

12273

No. _____

Supreme Court of Illinois

Wright.

VS.

^E
Ph~~X~~lps.

71641  7

State of Illinois
County of Cook ss. I hear before the Honor-
able Isaac T. Wilson Judge of the Thirteenth
Judicial Circuit Court of the State of
Illinois, in the vacancy of the office of Judge
of the Seventh Judicial Circuit Court caused
by the resignation of Honorable Hugh S.
Dickey at a term of the Circuit Court of
the County of Cook in said State begun and
held at Chicago in said County of Cook
on the first Monday it being the second
day of May in the year of Our Lord
one thousand eight hundred and fifty three
and of the Independence of the United
States the seventy seventh.

Present

The Honorable Isaac T. Wilson Judge of the
Thirteenth Judicial Circuit Court.

Daniel McIlroy States Attorney
Cyrus J. Bradley Sheriff

Attest

Louis A. Ward Clerk of the Circuit Court of Cook Co

Be it remembered that on the second day of
May in the year of Our Lord one thousand eight
hundred and fifty three, there was filed in the office
of the clerk of the Circuit Court in and for said

County of a certain Petition which said petition is
in the words and figures following, to wit;

Cook County Circuit Court;

May Term A.D. 1853.

State of Illinois
County of Cook

To the Judge of said Court, in
Chancery sitting.

The petition of Edward Knight duly appointed
Guardian of Moritz Francis Baumgarten an infant
under the age of fourteen years, Frederick A. Luning,
and Elizabeth his wife, respectfully sheweth unto your
Honor, that the said Moritz Francis Baumgarten is the
son and only heir at law of one Christof Baumgarten
deceased late of said County of Cook, who died intestate
on or about the third day of September A.D. 1845 and
and that the said Elizabeth wife of the said Frederick
was lately the widow of the said Christof deceased.

Your petitioner further shew that the said
Christof died intestate as aforesaid leaving personal
property amounting to about four hundred dollars
which was received by the said Elizabeth and has
long since been expended by the said Elizabeth in
paying off the debts of the said Christof and for
the support and maintenance of herself and her
infant child the said Moritz.

Your petitioners further shew that
the said Christof died seized and possessed of the

following real estate situate in the County of Cook
viz: that lot or parcel of land known and described
as fractional Section No. Two, North of the Indian
Boundary Line, Township No. Forty, North of Range
No. Thirteen, East of the Third Principal meridian,
containing one hundred and 49-100 acres more or less,
also to one undivided one third part of the following
described lot, viz: commencing at the North West corner
of Russell E. Neacock's addition to the town of Chicago,
being in section No. twenty one, Town No. thirty nine,
Range fourteen East, thence running Easterly along
the line of said Russell E. Neacock's addition
eight chains, thence North two chains and forty
three links, thence west eight chains and forty six
links to the bank of the south Branch of the
Chicago River, thence south along the said bank two
and three quarter degrees east two chains and
forty seven and a half links to the place of beginning,
containing two acres.

Your petitioner, the said Elizabeth, further
shows that she is in indigent circumstances, and needs
and needs the dower in said lands to be paid over
to her for her support and ^{also} compensation to make
her for the past support maintenance and education
of the said Martin since the decease of her former
husband the said Christof over and above the
personal property received by her on the demise
of her said husband from his Estate.

Your petitioners, the said Edward Wright, Guardian of the said Moritz Francis Baumgarten respectfully sheweth that his said Ward now resides with his mother the said Elizabeth, that your petitioners Guardian as aforesaid has never received any personal Estate or property of any kind from the Estate of the said Christoph deceased that he has consequently been unable to pay the said Elizabeth any thing towards the support and education of his said ward that his said ward has now arrived at an age, nine years or thereabouts at which it is necessary that means should be provided for his suitable education as well as proper support and maintenance and that there being no personal property belonging to said Estate of the said Estate of the said Christoph deceased it is necessary that the aforesaid Real Estate should be sold and the proceeds applied for the support and education of the said infant.

Your petitioners further show that the aforesaid Real Estate is now unproductive and likely to remain so, for want of means to improve the same and that it would be for the benefit of ^{the} said infant that the same be sold and the proceeds if any remain after providing for the suitable support and education of the said infant should be ^{benefit of them} invested for the said infant.

Your petitioner the said Edward Wright Surdian
as aforesaid, believing that it would be for the
interest of his said Ward that said Real Estate
should be sold freed and discharged of and from
the widow's dower therein, would petition this
Honorable Court to have the said widow's dower
assigned and paid off either by allowing the said
Elizabeth a gross sum out of the proceeds of said
sale for the full value of her dower therein calcu-
lated upon the principle of Life annuities or a
certain sum to be ascertained to be paid yearly to the
said Elizabeth during her natural life for the yearly
value of her dower therein which allowance to be
in lieu of her dower in said Real Estate and also
such other and further compensation for her arrears-
ages of dower since the decease of the said Christof
her former husband, and for the past support of the
said infant as to this Honorable Court shall seem
meet.

Your petitioners therefore pray that three com-
missioners may be appointed by this Honorable
Court to assign the widow's dower in the premises
above described and that a reference may be
made to the master in Chancery for said County
to ascertain the amount due your petitioner the
said Elizabeth for the past support and maintenance
of the said infant, and that an order may be
entered directing and empowering your petitioner

the said Edward Knight Guardian as aforesaid to
sell and convey the aforesaid Real Estate of his
said Ward on such terms and conditions as to
this Honorable Court shall seem meet and
for such other and further relief as the nature
of this case may demand, and shall be agreeable
to equity, and your petitioners will ever pray
etc. —

Edward Knight
Guardian of Moritz J.
Bannagan

Frederick A Luning &
Elizabeth Luning By
Beck & Mosner their Solicitors

Filed with and attached to said petition was an
affidavit, which said affidavit was in the words
and figures following, to wit:

State of Illinois

Cook County

Edward Knight being duly
sworn deposes & saith that
he has read the foregoing petition by him subscri-
bed and that the matters and things therein contained
and set forth of his own knowledge are true &
as to those matters stated on information & by the said
petitioner Elizabeth Luning he believes them to be
true. —

subscribed & sworn to before
me this 2^d day of May 1853
L. D. Hoard clk,

Edward Wright

And afterwards to wit on the day and year
aforesaid, there was filed in this said office the
Guardian's Notice, and the Publishers certificate of
publication accompanying the same. which said
notice and certificate are in the words & figures
following, to wit:

Guardian's Notice, Notice is hereby given to all
persons concerned, that I shall as guardian of Moritz
Francis Baumgarten, an infant, apply to the circuit
Court of Cook County at the next term thereof, to be
held at the Court House in the city of Chicago, County
of Cook and State of Illinois, on the first Monday
of May, A.D. 1853 by petition in writing for the
widow's dower to be assigned and also for an order
to sell the interest of the said infant in to and the
following described Real Estate, situated in the said County
of Cook viz: - that lot or parcel of known and described
as Fractional Section No. Two North of the Indian
boundary line, Township No. Forty North of Range No.
Thirteen East of Third Principal Meridian containing
one hundred and 49-100 acres, more or less. also to one
undivided one third part of the following described lot,
viz: commencing at the North East corner of Russell C.
Neacock's addition to the town of Chicago being in
Section No. twenty-one Town No. thirty nine, Range

fourteen East, thence running Easterly along the line of said Russell E. Meacock's Addition eight chains; thence North two chains and forty three links; thence west eight chains and forty six links to the bank of the South branch of the Chicago River; thence South along the said bank ten and $\frac{1}{4}$ degrees East two chains and forty seven and half links to the place of beginning containing two acres - when and where all persons interested may appear and show cause, if any they have, why such order should not be granted.

Dated this 5th day of April A.D. 1853

Edward Wright, Guardian
of Moritz Francis Baumgarten
an infant.

The undersigned, do hereby certify that they are the Editors, Publishers, and Proprietors, of the Democratic Press a daily newspaper of general circulation, printed and published in the City of Chicago, County of Cook, and State of Illinois, and that a notice of which the printed notice, hereto annexed, is a true copy, was published in said paper six times each week for four weeks successive weeks, and that the first insertion of said notice in said paper was on the 5th day of April A.D. 1853.

Dated Chicago May 2^d 1853.

Scipps & Bros

And afterwards, to wit: on the day and year last
aforesaid, it being one of the days of the next Term of
said Circuit Court, the following, among other proceedings
were had and entered of Record, to wit:

In the matter of the Petition of
Edward Knight Guardian of Mority
Francis Baumgarten and J. A.
Luning & Elizabeth his wife to
Sell Real Estate } Chancery.

This day came the
said complainants by their Solicitors, and it app-
earing to the Court that due proof of the publication
of Notices to the parties interested has been made
herein. It is on motion of said complainant's Solicitor
ordered that the said petition be answered instantly
and no answer having been interposed. It is ordered
that the same be taken as confessed for want of such
answer. And it is further ordered that said petition
be referred to the Master in Chancery of this Court,
to take proofs of the material facts and allegations
contained in said petition and that he report the
same together with his opinion thereon to this Court
with all convenient speed.

And afterwards, to wit: on the twenty third day
of November in the year last aforesaid, there was
filed in the Clerk's office of said Circuit Court
aforesaid, the Master in Chancery's Report in said

cause aforesaid, which said Report is in the words and figures following, to wit;

Masters Report

State of Illinois
Cook County P.

Office of Master in
Chancery Chicago November 23rd 1853

In the Cook Circuit Court of the November Term, 1853

In the matter of the application of
Edward Wright Guardian of Moritz
Francis Baumgarten & Frederick A.
Lunning wife to sell infants Real
Estate for apportionment of dower.

In Chancery

Hon. B.S. Morris, Presiding Judge of said Court in Chancery sitting;

In pursuance of an order made by ^{said} ~~the~~ court in the above entitled cause, by which it was referred to me to take proof of the material facts and allegations set forth in the complainants petition and report my opinion thereon.

I George Manierre, Master in Chancery, of said County, do hereby report, that on this 4th day of May 1853, the complainant appeared before me in person and by Hoemer & Beck Solicitors at my office in the city of Chicago, at which time and place the following examination was had and proofs taken,

Charles J. Melius being first duly sworn deposes and says:

I was acquainted with Christoph Baumgarten

the father of the infant Moritz Francis Baumgarten in his life time. He died in Milwaukee in the State of Wisconsin about the first part of September 1845. The infant named was his only child. He died intestate leaving a wife him surviving. The petitioner Elizabeth Luning was his widow. They were married in 1844 to my knowledge in Milwaukee and continued to live together as man and wife to the time of his death. Since that time the said Elizabeth has remarried to the petitioner Frederick A. Luning and they are now living in Milwaukee.

The said Christoph. Baumgarten left personal property to the value of about four hundred dollars which his wife, ^{Elizabeth} took possession of. She has used the whole of the same in her own support and that of her infant child except perhaps a part which she may have applied in payment of the debts of her deceased husband, but how much if any thing was ^{so} applied I am not able to state. The whole of the property has been long since expended. She has supported the child from the time of the death of his father to the present time and is still doing so from her own means. For several years she was in very moderate circumstances and has latterly been reduced very much and is now very much in debt and unable to support the child or herself from her own means. The child is now about Eight years

old and was only three months old at the time of his fathers death. It has been carefully brought up, has been well and comfortably clothed and has been sent to school for the past three years. He has not been neglected in any respect to my knowledge. Taking the whole time together I think the support, education and clothing of the child is worth one hundred dollars a year. In my opinion that would be a moderate satisfaction for the expense, care and trouble which the mother has had to incur on the child's account during the period named. I think this sum will not be sufficient from this time as the child is now growing up and requires to be educated and clothed, and the expense of doing so will be hereafter necessarily greater. The petitioner Elizabeth Luning has now no property of her own and as already stated is in reduced and indigent circumstances and unable to support her child from her own means.

The petitioner Edward Wright has never received any property either personal or otherwise from the estate of said Christoph Baumgarten; and there is nothing now and never was any thing in his hands for the support of said infant.

The only personal property of said Christoph having been long since expended by said Elizabeth in the manner above stated, I know that the

real estate described in ^{the} said petition and that said
Christoph died seized of it and that the same
is now and always has been unproductive. It
is situate in the county of Cook, Illinois. The said
premises will have to remain unproductive for
the want of means belonging to said infant and
said estate of Christoph Baumgarten to improve
it. In my opinion it would not only be for
the benefit of said infant but it is also necessary
that it should be sold to provide for existing li-
abilities and for his future support and education.
I swore and subscribed before
me this 4th day of May 1853 } Charles T. Mellins
George Manierre }
Master in Chancery.

It was further proven in evidence before me
by the production in evidence before me of the
original letter of guardianship, that Edward
Wright was duly appointed guardian for Maurice
Francis Baumgarten a minor by the County Court
of Cook County in State of Illinois on the 25th
day of March 1853, and was duly qualified as
such guardian in pursuance of the Statute in
such case made & provided.

The foregoing evidence sufficiently establishes
& proves the allegations of the petition in the above

entitled cause, and I do therefore report in favor of granting the order of sale therein prayed for by the petitioners. I also report that the mother of said infant is entitled to four hundred dollars for his support hitherto. All of which is respectfully submitted.

George Manierre,
Master in Chancery

Masters fee \$5.00
Paid by Haemer

And afterwards to wit; on the tenth day of November A.D. 1853 it being one of the days of the November Term of the said Circuit Court the following among other proceedings were had, and entered of Record to wit;

In the matter of the petition of
Edward Knight Guardian of Mority
Francis & Baumgarten an infant
and Frederick A. Sumner & Elizabeth
Sumner his wife to sell infants
Real Estate and for the apportionment
of widows dower &c

And now on this day came the said petitioners by Beck & Haemer their Solicitors and on their motion the court being fully advised in the premises it is ordered that the said Elizabeth late widow of Christoph Baumgarten

deceased do recover her down in the following described premises, to wit:

That lot or parcel of land known & described as fractional Section No. two, north of the Indian boundary line Township No. forty North of Range No. thirteen East of the third principal meridian containing one hundred and 49/100 acres more or less, also to one undivided one third part of the following described lot viz: commencing at the North west corner of Russell E. Neacock's addition to the town of Chicago, being in section No. twenty one Town No. thirty nine, Range fourteen East, thence running Easterly along the line of said Russell E. Neacock's addition eight chains, thence South two chains and forty three links, thence ^{west} eight chains and forty six links to the Bank of the South branch of the Chicago River, thence South along the said bank ten and three quarters degrees east two chains and forty seven & a half links to beginning containing two acres of which the said Christoph Baumgarten died seized and that James H. Reis, William J. Barron, and Daniel R. Cook be appointed commissioners to apportion her down according to the statute in ~~that~~ ^{part} case made and provided & that they make report thereof to this court without delay and all other matters relating to

this suit be reserved until the coming ⁱⁿ of
the report of the said commissioners. —

And afterwards, to wit; on the Twenty third
day of November A.D. 1853 there was filed in the
office of the Clerk of said Circuit Court, the Report
of the commissioners heretofore appointed in this cause
which said Report is in the words & figures following, to wit;

State of Illinois } Cook Circuit Court of the
Cook County } October Term A. D. 1853
In the matter of the Petition
of Edward Knight Guardian of }
Frederick A. Loring & }
Elizabeth Loring for the sale }
of Real Estate & apportionment of the }
Widow's dower therein }

The undersigned commissioners
appointed by this Honorable Court by virtue of the
Order hereto annexed to set off and allot to
the said Elizabeth Loring late widow of Christoff
Baumgarten deceased her Dower in and to the Real
Estate in the said Order described, do report that
we have examined the said Real Estate in said
Order described after having been first duly
sworn according to Law and find that said Real
Estate in said Order described is not susceptible of
division without great injury thereto and that it

would be for the interest of all parties concerned,
that said Real Estate be sold, and the value of the
Widow's dower therein be ascertained as provided for
by law. — In testimony whereof we have hereunto
set our hands and seals as such commissioners
this 15th day of November A.D. 1853. —

James H. Rees Seal

William J. Barron Seal

Daniel R. Coit Seal

Commissioners fees \$6.00 }

Attached to the foregoing Report were the oaths of the
said Commissioners which said oaths were in the
words & figures following, to wit;

State of Illinois

Cook County ss. We and each of us do
solemnly swear that we and each of us will
fairly and impartially attach and set off to Elizabeth
Luning late widow, of Christoff Baumgarten deceased
her dower, out of the lands and tenements described in the
order of the court for the purpose, if the same can be
made, consistent with the interest of the estate according
to the best of our and each of our judgments so help
us God.

Subscribed & Sworn to
before me this 15th
day of November A.D. 1853
J. A. Howe J. P. }

William J. Barron
James H. Rees
Daniel R. Coit

And afterwards, to wit: on the day and year last aforesaid, said day being one of the days of the November Term of said Circuit Court, the following among other proceedings were had and entered of Record in this cause, to wit:—

In the Matter of the Petition
of Edward Wright Guardian
of Moritz Francis Baumgarten
an infant and Frederick A
Luning & Elizabeth his wife
to sell Real Estate.

In Chancery

And now on this day come the said petitioners by Jack & Mosner their Solicitors and file herein the Report of the Master of Chancery of said County to whom the matters in said petition had heretofore referred to take proofs and report thereon and on their motion it is ordered ^{by the Court} that said Report be accepted and confirmed, And on this day also come the said petitioners by their Solicitors aforesaid and file herein the Report of the commissioners heretofore appointed herein to appraise the Widow's dower in and to the premises in said petition and order decreed, who having reported that said premises are not susceptible of division without great injury thereto, it is ordered that said Report be accepted and confirmed and that a Jury be impanelled to appraise the value of the widow's dower in and to said premises according to the Statute in such case made and provided, and thereupon come

the Jurors of a Jury of good and lawful men, to wit;
H. H. Yates, Charles Tollenebe, Joseph Bragewell, Simon
Tipper, Miles Gibbons, Joseph Scott, James Clifford,
Martin Naird, George H. Cobb, George Strong, William
Rowley, and E. Gifford, who being duly elected tried
and sworn well and truly to inquire of and assess the
yearly value of the dower of the said Elizabeth Summing
in and to the premises described in the petition in said
cause the amount in gross to be paid to said Widow in
lieu of her said annuity and the amount due to said
Elizabeth Summing for the past support of said Moritz
Francis Baumgarten an infant, and after hearing the
evidence adduced and the arguments of counsel, retire
to consider of their verdict and afterwards come into
court and say,

We the Jury assess the Widow's dower
in aid to the premises described in said petition
at the yearly value of One hundred and forty
dollars and said annuity is worth in gross the sum
of Sixteen hundred Dollars. We also find that the said
Widow is entitled to the additional sum of four
hundred dollars for the past support of said
Moritz Francis Baumgarten, making our verdict
in all the sum of Two thousand dollars which is
ordered to be entered,—

And afterwards, to wit; on the twenty sixth day
of November in the year last aforesaid, the Jury

one of the days of the November Term of the said Circuit Court the following among other proceedings were had and entered of record in said cause, to wit;

In the Matter of the Petition of
Edward Wright Guardian of
Moritz Francis Baumgarten an
infant under the age of fourteen
years Frederick A. Luning and
Elizabeth Luning his wife, for the
Sale of Real Estate and apportionment of
Widow's Dower

In Chancery

This cause coming on this day to be heard before this Honorable Court on petition, exhibits and proofs the substance of said petition appeared to be that the said infant Moritz is the only heir at law of one Christoff Baumgarten deceased who died intestate on or about the third day of September A.D. 1845, and that the said Elizabeth was the widow of the said Christoff deceased.

The petition further sheweth that the said Christoff died leaving only about four hundred dollars in personal property which has long since been expended by the said Elizabeth in paying off his debts and in her and the said infants support. The petition also sheweth that the said Christoff died seized and possessed of the following described real estate situate in said County of Cook viz;

That lot

or parcel of land known and described as fraction²
Section N^o Two North of the Indian boundary line, Township
number Forty North of Range No thirteen East of the third
principal Meridian, containing one hundred and forty
nine hundredths acres more or less, Also one undivided
one third part of the following described lot, to wit:
commencing on the north west corner of Russell E. Neacock's
addition to the Town of Chicago, being in Section N^o Twenty
one Town number thirty nine Range fourteen east, thence
running easterly along the line of said Russell E. Neacock's
addition eight chains, thence north two chains and forty three
links, thence west eight chains and forty six links to the bank
of the south Branch of the Chicago River, thence along the
said Bank ten and three quarters degrees east two chains &
forty seven and a half links to beginning containing two acres.

The petition further shows that the said Elizabeth widow
of the said Christoff is in indigent circumstances and needs
her dower in said Real Estate to be paid over to her as well as
compensation to be made her from said Estate for the arrear-
ages of her dower since the decease of the said Christoff and
also for the past support and maintenance of the said Moritz
over and above the personal property received by her on the
demise of her said husband the said Christoff.

The petition further
shows that the said guardian of the said Moritz has never
received any personal property from said Estate of the said
Christoff that he has never paid anything ^{towards} the support
and education of his said ward, that his said ward resides

with his mother the said Elizabeth, and that his said son
has now arrived at an age of nine years or thereabouts,
at which it is necessary that means should be provided
for his suitable education and support and that there
being no personal property belonging to said estate of the
said Christoff, it is necessary to sell the aforesaid Real estate
and apply the proceeds for such purposes.

The petition further
shows that the aforesaid Real Estate is unproductive and
will remain so for want of means as at present situated,
to improve the same and therefore that it would be for
the benefit of said infant to have the same sold and the
surplus if any after providing for his support and education
be reinvested for his benefit.

The petition further sets
out that it would be for the benefit of the said infant,
that said Real Estate should be sold, freed and discharged
of and from the Widow's dower therein and for that pur-
pose that the Widow's dower should be assigned and she
receive a gross sum calculated on the principle of life
annuities in full payment of her dower therein out of
the proceeds of said sale, or else a certain sum to be
assigned to be paid her yearly during her natural life
for her dower therein.

The petition concludes with the prayer that three com-
missioners be appointed to assign the Widow's dower in
said ^{Real} estate and a reference to the Master in Chancery to
ascertain the amount due the said Elizabeth for the

past support and maintenance of the said infant and an order directing and empowering the said Guardian to sell and convey the said Real Estate of his said Ward, on such terms and at such times as to this Court shall seem meet, and for such other and further relief as the nature of the case may demand and shall be agreeable to equity - It further appearing to this Court that due notice had been given by the said petitioners of this application, ^{and} of the pendency of this suit by publication according to law in the "Democratic Press" a daily newspaper published in the said City of Chicago, and nothing being shown to the contrary, why the prayer of the said petitioners should not be granted, and it further appearing to this Court on the Report of the three commissioners appointed herein to appraise the Widow's dower in said Real Estate, that the same was not susceptible of division and thereupon a Jury being impaneled to inquire of the value of the Widow's dower therein appraised the same at the yearly value of one hundred and forty dollars to be discharged upon the payment of the gross sum of sixteen hundred dollars which has been entered herein of Record.

And it further appearing to this Court on the report of the Master in Chancery to whom was referred the matter to inquire into the compensation to be paid to the said Elizabeth for the past support and maintenance of the said infant and he having reported the same at the sum of four hundred dollars.

And it further appearing

to this Court that the said Christoff died seized and
possessed of the Real Estate above described, and that
there is no personal property belonging to said Estate,
and that it would be for the benefit of the said infant
his only heir at law that said Real Estate should be sold
for his support and education, and it further appearing
that said Edward Knight has been duly appointed guar-
dian of the said Moritz Francis Baumgarten and the
Court now being fully advised in the premises, doth
order, adjudge, and decree that the said Edward Knight
as guardian of the said infant Moritz Francis
Baumgarten proceed to sell all the right title and
interest of the said Moritz Francis Baumgarten as
heir at law of Christoff Baumgarten deceased, in and
to the Real Estate aforesaid freed and discharged from
the Widow's dower therein on Monday the sixth day of
February A.D. 1854 at the hour of ten O'clock in the
forenoon of the said day at the North door of the
Court House in the City of Chicago, at public vendue
to the highest and best bidder on the following terms
and conditions viz: one third in cash and the balance
in equal payments in one and two years with six per
cent interest.

It is further Ordered that the said guardian
give at least twenty days ^{public} notice of said sale by publi-
hing a notice thereof in one of the daily newspapers
published in said City of Chicago.

It is further Ordered that

the said guardian offer for sale the said two pieces or parcels of Real Estate above described separately, and that upon the sale thereof, he as the guardian of the said Moritz Francis Baumgarten an infant, execute and deliver unto the purchaser or purchasers thereof a good and sufficient deed or deeds of conveyance of the same and take back from the purchaser or purchasers thereof a mortgage upon the property so sold to secure the balance of the purchase money upon which credit is given.

It is further ordered and declared by the court that the deed or deeds of conveyance so executed and delivered by the said guardian to the purchaser or purchasers of said Real Estate shall absolutely vest in such purchaser or purchasers, all the right title and interest of the said infant Moritz Francis Baumgarten in and to said Real Estate freed and discharged of and from all claim, right and dower of the said Elizabeth in and to the same,

It is further ordered that the said guardian pay out of the proceeds first received from the sale of said Real Estate after paying all costs and expenses as hereinafter mentioned the sum of two thousand dollars unto the said Elizabeth Luning in full payment and discharge of all her claim against the Estate of the said Christoff Baumgarten deceased and in full satisfaction and lien of all dower in and to the real estate belonging to said Estate,

It is further ordered that the said guardian render

an account of the proceeds of said sale belonging to the said infant, to the court of Probate of said County and pay out the same for the benefit support and education of said infants under the order of said Court,

It is further Ordered that the said guardian make report of the proceedings under this decree to the next term of this court after said Sale,

It is further ordered that ^{the} said guardian first pay out of the proceeds of said sale the costs and expenses of this application and decree, and the expenses and charges of said sale, —

And afterwards, to wit: on the twenty seventh day of March A.D. 1854 there was filed in the clerk's office of the said Circuit Court the Guardian's Report of sale in this cause, which said Report is in the words and figures following to, wit:

State of Illinois / Cook Circuit Court.
Cook County ss. In Chancery

In the matter of the Petition of Frederick A Luning & Elizabeth Luning his wife & Edward Wright Guardian of Moritz Francis Baumgarten an infant	} Decree for Sale of infants Real Estate and assignment of Widow's Dower
---	--

I Edward Wright guardian
of Moritz Francis Baumgarten an infant, do hereby report,

that by virtue of the decree of the said Circuit Court entered on the 26th day of November A.D. 1853 the same being one of the days of the November Term A.D. 1853 of said Court, I did, on the sixth day of February A.D. 1854 at the hour of ten o'clock in the forenoon of said day at the north door of the Court House in the city of Chicago in pursuance of the terms and conditions of said decree, after having first advertised said sale, daily in the "Chicago Daily Tribune" (a newspaper published in Chicago) from the 21st day of December A.D. 1853, to the said 6th day of February A.D. 1854, the day of sale, offer at public vendue in separate parcels to the highest and best bidder on the following terms and conditions viz: one third cash down, and the balance of the purchase money in equal payments in one and two years with six per cent interest, all the right, title & interest of the said Muritz Francis Baumgarten as heir at law of Christoff Baumgarten deceased in and to the following described Real Estate freed and discharged of and from the Widow's dower therein viz: the undivided one third part of the following described lot; commencing at the North West corner of Russell & Nease's Addition to the Town of Chicago, being in Section No Twenty one Town No Thirty Nine North of Range fourteen East, thence running Easterly along the line of said Russell & Nease's Addition eight chains, thence North two chains and forty three links, thence west eight chains & forty six links to the bank of the South Branch of the

Chicago River, thence South along the said Branch
ten and three quarter degrees East two chains and forty
seven and a half links to the place of beginning, containing
two acres. Also the following piece or parcels of land,
to, wit: Fractional Section Two, North of Indian
Boundary line in Township forty North of Range thirteen
East of third principal meridian, containing one hundred
and $4\frac{3}{4}$ acres, and at said Sale Enos Eyers bid for
the lot first above described, the sum of four
thousand and seven hundred dollars, who being the
highest and best bidder therefor, the same was then
and there struck off to him and he became the
purchaser thereof, also at said Sale Leighton
Dumer bid for the piece secondly above described the
sum of seventeen dollars and twelve and one half
cents per acre, and he being the highest and best
bidder therefor the same was then and there struck
off to him and he became the purchaser thereof,
And I do further report that in pursuance of said
decree, I executed and delivered unto the purchasers
at said Sale deeds of conveyance of the premises by
each purchased as aforesaid; and took back at the
same time the notes of the said purchasers for
two thirds of the purchase money, one third payable
in one year from date with interest and one
third payable in two years from date with
interest, and the respective notes of the said
purchasers for two thirds of the purchase money,

payable as aforesaid, secured by Mortgages on the premises respectively sold to said purchasers, ^{as} aforesaid. And I do further report that said Enns Myers and Leighton Turner the purchasers aforesaid fully complied with the terms and conditions of said Sale, by paying me one third of the purchase money in cash and securing the balance of the purchase money by Mortgages on the premises purchased respectively by them at said sale. — And I do further report that previous to the commencing proceedings herein, I found a decree already entered in this Court touching the property of my said Plaintiff which decree was null & void and had never been executed and I considered for the benefit of my said Plaintiff that said cloud should be removed from the title to his said Real Estate, and I therefore instituted suit against Charles P. Baumgarten and the other parties to said decree, & obtained an order of this Court vacating and setting aside said Decree. —

And I do further report that my expenses & charges have been and are as follows, viz:

Atty fee in suit to set aside decree	\$25. 00
Cash paid for costs of said Suit	18. 85
Atty fee filing Petition for sale of Depts Real Estate	50. 00
Atty fee getting assignment of Down	15. 00
Commissioner fees & expenses assigning Down	15. 00
Advertising & drawing notice of pendency of suit	5. 00
Atty. fee taking proof before Master in Chancery	10. 00
Said Master in Chancery for making Report	5. 00

Atty fee Drafty Decree	25.00
Cash paid for costs of Court	13.60
" " to redeem lands sold from tax sale	36.86
Guardian's Commissions selling lands 3 per cent on amt. of Sales of \$6420.89	192.63
Drawing two special deeds to purchasers	10.00
" " Mortgages	5.00
Paid for Recording Mortgages	2.00
Drawing two Reports to Circuit & Probate Courts	20.00
Drawing and advertising guardian Sale	10.00

And I do further report that I have paid over to Elizabeth Suning in pursuance of said decree the sum of Seventeen hundred and two ³⁴/₁₀₀ dollars of the sum of Two thousand dollars belonging to her by the time of said decree leaving a balance due her of Two hundred ninety seven ⁶⁴/₁₀₀ dollars to be paid out of the monies payable in one year from said date, but as she was equally interested and joined in the petition, I would recommend that she share in the expense and that the sum of one hundred and fifty dollars be deducted therefrom as her proportion of the expense of these proceedings - her voucher for the amount paid is herewith filed with this report. -

I further report that in pursuance of said decree I have made my report & rendered an account of the proceeds of said sale belonging to my said ward to the Probate Court of said county & that I hold the same subject to the order of said court.

All of which is respectively submitted to this Court for confirmation, and approval. —

Edward Knight,
Guardian of Moritz Francis
Baumgarten, an infant,

And afterwards, to wit: on the Twenty Seventh day of March A.D. 1854, it being one of the days of the March Term of said Circuit Court, the following among other proceedings were had, and entered of Record in this cause, to wit:

In the matter of the Petition of
Edward Knight to sell Real
Estate of Baumgarten }

This day comes the said Petitioner by Pick & Hasmer his Solicitors and files the Report of Sale by the Guardian under and by virtue of the decree of this Court heretofore made in this cause and thereupon on his motion. It is ordered by the Court that all parties interested herein show cause by the coming in of the Court on Monday morning next why said report should not be confirmed. —

And afterwards, to wit: on the Fifth day of April A.D. 1854, it being one of the days of the March of said Circuit Court the following among other proceedings were had, and entered of Record in this cause, to wit:

In the matter of the Petition
of Edward Wright guardian
of Moritz Francis Baumgarten
and Frederick A Luning
Elizabeth Luning his wife
to Sell Real Estate.

In Chancery

This day came
into open court Tallas Phelps an attorney of
this court and asked leave of the court to file
his Petition herein as the next friend of the
said infant Moritz Francis Baumgarten praying
that the sale made by the guardian in this cause
may not be confirmed, the granting of which
leave is resisted by Missus Peck attorney for
the said guardian and by Grant Goodrich Esq
for Enos Ayers a purchaser at said sale.

Whereupon after argument heard It is ordered
by the Court that the said Phelps as the next
friend of the said infant have leave to file his
petition aforesaid to the granting of which
leave the guardian by his counsel and the
said Ayers by his counsel excepts,

And afterwards, to wit; on the sixth day of April
A.D. 1854, there was filed in the office of the Clerk of the
said Circuit Court, the Petition of Moritz Francis Baumgarten
which said petition is in the words & figures following viz;

To the Honorable Buckner S. Morris
Judge of the Cook County Circuit
Court in Chancery sitting —

Your petitioner Moritz Francis Baumgarten sole
heir minor heir of Christoff Baumgarten deceased by
Jallus Phelps his next friend humbly complaining sheweth
unto your Honor that he is about nine years of age
and only heir of the Estate of Christoff Baumgarten
and as such heir is the owner of the one undivided
third part of the following described Lots of land, to
wit; commencing at the North West corner of Russell
E. Neacock's addition to the town of Chicago being in
Section No twenty one (21) in Town No Thirty nine (39)
of Range fourteen (14), thence running Easterly along
the line of said Russell E. Neacock's addition eight
(8) chains, thence North two chains and forty three
links, thence west Eight chains and forty six links to the
bank of the South Branch of the Chicago River,
thence South along the said branch ten and three
fourth degrees west Two chains and forty seven and
a half links to the place of beginning, containing, that
heretofore, to wit; at the North door of the Court House
in the city of Chicago in the county of Cook and

State of Illinois on the sixth day of February
One thousand Eight hundred and fifty four, ^{under} and
by virtue of a supposed order of this Honorable
Court the said premises were sold at auction by
Edward Knight the supposed guardian of your petitioner
to one Elias Ayers for the sum of four thousand
seven hundred dollars,

And your petitioner further
shows, that said premises were at the time of said
sale worth more than double the amount of said
sum of four thousand seven hundred dollars, to wit:
the sum of ten thousand dollars, that your petitioner
is informed and believes and so charges the fact to
be, that the time and place of said sale was not
generally known to the public and was not known
to a great number of persons residing in Chicago
and in the vicinity of said premises, who were
able and anxious to purchase said premises at its
full value and would have been present at said
sale if they had known of it, and would have caused
said property to have been sold at its full value,
that said persons are still anxious to purchase
said property for its full value.

And your petitioner
is further informed and believes that the said Edward
Knight guardian as aforesaid of your petitioner and
one Ebenezer Peck and one Charles P. Hasmer are and
at the time of said sale were attorneys at law, &

co-partners, doing business as such under the name
style and firm of Peck, Hasmer & Wright, and that
the said Ebenezer Peck and Charles^P Hasmer recently
before the said sale were attorneys and co-partners
doing business as such under the name style
and firm of Peck & Hasmer, and that said
Peck and Hasmer with said Wright as aforesaid
and all the time have been and still are the attorneys
and legal advisers of the said Wright in the matter
of his appointment as guardian of your petitioner &
in the matter of the application and sale of the
said property of your petitioner, and ever since
the said sale, have been and still are retained
and employed as the attorneys and counsellors of
Euros Ayers the pretended purchaser of said property
to aid him ^{in the} completion and confirmation of said
sale. And that said Peck & Hasmer are now as
attorneys for said Wright guardian as aforesaid,
assuming to control the rights and interests of
your petitioner in said property, and are at the
same using that assumed authority to advance &
promote the interests of the said Ayers in his said
purchase, which is directly in conflict with the
rights and interests of your petitioner: in which if
they are allowed to succeed and obtain a confir-
mation of said sale your petitioner will be deprived
of more than half the value of his said property
and suffer a loss over five thousand dollars.

And your petitioner further sheweth that he is informed and believes that said sale was hastily made without a proper and suitable and fair opportunity given for competition among those who would have bid for said property and enhanced the sale thereof: that said Knight is only the nominal guardian of your petitioner, and that said Peck & Mosmer, (one of which, to wit, H. B. Mosmer was present and conducted said sale) and who are the attorneys of the said Enns Ayers, acting as such in fact, and assuming to control the rights and interests of your petitioner,

And your petitioner says that said sale improperly and fraudulently conducted and that your petitioner will, if said sale is confirmed suffer a loss of more than five thousand dollars.

And your petitioner prays that the matters and things herein set forth be inquired into by your Honor, and that said sale shall not be confirmed and that an sale of said property be ordered to the end that your petitioner may obtain the full value thereof, and make such other order or decree as to your Honor shall seem meet and as in duty bound will ever pray &c -

Moritz J. Baumgarten
By P. Phelps his next friend,

x

And afterwards, to wit: on the Sixth day of April A.D. 1854 it being one of the days of the March Term of said Court, the following among other proceedings were had and entered of Record in this cause, to wit: —

In the matter of the Petition of Edward Hight guardian of Moritz Francis Baumgarten & Frederick A. Luning and Elizabeth his wife to sell Real Estate } In Chancery

This day again came the said Petitioners by Hassen their Solicitor, and enter their motion to confirm the report of sale filed in this cause, which said motion is resisted by Pallas Phelps as Solicitor for the infant Defendant,

And afterwards, to wit: on the day and year last above mentioned, there was filed in the office of the clerk of the said Circuit Court the affidavit of Pallas Phelps in this cause, which is in the words and figures following, to wit:

Pallas Phelps being duly sworn says that since the sale of the property of Moritz F. Baumgarten by his guardian Edward Hight on the sixth day of February A.D. 1854, this affiant had a conversation with Euro Ayers who had bid off at said sale the undivided one third of two acres of land on Section twenty, one in the city of Chicago

in which conversation which took place in the month of February the said Ayers stated to this affiant, that he had been offered double the price at which he had made the purchase and refused it for the reason that he considered it worth more.

And this affiant further says, that during the week previous to the commencement of the present term of this Court, this affiant notified the said Ayers, that he should file at the present term of this objections to the confirmation of said sale; that the said Ayers then referred this affiant to his attorneys in the matter and on enquiring told this affiant that McPh, Peck & Mosmer were his attorneys therein.

Subscribed and Sworn before
me this 6th day of April 1854
L. D. Hoard (Ck)

Patton Phelps

And afterwards, to wit, on the day and year last aforesaid, there was filed in the office of the Clerk of the said Circuit Court, a certain other affidavit in said cause, which said affidavit is in the words and figures following, to wit;

Hugh Maher being duly sworn says, that he knows the undivided one third of two acres of Land lying on the South Branch of Chicago River on Section twenty one belonging

to Moritz Francis Baumgarten minor heir of
Christopher Baumgarten deceased, that he owns
land in the same vicinity and an undivided interest
in the same tract belonging to said minor and
knows the value thereof, and says that said
undivided one third of said two acres of land
on the sixth day of February A.D. 1854 (when the same
is said to have been sold) was and now is worth the
sum of nine thousand eight hundred and five dollars,
and that if a new sale should be ordered with
proper notice of the time and place thereof it will
sell for that sum, and that this affiant is anxious
to buy it, and will pay that sum for it if it is again
offered for sale.

That this affiant knew nothing of said
sale except from a remark made to him by Charles
Baumgarten some time last fall, that it would
be sold some time between then and the next spring.
That this affiant did not know or hear of the time
and place of sale until it was over, and that
if he had known of it he should have been
present and bid upon it even to its full value, to
secure the purchase of it, that he believe that
the time & place of said sale was not generally
known in the vicinity of said property, nor
does he know ~~nor does he know~~ of any property
owner or resident in the vicinity thereof that
did know of it.

Subscribed & sworn to before me this 6th day of
April A.D. 1854. J. A. Howe J. P.

Hugh Mahen

And afterwards, to wit; on the day and year last above mentioned, there was filed in the office of the clerk of said circuit court a certain other affidavit in this cause, said affidavit is in the words and figures following, to wit;

Benjamin Wilder being duly sworn, says, that he knows the undivided one third of two acres of land on the South Branch of Chicago River on Section twenty one, belonging to Moritz Francis Baumgaertner minor heir of Christopher Baumgarten deceased; and knows its value and says that the interest of the minor, or the one undivided third of said two acres of land was, at the time the same is said to have been sold on the sixth day of February A.D. 1854, and now is worth the sum of Ten thousand dollars and that if a new sale should be ordered and proper notice thereof given, he believes that it would sell for that sum, that he did not see any notice of the time and place of said sale, or know or hear of it until after said sale had taken place, and that he lives in the immediate vicinity of said property, and believes that the time and place of said sale was not generally known nor does he know of any property owner or resident in the vicinity of said property that did know of it.

Subscribed and sworn to

Benjⁿ Wilder

before me this 3^d day of
April A.D. 1854. —
J. A. Howe J. P. }

And afterwards, to wit; on the tenth day of
April A.D. 1854, there was filed in the office of
the clerk of the said Circuit Court, a certain
other affidavit, in said case, which said affidavit
is in the words and figures following, to wit:

J. J. Flint being duly sworn says, that
he is acquainted with the location and value of the
one undivided third of two acres of land situated
on the South Branch of the Chicago River in Section
twenty one, Town thirty nine of Range fourteen East
said to belong to Manritz Francis Baumgarten
minor heir of Christopher Baumgarten deceased
and that the said undivided one third was on the
sixth day of February last and now is well worth
more than ten thousand dollars and he would
be willing to give that sum for the same on the
terms on which the same was sold. — That he owns
property next adjoining the ice house on the South
(which ice house adjoins the property in controversy)
which he values at \$200. per foot through from
the water to Clark Street including the two
points on the river and on Clark — being one
hundred dollars per foot for each front.

Subscribed & sworn to before }
me this 10th April 1854 }
J. A. Howe Clerk }

J. J. Flint

And afterwards, to wit: on the Seventh day of April A.D. 1854, there were filed in the office of the Clerk of the said Circuit Court, in this cause, the affidavits of William H. Stickney, William H. Adams, James E. Hamilton, James H. Rees, and Samuel H. Kerfoot, Edwin C. Larned, & C. B. Wasmers which affidavits are in the words and figures following, to wit: —

(The affidavit of Wm H. Stickney)

Wm H. Stickney being sworn on oath states, that he has been a resident of the City of Chicago some three or four years last past, and during said period has been purchasing & selling real estate in & near said City, that he considers himself acquainted with the value of property for said period & at the present time — That he knows the situation of the piece of land described as two acres in section twenty one Town 39. R 14. E. fronting partly on the South Branch of Chicago River. That deponent was interested in the purchase & sale of near four acres a short distance south of the said two acres also fronting partly on said River, and from said purchase & sale during the past year, is better enabled to judge of the value of said two acres. Deponent is clearly of opinion that from five to six thousand dollars per acre was the full value of said two acres above mentioned* (which deponent is informed is the same land a part of which say $\frac{2}{3}$ of an acre was purchased by Evans

Ayers at the guardian's Sale of Moritz Francis
(Baumgarten at four thousand seven hundred dollars)
* where an undisputed warrantee. Deed & clear title
should be given, but under the circumstances of
a guardian sale or probable incumbrance by lease
or otherwise, should not consider it worth near so
much and is well satisfied that the price paid by
said Ayers above mentioned was under the circum-
stances the full & outside value & more than this
deponent would have given or been willing to bid
at said sale had he been present.

W. A. Stickney,



Subscribed & sworn to before me
this 7th day of April A.D. 1854.

John Forsythe

Notary Public—

The affidavit of Wm. A. Adams.

State of Illinois

Cook County of William A. Adams being duly
Sworn deposes and saith, that he has been a
resident of the city of Chicago for the last twelve
years, and engaged exclusively the past two years
in the purchasing & selling of Real Estate in said
city, that he is well acquainted with the value
of property in all parts of said city, & knows
the price or lot of Real estate sold by Edward
Wright at a guardian's Sale on the sixth day

of February A.D. 1854, That in his judgment said Real Estate was worth at the time of said sale at the sale of five thousand dollars per acre & that that was its fair market value at that time. That in the judgment of this affiant property sold at a Guardian's sale is not worth over three fourths its market value on account of the risk the purchaser runs as to defects in title, taxes & other incumbrances against the property, That this affiant has himself been the purchaser at different times at guardian's sales but never considered it an object to be a purchaser unless he could buy considerable under the market value & he believes the same principle governs all prudent purchasers at such sales, This affiant further saith that he is informed that it was an undivided one third of two acres in Section twenty one Township thirty nine, Range fourteen East sold by said guardian at said sale & that the price obtained was four thousand seven hundred dollars one third cash and the balance in two equal ^{annual} payments with six per cent interest which price in the opinion of this affiant was above its fair market value at that time, -

Wm H. Adams.



Subscribed and sworn to before me this
7th day of April A.D. 1854.

John Forsyth, Notary Public

(The Affidavit of James G. Hamilton,
State of Illinois
County of Cook. } James G. Hamilton being duly
sworn deposes and saith that Pallas Phelps came
into the office of ~~Ex~~ Ayers & Hamilton several
different times & in the presence of deponent com-
menced conversation with the said Ayers touching his
(Ayers') purchase at the guardians sale on the 6th
day of February 1854. He sought first to procure
from said Ayers for a certain Hugh Maher, a
continuance or a ratification of a lease of a
part or the whole of the property purchased
by said Ayers at said sale, and which the said
Maher had previously leased from certain other
parties. Failing in this he proposed on behalf of said
Maher to buy out the interest of said Ayers in said property
and to that end and on behalf of said Maher offered said
Ayers six hundred dollars for his bargain, reminding
the said Ayers at the same time that the sale by the
guardian had not yet been confirmed, and threatening
to oppose the confirmation thereof unless the said
Ayers should see fit to accede to the terms propos-
ed by him to the said Ayers. —

James G. Hamilton,
Subscribed and Sworn to before me
this 7th day of April A. D. 1854. —
John Forsythe
Notary Public



(The affidavit of James H. Reis)
State of Illinois
Cook County J. James H. Reis & Samuel
H. Kenfoot being first duly sworn depose & say
that they are well acquainted with the two acres in
section twenty one Township thirty nine Range
fourteen East, the undivided one third of which
Edward Knight guardian of Moritz Francis
Baumgarten sold at these deponents are informed
& believe at Public Vendue at a Guardian's sale
on the 6th day of February A.D. 1854 to one Enns
agers for the sum of four thousand & seven hundred
dollars one third cash and the balance in two
equal annual payments with annual interest at
6 per cent. These deponents further say that in
their judgment said property sold for a fair price
at that time, fully up to the market value of said
property at the time, & much higher than property
usually sells at such sales. These deponents further
say that they were then & have been for a long time &
are now Land agents in the city of Chicago & exclusively
engaged in the purchasing & selling of Real Estate in
and about said City, and they consider themselves good
judges of the value of Real Estate in all parts of the
said City. And the said James H. Reis further says
that he went in person on the property above sold
before its sale with a view to appraise the same
and according to his best recollection now, he

appraised the same then at the sum of five thousand dollars per acre. —

These deponents further say that lands in that vicinity have within a few past weeks greatly risen in value —

James H. Rees,



Subscribed & sworn to by "James H. Rees
before me, this 7th day of April A.D. 1854,

John Forsythe,

Notary Public

(The affidavit of Edwin C. Sarnes)

Edwin C. Sarnes on oath states, that he attended the sale of the Real Estate of Moritz Francis Baumgarten an infant by his Guardian Edward Knight on the 6th day of February A.D. 1854 with the intention of bidding for said property securing the purchase thereof at said sale for his own account and that of others interested with him — That he made inquiries before going to said sale as to the value of the said property and made up his mind from the best information he could obtain that it would be no object to purchase said property, at a higher figure than Thirty five Hundred dollars — and this affiant did bid at said sale once or twice as he believes but the property went up beyond the mark which he had fixed and which he believes it to be worth. The sale was spirited and there was active competition among the bidders. A son White brother of Julius White of this City (as

this affiant was informed) was one of the bidders
and there was some consultation between him &
his friend as to advancing on the last bid. I considered
the sale a very good one at the time, There were
a number of persons present, and the whole
proceedings were conducted with entire fairness
and good faith so far as I could understand or perceive
therein.

Edwin C. Sarned,



Subscribed & sworn to before me
this 7th day of April A.D. 1854.

John Doney, the
Notary Public,

(The Affidavit of C. B. Hasmer/
State of Illinois
Cook County, ss. Cook Circuit Court,

In the matter of the confirmation
of the Report of Sale by the guardian under the
decree of this Court entered at Deceman Term
1853. to sell the Real Estate of Mitty Francis
Bannymartin an infant.

Charles B. Hasmer being duly sworn deposes
and saith that he was the solicitor of the said Guardian
in obtaining said order or decree of sale, That due
notice was given of said application according to
the statute in such case made & provided, but
no opposition was made to the granting of said
order or decree. — That notice was given of

said guardian's sale by publishing the same in the Chicago Daily Tribune published in the City of Chicago from the day of December 1853 to the 6th day of February 1854 the day of sale a period much longer than required by the said decree. That the said sale was held at the time place & in the manner required by the said Decree. That there were a number of bidders at said sale & a lively competition among the bidders. That the purchasers at said sale were both strangers to the said guardian Edward Wright who sold said property at public vendue. & also to this affiant his solicitor who attended said sale.

That said property brought several Hundred Dollars or above the appraisal made under oath of James H. Reis & others who testified as to the value of said property before the Jury empannelled to assess the Widow's dower in said premises. This affiant further saith that H. J. Milern the guardian of said infant at Milwaukee in the State of Wisconsin where the said infant resides came to Chicago several days before said sale, & told this affiant that he had enquired into the value of said Real Estate & was present at said sale, & expressed himself well satisfied with the price obtained at said sale. This affiant further saith that said sale was conducted fairly that both the guardian & this affiant did ^{all} in their power both before and at said sale to obtain the highest price possible for the same. This affiant further

said that at said sale the guardian only sold the interest of his said Ward whatever the same might be, that there was a general report at the time that said property was a ~~general~~ ~~subject~~ subject to a long lease, but the validity of the lease was doubted still the purchaser whoever he might be, understood that he purchased it at his own risk, & knowing that it was an undivided interest he purchased. This affiant further saith that said property after it was sold to said ayers was ascertained to have been sold for taxes & the same was redeemed after sale the purchaser paying the redemption money amounting as this affiant is informed & believes in all to upwards of seventy dollars. - This affiant further saith that all the terms & conditions of said decree of sale were strictly ^{& faithfully} complied with, & that more was done than the decree required such as obtaining the execution of Release of Dower by the said widow & in giving longer notice of the sale than required by said decree

C. B. Nosmer,

Seab

Subscribed & Sworn to before me this
7th day of April A.D. 1854.

John Forsythe

Notary Public.

And afterwards to wit; on the day & year last aforesaid there were filed in the office of the clerk of said circuit

count the affidavits of Wm H. Whitney, Jonathan Burr,
Henry A. Clark & V. C. Sumner, which said affidavits
are in the words & figures following, to wit;

(The affidavit of Wm H. Whitney)

William Whitney being duly sworn deposes & saith
that he has been a resident of the City of
Chicago for the past six years & during the past
two years has been engaged in the purchasing & selling
of Real Estate in said City as his business that he
is well acquainted with the premises mentioned
in the foregoing affidavit of James H. Rees & that
he fully agrees with the said Rees in the value
of the same & that said guardian's sale was made
at a fair price, fully up to the market price of
said Real Estate at that time,

Wm H. Whitney

Subscribed & Sworn to before me this
7th day of April A.D. 1854,

{Seal}

John Forsythe, Notary Public

(The affidavit of Jonathan Burr)

Jonathan Burr being duly sworn deposes & saith
that he has been engaged for the past five years
in the purchasing & selling of Real Estate in the
City of Chicago, that he knows the premises
mentioned in the foregoing affidavit of James
H. Rees and that in his judgment said property
sold for a fair price at said guardian's sale

fully up to the market value of the same at
that time —

Donal Durr

Subscribed & sworn to before me
on this 7th day of April A.D. 1854
 John Forsythe
Notary Public

(The affidavits of H. A. Clark & V. C. Turner)
H. A. Clark & V. C. Turner being duly sworn, depose
& say that they have been engaged extensively in
the purchasing & selling of Real Estate in the City
of Chicago for the past seven years, that they are
well acquainted with the value of Real Estate
in said City & know the premises described in
J. H. Rees' affidavit & in their judgment the
price obtained at said guardian's Sale was a fair
price for the same & much more than they would
have given for said property under the circumstances.

Henry A. Clark

V. C. Turner

Henry A. Clark and V. C. Turner
Subscribed & sworn to before —
on this 7th day of April A.D. 1854
 John Forsythe
Notary Public.

And afterwards, to wit; on the 5th day of
May A.D. 1854 it being one of the days of the
May Term of said Circuit Court, the following
among other proceedings were had & entered of Record
in this cause, to wit;

In the Matter of the Petition
of Edward Knight Guardian
of Maurice Baumgarten } In Chancery
to sell Real Estate

This day comes the said
petitioner by his Solicitor & the court being now
fully advised upon the motion to confirm the report
of sale made in this cause orders that said
Report so far as the same relates to land sold to
Enos Ayers be overruled and that said motion so
far as the same relates to Sumner be confirmed and
thereupon comes Enos Ayers by his solicitor and
excepts to the decision of the court in overruling
said motion and prays an appeal which is granted
by the court on the said Ayers filing a Bond
in the penal sum of five hundred dollars with
James G. Hamilton as security in twenty days
from the entry hereof. And also comes E.
Knight the Guardian as aforesaid and excepts
to said decision of the court herein and prays an
appeal which is allowed by the Court on the said
Knight filing a bond in the penal sum of five
hundred dollars with C. P. Hoerner as security in
ten days from the date hereof said Bonds to be
conditioned as the law directs. & it is further ordered
by the court that the said Report of sale & the
motion and things therein contained so far as
the same relates to Leighton Sumner be accepted
and confirmed.

And afterwards, to wit; on the Eighth day of May ~~xxx~~ A.D. 1854, there was filed in the office of the clerk of the said Circuit Court, two Bonds in this cause, which said Bonds are in the words & figures following, to wit;

Know all men by these presents that we, Enos Ayers and James S. Hamilton of Chicago in the State of Illinois are held & firmly unto C. J. Melius of the City of Milwaukee in the State of Wisconsin Guardian of Moritz J. Baumgarten a minor, in the penal sum of five hundred dollars for the payment of which well and truly to be made to the said C. J. Melius Guardian as aforesaid or his successor, we do hereby jointly & severally bind ourselves, our heirs, executors, administrators and assigns firmly by these presents—

Sealed with our Seals & dated this 8th day of May A.D. 1854,

The condition of the above obligation is such that whereas, on the fifth day of May 1854, the Circuit Court of Cook County by its judgment refused to confirm the sale of Real Estate of said minor Moritz J. Baumgarten heretofore made to said Enos Ayers by Edward Wright guardian of said minor at a public sale held on the sixth day of February A.D. 1854 from which judgment said Enos Ayers has

prayed an appeal to the supreme court
of the state of Illinois, which said appeal
has been allowed by said circuit court,
Now if the said Enos Ayers shall well &
truly prosecute his said appeal, & in case
said judgment of said circuit court shall
be affirmed, shall well & truly pay said
judgment together with all costs, interest
& damages, then the above obligation to be
void otherwise to remain in full force & virtue

In presence of }
Geo Scoville }

Enos Ayers (Seal)
James G. Hamilton (Seal)

Know all men by these presents that we, Enos
Ayers and James G. Hamilton of Chicago in
the state of Illinois are held and firmly bound
unto Pallas Phelps the next friend of Moritz
Francis Baumgarten a minor for the use
& benefit of said Moritz Francis Baumgarten
in the penal sum of five hundred dollars, for
the payment of which well & truly to be made
to the said Pallas Phelps next friend as aforesaid or
his successor for the use & benefit of said minor
we do hereby jointly & severally bind ourselves,
our heirs, executors, and administrators firmly
by these presents.

Sealed with our seals & dated this 8th
day of May A. D. 1854.

The condition of the above obligation is such that whereas, on the fifth day of May, 1854, the Circuit Court of Cook County by its judgment refused to confirm the sale of Real Estate of the said minor Murtz Francis Baumgartner heretofore made to said Enos Ayers by Edward Wright guardian of said minor, at a public sale held on the sixth day of February A.D. 1854 made in pursuance of an order of said Court from which Judgment said Enos Ayers has prayed an appeal to the Supreme Court of the State of Illinois, which appeal has been allowed by said Circuit Court,

Now if the said Enos Ayers shall well and truly prosecute his said appeal & in case said judgment of said Circuit Court shall be affirmed shall well & truly pay said judgment, together with all costs, interest and damages then the foregoing obligation to be void otherwise to remain in full force & virtue, —

In presence of

Approved by order of the }
Court May 11. 1854 }
L D Howard clk }

Enos Ayers (Seal)
James S. Hamilton (Seal)

And afterwards, to wit: on the Eleventh day of May A.D. 1854 there was filed in the office of the clerk of the said Circuit Court a

Bond in this cause, which bond is in the words
& figures following, to wit:

Know all men by these presents, that
we Edward Wright and Charles B. Hasmer
of the city of Chicago in the State of Illinois
are held and firmly Bound unto Moritz
Francis Baumgarten an infant by his
next friend Pallas Phelps in the penal sum
of five hundred dollars lawful money
of the United States to be paid unto the said
infant by his next friends aforesaid or his successors,
to which payment well & truly to be made we
bind ourselves our heirs, executors & administrators
jointly, severally & firmly by these presents —

Witness our hands & seals this 11th day of
May A.D. 1854, —

The condition of the above obligation is such that,
whereas the above bounden Edward Wright as the guar-
dian of the said Moritz Francis Baumgarten did on
the fifth day of May A.D. 1854 pray an appeal to
the Supreme Court of the State of Illinois from the
Judgment or order of the Circuit Court of Cook
County in the State of Illinois refusing to confirm
the Report of the Sale of the Real Estate of the said
infant made by the said guardian on the 6th day
of February A.D. 1854, under & in pursuance of the
Decree or order of said Circuit Court before then
entered therein which appeal was allowed or

granted by said Circuit Court. - Now if the
above bounden Edward Wright shall well and
truly prosecute his said appeal and shall pay
all damages and costs, in case said judgment or
order of said Circuit Court shall be affirmed,
then this Bond to be void, otherwise to remain in
full force and virtue.

Sealed & delivered in } Edward Wright, Seal
presence of: E. E. K. } C. B. Warner, Seal

Approved by Order of Court }
May 11th 1854. }
L. D. Hoard CLK }

And afterwards, to wit; on the Twelfth day
of May A.D. 1854 it being one of the days of
the May Term of the said Circuit Court, the fol-
lowing, among other proceedings, were had and entered
of Record in this cause, to wit; —

In the matter of the Petition
of Edward Wright to sell
Real Estate as Guardian of
Moritz F. Baumgarten &c }

This day came into
Court Edward Wright and Enos Ayers and file
their Bonds with security, as directed by the Court.
Whereupon on motion of Petitioner's Solicitor it
is ordered that said Bonds be approved, and

placed on file, —

State of Illinois
Cook County

I Louis D. Hoard Clerk
of the Circuit Court in and for said County,
do hereby certify that the foregoing contains a
full and perfect transcript of all the proceedings
and papers filed in my office in a certain cause
wherein Edward Wright as Guardian of Mority,
Francis Baumgarten an infant, petitions for the
sale of Real Estate & the assignment of Widow's
dower therein, so far as the same appears to have
been had, and entered of Record in said cause, —

Witness my hand and the seal of said
Circuit Court at Chicago in the County
aforesaid this 10th day of June A.D. 1854.

Louis D. Hoard

Clerk

Due for this Record 174 fol. \$ 17.40

Court Seal $\frac{.35}{\$17.75}$

Enos Ayres
vs
Morty. H. Brumgarth by
Palas Phelps his attorney

Superior Court
Term Feb 1884
appeal

And the said Plaintiff by
Morty. H. Brumgarth his atty. comes
and appears for error in the
following record -

- 1st That the Court erred in refusing to con-
firm the report of the proceedings of the
Sale of said guardian made in pursuance
of the order of the Court below -
- 2^d The Court below erred in allowing said
Palas Phelps to appear as the next friend
of said infant to contest the confirma-
tion of said report
- 3^d The Court erred in allowing said
Phelps to appear as the next friend of
said infant to contest the confirmation
of said report without filing security
for costs. & without filing bond security to lend a greater sum than
the property sold for - no fraud being alleged
- 4th The Court erred in allowing proof of the value
of the value of the property sold -
- 5th The Court decided against the weight
of evidence in refusal regard to that
refusing to confirm said report
- 6th The Court erred in entertaining the petition
of said Phelps, & his motions, & in sustaining the
same
- 7th The Court erred in the final order entered in
said proceedings

~~Wm. H. Brumgarth~~
attorney for appellant

8th And for other more appearing in the said record
wherein the applicant prays the judgment of the
Court below may be reversed and the sale
of said Guardian confirmed

March 22nd 1854
for applicant

And now comes the said defend ant in
error by Blackwell his attorney &
says there is the record & judgment of the Court
there is not any error in manner
of form as alleged in the assignment
of error and in fact this he is ready
to deny by the record &c

Blackwell sub

44
Was signed
as

Mr. Chas. J. Cunningham
By C. Phillips his
attorney

Errors

Filed June 13. 1854.
L. Veland Clerk.

No. 49450.

Enos & Dyres

47. M. F. Baumgardner & Co.

48. Edward Wright & Co.

50. Pallas Phelps next print.

Record in both
Cases -

1854
49450

Filed June 13th 1854.

L. Leland & Co.
2. P. H. Leland & Co.
1

1854

Refused

26

Enos Ayres
vs
Minty H. Brumgarden
By Elias Phelps his master 3

On the 2 day of May
1843 a petition was filed in the Circuit
Court of Cook County by Edward Wright
guardian of said M. H. Brumgarden infant
nephew of Christof Brumgarden ^{now deceased} dead, and
Elizabeth Loring his widow for the ad-
signing of decree ~~in the~~ out of the
real estate described in said petition
for a sale of the said real estate for
the support & education of said infant.
Said petition was duly sworn to by said
guardian.

An notice of said application was
given by publication.

The said petition was taken as confessed
and the Court referred to the Master in Chancery
to take proof of & report upon the matters
and things therein charged, and report the same
with his opinion thence to the Court.

On the 23^d November 1843 the Master in
Chancery reported that Charles E. Mullan
was duly sworn before him and testified that
he was acquainted in his life time with said
Christof Brumgarden the father of said infant
Minty, that he died at Milwaukee Wisconsin
about the 1st of Sept 1845 - That said infant
was his only child - That he died intestate leaving
said Elizabeth Loring his widow - That he was
married to said Elizabeth at Milwaukee in 1844 - That
they lived together as man and wife until said Christof

death. That since that time the said Elizabeth
has remained to Edmund A. Smith - That said Christof
left personal property to the value of about four
thousand the said Elizabeth took possession of
she has now the whole of the same about the support
of herself said infant. That said Elizabeth has
supported said child since the death of
said Christof is still doing so from her own
means - That she is in no manner and indigent cir-
cumstances or unable to support herself & the said
child out of her own means & that she is much
in debt. That the said child is now about eight
years old & was as healthy then as he is at the time
of his father's death - That it has been worth
from five years to support stated care of said
child - that it will be worth more in future
That the said Edward Wright has never
received any property from the estate of
said Christof - that there is no money now
has been any thing in his hands for the support
of said infant - That he is acquainted with
the real estate of deceased in said petition
- knows that said Christof died owner of it
and that it is unproductive & will remain
so for want of means to improve it -
Said Master also reported that it was
proved before him that said Edward Wright
was duly appointed Guardian of said
County & is duly qualified - Said Master
reported in favor of granting the
prayer of said petition to sell said
real estate - and also that said Elizabeth
was entitled to \$400 for the previous
support of said infant

And on the 10th day of November 1833 it was
advised and decreed that the said Elizabeth widow of
said ~~John~~ Vincent deceased recover her dower
in the premises described in said petition
all that James M. Bass (Wm. S. Barron & Daniel
R. Leitch her appointed Commissioners to set
apart her dower in said premises according
to the Statute in such case made provided

On the 33rd day of Novr. 1833 said
Court reported that said property was
not susceptible of division without great
injury thereto.

And on the 33rd day of November 1833
one of the days of said Court - the report
of said Master was accepted approved and
confirmed - And the said report of said
Court was also accepted & confirmed
and a Jury empaneled to appraise ^{the} value
of said widows dower in said premises
and duly sworn to do the same in gross to be
paid to said widow in lieu of her said dower
and the amount due the said Elizabeth
for her support of the said infants - And
the said ~~infants~~ ^{jury} after hearing the evidence
returned their verdict into Court, appraising
the value of said widows dower therein at
the gross sum of \$1600 ^{more or less} value of \$140, & that
said annuity is worth in gross the sum of
\$1600 - they also find the said widow entitled
to the additional sum of \$400 for the past
support of said infants making the verdict
in all the sum of \$2000. which is ordered
by the Court to be paid

On the 26th day of Novr 1853 one of the
days of said Court, said cause was heard on
petition, exhibit, & report of the Court, and
the said guardian to file all the records of
said infants as in & to law of said Childs
deceased in & to the real estate described
in said petition find & discharge of the
widow's dower then on Monday the
6th day of February 1854 at the hour of
10 o'clock A.M. of said day at the North
door of the Court House in the city
of Chicago at Public Vendue & the
highest & best bidder for the following
sums viz. \$3 Cash & the balance
in equal payments in two years
with the legal interest.

The said guardian is also ordered to give
30 days notice of said sale by publishing
in one of the daily ^{news} papers in the city of
Chicago. - The said guardian is also ordered
to file in separate parcels one such sale
& execute delivery to the purchasers good
sufficient deed of conveyance of the
same state back from the purchasers mort-
gages on the property sold & to em the pur-
chaser money. - The Court said & decreed
that the said to execute and deliver &
should absolutely vest in the pur-
chasers all the title of said infants in the
said real estate for of the widow's dower.

The said guardian was also ordered
to pay out of the proceeds of said sale, 1st the
costs & expenses, and then the proceeds unto the
said widow in full payment & discharge
of her dower & all claim against the estate.

Said Guardian was also ordered to account
for the proceeds belonging to said infants
to the Court of Probate & pay out the
same for the benefit & support & education
of said infants under the order of said
Court, and that said Guardian make report
of his proceedings under this order to the next
term of this Court.

And on the 27th day of March 1854 the said
Guardian filed in said Court his report of the
sale of said premises - stating that in pursuance
of the terms of said sale in the Chicago
Daily Tribune a newspaper published in the City
of Chicago, from the 21st day of December 1853
to the said 6th day of February 1854 - and
that on said 6th day of February, at 10 o'clock
A.M. at the North door of the Court House
in Chicago he offered said real estate at public
auction on the terms prescribed in said decree
and that at said sale Enoch Lynde bid for
said undivided interests of said land owned
by R. H. Hancock said decree described lying
in Chicago the sum of five thousand three
hundred dollars, being the highest bid for
the same was struck off to him - and
for the other land Sargent & Turner bid the sum
of seven hundred dollars & 25 cents for the
same being the highest bid for the same
was struck off to him - and in pursuance
of said decree he executed & delivered said
deed of conveyance to said purchasers of said
premises as directed in said decree

& received from them one third of the purchase
money shown & took ^{my wife's money} ~~other~~ ^{the} ~~other~~ ^{the}
promissory for by deed for the balance
payable as directed in said deed. And the
justice reported that said purchaser fully com-
plied with the terms of said sale.

Said Guardian further reported that
he had paid over to said Elizabeth the \$1702.36¹⁰⁰
and that he had made his report & rendered his ac-
count of the proceeds of said sale to the probate
Court, & that the proceeds of said sale ought to be
paid to said Court.

And on the 27th March 1834 it was ordered that
all persons interested in said proceedings show
cause if any thing can against confirmation
of said report by Monday morning the
next.

And on the 6th day of April then next came
Palas Phelps & asked leave to file his petition then
as the next friend of said infants, praying that
the sale made by the guardians of said
infants ^{may} ~~might~~ not be confirmed. ^{the granting of} which was
refused by Parker & Hoar for said Guardian
& Grant Guardian an advocate of said Court
agrees a purchaser at said sale. And therefore
it was ordered by the Court that said Palas
Phelps as the next friend of said
infants, have leave to file his petition as
aforesaid. & to take said Court by his counsel
as aforesaid.

And afterwards on the 6th day of April aforesaid
a petition ^{was filed} by said Phelps in said Court
representing the age of said infants & his birth
& the date of the previous sale to said

Agnes & the same child the firm - And representing
that said premises were worth at the time of
said sale more than double the amount of
said sum of \$4000 - that the time & place of said
sale was not generally known to the public
or a great number of persons residing in Chicago
in the vicinity of the premises, who are
eager to purchase said premises, that they
would have bid more & certainly sold for
its full value

And that said Beck & Hoan Guardians were present
as atty. at time of sale - and said Beck & Hoan are
the attys. of said Wright in said matter, and
ever since the date & date are employed as attys.
of said Agnes, and are aiming to control the
the rights of said infants, to promote the interests
of said Agnes in said purchase, which is in con-
flict with the interests of said infants, & if they
are permitted to obtain a confirmation of said
sale will deprive said infants of more than
half the value of said premises - That he is
informed said sale was hastily made without
a suitable offer of opportunity for competition
among those who would have bid - That Wright is
only nominal guardian of said infants, that
Beck & Hoan (Hoan being present & conducting
said sale) who are attys. of Agnes, are aiming to
control the rights & interests of said infants

That said sale was improperly & fraudulently
conducted & if confirmed said infants will
suffer a loss of more than \$5000

That the matters charged in regard to said
sale are not confirmed, & a sale be made of said
property -

And on the same day said Guardian by Doorn his atty
moved to confirm said sale & while was re-
sisted by said infants.

On the same day Phelps filed in said case the
affidavits of himself, stating that he since
the sale of said property had a conversation
with said Enos Ayres, in which he stated he
had been offered double the price he purchased
said land or on failure it became as he thought
its worth now. And that previous to this
time he notified said Ayres he should file
objections to the confirmation of said
reports, & was refused by him to his atty in
the matter, & on inquiring he ^{told him} that back
at Doorn was his atty then.

And also the affidavits of Hagar Mayne
who swears he knows the premises & owns land
in the same vicinity & an undivided interest in
the tract sold, & that said & undivided $\frac{1}{3}$ acre
was worth Feb 6 1834 \$7000 now is worth \$9800
if a new sale should be ordered with proper
notice it will sell for that sum, & that he
wrote said that sum for it if again offered
for sale.

He knew nothing of the sale - & if he had
known if he should have been ^{aid} to full
value to own it. The sale not known in vi-
cinity of property.

Also affd. of Aug. Wilden who says at
the same time was sold it was worth \$10,000 if
a new sale is ordered with proper notice he be-
lieves it would bring that sum. Lives in vicinity
& did not know of sale & does not think it was
generally known in vicinity.

also affr of T. J. L. Flint says is acquainted
with location of the property, & was worth at
time of sale more than \$10,000, & would
be willing to give that sum on the time the same was
paid - He owns property north & adjoining which he
values at \$200 per foot through from water to
Clark St

Afterwards said Guardian sold in said Court
the affr of Mr. H. Stebbins who says he has
for 3 or 4 years been purchasing & selling real
estate in Chicago & considers himself acquainted
with the value of property - He knows property
paid. Not interested in purchase & sale of property
near - Is clearly of opinion that from \$5000 to \$6000
per acre is the full value of said 2 acres - ~~When~~
when an order to warrant did & chose title
should be given - but under the guardian sale
& no gain of title would not be worth so much
& price paid by buyer was full value more
than this discount would have given
also affr of Mr. H. Adams, who says
he has resided in Chicago last 12 years & for
last 2 years has been engaged exclusively in
buying & selling real estate in said City - Is
well acquainted with proper value of property
known to him sold - At the time of sale was
worth \$5000 per acre. ^{Said} ~~But~~ Guardian sale
not worth more than 3/4 its value from risk -
Price paid at was above real market
value

Mr. H. Adams

also affr of James H. Hamilton who says
Calas Phelps came into office of Cyrus Hamilton

Several different times over the summer
of deposits. Common conversation with agents
touching said land purchase. He bought first
of Mr. from agents for Hugh Mayhew a con-
firmation or ratification of a lease of part or
all said property. Failing in this, offered for
Mayhew to buy out agents in his bargain & offered
him \$600. - remaining agents that the sale was
not confirmed, & threatening to oppose the
Confirmation unless agents acceded to his
terms

Also Agent of James M. Bader, who says,
he is well acquainted with the property. & was
at time of sale, & in his judgment, it sold
for a fair price, fully up to market value
& much higher than property usually sells
at such sales. - Was then, anxious for a
long time have some land agents in Chicago
in exclusively buying & selling real estate, & considered
himself good judge of value. - Before the sale
went saw the property & offered the same
at his last recollection appraised it at
\$5000 square

Also Geo. C. Leonard who says, he attended
said sale with view to ^{bid for} said property on his
own account. - That he made inquiry before
going as to value & made up his mind from
the best information he could get, it would be
no object to bid off said property higher than
\$3500. - He bid one or twice, but ^{it} went
beyond what he believed the value -
Sale was spirited & active competition
A Mr. White was one ^{of the} bidders. - Consulted
with him as to possibility of advancing bid. -
Considered sale good one. Much of persons

present, all proceeding were conducted with
fairness & good faith

Also C. B. Adams says was selector for
guardian. Notice was given as stated in report.
Sale took place & place directed. Number of
bidders present & reasonably competition. Both
purchasers were strangers & said Guardian. ^{Might sold the property}
~~said the property~~, & also to this effect. Bought
several hundred dollars over appraisal of
Purs & others who testified to value before the
jury & a safe down. Discontinue guardian of
said infant was at sale & satisfied. Had
inquired into value of property. Did sell at
less than rate & got highest price. Guardian only
saw interests of infants. report that property
was subject to a long lease, but the solidity
of the lease was doubted. Had been sold for
taxes. purchase around \$70

Also Mr. Whitney who says has engaged
for 2 years in buying & selling real estate in
Chicago as a business & is well acquainted
with the premises. & fully agrees with the Board
as to value. Thinks price fully up to market.

Mr. Burr has been engaged for past 6 years
in buying & selling real estate in Chicago
knows premises. property brought fair price, fully
up to market value

St. A. Clark D.C. has been engaged
extensively for 7 years past in buying & selling
real estate in Chicago. Knows value of
real estate in Chicago. Knows the premises
& is their judge. price obtained was a fair one
& more than they would have given

afternoon on 5 day of May 1854, Court decided
that said report so far as it ^{relates to certain aspects} relates to land
paid to Enos Agnew in own right, and so
far as it relates to land said 'Luna' her
Confidant - and therefore Enos Agnew by
his attorney & c/o

Enos Agnew
Morty F. Baumgardner
By Sales of Property
negotiated

49850

1854

Filed June 30. 1854.
A. Leland Clerk

~~12271~~

Supreme Court

June Term 1854

Edward Wright
Guardian of Merly
P. Baumgarten an infant Appellant

vs

Pallas Phelps next friend
of Merly P. Baumgarten an
infant appellee

Appeal

It is hereby stipulated
Agreed by & between the said
Appellant & the said Appellee that the Record on
file in this Court in the case of Erns Ayres vs
the said Appellee contains the true Record of this
case & that the same shall be taken & used herein
precisely, & to the same effect, as though it had
originally been filed in this Court.

C. B. Hosmer

Atty for Appellant

Phelps & Mc Giv
& Melvin

Atty for appellee



49450
Supreme Court
Term Term 1854
E Wright Appellant
P. P. Phelps Appellee

Stipulation
49450

Filed June 13th 1854.
L. Liland Clerk
By P. K. Liland Depy.

12273

C. B. Hooper
Appellants etc.

Edward Wright
Guardian &c Appellant

Supreme Court
June Term 1854.

vs.
Pallas Phelps next
friend &c - Appellee.

Appeal -

And the said plaintiff by
Leck & Hosmer his Attorneys
comes and assigns the following errors on the
record herein, viz:

- 1st That the Court below, erred in refusing to confirm
the report of the proceedings of the said guardian at
the guardian's sale made in pursuance of the decree
of said Court below. -
- 2^d The Court below erred in allowing the said Pallas
Phelps to appear as the next friend of the said infant
to contest the confirmation of the said Report. -
- 3^d The Court below erred in allowing proof to be taken
of the value of the property sold at said Guardian's
Sale. -
- 4th The Court below erred in refusing to confirm said
Report, when the evidence taken, showed that the value
of the property sold by the said Guardian was not
susceptible of definite calculation, especially as the
proof clearly showed that the sale was fair & attended
with a spirited competition. -
- 5th The Court below erred in refusing to confirm said
Report as the weight of evidence showed that the
property sold for its full market value at the
time of said Sale. -
- 6th The Court below erred in refusing to confirm said
Report, because there was no fraud alleged or proved
on the part of the said Guardian or purchaser. -
- 7th The Court below erred in refusing to confirm said Report
because its decree being executed, the parties in interest could

not be placed in status quo.

8th The Court below erred in entering its order refusing to confirm said Report, inasmuch as said order is incomplete, leaving the property undisposed of, & yet providing no way for the said Guardian to execute his trust, by selling said property.

9th The Court below erred in confirming said Report as to a part of the property sold, & refusing confirmation as to a part, when the proof showed that the whole property was sold at the same time & under the same circumstances & if there was error in a part of the proceedings at the sale by the said Guardian, there was error in the whole.

And the said defendant in error by Blackwell his attorney and says that in the record of the proceedings and in the rendition of the judgments aforesaid there is not any error in manner and form as above alleged and that he is ready to verify by the record &c.

P. Blackwell Ad

50
Suprem Court
June 1. 1854
E Wright
Guardian R
50

Pallas Phelps
with friends

Edwards & Ryan

Filed June 13. 1854.
L. Leland Clerk.

C. V. Adams
Applicant & wife
