnt have it after one year & so gave it to me — It was to keep Gregory from using — so as to have it when he wanted. This was in 1857 or 1858

Plff through Except

Judge Janney — who has been sent for

William Sypher

The First money I loaned him was 1857 or 1858 was $300 for One year at 10 per Cent — he paid it when it was due, then 1860 in June I think about 9th I loaned him $185 dollars, & took his note which is on file in Co Court —

Cross Exm^n

He wanted to borrow the money, I told him I could take it home & put it into the partnership, but if he wanted it he could have it — dont know what he did with it — my impression is, that he wanted it either to make payment on or improve some property, and I dont know which — It was in Henry — gave him Certificate of deposite on Bank in Peoria, Pulsifers — was nobody but his wife present — was in June 1860, the 9 — I think in his house — I know of Schuster loaning Gregory about $90 — I think it was after that time, not long though — Gregory never asked me to borrow money — That $90 is or ought to be endorsed on this $184 note — Cross — Again — was indorsed after his death by his admr or Executrix

Valentine Weis

Am One of the Appraisers – we appraised every thing in the bar, & in the Cellar – all that was pointed out to us by Mrs Schuster & Geo. – They told us there was some there & we didn't go down but ~~appraised~~ but appraised it at $8– not much in the bar – Common furniture table Chairs Bureau &c

Cross Exm.d

Didn't go into the Cellar – none of us went into the Cellar – Geo & Mrs said there was not much in the Cellar so we took it up for $8– We balanced the whole in the bar & all for $8–

Michael Simater

Knew S. in his life – Knew his widow – She kept on with his business in some place – 2 Children & hired girl – She bot some goods or ordered some at one time from a man from Peoria – 3 or 4 months after his death

Louis Helfer

Knew him – was often there at his premises – in a week 4 or 5 times – he was friend of mine – I managed his business some times – 2 years before he died he kept some liquors on hand – he took always the lowest price – at the time about 10 days after his death I found 5 or 6 Bbls, not all full

½ bbl wine, rest was common – Mrs D was there at the time attending to business

I know of her buying some from Peoria One or two times, Once I know – about month & a half after his death, quality was a little better – 8 or 10 days was the first I was there after his death

Cross

Cant exactly say, but not more than 10 or 12 days – I went to get some liquor for myself – in bottle – Rye – front Cellar – went into the back Cellar to see what was there – was there in Cellar 5 to 10 minutes – I know the other bbls were full or pent full by knocking on them with my finger – I knocked on 3 Couldnt tell how much there was in them – not all full – Empty bbls plenty there not more than 4 full ones – 2 or 3 bbls in front Cellar & most Empty – She told me He left $5 in money & that was all he left, she had the shot bag too – he kept his little change in it – was a little keg of gin &c – Cellar is small – The front Cellar is 10 feet long & wide 8 or 10 feet – the little one is about 5 by 6

Samuel J McFadden

Know him – grocery business – kept whiskey Wine, brandy, beer &c – poor quality so far as I drank I wrote his Will some little time before he died said he had no money excepting $5 Cant tell exactly how long – not to exceed a

month before he died — he did no business
I think after that — His furniture common

George Henry

Knew him in his life time — He borrowed
about 3 years ago he

Frank Beckerman

Didnt see him borrow any money in
his life time

Defendt rests

Plff Calls

Henry Watercott

Heard Syfus testimony — Schuster
bought property and gave about $600-

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State of Illinois
Putnam County

Clerks Office of County Court
Hennepin June 2nd 1863

5 cts U S Revenue
Stamp Cancelled

I, Amos T. Purviance Clerk of the County Court in and for said County, hereby Certify that August Boelzer and Salma Ruprecht were lawfully married in said County on the 12th day of November 1861. by John P Hayes a Justice of the Peace as appears of record in my Office

In Testimony whereof I hereunto subscribe my name and affix the seal of said Court at my Office in Hennepin this 2nd day of June 1863

seal

A. T. Purviance Clerk

The above are the only names that are similar to those sent. I presume they are the same parties refered to

A. T. Purviance

George Schuster
vs
Sally Deltzer & Co

Marshall C. C. Oct T 1863
Bill in Chancery

Filed Oct 15, 1863
before a Jury
Compl't Called

John P Boice, Was acquainted with Anthony Schuster from 1855 until his death, lived in Henry & kept a Saloon, - sold beer liquor candies & cigars. Died in March 1861, - was one of the appraisers

The appraisement bill presented is the Original - $151.50 - liquors appraised at $8,00 - were in the cellar - was a few bottles 2 or 3 in bar - was cigars in bar - did not himself go into cellar - dont know how many cellars there were

Knew of his being in debt several hundred dollars purchased a lot in St Louis & ran in debt for it

Furniture plain. - 1 Bureau, Chairs, Table, Looking Glass - Cupboard, Lounge, Beds & bedsteads two, cooking Stove

Saw all the articles in the house except in cellar. - Was pictures & ice box

X This witness stated that the others went in the cellar, & was about to say what George Schuster stated

on his return,

The defendant objected – but the Court overruled the objection & permitted him to state what George said

State what she or George said – Objected to,

Thinks they said there was a part of 3 or 4 barrels of rot gut whiskey there – also a few bottles of wine – kept beer, not very good

Does not know what debts he was owing

Re X Thinks he enquired of George, & George said there was 3 or 4 barrels – was in the presence of Janney & the others

Charles Wimple

Knew Anthony in his life time 2 or 3 years before his death – Knew of his receiving liquors not long before his death from Peoria, 6 Barrels – Went into the Cellar – There were two Cellars – one small, the other good size. The front Cellar largest – Was quite a number of barrels, kegs & bottles – took hold of some of the barrels, was something in them – Schuster told him about his liquors, some cost $1,50 to $2. per gallon – Was whisky, that cost that. Had wine in bottles. Went in back Cellar – there were kegs – there might have been 10 or 15 barrels without the new one – Said he could'nt live long without help & wanted him to go with him to Dr Swaney. Went with him – in a buggy – 14 or 15 miles – Was in the

house the day before he died

X Only went once to Swanzey, he gave him medicine, Thinks it was Sept

Frank Lippert

Was acquainted with A. S. so long as he was in Henry – Schuster kept a Grocery – Was often there, sometimes 5 or 6 times a day; Was there before his death next, often – Had 8 barrels 8 days before he died – it came from Peoria – Com. liquor – It was in the hind cellar – no other liquor in back cellar – Was some liquor in front cellar – some brandy, Cherry in front cellar – There was 5 or 6 barrels in front cellar & kegs – was some bottles of wine

Mrs Schuster got him to go in – He went in alone – Was tending bar – waiting on Schuster & doing chores – Went into the cellar to draw the liquor, drew it from barrels & carried it to her, did it when Schuster was alive & after he was sick – Was common liquor, brandy & Cherry – & rye whiskey – Was from 40 to 42 gallons in barrel – Always had some money, but he dont know how much, saw silver & gold the year before – He carried it in his pocket

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Anthony Faling

Knew A. S. in his life time, was often there. - Continued to go up to his death. Got $ 35 in fall before he died - Saw a ther money, in a shot bag - about half full was gold - Took the bag out of a trunk & took 20, 10 & 5 out, & gave to him - The bag yet appeared half full - Said he "I have got some yet." This was in the fall, & he died the next spring. It was an ordinary sized shot bag

Margaret Thomas

Knew A. S. in his life time 4 or 5 years - lived 8 months with him next before his death - Had left about 3 mo. before, was dead 2 weeks when she went back to live with Mrs Schuster

Used to go in Cellar & draw liquor for bar, was every kind. Was 12 or 13 barrels full of liquor, Was Kegs also - Wine, Cherry, & brandy &c - Was 3 or 4 kegs - drew brandy & Cherry - Some wine in keg & some in bottles - Went back two weeks after after his death - The liquors were taken to the bar & sold for Mrs Deltzer - Mrs Deltzer told her what liquors she had & where - told where Told her she had a nice lot of liquors in the Cellar, before she went in cellar

Staid with Mrs Deltzer about 8 months, She did not buy any liquors during that time - some times took in money 2 or 3 or 4 dollars per day - Cigars, Candy

& tobacco on hand — Was there when the appraisement was made

X Mrs Deltzer told her she had not bought any liquors — The barrels in back cellar were all full

Barnard Yaghey

Knew Schuster before his death, since June 1854. Was there nearly every day — was intimate with him — Was there the evening before his death. He had some liquors on hand, was in the cellar & showed him between 7 & 9 barrels of liquors in back Cellar — Was some in front cellar, brandy, gin, Cherry whiskey, Cherry bounce, rye whiskey, bitters, wine in bottles — Thinks he had some port wine in keg — On close inventory would bring $ 200 & more. Was in same kind of business, saw his bills — wrote his letters &c — Had Cigars, Candy, tobacco — Cheese, Crackers &c

Michael Klinckhamm

Knew A. S. before his death, from the time he came to Henry until his death. Was there the night of his death until 12 O'clock. Was

often there, did not know about his liquors - saw his money. He got a sack out of the Bureau drawer, It was a shot bag, nearly half full, took out $5 in Silver small Change. This was about a month before his sickness Got $100 before - Saw here & there a gold piece

X Knew Schuster had money of Ciphers $200 - Schuster told night before he died, that he lent money to Jackson

He bought a brick store 6 years ago

Pltfs rest

Defence

Syfert

1 Money he loaned to Schuster in 57 or 8 loaned $300 for 1 year at 10 pr cent. When it was due, he told him he had the money for him. He paid the note - In June 9th 1860 he loaned him $184 - & has his note

X This was in Henry - a Certificate of Deposite on a Bank in Peoria, Pulsy & Co - no one present but his wife - It was in his house - Schuster afterwards loaned $90 to Gregory - The $90. drew 10 per cent

Valentine Wise

Knew A. S. Was one of the appraisers - appraised all they found - appraised things in Cellar - George Schuster & Mrs Schuster were in the Cellar, took the word of George & Mrs Schuster, sometimes borrowed 10 or 20 dollars of him a year or so before he died

X Was an appraiser, did not go in Cellar - put the question to George & Mrs Schuster as to what liquors were in Cellar, & put it at $8.00 -

Michael Cinnedar

Knew A. S. - was acq. with his widow after death, lived on that place, carried on business, - She bought some goods in Peoria

X 3 or 4 mo afterwards

Lewis Helfer

Knew A. S. - Was often there 4 or 5 times a week - Was a friend - managed his business - Did his business two years before he died - Had Common liquors - about 10 days after his death from 5 or 6 barrels, not all full, half Bl wine, cut common

Mrs Helfer was there

Helfer Cont. - She bought some goods in Peoria once or twice, about 1½ mo after his death

X Went into Cellar 10 or 12 days after the death - Went to get liquor for self - in bottle - no one with him - Went into the front Cellar, Went into back Cellar to look - was there 5 or 6 minutes - 10 - Drew the rye in front Cellar - knocked on the barrels - on three or four, not all full, Couldn't tell how much in them - dont know the exact number in back Cellar, was plenty of empty

Two or three barrels in front Cellar - She said he left $5, that was all he left

Was Wine in Cellar - Was gin in a Keg

S. J. Mc. Faddin

Knew Schuster - Kept Wine, gin, brandy & rum & whiskey - Wrote his Will - He told him then he had not any money

No business done afterwards

George Henry

Knew A. S. - About Three years ago he was building a house - Wanted to borrow money of Schuster

This witness knows nothing except what Schuster told him & that is ruled out

Frank Beckerman 70 ruled out

Pfff Called

Henry Watercott

Schuster Cut him $100 in Gold

Judge Janney

Knew S. - was one of the appraisers - did not go in the Cellar, did not appraise any thing in the cellar - The liquors they appraised were in the bar & room above - Asked Mrs Schuster if there was any thing more. She shook her head - then thinking perhaps she did not understand, he asked George Schuster to ask her if there was any thing more & he stated that she said there was not

George Schuster
vs
Dillzer & wife

July 8 1863

P M Janney

Was acquainted with Anthony Schuster abt 8 years - About 35, or 40. Kept Saloon - Sold beer, liquor, Candies & Cigars - died about 2 years ago - Was appraiser, was in bands of liquor appraised

Liquors appraised at $ 8.— about what was in bar — Was just in front room & next — did not go into Cellar — none went in — no money shown

Has seen him with Gold — never went in debt

X Went into back rooms

Charles Wemple

Knew Anthony about 8 yrs. Received liquors from Peoria before his death & wanted him to go in Cellar — did so. Were in barrels & helped to put them up Were 2 Cellars — three were in front Cellar. Were other barrels there. Schuster said he had all the liquor he should want. Were several barrels there, a dozen or two. Noticed kegs in back in Cellar. Said he couldnt live long — Said he had money loaned out

Told Dr Swanzy he was able to pay — thinks it was not many weeks before his death that he helped get the barrels of liquor in — thinks it was fore part of Summer

Saw the brand on them & what A S said

Margaret Thomas

13 or 14 Barrels in back Cellar, Kept in front Cellar Were Brandy &

Saw the liquor after his death, Continued to draw & Sell for 8 mo. She then left — there was still considerable on hand

State of Illinois
Marshall County Ss

I hereby certify that the foregoing testimony is the testimony referred to in the agreement filed in this cause and was considered by me as evidence in deciding the case

S. L. Richmond
Judge 23 Judicial
District

Thereupon the Defendants submitted the Report of Sally Deltzer Executrix of the last Will and Testament of Anthony Schuster deceased, which is in words and figures as follows, to wit;

State of Illinois
Marshall County and County Court thereof
of May Term A D 1862

To the Honorable Saml J Mc Faddin Judge of said County Court Sitting for Probate business

Sally Schuster Executrix of the last Will and Testament of Anthony Shuster would respectfully report that from the time of taking upon her to execute said last will & Testament until the appointment of George Shuster as the Guardian of Edward Shuster and Otto Shuster the minor Sons of said deceased she has received as rents for the property described in said Will the following amounts which she has applied as directed by said Will to the support & education of said minor Children To Wit;

For Shoemaker Shop on lot 174 in Henry Ill 1861 July $ 3.00
" " " " " " " " " " " 1861 $ 3.60
For Butcher Shop on lot 194 in Henry Ill 1861 $ 52.25
$ 58.85

Said Executrix Charges herself with the Amount of the Value of the personal Estate being the Sum at which the Same was appraised $164.00

One Note on Hanes & Gregory $ 90.00

$254.00

Amt of Interest rec'd on Gregory Note 15.00

$269.00

Said Executrix credits herself with Claims against said Estate paid by her as follows, viz

By Amt of Claim paid Stramp & Co $35.90

" Amt of Claim paid Henry $ 3.00

" Amt paid W. E. Cook Clerks fees $20.55

" Amt paid Wm M. Clarkson $ 4.00

" Amt paid M Blenheng $ 4.00

" Amount paid C Ball $ 2.25

" Amt paid John Lock $ 3.50

" Amt paid for Cistern pump & Spout $47.00

" Amt paid L Eliel $12.00

" Amt paid Jas Wills $33.50

" Amt paid Vincent Becker $12.00

$177.70

" Taxes paid on Real Estate 7.51

$185.21

Said Executrix further reports that she has not received her Share of the Est te in Specific Articles or otherwise which she claims to be due to her and which she desires may be allowed & set off to her out of said property

All of which is respectfully submitted
May 19th 1862.

Salie Schuster
Executrix

Pleas before the Circuit Court of Marshall County in the State of Illinois (On the Chancery side thereof) at a term thereof began and holden at the Court House in the City of Lacon in said County of Marshall in the State of Illinois, On Monday the twenty third day of January in the year of Our Lord One thousand Eight Hundred and fifty five, Present the Hon Samuel C. Richmond Judge of the 3.3rd Judicial Circuit of the State of Illinois presiding, A. E. Stevenson States attorney for said Judicial Circuit, Nathaniel Moore Sheriff of said Marshall County & Sheldon Arnold Clerk of said Circuit Court,

~~All of which is respectfully submitted~~
~~May 14th 1865~~ ~~Edward Schuster~~
~~Executor~~

And afterwards "to wit" On the 2 day of February A D 1865 the same being One of the days of said January A D 1865 term of said Circuit Court, an Order was Entered of Record in said Cause which is in the words and figures following "to wit"

State Illinois
Marshall County } ss In Circuit Court said County Jan Term 1865

Edward Schuster
Otto Schuster by
Guard George Schuster
vs
Sallie Deltzer +
August Deltzer } Bill for Inj
+c

And now on this 2nd day of February A D 1865 this Cause coming on finally to be heard and decided, having been under the consideration of the Court upon Bill, Answer replication & proofs since the last term of this Court, and the Court now being fully advised in the premises. doth find that the equity of this cause is with the Complainants so far as the right of Executrix to sell said lands to satisfy her

claim against said estate is concerned, which claim amounts to $ 740.50

It is therefore ordered, adjudged and decreed that the defendant Sallie Deltzer Executrix of the last Will & Testament of Anthony Schuster dec'd be and she is hereby perpetually enjoined and prohibited from making any Sale of the lands mentioned in the Order of the County Court of said County and Ordered by said Court to be sold by her as such Executrix, except such portion of said lands as may be necessary for the purpose of paying the debts proved against said Estate and not including the widows claim against said Estate to wit; the claim of Sallie Deltzer

And it is further ordered and decreed that defendant Sallie Deltzer pay the costs of this proceeding individually and not as Executrix and that Complainants have execution as at law therefor

S. L. Richmond
Judge

And thereupon comes the Defendants by their Solicitors and pray an appeal to the Supreme Court of this State, which appeal is allowed upon Defendants entering into Bond conditioned

according to Law in the sum of Two Hundred Dollars, said Bond to be filed in Thirty days, and by agreement of the parties it is ordered by the Court that the Clerk approve the Securities to said Bond

Afterwards, to wit: on the 23rd day of February a.d 1865 came the Defendants herein and filed the above required Bond, which is in words and figures as follows

Know all men by these presents that we August Deltzer and Sally Deltzer and Alexander Deltzer of the County of Marshall and State of Illinois are held and firmly bound unto Otto Schenster and Edward Schenster who sue by George Schenster their Guardian in the Sum of Two Hundred Dollars for the payment of which well and truly to be made we bind ourselves our heirs Executors & Administrators jointly & severally firmly by these presents

The Condition of the above obligation is such that whereas on the second day of February in the year of Our Lord One Thousand Eight Hundred & Sixty five by the consideration of the Judge of the Circuit Court of

the County of Marshall and State of Illinois sitting as a Chancellor in the hearing of a cause then pending before him as such Chancellor wherein said Edward Schenster & Otto Schenster were Complainants and said August Deltzer & Sally Deltzer were defendants being at a term of the Circuit Court of the said County of Marshall then holden at the Court House in the City of Lacon in said County the said Complainants recovered a judgment & decree of said Circuit Court restraining & enjoining said Sally Deltzer from selling the real estate in said bill of Complaint described under a decree of the County Court of said County by her obtained as ~~Administratrix~~ Executrix of the estate of Antone Schenster to sell the real estate of said Antone Schenster to pay the debts of his estate. so far as said decree last aforesaid seeks to obtain funds to pay the Claim of said Sally Deltzer against said estate and for the payment by her of the Costs of said suit among other things and the said August Deltzer and Sally Deltzer having prayed for & obtained an appeal to the Supreme Court of said State upon their entering into Bond Conditioned as the law directs & filing the same with the Clerk of said Circuit Court within thirty days from the rendition of said judgment in the

81
& 8

sum of Two Hundred Dollars with surety to be approved by the Clerk of said Circuit Court in said appeal

Now if said August Deltzer & Sally Deltzer shall prosecute their said appeal with effect or in case said Judgment shall be affirmed shall pay whatever Judgment costs interest & damages shall be rendered & awarded against them then this bond shall be void otherwise remain in full force

Witness our hands & Seals this 17th day Feby 1865

August Dalzer (Seal)
Sally Dalzer (Seal)
Alexander Dalzer (Seal)

State of Illinois }
Marshall County } ss I Sheldon Arnold Clerk of the Circuit Court in and for the County of Marshall in said State do hereby Certify that the foregoing is a true Correct and Complete Copy of the Matters and things therein Contained in said Cause and Mentioned in said Record, as the same appears of Record in My Office

In testimony Where of I have hereunto set my hand and affixed the seal of said Court at My Office in Lacon this 20th day of March A.D. 1865

Sheldon Arnold
Clerk

State of Illinois
Third Grand division Supreme Court
April Term A.D. 1865

August Deltzer & Sally Deltzer } Appellants
Otto & Schuster & Edward Schuster } Appeal from Mason
By George Schuster their Guardian } Appellees

Assignment of Errors

And now came the said August Deltzer and Sally Deltzer Appellants & say that in the Records & proceedings aforesaid there is manifest error in this (to wit)

I The Court erred in finding the Equities of the cause for the Appellees (the complainants in the Court below)

II The Court erred in not setting aside the finding and giving Appellants (the defendants below) a new hearing

III The Decree is contrary to Equity. The finding is against the evidence

IV The Court should have found for the Appellants (the defendants below) and should have dismissed the complainant bill & rendered a decree for Appellants (the defendant below)

by reason whereof appellants pray that said Decree be reversed

By Burns & Cummings
for Appellants

And the said Defendants in Error come by Banys & Shaw their Attys and say that in the Record and proceedings aforesaid nor in the decree rendered there is no such Errors as are above assigned Wherefore they pray that said decree may be affirmed and that their costs may be adjudged to them &c

Banys & Shaw
Attys for Defts in Error.

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August Stellzer et al

vs

Otto Schuster et al

Appeal

Copy of Record

Filed Apl. 5. 1865.

L. Leland

Clk.