

12501

No. \_\_\_\_\_

# Supreme Court of Illinois

Brown.

---

vs.

Welch.

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State of Illinois  
Sasalle County ss

Wheas before the Honorable Madison  
C. Hollister Circuit Judge for the Ninth  
Judicial District of the State of Illinois and  
the presiding judge of the Sasalle County Cir-  
cuit Court, at a Court commenced and  
held in and for the County of Sasalle at  
the Court House in Ottawap on the second mon-  
day in May, the same being the twelfth  
day of May in the year of our Lord  
one Thousand Eight Hundred and Fifty  
Six, and of the Independence of the  
United States of America the Eightieth  
Present

The Honorable Madison C. Hollister - Residing Judge  
John F. Nash Clerk  
Wm. H. L. Waller States Attorney  
Francis Warner Sheriff

On the 11<sup>th</sup> day of February AD 1856 a bill  
in Chancery was filed in the records and figures  
following to wit:

In Chancery -- To the Honorable Madison  
C. Hollister Circuit Judge for the Ninth judicial  
District in & for the County of Sasalle and  
State of Illinois

Your orator Patrick Welch respectfully sheweth  
unto your honor that on the thirteenth day of  
October AD 1855, Am Phineas D. Cooley



made executed and delivered to your orator his certain bond or instrument in writing, under seal whereby the said Cooley bound himself unto your orator in the penal sum of twelve hundred dollars to be paid to your orator his Executors, Administrators or assigns, and dated on the said thirteenth day of October A.D. 1855. Conditioned to convey to your orator certain premises and real Estate which your orator had on that day purchased of the said Welch upon certain terms and conditions in said instrument in writing under seal, specified and set forth - Which said premises are situate in the County of Cass State of Illinois - & therein described as follows viz - The South half of the South East quarter of Section Eighteen Township Thirty-five Range One East

And your orator further sheweth that the consideration of the purchase of said premises by your orator of said Cooley was the ~~sum~~ sum of twelve hundred dollars payable according to the conditions of said instrument in writing as follows - One Hundred dollars, and one Team of Horses valued between the said parties to said instrument at the sum of three hundred and twenty five dollars payable & to be delivered at the time of the execution of said instrument - One hundred dollars with interest to be paid on the thirteenth day of October



then next - Twenty five Dollars with interest to be paid on the thirtieth day of October 1857, And a good & sufficient Warranty deed in fee simple free from all incumbrances of the following described premises viz "The North half of the East half of the West half of lot One in Block Seventeen in the Old Town, New City of Peru with the house thereon and appurtenances thereunto attached" to be executed & delivered by Your Orator to the said Cooley on the first day of January A.D. 1858. It being understood between Your Orator & the said Cooley (as expressed in said instrument in writing) that Your Orator was to receive <sup>from</sup> Am James Trim from whom he purchased said lastly described premises, a good & sufficient deed of the same on the seventeenth day of December then next.

And that by said instrument in writing your Orator was to deliver possession of said house & lot to said Cooley upon the Execution & delivery of said bond or instrument in writing that said Cooley was to have the use of said premises free from rent until he should receive from your Orator a deed of the same as herein before stated - That the said house was valued at the sum of Six Hundred Dollars making the balance of <sup>the</sup> twelve hundred dollars consideration to be paid by



Your Orator for the first above described premises

And Your Orator further Shows unto your Honor & Charges that by said Instrument in writing that said Cooley was bound to Convey the first above described premises to your Orator on the first day of January A.D. 1856 upon the request of your Orator. He having first performed the Conditions stipulated in said instrument in writing to be performed on his part prior to the time fixed for the execution & delivery of said Conveyance by said Cooley to Your Orator, which said Conveyance was to be a good & sufficient Warranty deed in fee simple free from all incumbrances with the usual covenants of the aforesaid first described premises.

And your Orator further Shows that by said Instrument in writing ~~that~~ upon the Execution & delivery of the deed last above-mentioned, your Orator was bound to execute & deliver to said Cooley a Mortgage upon said first described premises to secure the two last payments of the purchase money thereof.

And your Orator further Shows unto your Honor that the said instrument in writing is now in his safe possession and ready to be produced on the hearing of this Cause as thus



Honorable Court may direct, and a Copy of which is hereto annexed marked "Exhibit A" and to which your Orator for greater Certainty hereby begs leave to refer,

And your Orator further shows that the Said sum of One Hundred Dollars & the Said Team of Horses (valued by the parties at the sum of Three hundred ~~dollars~~ & Twenty five dollars) mentioned & set forth in Said Instrument in writing under seal, executed & delivered by the Said Cooley to your Orator as aforesaid were respectively paid & delivered by your Orator to the Said Cooley & accepted by him at the time of the Execution & delivery of Said last mentioned Instrument in Writing as aforesaid to your Orator.

And Your Orator further shows that prior to the first day of January A.D. 1856 - the time specified in said Instrument in Writing last mentioned for the conveyance by the Said Cooley to your Orator of the first hereinbefore described premises as hereinbefore stated. Your Orator had obtained a conveyance of said premises from said James Finn, which your Orator was by the terms of said instrument in Writing last named obligated & bound to convey to said Cooley, and was then & still is seized of a good & indefeasible Estate in fee simple



of the last mentioned premises & then  
 had & still has the right & authority  
 to convey the same and being so seized  
 of the same your orator on the said first  
 day of January A.D. 1856 in fulfilment  
 of the terms and conditions of  
 said last mentioned instrument in  
 writing on his part, sought the said Cooley  
 & went to the Office of one F. P. Hall  
 again in the City of Peru aforesaid  
 when the said last mentioned instrument  
 in writing was executed for the purpose  
 of tending to said Cooley or to some  
 one ~~one~~ authorized to <sup>receive</sup> the same  
 for him if any should be found therein  
 a good & sufficient warranty deed of  
 the said last mentioned premises, and  
 a mortgage to secure the balance of the  
 purchase money in accordance with the  
 provisions of said bond of said Cooley  
 to your orator, and to demand &  
 receive from the said Cooley or from  
 some person duly authorized by him  
 for that purpose, a deed of the said  
 first mentioned premises in pursuance  
 of the terms & conditions of said ins-  
 trument in writing last mentioned  
 & <sup>to</sup> receive from your orator said deed of  
 the second heretofore described premises  
 as before stated a copy of which said deed  
 last mentioned & referred to is, hereto  
 annexed marked "exhibit B", and to which  
 your orator prays leave to refer.

# Let that said Cooley was not there whether was any one authorized  
 by said Cooley to execute and deliver said deed of said premises herein  
 & not desirable to your orator in pursuance of said instrument in writing



7  
And your Orator further shows unto your Honor that he is informed & verily believes true, that some time previous to the first day of January A.D. 1856, but the particular time your Orator is unable to state. The said Cooley departed from this State, and has ever since remained without this State.

And your Orator further shows unto your Honor that a short time after the execution & Delivery of said Instrument in writing by said Cooley to your Orator as hereinbefore stated and on or about the Twenty sixth day of October A.D. 1855 the said Cooley fraudulently & with an intent to defraud your Orator, and to defeat your Orator's Equitable rights <sup>in & to</sup> the said <sup>first</sup> hereinbefore described premises, acquired by him as aforesaid sold and conveyed said premises by a Warranty deed to one David Brown & one John, P. Mc Cahan bearing date on the said twenty sixth day of October A.D. 1855, and purporting to be in consideration of the sum of Seven Hundred Dollars - And your Orator further shows that the said premises were at the time of the last mentioned sale & conveyance thereof by said Cooley to said Brown & Mc Cahan worth a much greater sum than the consideration mentioned in said deeds



and were well worth the sum of sixteen hundred dollars at least

And your Orator further shows that the Said Brown & M<sup>r</sup> Cahan at the time of the taking by them <sup>of the</sup> Said deed from Said Cooley to them had notice of, and were well aware that Said Cooley had previously sold the Said first hereinbefore described premises to your Orator and of your Orator's equitable rights & interests in said premises by <sup>virtue</sup> ~~value~~ of Said Instrument in writing executed by Said Cooley to your Orator as hereinbefore stated and set forth, Yet the Said Brown & M<sup>r</sup> Cahan disregarding your Orator's Equitable rights in the premises, and with a view to defraud your Orator in the premises, and to defeat your Orator's equitable title in & to Said last mentioned premises under & by virtue of said Instrument in writing, took from the Said Cooley Said deed and conveyance of Said premises in fraud of your Orator's Equitable rights in the premises as hereinbefore stated & set forth.

And your Orator further shows unto your Honor that he not being able to find the Said Cooley for the purpose of receiving from him said deed, <sup>of said</sup> first hereinbefore described premises & of tendering to the Said Cooley said deed of said second



9.

hereinbefore described premises as hereinbefore stated and set forth & of tendering to said Cooley a mortgage duly executed by your Orator upon said first hereinbefore described premises to secure the two last payments of purchase money thereof. Your Orator proceeded to the place of business of the said Brown & Mc Cahan in the City of LaSalle for the purpose of tendering to them the said deed duly executed by your Orator to the said Cooley of the said second hereinbefore described premises & a mortgage upon the said first hereinbefore described premises in pursuance of said Instrument in Writing Executed by said Cooley to your Orator and of demanding from them a deed of the said first hereinbefore described premises on the first day of January A.D. 1856, a Copy of which said Mortgage is hereto annexed and marked "Exhibit C" and to which your Orator for greater certainty prays leave to refer,

And your Orator further shows that he not being able to find the said Brown & Mc Cahan for the purpose of making aforesaid tender of said last mentioned mortgage to them & a personal demand of them of a deed of said first hereinbefore described premises, as hereinbefore stated on the said first day of January A.D. 1856, Your Orator did make the demand of tender to them hereinbefore stated on the second day of January A.D. 1856, at LaSalle aforesaid whereupon the said Brown & Mc Cahan did absolutely refuse to execute



I deliver to your orator a deed of said first hereinbefore described premises as in equity they were bound to do, and did then & then refuse to accept said mortgage so tendered to them as hereinbefore stated.

And your Orator further shows that the said Brown & Mc Cahan well knowing of your Orator's equitable rights & interests in the said first hereinbefore described premises under & by virtue of said Instrument in Writing so executed by said Cooley to your Orator as aforesaid with a view to defraud your Orator & to impair the legal title of your Orator in & to said premises procured said deed from said Cooley to them the said Brown & Mc Cahan to be entered for record & recorded in the office of the Recorder of the County of LaSalle prior to the time the said Instrument in Writing executed by said Cooley to your Orator was entered for Record in said Recorder's Office.

And your Orator further shows that he will produce & read in Evidence on the hearing of this Cause as this Honorable Court shall direct - the said deed so executed by your Orator to the said Cooley of said second hereinbefore described premises, and also the said Mortgage executed by your Orator as aforesaid upon the said second hereinbefore described premises to secure the two last payments of the purchase money thereof in pursuance of said instrument in writing executed by said



11  
Cooley to your Orator and also the said last mentioned Instrument in writing.

And your Orator further shows that immediately after the purchase by your Orator from said Cooley of said first hereinbefore described premises as hereinbefore stated, your Orator took possession of said premises and made valuable improvements thereon, which said improvements consisted of a fence around the house erected on said premises and which said improvements were made prior to the date of the deed so executed by said Cooley to said Brown & Mc Cahan and of the making of which said improvements the said Brown & Mc Cahan had notice.

Wherefore and in consideration of the premises and inasmuch as your Orator has not a complete & safe remedy at & by the ~~strict~~ rules of the Common Law and is only fully relievable in a Court of Equity where matters of this nature are properly cognizable & <sup>relievable</sup> ~~returnable~~ to the end therefore that the said Phineas D. Cooley, David Brown & John P. Mc Cahan <sup>make</sup> ~~make~~ full & perfect answers make to all and singular the matters herein stated and that as fully and particularly as if the same were here again repeated and they specifically interrogated, but not upon oath, there answer on oath <sup>being hereby</sup> ~~being~~ expressly waived, and that the said Phineas D. Cooley may be compelled by the order and <sup>decree</sup> ~~decree~~ of this Honorable Court to execute & deliver to your Orator or to his Solicitors or agent a deed



for the said first hereinbefore described premises with covenants that the same are free from all incumbrances, and that in case of his failure to execute & deliver the said conveyance that this Honorable Court will appoint some person to execute the said conveyance for him, conveying said premises to your Orator as aforesaid; and that the said deed from the said Cooley to the said Brown & M<sup>r</sup> Caham may be cancelled & set aside as fraudulent & void as against your Orator, or that said Brown & M<sup>r</sup> Caham may be <sup>compelled</sup> ~~cancelled~~ by the order of of this Court to execute & deliver to your Orator a deed for said premises - & in case of this failure to do so that some suitable person may be appointed by this Court to make said conveyance or deed, and that they may by the decree of this Court be declared to be trustees for your Orator in the premises, And for such other & further relief in the premises, as to this Honorable Court shall appear most agreeable to Equity and good conscience, and that your Orator may recover his reasonable costs & expenses in this behalf sustained

And may it please your Honor to grant unto your Orator the people's writ of summons to be issued out of & under the seal of this Honorable Court and <sup>directed</sup> ~~delivered~~ to the said Phineas & Cooley, David Brown & John M<sup>r</sup> Caham, commanding them & each of them to be and appear before your Honor in this Court on the first day of the



next Term thereof, and then & there to answer  
the premises & to abide by such Order & decree  
as shall be made herein & be agreeable to Equity  
and good Conscience, And your Orator  
will ever pray &c

P. Welch by  
Chumasero & Eldridge  
his Solicitors

### Exhibit A<sup>x</sup>

Know all men by these presents that I Pimino  
S. Cooley of Peru Lasalle County Illinois  
am held and firmly bound unto Patrick  
Welch of said place in the sum of  
twelve hundred dollars lawful money  
of the United States to be paid to the  
said Welch his executors, administrators  
or assigns; for which payment well  
truly to be made, I bind myself,  
my heirs executors and administr-  
ators firmly by these presents sealed  
with my seal & dated the thirteenth  
day of October A.D. 1855

The condition of this obligation is  
such that whereas the said Welch has  
this day purchased & bargained with  
the said Cooley for the following described  
premises or tract of land situate in  
Lasalle County & State of Illinois  
viz; The South half of the South East  
quarter of Section Eighteen Township thirty  
five Range One East, for the consideration  
of twelve hundred dollars to be paid in



the following manner Viz: One Hundred Dollars to be paid on the execution and delivery of this instrument, One team of Horses, valued between the said parties at the sum of three hundred & Twenty five dollars, also to be delivered upon the execution & delivery of this Bond One Hundred Dollars with interest to be paid on the thirteenth day of October next, Seventy five with Interest to be paid on the thirteenth day of October 1857. & a good & sufficient Warranty deed in Fee Simple Free from all incumbrances of the following described premises to wit; Being the North half of the East half of the West half of Lot One in Block Seventeen in the (old town now) City of Peru with the House thereon & all the appurtenances thereto attached, which deed the said Welch will execute & deliver to the said Cooley on the first day of January A.D. 1856 it being understood between the said parties that the said Welch is to receive from one James Fenn from whom he purchased said lastly described premises, a good & sufficient deed of the same on the seventeenth day of December next the possession of the said House & Lot to be delivered by the said Welch to the said Cooley upon the execution & delivery of this bond & it being fully understood between the parties



that the said Cooley is to have the use of the said premises free from any rent or any other expense until he receive from the said Welch a deed of the same as herein provided for

It being further understood that the said House & lot is valued at Six Hundred Dollars, making the balance of the twelve Hundred Dollars consideration to be paid by the said Welch. Now if the above bounden Cooley on or before the first day of January next (shall do & upon the request of the said Welch) the said Welch having first performed the <sup>conditions</sup> consideration herein provided for him faithfully to be performed, make, execute & deliver or cause to be a good & sufficient Warranty deed in fee simple free from all incumbrances, & with the usual covenants of the premises herein first described, then the above obligation to be void, else to remain in full force & effect. It is further understood and agreed between the parties that upon the execution & delivery of the deed lastly provided for, the said Welch will execute & deliver to the said Cooley a mortgage of said premises to secure the two last payments thereon (Signed) Phineas D. Cooley. Seal



Pinneas. S. Coley To  
 Patrick Welch - Bond of Conveyance  
 October 13th 1855

(Copy)

State of Illinois } No 73  
 LaSalle County }

I certify that this instrument was filed for records, December 12th 1855, at 11 O'clock A.M., & duly recorded in Book 45 page 717 & 718

Seal

J. F. Nash Clerk

"Exhibit B"

This Indenture, Made this first day of January in the Year of our Lord One Thousand Eight Hundred And Fifty Six between Patrick of the County of LaSalle and State of Illinois party of the <sup>first</sup> ~~second~~ part, <sup>#</sup> - Witnesseth, that that the said party of the first part, for and in consideration of the sum of Six Hundred Dollars paid by the said party of the second part the receipt of which is hereby acknowledged doth by these presents, Grant Bargain, And Sell unto the said party of the second part his heirs and assigns, the following described Tract or Parcel of Land situated in the City of Peru, County of LaSalle and State of

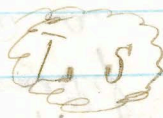
Pinneas S. Coley of the County of LaSalle in the State of Illinois party of the second part



Illinois, Viz; Being the North half of the East  
 half of the West half of lot One in Block  
 Seventeen in the Old Town now City of Peru  
 with the House thereon, Together with all and  
 singular the hereditaments and appurtenances  
 therunto belonging, or in anywise appertaining;  
 to have and to hold the said premises as above  
 described, with the appurtenances, unto the said  
 party of the Second part, his heirs and assigns  
 forever, And the said Patrick Welch, himself  
 & for his heirs, executors, and administrators,  
 doth hereby covenant to and with the said  
 party of the Second part, his, heirs and assigns,  
 that he is well seized of the premises above  
 conveyed, as <sup>of</sup> a good and indefeasible Estate  
 in Fee Simple and ha good right to sell  
 and convey the same in manner in form  
 as aforesaid; that they are free from all  
 incumbrance; and that the above bargain  
 premises, in the quiet and peaceable possess-  
 ion of the said part of the second <sup>part</sup>, his  
 heirs or assigns, Against the Claim of  
 all persons whomsoever he will for-  
 ever warrant And defend - In  
 Testimony Whereof, the said party of the first  
 has hereunto set his hands and seal the  
 day and year first above written

(Signed Patrick Welch )

Signed Sealed and  
 And delivered in presence of





State of Illinois }  
County } ss



On this 1st day of January 1856 personally appeared before me a Notary public in and for said County Patrick Welch — to me personally known to be the person whose name is subscribed to the above deed, as having executed the same, and acknowledge that he had freely executed the same for the uses and purposes therein expressed.

Given under my Hand and Seal the day and Year aforesaid — Wm. Chumasero  
(Signed) Not. public

"Exhibit C"

This Indenture made this first day of January in the Year of our Lord One Thousand Eight Hundred & Fifty-Six between Patrick Welch of the County of LaSalle — And State of Illinois, part of the first part and Phineas D. Crooley of same place — party of the second part witnesseth that the <sup>parties</sup> party of the first part, for and in consideration of the Sum of One Hundred and Seventy-five Dollars paid by the said party of the second part, The receipt of which is hereby acknowledged do by these Presents Grant, Bargain and Sell, unto the said part of the second part, heirs and

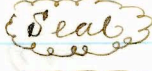


assigns, the following described tract - or  
 parcel - of land, situated in LaSalle  
 County State of Illinois viz: the  
 South half of the South East quarter  
 of Section Eighteen - Township thirty -  
 five - Range One East - Together  
 With, all and singular, the hereditaments  
 and appurtenances thereunto, belonging  
 or in any wise appertaining; ~~to~~ to Have  
 & to Hold the Said premises as above  
 described, with the appurtenances unto  
 the Said party of the Second part, his  
 heirs and assigns, Forever. And the  
 Said party of the first part for, himself  
 and his heirs, executors and administrators,  
 doth Hereby Covenant to and with the Said  
 party of the Second part, his heirs and  
 assigns, that he is well seized of the  
 premises above conveyed, as of a  
 good and indefeasible estate in fee  
 Simple, and has good right to sell  
 and convey the same in manner &  
 form as aforesaid; that they are  
 free from all encumbrance; and  
 that the above bargained premises, in  
 the quiet and peaceable possession  
 of the Said party of the Second part  
 his heirs and assigns, Against the  
 Claim of all persons whomsoever - he  
 will forever Warrant and defend  
 Provided nevertheless, that if the Said  
 party of the first part, his heirs, executors  
 or administrators, shall well and truly



then this deed shall be and otherwise remain in full force and virtue

20. pay to the said party of the second part, his heirs, executors, administrators or assigns, the just and full sum of One hundred Dollars with interest, on the thirteenth day of October next, and Seventy-five dollars with Interest on the thirteenth day of October 1857<sup>th</sup> — In Testimony whereof the said party of the first part has herewith set his hand and seal the day and year first above written

Patrick Welch   
Signed & delivered in the presence of 

State of Illinois } ss  
Lasalle County }

On this first day of January 1856. Personally appeared before me a Notary public in and for said County Patrick Welch — ~~Person~~ to me <sup>personally</sup> known to be the person whose name is subscribed to the above deed, as having executed the same — and acknowledged that he had freely executed the same for the uses and purposes therein expressed Given under my hand and seal, the day and Year aforesaid.

{ S.S. } Wm Chmaseiro  
(Signed) Notary Public



After filing said bill a summons was issued in the words and figures following viz:

21.

At the time of the filing said bill an affidavit of non residence of defendant Phineas D. Cooley was filed in the words and figures following viz:

"Patrick Welch,

vs

"Phineas D Cooley, David Brown & John P. McChahan

"State of Illinois } 3

"La Salle County } 3

"

George S. Eldridge solemnly sworn says that Phineas D Cooley

one of above named defendants is a nonresident



22 "of this State as he has been informed & verily believes  
Geo L Eldridge

"Subscribed & sworn before me

"this 10<sup>th</sup> day of January 1856.

"W<sup>m</sup> Chumaseo, - Notary Public.

for La Salle Co Ills"

Afterwards to wit: on Tuesday May 13<sup>th</sup> 1856 the  
same being then on of the day of the May term  
of said Court for the year 1856 an order was entered  
of record in said cause in the words and figures following  
that is to say:

Patrick Welsh

vs

Phineas D. Corley

David Brown &

John P. Mc Cahan

In Chancery

This day comes and  
the complainant by Chumaseo & Eldridge  
his solicitors, and makes proof of publications  
as to Corley one of said defendants  
herein as follows to wit:

State of Illinois La Salle  
County, and Circuit Court thereof to May  
Term 1856 - In Chancery Patrick  
Welsh vs Phineas D. Corley, David  
Brown and John P. Mc Cahan - It  
appearing from an affidavit on  
file in the Office of the Clerk of the  
Circuit Court of said County that  
the above named Phineas D. Corley  
is not a resident of this State



and the complainant having filed his bill of complaint & herein and summons having been issued thereon according to law - Now therefore, notice is hereby given you the said Phineas D. Cooley, that unless you shall personally be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court-House in Ottawa on the 12th day of May next, and plead to answer, demur or, except to said complainant's bill, the same will be taken as confessed by you and the matters and things therein prayed for, decreed accordingly  
 Chumaseo & Eldridge Complainants  
 Solicitors J. F. Nash Clerk  
 February 4th 1856

State of Illinois }  
 LaSalle County } 38

I Thaddeus Hampton  
 Publisher & Proprietor of the Ottawa  
 Republican, a weekly Newspaper of  
 general circulation published at the  
 City of Ottawa County of LaSalle  
 and State of Illinois - Do hereby certify  
 that the annexed Notice in Chancery  
 Patrick Welch vs. Phineas, D. Cooley et al  
 - was published in said paper six suc-  
 -cessive weeks commencing with the  
 number of said paper published on  
 the 9th day of February A.D. 1856 -



24 and ending with the number of said  
paper published on the 15th day of  
March A.D. 1856, Witness my hand this  
13th day of May A.D. 1856.  
Published for \$3.00 -  
Shaddens. Hampton

~~Sasale Circuit Court May Term 1856~~  
~~Tuesday May 13th.~~

On Motion of complainants solicitors  
said defendant Cooley is three times  
solemnly called in open Court and  
comes not nor any one for him but  
makes default. And it appearing  
to the Court that Summons had been  
issued to said defendant Cooley  
and returned by the Sheriff, that  
he could not be found in his County  
Whereupon on further motion of said  
Solicitors <sup>+</sup> against said defendant  
Cooley by default for want of an  
appearance — And now the defendants  
David Brown and John P. McLean  
Enter their appearance by Bushnell  
& Gray their solicitors and are ruled  
to file their answer herein by Saturday  
morning next.

The answer of David Brown was filed on the 14th day  
of May A.D. 1856 in the words and figures following viz:

It is ordered by the Court that the bill herein be taken pro confesso



State of Illinois } In the Circuit Court thereof  
 LaSalle County ss } in Chancery sitting 20 May  
 Term 1856 —

The several answer of David Brown, one of the defendants to this bill of complaint of Patrick Welch complainant, exhibited against him & others.

This defendant now and at all times hereafter saving to himself all, and all manner of benefit or advantage of exception or otherwise, that can or may be had, or taken to the many errors, uncertainties and imperfections in the said bill contained, for answer thereto, or to so much thereof, as this defendant is advised it is material or necessary for him to make answer to, Answering Says, that of his own knowledge he knows nothing of that certain Bond mentioned in said bill of complaint, a copy of which is annexed to the said Bill, and marked as "Exhibit A" for the sale by one Phineas, J. Cooley to said Welch of the South-half of the South East Quarter of section Eighteen (18) Township Thirty-five (35) Range One (1) East, and that of his own knowledge this defendant knows nothing of the Execution & delivery of said Bond by said Cooley to said Welch, nor of the time when said Bond was executed and delivered nor of any of the times or conditions in said Bond contained, nor of the consideration to be paid by Welch to said Cooley for said real Estate, nor of the payments by said Welch



to said Cooley of any money, or the delivery of any property or other thing of value for said real estate upon or under the said Bonds, but this defendant admits and believes, that said bond was made and delivered by said Cooley to said Welch at the time mentioned in said bill of complaint and that said Bonds contained the terms and conditions as set forth in said bill; but this defendant says, that he had no knowledge, or notice of any kind whatever of the said Bond or that said Welch had purchased or agreed with said Cooley to purchase said real Estate until some time during the first week in December A.D. 1855. (the precise day this defendant is not able to state) when the said Welch informed this defendant that he the said Welch had purchased the said real Estate from said Cooley, on the 13th day of October A.D. 1855, and had a bond of the said Cooley therefor, which this defendant believes was the same bond to which said Welch refers in his said Bill of Complaint, and therefore this defendant on the same day he was so informed by said Welch of said purchase and said Bonds, informed John, S. McLeahan the Co-tenant of this defendant in said premises, of <sup>what</sup> the said Welch had informed this defendant as aforesaid. And this defendant further answering, says, that as to the payment by said Welch to said Cooley of one Hundred Dollars



and the delivery by said Welch to said Cooley of a Team of horses valued at three hundred dollars, on the day of the Execution of said Bond as aforesaid to wit; on the 13th. October AD 1855, and as to the obtaining a conveyance of the part of lot one (1) in Block seven-teen (17) in Peru described in said bill of complaint, by said Welch from James Finn prior to January 1<sup>st</sup> AD 1856, and as to the said Welch on the first day of January AD 1856, seeking the said Cooley, and going to the office of T. P. Hallgan in Peru, for the purpose of tendering to said Cooley or his agent if any should be found a Warranty deed for said last described premises and a mortgage to secure the balance of the purchase money due to said Cooley for the real Estate first herein described, and to demand and receive from said Cooley or his agent for that purpose a deed of said real Estate, and as to the said Welch not finding the said Cooley then & there, this Defendant of his own knowledge knows nothing, and asks that said Welch may be held to the proof of the same —

This defendant believes that said Cooley some time previous to said first day of January AD 1856. but the particulars



time this defendant does not know, and is therefore unable to state, departed from this State and has ever since remained out of this State.

And this defendant further answering says, that on the 23<sup>rd</sup> day of October A.D. 1855, the Said Thineas, J. Cooley came to this defendant <sup>132000</sup> and Said John P. Mc Cahan, both of whom then resided and still reside in the City of Lasalle in Lasalle County aforesaid, and offered to sell to this defendant and <sup>John</sup> Mc Cahan together the said South half of the South East Quarter of Section Eighteen (18) in Township Thirty-five (35) of Range One (1) East in Said County of Lasalle, for the sum of Eight hundred Dollars, and that this defendant, and Said Mc Cahan agreed with Said Cooley, that they, this defendant and Said Mc Cahan, would go on to the Said Land and see it, and accordingly on the 25<sup>th</sup> day of October A.D. 1855, this defendant and Said Mc Cahan went together on to the Said Land, and then & there found that there was a small dwelling-house on Said Land, but no fencing except a little fencing around the house, and that at said time there was no person in possession of Said house, or upon Said Land, that Said dwelling-house was then vacant and unoccupied, the door was not locked, and that there was no furniture or other property of any kind in Said house nor, upon Said premises, at that time, nor any appearance whatever of any person having lately been in possession, then in possession, or about to be in possession.



of said House or premises. And this defend-  
 -dant further says, that he and  
 the said M<sup>r</sup> Cahon returned from  
 said premises to Lasalle on the same day,  
 viz; October 25<sup>th</sup> 1855, and that on the  
 morning of October 26<sup>th</sup> A.D. 1855 they  
 offered the said Cooley the Sum of Seven hun-  
 -dred dollars for said premises, upon Con-  
 -dition that the title <sup>to</sup> of the same was in him,  
 and the title was unincumbered, Clear &  
 good, and that on the first train going  
 to Ottawa from Lasalle, thereafter, to wit:  
 in the forenoon (of the said 26<sup>th</sup> day  
 of October A.D. 1855, the said M<sup>r</sup> Cahon  
 took passage thereon to Ottawa, for the  
 purpose of examining the Records of  
 said County for the purpose of ascertaining  
 before they purchased whether or not the  
 said Cooley had the title to said premises,  
 and had a good right to Sell and  
 Convey the same, and whether or not  
 the said premises were free and Clear  
 of all incumbrances, that the said M<sup>r</sup>  
 Cahon returned from Ottawa to Lasalle  
 on the noon train, on October 26<sup>th</sup> A.D. 1855  
 and informed this defendant, that he had  
 caused the Records of Lasalle County, at  
 Ottawa to be searched and examined for the  
 purpose aforesaid, and found from said  
 Examination of said Records, that the title  
 to said premises was in the said Cooley  
 who had a good right to Sell & convey the  
 same, and that there were no incumbrances



X thereon, and thereupon in the afternoon of said 26<sup>th</sup> day of October A.D. 1855 this defendant and said Mc Carhan jointly purchased said real estate from said Cooley for the Sum of Seven Hundred Dollars and paid him the Same, and received from said Cooley a Warranty deed for said real estate, a Copy of which said deed is herewith filed: Marked "A" and made part of this answer, and that said deed was filed for records at Ottawa, on the 29<sup>th</sup> day of October A.D. 1855. And this defendant denies, that at said time, the said premises were well worth the Sum of Sixteen hundred dollars, but he says, that he and the said Mc Carhan paid the said Cooley all that the said premises were reasonably worth, that is to say, the Sum of Seven hundred dollars. X And this defendant denies, that at the time that he and the said Mc Carhan took their said deed for said premises from said Cooley, to wit, on October 26<sup>th</sup>, 1855, he had any notice whatever of, or was aware that said Cooley <sup>had</sup> previously thereto sold the said premises to said Welch or to any one else, or that said Welch or any one else had any equitable right or interest as to the said Cooley in said premises, by virtue of the said Bonds set forth in the said Welch's Bill of complaint or, in any other way, and this defendant submits it to this Honorable



Court, if the said Welch had any  
 Equitable rights and interests in said  
 premises under said Bond, as against  
 this defendant and the said M<sup>c</sup> Cahan.  
 And this defendant wholly <sup>denies</sup> ~~desires~~, that he  
 and said M<sup>c</sup> Cahan took their said deed  
 for said premises from said Cooley, with the  
 intent to deprive the said Welch out of any  
 Equitable title in said premises by reason of  
 said Bond, <sup>or</sup> of any equitable rights that said  
 Welch had therein under said Bond, but this  
 defendant avers that he acted in perfect  
 good faith, and he believes said M<sup>c</sup> Cahan  
 also acted in good faith, in the purchase  
 of said premises by them of said Cooley  
 as aforesaid, and were not, and are  
 not guilty of any fraud in the prem-  
 ises. And this defendant admits that  
 said Welch did proceed on January 1<sup>st</sup>, A.D.  
 1856 to the place, where this defendant  
 and said M<sup>c</sup> Cahan did business in  
 the City of Lasalle aforesaid, as they are  
 informed and believe, and they being  
 absent, the said Welch, on January 2<sup>d</sup>,  
 1856, did make demands of this defendant  
 for a deed for said premises, which this  
 defendant and said M<sup>c</sup> Cahan wholly  
 refused to make and did refuse to  
 deed the said premises to said Welch,  
 and did refuse to accept a mortgage  
 tendered by said Welch — And this defe-  
 ndant admits that he and the said  
 M<sup>c</sup> Cahan caused their said deed from



Said Cooley for said premises to be entered of Record, and recorded in the Office for recording deeds in LaSalle County afore-  
said on the 29<sup>th</sup> day of October A.D. 1855, which was long prior to the said Bonds of said Cooley to said Welch for said premises being entered for records in said Office. But this defendant denies, that, at the time of filing their said deeds for record as <sup>aforesaid</sup> ~~before said~~, either he or the said Mc Mahan knew of any equitable rights or interests of said Welch in said premises, under the said Bonds; or that their said deed was so filed for record, with a view to defraud the said Welch, or to impair in any way his title to said premises, that said Welch might have by reason of said Bonds. And this defendant further answering says that it is <sup>true</sup> ~~not true~~, that said Welch, immediately after the date of the execution of said Bonds on the 13<sup>th</sup> October A.D. 1855. took actual possession of said premises, or that said Welch kept possession, or had actual possession of said premises at the time said Cooley deeded said premises to this defendant and said Mc Mahan, as aforesaid, on 26<sup>th</sup> day of October A.D. 1855; and as to the improvements thereon, to wit; a fence around the house on said premises, which said Welch claims to have made in his said bill of complaint, this defendant says, that said



fence was there on said 25<sup>th</sup> day of October AD 1855. When he & said Mr. Cahan went to look at said premises, as hereinbefore stated. but he says, that of his own knowledge; he does not know who built the said fence, nor had he, at said time or at the time of their purchase from Cooley as aforesaid, any notice or intimation whatever that said improvements were made by the said Welch.

And this defendant denies all, and all manner of fraud, unlawful combination and confederacy wherewith he is by the said Bill charged, Without this, that there is any other matter, cause or thing in the said Complainant's <sup>said</sup> bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, Confessed, traversed and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters & things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct; and prays to be hence dismissed with his reasonable costs and Charges in this behalf most wrongfully sustained.

State of Illinois }  
 Casselle County ss } I Maria Brown, being first  
 duly sworn, depose and  
 say that all the several matters and things which  
 are set forth in the foregoing, answer, as from  
 the information of other, or from belief, I believe



to be true, and that all the several other matters and things therein set forth are true in substance and in fact

Subscribed and Sworn  
to before me this 12th day  
of May AD 1856

Alfred Putnam J. P. Sd

Exhibit "A" referred to in Answer

This Indenture made this Twenty Sixth day of October in the year of our Lord one Thousand Eight Hundred and fifty ~~five~~ five. Between Phineas, D. Cooley of the County of LaSalle and State of Illinois, party of the first part, and David Brown and John. P. McLean of the County of LaSalle in the State of Illinois parties of the second part Witnesseth That the said party of the first part, for and in consideration of the sum of Seven hundred dollars paid by the said parties of the second part (the receipt of which is hereby acknowledged) do by these presents, grant bargain and sell unto the said parties of the second part, their heirs and assigns, the following described tract or parcel of Land, Situated in the County of LaSalle and State of Illinois viz; The South half of the South East quarter of Section Eighteen (18) Town



Thick, fine (35) Range One (1) East of  
 the Third Principal Meridian, Together with  
 all and singular the hereditaments and  
 appurtenances thereto belonging, or  
 in any wise appertaining, To Have,  
 And To Hold the Said premises as above  
 described, with the appurtenances  
 unto the said parties of the second  
 part, their heirs and assigns Forever  
 And the Said party of the first part,  
 for himself and his heirs, executors  
 and administrators, do hereby coven-  
 ant to and with the said parties  
 of the second part their heirs,  
 and assigns, that he is well seized  
 of the premises above conveyed as  
 of a good and indefeasible  
 Estate in Fee Simple and has  
 good right to sell and convey  
 the same in manner and form as  
 aforesaid, that they are free from  
 all incumbrances; and that the  
 above bargained premises in the  
 quiet and peaceable possession of  
 the said parties of the second part  
 their heirs, or assigns, against the  
 claim of all persons whomsoever,  
 he will Forever warrant and defend  
 In Testimony Whereof the said party  
 of the first part has herewith set his  
 hand and seal the day and year first  
 above written — Phineas, D. Coolay 

Signed, Sealed and delivered }  
 in presence of



State of Illinois }  
 LaSalle County, } ss

On this Twenty sixth day of October 1855, personally appeared before me a notary public in and for said County Phineas, D. Cooley, to me personally known to be the person whose name is subscribed to the above deed as having executed the same, and acknowledged that he had freely executed the same for the uses and purposes therein expressed Given under my hand and seal of my Notarial the day and year aforesaid

James Strain  
 Notary Public

And afterwards to wit: on said 14<sup>th</sup> day of May A.D. 1856 the several answers of John P. McMahon was filed in the records and signed following viz:

State of Illinois } In the Circuit Court  
 LaSalle County, } thereof in Chancery sitting  
 Do May Term A.D. 1856  
 The several answer of John P. McMahon one of the defendants to the Bill of complaint of Patrick Welsh complaint, exhibited against him & others

This defendant now and at all times hereafter saving to himself all, and all manner of benefit or advantage of exception or otherwise, that can or may be had or taken



to the many errors, uncertainties and imperfections in the said Bill contained for answer thereto, or to so much thereof as this defendant is advised it is material or necessary for him to make answer to, answering says, that of his own knowledge he knows nothing of that certain bond mentioned in said Bill of complaint a copy of which is annexed to the said Bill and marked as Exhibit 'D', for the sale by one Phineas D. Cooley, to said Welch of the South half of the South East Quarter of Section Eighteen (18) Township Thirty five (35), Range One East, and that of his own knowledge this defendant knows nothing of the execution and delivery of said bond by said Cooley to said Welch nor of the time when said bond was executed and delivered, nor of any of the terms or conditions in said bond contained, nor of the consideration to be paid by Welch to said Cooley for said real estate, nor of the payment by said Welch to said Cooley of any money, or the delivery of any property or other thing of value, for said real estate upon or under the said bond, but this defendant admits and believes, that said bond was made and delivered by said Cooley to said Welch at the time mentioned in said Bill of complaint and that said bond contained the terms and conditions as set forth in said Bill; but this defendant says that he had no knowledge, or notice of any kind whatever, of the said bond



or that said Welch had purchased, or agreed with said Cooley to purchase said real Estate, or that said Cooley had sold or agreed to sell said premises to any one except to this defendant & David Brown until sometime during the first week in December A.D. 1855 (the precise day this defendant is not able to state). When the said Welch informed one David Brown the cotenant of this defendant that he the said Welch had purchased the said real Estate from said Cooley on the 13<sup>th</sup> day of October A.D. 1855, and had a bond of the said Cooley therefor, which this defendant Philmore was the same bond to which said Welch refers in his said Bill of Complaint, and thereupon the said Brown on the same day he was informed by said Welch of said purchase and said Bond informed this defendant as he was at that time a Co-tenant of this defendant in said premises, of what the said Welch had informed him the said David Brown as aforesaid.

And this defendant further answering, says, that as to the payment by said Welch to said Cooley of One Hundred Dollars, and the delivery by said Welch to said Cooley of a Team of horses valued at three Hundred dollars on the day of the execution of said Bond as aforesaid, to wit: on the 13<sup>th</sup> day October A.D. 1855, and as to the obtaining



a conveyance of the part (of) lot one (1) in Block Seventeen (17) in Peru described in said Bill of Complaint by said Welch from James Finin prior to January 1<sup>st</sup> ~~AD 1855~~<sup>1856</sup> and as to the said Welch on the 1<sup>st</sup> day of January AD 1856 seeking the said Cooley, and going to the Office of S. P. Halligan in Peru, for the purpose of tendering to said Cooley or his agent if any should be found a Warranty Deed for said last described premises and a Mortgage to secure the balance of the purchase money due to said Cooley for the real Estate first therein described, and to demand, and receive from said Cooley or his agent for that purpose a deed of said real Estate, and as to the said Welch not finding the said Cooley then and then this Defendant of his own knowledge knows nothing, and asks that said Welch may be held to the proof of the same.

This defendant believes that said Cooley some time previous to said first day of January AD 1856; but the particular time this defendant does not know, and is therefore unable to state, departed from this State, and has ever since remained out of this State.

And this defendant further answering says, that on the 23<sup>rd</sup> day of October



A.D. 1855, the said Phineas J. Crooley came to this defendant and said David Brown both of whom then resided and still reside in the city of Lasalle, in Lasalle County aforesaid, and offered to sell to this defendant and said Brown together the said South half of the South East quarter of section Eighteen (18) in Township Thirty Five (35) of Range One (1) East in said County of Lasalle, for the sum of Eight hundred dollars, and that this defendant and said Brown agreed with said Crooley, that they, this defendant and said Brown, would go on to the said land <sup>and</sup> see it, and accordingly on the 25th day of October A.D. 1855, this defendant and said Brown went together on to the said land and then and there found that there was a small dwelling house on said land, but no fencing, except a little fencing around the house, and that at said time there was no person in possession of said house or upon said land; that said dwelling house was then vacant and unoccupied, the door was not locked, and that there was no furniture or other property of any kind in said house, nor upon said premises at that time, nor any appearance whatever of any person having lately been in possession then in possession, or



about to be in possession of said house or premises

And this defendant further says, that he and the said Brown returned from said premises to Lasalle on the same day, viz: October 25th 1855, and that on the morning of "October 26th AD 1855, they offered the said Cooley the sum of Seven Hundred Dollars for said premises upon condition that the title to the same was in him, and the title was unincumbered, clear & good, and that on the first train going to Ottawa from Lasalle, thereafter, to wit: in the forenoon of the said 26th day of October AD 1855, this defendant took passage thereon to Ottawa for the purpose of examining the Records of said County, for the purpose of ascertaining before they purchased whether or not the said Cooley had the title to said premises and had a good right to sell and convey the same and whether or not the said premises were free and clear from all incumbrances; That this defendant returned from Ottawa to Lasalle on the noon train on October 26th AD 1855 and informed the said Brown, that he had caused the Records of Lasalle County at Ottawa to be searched and examined for the purposes aforesaid. And found from said examination of said Records that the title to



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Said premises was in the said Cooley, who had a good right to sell and convey the same and that there were no incumbrances thereon, and thereupon in the afternoon of said day 26<sup>th</sup> day of October A.D. 1855, this defendant and said Brown jointly purchased said real estate from said Cooley for the sum of seven hundred dollars and paid him the same and received from said Cooley a warranty deed for said real estate, a copy of which said deed is herewith filed, marked "A" and made part of this answer, and that said deed was filed for record at Ottawa, on the 29<sup>th</sup> day of October A.D. 1855. And this "defendant" denies, that at said time, the said premises were well worth the sum of sixteen hundred dollars, but he says that he and the said Brown paid the said Cooley all that the said premises were reasonably worth, that is to say, the sum of seven hundred dollars.

And this defendant denies that at the time <sup>that he and</sup> the said Brown took their said deed for said premises from said Cooley, to wit, on October 26<sup>th</sup> A.D. 1855, he had any notice whatever of, or was aware that said Cooley had previously thereto sold the said premises to said Welch or to any one else or that said Welch or any one else had any equitable rights and interests as to the said Cooley in said premises by virtue of the said Bond set forth in the



Said Welch's Bill of Complaint or in any other way, And this defendant submits it to this honorable Court, if the said Welch had any equitable rights and interests in said premises under said Bonds, as against this defendant and the said Brown, and this defendant wholly denies, that he and said Brown took their said deed for said premises from said Cooley, with the intent to defraud the said Welch out of any equitable title in said premises by reason of said Bonds, or of any equitable rights that said Welch had therein, under said Bonds, but this defendant avers that he acted in perfect good faith, and he believes said Brown also acted in good faith, in the purchase of said premises by them of said Cooley, as aforesaid, and were not, and are not guilty of any fraud in the premises. And this defendant admits that said Welch did proceed on January 1<sup>st</sup> A.D. 1856 to the places where this defendant and said Brown did business in La Salle as they are informed and believe, and they being absent, the said Welch on January 2<sup>d</sup> 1856, did make demand of Brown a deed for said premises as this defendant was informed which this defendant and said Brown wholly refused to do, and did refuse to deed the said premises to said Welch, and did refuse to accept a Mortgage tendered by said Welch.

And this defendant admits that he and the said Brown caused their said deed from said Cooley for said premises to be



entered of record, and recorded in the Office for recording deeds in LaSalle County aforesaid, on the 29th day of October A.D. 1855, which was long prior to the said Bond of said Cooley to said Welch for said premises being entered for record in said Office, but this defendant denies, that, at the time of filing their said deed for records as aforesaid, he knew of any equitable rights or <sup>interests</sup> of said Welch in said premises, under the said Bond; or that their said deed was so filed for record, with a view to defraud the said Welch, or to impair in any way his title to said premises, that said Welch might have by reason of said Bond.

And this defendant further answering, says, that it is not true, that said Welch, immediately after the date of the execution of said Bond on the 13th October A.D. 1855, took actual possession of said premises, or that said Welch kept possession, or had actual possession of said premises at the time said Cooley deeded said premises to this defendant and said Brown, as aforesaid, on 26th day of October A.D. 1855, and as to the improvements thereon, to wit, a fence around the house on said premises, which said Welch claims to have made in his said Bill of complaint, this defendant says, that said fence was then on said 26th day of October A.D. 1855. When he & said Brown went to look at said premises, as heretofore stated —



But he says, that of his own knowledge he does not know who built the said fence, nor had he or said Brown, at said time, or at the time of their purchase from Looley as aforesaid any notice or intimation whatever that said improvements were made by the said Welch, And this defendant denies all, and all manner of fraud, unlawful combination & confederacy Wherewith he is by the said Bill charged Without this, that there is any other matter, cause or thing in the said complainants said bill of complaint contained, material or necessary for this defendant to make answer unto and not herein and hereby well and sufficiently answered, Confessed, traversed and avoided, or denied is true to the knowledge or belief of this defendant; All which matters and things this defendant is ready and willing to aver, maintain and prove, as this Honorable Court shall direct and adjudge to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

State of Illinois )  
 Casalle County ) S D John P. Mc Carhan,  
 Being first duly sworn,

depose & say, that all the several matters and things which are set forth in the foregoing answer, as from the information of others, or



from belief, I believe to be true, and that  
all the several other matters and things  
therein set forth are true in substance  
and in fact

John, P. McLean  
Subscribed and sworn  
to before me this 12th  
day of May AD 1856

Alfred Putnam J. P. [Signature]

Exhibit "A" referred to in answer  
This Indenture, made this Twenty sixth day  
of October, in the Year of our Lord one thousand  
Eight hundred and fifty five. Between Phin-  
eas, D. Cooley of the County of Cassalle  
and State of Illinois, party of the first  
part, and David Brown and John, P. Mc-  
Lean of the County of Cassalle, in the State  
of Illinois, parties of the second part.  
Witnesseth, That the said party of the first  
part, for and in consideration of the  
sum of seven hundred dollars paid  
by the said parties of the second part  
(the receipt of which is hereby acknowledged)  
do by these presents grant, bargain and  
sell unto the said parties of the second  
part their heirs and assigns, the fol-  
lowing described tract or parcel of  
Land, situated in the County of Cassalle  
and State of Illinois, viz: the South half  
of the South East quarter of Section  
Eighteen (18) Township Thirty Five (35)



Range One (1) East of the third principal  
 Meridian, Together with all and singular  
 the hereditaments and appurtenances  
 thereunto belonging or in any wise apper-  
 taining. To Have and To Hold the said  
 premises as above described with the app-  
 urtenances unto the said parties of the  
 second part, their heirs and assigns  
 forever, And the said party of the first  
 part for himself and his heirs, exec-  
 utors and administrators, do hereby  
 Covenant to and with the said parties  
 of the second part, their heirs and  
 assigns, that he is well seized of  
 the premises above conveyed, as  
 of a good and indefeasible estate  
 in fee simple, and has good right  
 to sell and convey the same in mann-  
 -er and form as aforesaid: That  
 they are free from all incumbrance;  
 and that the above bargained premises  
 in the quiet and peaceable possession  
 of said parties of the second part  
 their heirs or assigns against  
 the Claim of all persons whomsoever,  
 he will Forever Warrant and  
Defend

In Testimony whereof, the  
 said party of the first part has  
 hereunto set his hand and seal  
 the day and year <sup>first</sup> above written



Phineas, D. Cooley *Deat*  
 Signed Sealed  
 and delivered in  
 presence of

State of Illinois }  
 LaSalle County } ss

On this Twenty Sixth  
 day of October 1855, personally appear  
 before me a Notary Public in and  
 for said County, Phineas, D. Cooley  
 to me personally known to be the  
 person whose name is subscribed  
 to the above deed as having executed  
 the same and acknowledge that  
 he had freely executed the same  
 for the uses and purposes therein  
 expressed.

Given under my hand and <sup>seal</sup>  
*Seal* Notarial the day and year  
 aforesaid  
 James Strain  
 Notary Public

On the fifteenth day of May 1856. The <sup>complainant</sup> ~~defendant~~  
~~Brown~~ filed his replication to the answer of the  
 defendant Brown in the words and figures following in

State of Illinois }  
 LaSalle County } ss In the Circuit Court in and for  
 said County in Chancery sitting May Term 1856



Patrick Welch

vs

Phineas D. Cooley,

David Brown

& John P. McCabe } The replication of Patrick  
Welch Complainant <sup>to the separate</sup> answer of David Brown  
one of the Defendants to the bill of com-  
plaint of the above named complainant

This Repliant, saving & reserving to him-  
self all & all manner of advantage of  
exception to the manifold insufficiencies of  
the said answer for Replication thereunto  
says; That he will aver & prove his said  
bill to be true, Certain & Sufficient in  
law to be answered unto; and that the  
said answer of the said Defendants is  
uncertain untrue & insufficient to be replied  
unto by this Repliant; Without this that  
any matter or thing whatsoever in the said  
answer contained, material or Effectual  
in law to be replied unto confessed &  
avoided, traversed or denied, is true, all  
which matters & things this Repliant is &  
will be ready to aver & prove as this Honorable  
Court may direct &c.

Patrick Welch Complainant  
by Chumaseo & Eldridge his Solicitors

And again afterwards to wit; on the same day  
last aforesaid the Complainant filed his further  
replication to the answer of defendant McCabe  
in the words and figures following to wit;



State of Illinois  
 Cassell County - In Circuit Court in and  
 for said County, in Chancery  
 Sitting May Term 1856

Patrick Welch

vs

Phinnas, A. Bodley

Dania Brown

& John P. McLean

The Replication of Patrick Welch complainant to the separate answer of John P. McLean, <sup>one</sup> of the Defendants to the Bill of Complainant of the above named complaint:

This Repliant having and reserving to himself all & all manner of advantage of Exception to the manifold insufficiencies of the said answer for Replication thereunto says; that he will aver & prove ~~that~~ his said Bill to be true, Certain & sufficient in law to be answered unto, and that the said answer of the said Defendant is uncertain untrue and insufficient to be replied unto by this Repliant, without this, that any matter or thing whatsoever in the said answer contained, material or effectual in law to be replied unto, Confessed & avoided, traversed or denied, is true. All of which matters and things, these repliants one and will be ready to aver and prove as this honorable Court shall direct &c.

Patrick Welch Complainant  
 By Chumasco & Eldridge Solicitors



On the 11<sup>th</sup> day of September 1856 was filed  
in the office of the Clerk of the Circuit Court said  
County certain depositions in the words and figures  
following, viz:

|                         |                                                             |
|-------------------------|-------------------------------------------------------------|
| Patrick Welch           | } In Casale County, <sup>Circuit</sup> Lower<br>In Chancery |
| vs<br>Phineas J. Cooley |                                                             |
| Isaac Brown and         |                                                             |
| John P. McHughan        |                                                             |

To the above named defendants  
or their Solicitors

You will take notice that  
I shall attend before Patrick M. Kilduff,  
Esqr., a Justice of the Peace in & for the  
County of Casale at his office in Peru  
in said County on the 30<sup>th</sup> day of Septem-  
ber 1856, between the hours of 9 O'clock  
A.M. and 6 O'clock P.M. when I there  
take the deposition of George Towar and  
Thomas P. Malligan witnesses on the part  
of Complainant, to be read in Evidence  
on the trial of this Cause. Dated September  
1<sup>st</sup> 1856

Patrick Welch  
Ray Chumason & Eldridge  
his Solicitors

Served  
Sworn Copy on J. Brown Sept. 18. 1856 - G.S.E.

Depositions of George Towar and Thomas  
P. Malligan of Casale County and State of  
Illinois - Witnesses produced sworn and  
examined before P. M. Kilduff Esquire  
a Justice of the Peace in & for <sup>the</sup> said County



And state aforesaid on the 30th day of September 1856 at the office of said P.M., Willduff in Peru in said County between the hours of 9 o'clock<sup>am</sup> and 6 o'clock P.M. in pursuance of the annexed notice — in a certain suit now pending in the Circuit Court in and for the County of La Salle aforesaid on the Chancery side thereof wherein Patrick Welch is plaintiff & Phineas D. Cooley, David Brown and John & McCallahan are defendants. The said George Towar being first duly sworn according to law did depose and say as follows;

Interrogatory 1<sup>st</sup>

Ans. 1<sup>st</sup>

What is your age, name occupation and place of residence —

George Towar, Farmer, Troy Grove Township, LaSalle County, Ills.

Interrogatory 2<sup>nd</sup>

Ans. 2<sup>nd</sup>

are you acquainted with the parties to this suit, and if so, how long have you been acquainted with them respectively. I am acquainted with Welch nearly a year, not quite a year with Cooley, a year or more he boarded at my house some three weeks or more and while boarding there he built a house on the south half of the south East Quarter of section Eighteen Township thirty five. Range One East, Brown came to my house I think the last of October or the first of November 1855, this was the first time I became acquainted with Brown, McCallahan &



never saw but once that was in May, unless Mr. Cahoon was with Brown when he Brown came to my house. My impression is, that he was. It was stated to me by one of them at my house that the man with Brown had lately come from the East.

Q<sup>nt. 3<sup>d</sup></sup> Are you acquainted with the locality and situation of S  $\frac{1}{2}$  of S &  $\frac{1}{4}$  Sec.

18. T 35 R. 1 E. & was you so acquainted prior to 13 Oct, 1855, and how far do you reside from said land

A<sup>ns 3<sup>d</sup></sup> I am acquainted with its location and situation, and ~~was~~ frequently <sup>been</sup> on it, and over it for the last five years. The land is near a mile from my house.

Question Did you ever have any conversation with the defendants, or either of them relative to said land - and if so with which of them and when & where

A<sup>ns 4<sup>th</sup></sup> I had a conversation with Cooley at my house. Should think it was in the last part of October. I had a conversation with Brown and the man who was with him at my house subsequent to the conversation I had with Cooley. and within a week or two

Q<sup>nt. 5<sup>th</sup></sup> State as near as you can the conversation you had with defendant



Cooley.

Ans 5<sup>th</sup>

Cooley told me that he had sold the land to an Irishman, he showed me a ~~house~~<sup>horse</sup> that ~~that~~ he said he had got. I asked him if he got payed he said he <sup>said</sup> had got part pay. that he had got a span of horses. The one he had at my house was one of them that he got in part payment. he came at that time To pay me his board bill —

Int. 6<sup>th</sup>

State as near as you can the conversation you had with Brown & McLehane the other defendants or with either of them

Ans 6<sup>th</sup>

They came then to inquire about the location of the land and I told them where it was, and then told them that Cooley had sold it to an Irishman. My impression is that Brown stated that the Irishman had backed out —

Int. 7<sup>th</sup>

State if you know any thing in relation to a fence round the house upon the land above spoken of. and whether it <sup>was</sup> ~~was~~ built by Welch or not —

Ans 7<sup>th</sup>

There was a fence but I do not know who built it

Int. 8<sup>th</sup>

What countryman is the complainant Patrick Welch

Ans 8<sup>th</sup>

I should think he was a Irishman, George Tower



5-5  
Deposition of Thomas P. Halligan  
who being duly sworn, deposes & says  
Int. 1 What is your name, Occupation and  
place of Residence —

Ans 1<sup>st</sup> T. P. Halligan attorney at law Penn

Int 2<sup>nd</sup> Did you ever tender to the defendants  
or either of them, and if so which  
of them any deeds or Mortgages or  
other papers and what, when & where  
& if you have the papers tendered  
make an exhibit of them —

Ans 2<sup>nd</sup> I have tendered to David Brown the  
Deed and Mortgage now exhibited by me  
and marked "A" and "B" on the second  
day of January 1856. I had previously been  
on the first day of January 1856 to  
make a tender of these papers but  
was unable to find the defendants, or  
either of them, at the time of making  
the tender I read both the Deed and  
Mortgage to Mr. Brown. I made a  
demand for a <sup>Narrantee</sup> ~~Warrant~~ Deed for  
the South half of the South East  
quarter of Section Eighteen Township  
Thirty-five, Range One East, which  
Mr. Brown Refused to give and  
also refused <sup>to</sup> Receive the Deed and  
Mortgage. I tendered to him, all this  
I am at the instance of Mr. Welsh  
and for him

Int. 3 Did you ever have any conversation  
the defendants or either of them,  
and if so with which of them &



where & when — relation to the sale of the land by Cooley to Complainant, and what was such conversation

Ans 3<sup>d</sup>

My impression is that that I had a conversation with David Brown Subseq-  
-went to the tender of the papers at  
Susale in which he stated that  
Cooley had told him that Welch  
had backed out of the sale

Int. 4<sup>th</sup>

Look in the paper marked Exhibit  
"C" and state what you know  
about it —

Answer 4<sup>th</sup>

I drew it up at the instance of Cooley  
and Welch on the day of its date  
and saw Cooley sign it on the same  
day and was delivered to Welch  
by Cooley on the same day. Cooley  
acknowledged the receipt of one  
hundred Dollars in cash and also  
a team of horses, which were to  
be paid in accordance with the  
terms of said Exhibit marked "C"

Thomas McHallygan

Int 1<sup>st</sup>

\* Cross Examination by defendants  
Mr Tower will please state what he —  
when Brown & Mc Cahan came to  
his house to make enquiry as to  
the land as referred to him in his  
answer to the 6<sup>th</sup> Int. — He Tower  
did not use the language — "that he  
had understood that Cooley had  
sold that land to an Irishman



but had ~~been~~ since been told the Irishman backed out,

Ans 1<sup>st</sup> I do not recollect my impression is, that I did <sup>not</sup> know that the Irishman backed out, until Mr. Brown told me so.

Int. Q<sup>th</sup> Is your recollection of what was said & took place at the times you refer to, vague & <sup>indistinct</sup> ~~indistinct~~,

Ans 2<sup>nd</sup> What I have stated is correct so far as I know.

Int. 3<sup>rd</sup> Please state whether the House you refer to as being on the land in dispute, is within sight of your place of residence

Ans 3<sup>rd</sup> Yes the House is in sight of my place of residence

Int. 4<sup>th</sup> Has any one been in actual possession of the premises in dispute since the time you refer to when Brown & McCarroll was at your place making the enquiries you refer to

Ans. 4<sup>th</sup> Not that I know of.

Int. 5<sup>th</sup> If there had been any one in possession during the time referred to would you be almost certain to have known it

Ans 5<sup>th</sup> My impression is that there was no family living in the House, the Land is unbroken prairie, I have seen no one at work on it



State of Illinois }  
 LaSalle County } ss. I the Subscriber  
 a Justice of the peace of said  
 County, do Certify that the above  
 Depositions was taken by me  
 at the time and place mentioned  
 in the Caption thereof; that the said  
 Witnesses was first duly sworn,  
 and that the same was carefu-  
 -ly Read to said Witnesses, and  
 signed by them  
 Dated this 30th day of September  
 A.D. 1856

Patrick M. Killduff, J. P.

Recd Peru September 30th 1856  
 from T. Welch four dollars in  
 full for this deposition, Subpoe-  
 -na and Certificate  
 Patrick Killduff J. P.

T. Welch } In Chancery  
 vs } LaSalle County  
 P. D. Cooley } Circuit Court  
 D. V. Brown & } Recd. Peru Sep. 30th  
 J. R. Mc Cahan } 1856 of T. Welch  
 } Complainant One  
 Dollar for Wits fee one day  
~~having~~ having deposition taken before  
 P. M. Killduff  
 George Lower



Exhibit A. was filed on the 11<sup>th</sup> day of November 1836 in the records and figures following to wit:

This Indenture made this first day of January in the Year of Gods One Thousand Eight Hundred and Fifty Six between Patrick Welch of the County of Cassale and State of Illinois party of the first part, and Thomas S. Croley of the County of Cassale in the State of Illinois party of the second part Witnesseth that the said part of the first part, for and in consideration of the sum of Six Hundred Dollars paid by the said party of the second part, the receipt of which is hereby acknowledged; doth by these presents Grant, Bargain, and Sell unto the said party of the second part his heirs and assigns, the following described Tract or Parcel of Land, situated in the City of Peru County of Cassale and State of Illinois, viz;

Being the North half of the East half of the West half of Lot one in Block Seventeen in the Old Town now City of Peru with the House thereon - Together with all and singular the hereditaments and appurtenances therunto belonging or in any wise appertaining; to have and to hold the said premises as above described with the appurtenances, unto the said party of the second part, his heirs and assigns



However, And the said Patrick Welch  
 for himself & for his heirs ~~and~~  
~~assigns~~ Executors, and adminis-  
 trators doth hereby Covenant to  
 and with the said party of the  
 second part, his heirs and assigns  
 that he is well seized of the premises  
 above conveyed, as of a good and  
 indefeasible Estate in Fee Simple,  
 and has good right to sell and  
 Convey the same in manner and  
 form as aforesaid; that they  
 are free from all incumbrance;  
 and that the above bargained  
 premises be the quiet and peace-  
 -able possession of the said party of  
 the second part, his heirs or  
 assigns Against The Claim of  
 all persons whomsoever, he will  
 forever Warrant And Defend.  
 In Testimony Whereof the said  
 party of the first part has hereunto  
 set his hand and Seal the day  
 and Year <sup>first</sup> above written  
 Signed Sealed and delivered in presence  
 of Patrick Welch 

ES

State of Illinois }  
 LaSalle County } ss On this first day of  
 January 1856 personally appeared before  
 me a Notary Public in and for said  
 County Patrick Welch to me personally



known to be the person whose name is subscribed to the above deed, as having executed the same, and acknowledged that he had freely executed the same for the uses and purposes therein expressed.

Given under my Hand and Seal the day and Year aforesaid.  
 Wm. Chumadero  
 (Not. P. Public)

Exhibit "B" was also filed on said 11<sup>th</sup> day of November 1856 in the records and figures following to wit:

This Indenture, Made this First day of January in the Year of Our Lord One Thousand Eight Hundred and Fifty Six between Patrick Welch of the County of Cassell & State of Illinois, party of the first part and Thomas R. Cooley of same place, ~~and~~ party of the Second part Witnesseth, that the said party of the first part, for and in consideration of the sum of One Hundred & Seventy five Dollars paid by the said party of the Second part; The receipt of which is hereby acknowledged, doth by these presents Grant, Bargain and Sell, unto the said party of the Second part, heirs & assigns, the following described tract or parcel of land.



Situated in LaSalle County & State of Ill.  
inois, By the South half of the South  
East Quarter of Section Eighteen  
Township Thirty-five, Range One East  
Together With, all and Singular, the here-  
itaments and appurtenances thereunto  
belonging, or in any wise appertaining;  
To Have And to hold the Said premises  
as above described, with the appur-  
tenances, unto the Said party of  
the second part, his heirs and  
assigns. However, And the Said party  
of the first part, for himself and his  
heirs, executors and administrators  
doth Hereby Covenant to and with the  
Said party of the second part, his  
heirs and assigns, that he is well  
seized of the premises above convey-  
ed, as of a good and indefeasible  
Estate in Fee Simple, and has good  
right to sell and convey the same  
in manner and form as aforesaid  
that they are free from all incumbrances  
and that the above bargained premises  
in the quiet and peaceable possession  
of the Said party of the second part,  
his heirs and assigns Against  
the Claim of all persons whomsoever  
he will forever warrant and defend  
Provided nevertheless, that if the  
Said party of the first part, his  
heirs, Executors or administrators,  
shall well and truly pay to the said



part of the Second party heirs, executors, administrators or assigns, the just and full sum of One Hundred Dollars with Interest on the thirteenth day of October, next, and Seventy five Dollars with interest on the thirtieth day of October 1854 <sup>7</sup>.  
 On Testimony whereof the said party (as the first part has hereto set his hand and Seal the day and Year <sup>first</sup> above written

Patrick H. Welch 

Signed in the presence of

~~Given under my hand and Seal the day & Year above written~~

~~Chambers~~  
 Notary Public

Exhibit "B" was filed on said 11<sup>th</sup> day of January 1856 in the words and figures following viz:

Know all men by these presents; That I Phineas D. Croley of Peoria LaSalle County Illinois am held and firmly bound unto Patrick Welch of said place in the sum of twelve hundred dollars lawful Money of the United States to be paid to the said Welch his executors administrators or assigns; for which payment well and truly to be made I bind myself

<sup>7</sup> This should shall be void, otherwise to remain in full force and virtue



my heirs, Executors and administrators  
firmly by these presents sealed with my  
seal, Dated the thirteenth day of October  
A.D. 1855

The Condition of this Obligation is such  
that Whereas the said Welch has  
this day purchased and Bargained  
with the said Cooley for the follo-  
-wing described premises or tract  
of Land situated in LaSalle County  
and State of Illinois *viz*: The South  
half of the South East quarter of  
Section Eighteen Township thirty-five  
Range One East for the consideration  
of Twelve hundred dollars to be paid  
in the following manner *viz*: One hundred  
dollars to be paid on the execution  
and delivery of this Instrument;  
One team of horses valued between  
the said parties at the sum of three  
hundred & twenty five Dollars, also  
to be delivered upon the execution  
& delivery of this bond; One  
hundred Dollars with Interest  
to be paid on the thirteenth day  
of October next, Seventy-five  
dollars with interest to be paid  
on the thirteenth day of October  
1857, and a good and sufficient  
Warranty Deed in fee Simple, free  
from all incumbrances, of the follo-  
-wing described premises, to wit:  
Being the North half of the East half



State of Illinois    On this 1<sup>st</sup> day of January  
1836    I 1836 personally appeared  
before me a Notary Public  
in and for said County Patrick Welch to me  
personally known to be the person whose name  
is subscribed to the above deed as having  
executed the same, and acknowledged that  
he had freely executed the same for the  
uses and purposes therein expressed  
Given under my hand and Seal  
the day and year aforesaid  
Jearl    Wm. Chumason  
Notary Public



of the West half of Lot One in Block  
 Seventeen in the (old Town now) City  
 of Peru with the house thereon ~~which~~  
~~deed~~ <sup>which deed</sup> and all the appurtenances thereto  
 attached. ~~Which deed~~ the said Welch  
 will execute and deliver to the said  
 Cooley on the first day of January  
 A.D. 1856 - It being understood  
 between the said parties that the said  
 Welch is to receive from one James  
 Finn from whom he purchased said  
 lastly described premises a good  
 and sufficient deed of the same on  
 the seventeenth day of December next.  
 The possession of said house & lot  
 to be delivered by said Welch to the  
 said Cooley upon the execution & deliv-  
 -ery of this Bond, and it being fully  
 understood between the parties that  
 the said Cooley is to have the use  
 of the said premises free from any  
 rent <sup>any</sup> or other expense until he  
 receives from the said Welch a  
 deed of the same as herein provided  
 for. It being further understood  
 that the said house and lot is  
 valued at six hundred Dollars  
 making the balance of the Twelve  
 hundred dollars consideration to  
 be paid by the said Welch.  
 Now if the above bounden Cooley  
 an or before the first day of  
 January next (shall do and upon



On the back of said bond was a certificate of registry in the words  
and figures following viz:

"Bond of Pinckney 3 Apr 73

at St. Louis County 3 3 1/2 Sec 17 1835 at 41 1/2

second Dec 12, 1835 at 41 1/2

both 45 page 717-718

J. H. Clark Clerk

66

the request of the said Welch) he  
the said Welch having first performed the conditions  
herein provided for ~~himself~~ him, firstly  
to perform) make execute and deliver  
or cause ~~to~~ to be a good and  
sufficient warranty deed, in fee  
Simple, free from all incumbrances,  
and with the usual covenants of  
the premises herein first described,  
then the above obligation to be void  
Else to remain in full force and  
effect. It is further understood  
and agreed between the parties  
that upon the execution and delivery  
of the deed herein lastly provided  
for, the said Welch will execute  
and deliver to the said Cooley a  
Mortgage of said premises to secure  
the two last payments thereon

Pinckney, D. Cooley 

Exhibit "D" was filed February 21, 1857 and  
is in the words and figures following viz:

This Indenture. Made this Twenty first  
day of November in the year of our Lord  
one thousand eight hundred and Fifty five  
between James Finn and Bridget his wife  
of the County of Lonsdale and State of  
Illinois party of the first part, and  
Patrick Walsh of the County and  
State aforesaid



State aforesaid party of the second part  
Witnesseth, that the said party of the first part,  
 for and in consideration of the sum of Six  
 Hundred Dollars paid by the said party of the  
 second part. The receipt of which is hereby acknowl-  
 edged, do by these presents Grant, Bargain and  
 Sell unto the said party of the second part his heirs  
 and assigns, the following described tract or parcel  
 of Land, situated in the County of Cass and  
 State of Illinois, and known and described as  
 follows to wit, The North Half of the ~~E~~ East  
 half of the West half of lot number One (1)  
 in Block number Seventeen (17) In the old  
 Town of Peru - Together with, all and singular,  
 the hereditaments and appurtenances thereto  
 belonging, or in any wise appertaining; To have  
 and to hold the said premises as above described with  
 the appurtenances, unto the said party of the second  
 part his heirs and assigns Forever. And the said  
 party of the first part for themselves and their  
 heirs, executors and administrators, do Hereby  
 Covenant to and with the said party of the second  
 part his heirs and assigns, that they are well  
 seized of the premises above conveyed, as of a good  
 and indefeasible Estate in Fee Simple, and hath  
 good right to sell and convey the same in manner  
 and form as aforesaid; that they are free from  
 all encumbrances; and that the above bargained  
 premises, in the quiet and peaceable possession  
 of the said party of the second part his heirs and  
 assigns Against the Claim of all persons whomso-  
 ever they will forever Warrant & defend



On Testimony Whereof, the said party of the first  
 part hath herunto set their hands and seals the day  
 and year first above written { James Finn Seal  
 Bridget <sup>her</sup> Finn Seal  
 mark

Signed, Sealed and delivered in  
 Presence of

State of Illinois }  
 LaSalle County } ss On this Twenty first day of  
 November 1855 Personally  
 appeared before me Patrick M. Stillduff a justice  
 of the Peace in & for said County James Finn  
 to me personally known to be the person whose name  
 is subscribed to the above deed, as having executed  
 the same, and acknowledged that he had freely ackn-  
 -owledged the same for the uses and purposes therein  
 expressed, and Bridget Finn wife of the said James  
 Finn to me personally known to be the person  
 whose name is subscribed to the same deed, also  
 appeared before me, and was by me made acquainted  
 with the contents of the same, and examined separately  
 and apart from her <sup>said</sup> husband, whether she execu-  
 ted the said deed, and relinquished her dower  
 in the lands and tenements therein mentioned,  
 voluntarily, freely, and without compulsion  
 of her said husband; and acknowledged  
 that she executed the same and relinquished  
 her dower in the lands and tenements therein  
 mentioned voluntarily and freely and without  
 the compulsion of her said husband

Given under my hand and seal  
 the day and year aforesaid

Patrick M. Stillduff J.P. Seal



69 Exhibit "C" as a stipulation was filed among the papers of said cause in the words and figures following viz:

State of Illinois } In the Circuit Court  
LaSalle County, ss } thereof

Patrick Welch

vs

Phineas, W. Corley

et al -

In Chancery -

It is hereby stipulated that there is entered in this cause, that David Brown one of the defendants in this cause returned from an examination of the premises in controversy to LaSalle on October 25<sup>th</sup> 1855, and that on the 26<sup>th</sup> October 1855, said Mc Mahan went to Ottawa, to examine the Records of LaSalle County to ascertain if Colley's title to said land was perfect, good and unincumbered and that on said day said Mc Mahan caused the said Records to be searched for said purpose, and found that the title to said premises, as appeared by said Records, was in said Corley, and that said land was not incumbered

Gray & Perkins

attys for David Brown

& J. P. Mc Mahan

Chambers & Eldridge

attys for Welch



# Exhibit "F" is in the records and  
figures following:

This Indenture Made this twenty sixth day of  
October in the Year of our Lord one thousand eight  
hundred and fifty five, between Thomas W. Corley  
of the County of Cass and State of Illinois party of  
the first part and David Brown and John and John  
P. Mc Casan of the County of Cass in the State  
of Illinois <sup>parties</sup> party of the second part Witnesseth  
that the said party of the first part, for and  
in ~~the~~ consideration of the sum of seven hundred  
dollars paid by the said parties of the second  
part, the receipt of which is hereby acknow-  
-ledged, do by these presents Grant Bargain  
and Sell unto the said parties of the second  
part their heirs and assigns the following  
described Tract or Parcel of Land situated  
in the County of Cass and State of Illinois  
To-wit: The South half of the South East quarter  
of Section Eighteen (18) Township Thirty-  
five (35) Range One (1) East of the  
Third Principal Meridian - Together  
with all and singular, the hereditaments  
and appurtenances therunto belonging, or  
in any wise appertaining, To have and  
to hold the said premises as above  
described, with the appurtenances, unto  
the said parties of the second part  
their heirs and assigns Forever And  
the said party of the first part, for himself  
and his heirs, executors, and adminis-  
trators, do hereby Covenant to and with



On the back of record deed was a certificate of registry in the words and figures following to wit

"State of Illinois No 2881

San Valle County I certify that this deed was paid for record

Oct. 29. 1855 at 8 1/4 A.M. Am and duly

recorded in Book 44 page 710 J. A. Ketch Clerk

the said parties of the second part, their heirs and assigns, that he is well seized of the premises above conveyed, as of a good and indefeasible estate in Fee Simple, and has good right to sell and convey the same in manner and form as aforesaid; that they are free from all incumbrances, and that the above bargained premises in the quiet and peaceable possession of the said parties of the second part, their heirs or assigns. Against the Claim of all persons whomsoever he will forever warrant and defend. In Testimony Whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written

Thomas L. Croley

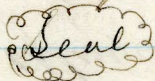
Signed, Sealed and Delivered  
in the presence of

State of Illinois  
Sanalle County

On this Twenty Sixth day of October 1855, personally appeared before me a Notary Public in and for said County Thomas L. Croley to me personally known to be the person whose name is subscribed to the above Deed, as having executed the same, and acknowledged that he had fully executed the same for the uses and purposes therein expressed

Given under my hand and seal Notarial the day and year aforesaid — James Strain

Notary Public





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And afterwards to wit, on Saturday, 21<sup>st</sup> 1837 the term being one of the days of the February Special term for said year, the following further order was entered & read in said cause viz:

Patrick Welch

Thomas D. Cooley

Darin Brown & John P. Mc. Cahan } In Chancery

This day comes the Complainant, <sup>by</sup> William Summers his solicitor, and the defendants L. Jenkins & Gray their solicitors and after hearing the evidence and arguments of arguments of counsel, the Court take this case under advisement

And again afterwards to wit, on Monday February 28<sup>th</sup> 1837 the term being, being one of the days of the February Special term of said Court for the year 1837 a decree was entered & read in said cause in the words and figures following, That is to say: \*

As alle County Special term Circuit Court 1837 Court meet pursuant to adjournment

Patrick Welch

vs

Thomas D. Cooley

Darin Brown and John P. Mc. Cahan

In Chancery

on to be heard this cause having come into Court upon the bill of

As alle County Special term Circuit Court 1837  
 Monday Feb. 28<sup>th</sup>  
 Court meet pursuant to adjournment  
 Decree read as an order of Court



<sup>Plaintiff</sup>  
 Complaint, <sup>per confesso</sup> as against the said  
 defendant Thimias D. Cooley for want of an answer  
 and upon the pleadings and proofs as against the  
 defendants David Brown and John T. M. Cahan,  
 And it satisfactorily appearing to this Court from the  
 proofs taken in this cause that the said defendant  
 Thimias D. Cooley on the thirteenth day of October A.D.  
 1855, made, executed and delivered to the said comp-  
 laining Patrick Welsh his certain Bond or Instrument  
 in writing under Seal, <sup>whereby</sup> the said Thimias D.  
 Cooley bound himself unto the said Patrick Welsh  
 in the penal sum of twelve hundred dollars to be  
 paid to the said Patrick Welsh his executors  
 administrators or assigns, and bearing date on the  
 same day conditioned to convey to said Patrick  
 Welsh the following described real Estate situate  
 in the County of Casselle and State of Illinois  
 viz; The South half of the South East quarter of  
 section Eighteen, Township thirty five range  
 one East, and it further appearing that the  
 consideration of such the purchase of said  
 premises by said ~~Patrick~~ Patrick Welsh from  
 said Thimias D. Cooley was the sum of twelve  
 hundred dollars payable according to the condi-  
 tions of said bond as follows viz; One hund-  
 red dollars and one team of horses valued  
 at the sum of three hundred and twenty five  
 dollars payable and to be delivered at the  
 time of the execution of said bond, One  
 hundred dollars to be paid on the thirteenth  
 day of October then next, seventy-five  
 dollars to be paid on the 13<sup>th</sup> day of  
 October 1857, and a good and sufficient



Warranty deed in Fee simple of the following  
 described premises viz: The North half of the  
 East half of the West half of lot one in  
 block Seventeen of the Old town (now City)  
 of Fern with the house thereon and appurtenances  
 thereto attached to be executed and delivered  
 to said Phineas, D. Cooley, on the first day of  
 January 1856 and that by the said Instrument  
 the said Patrick Welsh was to deliver possession  
 of said house and lot to said Phineas, D. Cooley  
 upon the execution and delivery of said  
 bond, and that said Cooley was to have  
 possession of said house and lot free from  
 rent until the said Patrick Welsh should receive  
 a deed for the same from one James Finn  
 and from whom it was understood between the  
 said Welsh and Cooley that said Welsh should  
 receive such deed on the seventeenth day of  
 December then next. And it further appearing  
 that the said house was valued by said Welsh  
 and Cooley at six hundred dollars making  
 the balance of the consideration for the  
 purchase of the first hereinbefore described  
 premises, And it further appearing from  
 said bond that said Cooley was bound to  
 convey the first above described premises  
 to said Welsh on the first day of January  
 1856 he having first performed all  
 the conditions stipulated in said bond  
 to be performed on his part prior to <sup>that</sup> time  
 and which conveyance was to be a good  
 and sufficient deed of warranty in fee  
 simple free from all incumbrances with



the usual covenants. And it further appearing that said sum of One hundred dollars and the said team of horses mentioned in said bond were respectively paid and delivered by said Welsh to said Cooley at the time of the execution and delivery of said bond, and it further appearing that prior to the first day of January 1856 said Cooley had procured from said James Henn a good and sufficient conveyance of said house & lot in Fern and that said Cooley was then seized of a good and indefeasible estate in fee simple of said house and lot in Fern and had good right and authority to convey the same and that being so seized of the same he on the first day of January 1856 in fulfillment of the terms of said bond on his part sought the said Cooley

~~Seattle County Circuit Court February  
Office Fern 1857~~

~~Monday February 23<sup>rd</sup>~~

and went to the office of one T. T. Halligan in the City of Fern when the said bond was executed for the purpose of tendering to said Cooley or to any one authorized to receive the same from him if any such one should be found there a good and sufficient deed of said house and lot in Fern and a Mortgage to secure the balance of the purchase money for <sup>above</sup> said first described premises according to the terms and conditions of said bond and to receive ~~from~~ <sup>from</sup> said Cooley or from some one



duly authorized by him for that purpose a deed of said first mentioned premises in pursuance of the terms and conditions of said bond, but that the said Cooley was not there nor any one authorized by him to execute and deliver to said Welsh a deed of said first described premises in pursuance of the terms of said bond and to receive from said Welsh a deed of said house and lot in Peru and a mortgage to secure the balance of the purchase money of said first hereinbefore described premises in pursuance of the terms and conditions of said bond.

And it further appearing that said Cooley on the 26th day of October 1855 in fraud of the equitable rights of said Patrick Welsh and in violation of the terms and conditions of his said bond, conveyed said first hereinbefore described premises to the defendants Brown and Mc Cahan, and it further appearing that at the time said Brown and Mc Cahan took said conveyance of said premises from said Cooley they were well aware of the equitable title of the said Welsh thereto, <sup>under</sup> ~~made~~ and by virtue of said bond, and that the taking of such conveyance by them was in fraud of the equitable rights of said Welsh and contrary to equity and good conscience, and it further appearing that said Welsh failing to find said Cooley or any one by him authorized for the purpose of receiving said deed of said house and lot in Peru



aforesaid and said Mortgage to secure the  
 balance of the purchase money for said  
 first hereinbefore described premises as  
 aforesaid he on the second day of Janu-  
 ary 1856 proceeded to the place of busin-  
 -ess of the said defendant Brown and demanded  
 a deed of the said first hereinbefore descri-  
 -bed premises. through J. P. Halligan his  
 authorized agent, that said Brown on behalf  
 of himself and said M<sup>c</sup>. Caham refused to  
 execute and deliver the same and that  
 the said J. P. Halligan the duly authorized  
 agent of said Welsh at the same time tendered  
 to said defendant Brown a good and suff-  
 -icient deed of said house and lot in Ten-  
 duly executed by said Welsh and also a  
 sufficient mortgage upon said first herein-  
 -before described premises in like manner  
 duly executed to secure the balance of the pur-  
 -chase money therefor in pursuance of the  
 terms and conditions of said bond and  
 which said Brown in like manner refused to receive.

And it appearing to this Court that the  
 Equity of this case is with the complainant  
 Now after hearing William Chumaseiro Complainant's  
 Solicitor, and D. P. Jenkins and O. C. Gray Solicitors  
 for the defendants Brown and M<sup>c</sup>. Caham and  
 this Court being duly advised in the premises  
 and having duly considered the same, It is  
 therefore ordered, adjudged and decreed, and this  
 Court by virtue of the power and authority therein  
 vested does hereby order adjudge and decree  
 that the said defendants David Brown and



and John P. Mc Mahan, declared to be Trustees for the said Complainant Patrick Welsh so far as they hold the title to said first hereinbefore described premises <sup>under</sup> made, by or through said conveyance from said defendant Thomas D. Cooley to them as aforesaid, and that they within thirty days from the date of this decree they make execute and deliver to the said Patrick Welsh a good and sufficient deed in fee simple of the said hereinbefore first described lands and premises with <sup>the</sup> usual covenants of warranty so as to rest in the said Patrick Welsh his heirs and assigns a good and sufficient Estate in fee simple in and to said first hereinbefore described premises free from all incumbrances whatever, and that in default thereof W. H. L. Ballou Esquire who is hereby appointed a commissioner for that purpose make execute and deliver said deed of said real Estate to said Patrick Welsh as and for the said David Brown and John, ~~D. P.~~ Mc Mahan and that the said defendants pay the costs of this prosecution and that Complainant have execution therefor. It is further ordered and decreed that the said Complainant pay the said sums of money due and to become due according to the terms and conditions of the said bond and which have not been paid to the said Cooley, or if the said Cooley cannot be found to bring the same into Court as soon as the same become due and payable, and also to



deprait with the Clerk of this Court the deed for said lot in Term and the mortgage executed by him to said Cooley on the first above described tract of land to be by the said Clerk kept for the benefit of said Cooley his heirs and assigns to be delivered to him or them on demand made thereof by any one entitled to them

And again afterwards to wit; on Tuesday February 24<sup>th</sup> 1887 the same being one of the days of said February Special Term a final order was entered & read in said court viz:

Patrick Welch      In Chancery  
 vs  
 Phineas D. Cooley  
 David Brown and John J. McLaughlin

This day the defendants come by D. T. Jenkins & C. C. Gray their solicitors, who pray and appeal herein to the Supreme Court, which is granted upon condition that defendants, within thirty days from this date, file an appeal bond payable to the complainant in the sum of three hundred dollars with Alexander Campbell as their security.

~~cannot~~ It is further ordered that the defendants <sup>cannot</sup> have thirty days to prepare and ~~x~~ file a bill of exceptions in this case.



On the 3<sup>d</sup> day of March A.D. 1857 an agreed case in favor of a bill of exceptions was filed in said cause in words and figures following viz:

|                                                                                                                                        |                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <p>⊠ Lavin Brown &amp;<br/>John P. Mc Cahan<br/>Impleaded with Phineas<br/>D. Corley<br/>                    ads<br/>Patrick Welsh</p> | <p>In Chancery<br/>At February Special Term<br/>A.D. 1857 of the LaSalle<br/>County Circuit Court</p> |
|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|

Whereas the above Entitled Cause having been heard and determined by the Hon. M. E. Hollister Judge of the Circuit Court with<sup>in</sup> and for the County of LaSalle in the State of Illinois at the term above named — and a Decree pro Confesso Entered against the said Phineas D. Corley and a decree against the said Brown and Mc Cahan after hearing and considering the proofs and Exhibits — And whereas the said Lavin Brown and John Mc Cahan are about taking an appeal to the Supreme Court Now therefore this agreement is Entered into by the parties Complainant and Respondents Brown & Mc Cahan respectively through their ~~respective~~ attorneys — That all the Depositions read<sup>on</sup> the trial of this Cause in the Circuit Court to wit, The depositions of George Cover, and Thomas, P. Halligan — And all the Exhibits and proof that were used or belonging<sup>to this cause on the hearing</sup> except the depositions taken by defendants which were withdrawn by defendants<sup>by</sup> leave of the Court and were not considered in evidence before the



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Circuit Court - Exhibits D, B, A, C, and  
a certain Stipulation signed by the respective  
Solicitors of the parties relating to the Respondents  
Brown & Mc Cahan having had the Records  
of deeds Examined & other matters therein  
Marked <sup>(8)</sup> Thomas, D. Cooley to the Respondents Brown  
and Mc Cahan Marked (Exhibit F)

That said Exhibits Stipulation and Proof shall  
be taken and considered a part and  
portion of the record in this Cause and be  
so certified to and sent up to the Supreme  
Court with the other papers to the Supreme  
Court in this Cause by the Clerk of the Circuit  
Court - And on the Hearing in the Supreme  
Court - They shall be taken and considered  
for what they purport to (to wit (Exhibits)  
& Proofs) and Stipulation or agreements -  
including the depositions and this agreement  
And the Judge of the Circuit Court is asked  
to approve of this stipulation and make  
an order making it a part of the  
record in this Cause as well as  
the matters and things herein contained  
and agreed to be made a part of  
the record and that said order shall  
be entered as being made on the 23<sup>d</sup>  
of February instant it being the day  
on which said decree was rendered

Gray & Jenkins { Thomas & Eldridge  
Solicitors for Respondents { Solicitors for Complainant  
Brown & Mc Cahan }

The foregoing is approved by me and ordered to be made a  
part of the record as aforesaid  
Judge of the 9<sup>th</sup> Judicial Circuit



The defendants filed their appeal bond on the 3<sup>d</sup> day of March 1857 in the words and figures following, viz:

State of Illinois LaSalle County Is

known all men by these presents that we David Brown and John P. Mc Cahan as principals and Alexander Campbell as surety are held and firmly bound unto Patrick Welsh in the special sum of Three Hundred Dollars lawful money of the United States for the payment of which well and truly to be made we bind ourselves our heirs and administrators jointly severally and firmly by these presents

Witness our hands and seals This 25<sup>th</sup> day of February A.D. 1857

The condition of the above Obligation is such that whereas the said Patrick Welsh did on the twenty third day of February A.D. 1857 before the Hon. Mr. E. Hollister President Judge of the ninth Judicial Circuit Cir Court sitting as Chancellor at a special term of the Circuit Court of LaSalle County get a decree rendered in his favour against Phineas D Cooley David Brown and John Mc Cahan said Cause having been heard by said Court on



83

The 21<sup>st</sup> day of February A.D. 1857  
 And the said Brown and Mc  
 Cahon having prayed and app  
 eal to the Supreme Court for  
 this grand division of the State  
 of Illinois and the said Judge of  
 the Circuit Court aforesaid at  
 the time last aforesaid as will  
 be now fully seen by reference to  
 the records of said Court reference  
 to which is now made - did order  
 a Bond to be filed with a penalty  
 of Three Hundred Dollars within thirty  
 days thereafter with Alexander Camp  
 bell as security. From which said  
 decree the said David Brown and  
 John P. McCahon have now taken  
 an appeal to the Supreme Court  
 aforesaid

Now if the said David  
 Brown and John P. McCahon shall  
 prosecute the said appeal with  
 effect and shall pay whatever  
~~whatever~~ Judgment may be ren  
 -dered by the said Supreme Court  
 upon ~~division~~ dismissal or trial  
 of said appeal then this above  
 obligation to be void otherwise  
 to remain in full force and  
 effect

David Brown Seal  
 John P. McCahon Seal  
 A Campbell Seal



State of Illinois By J. F. Nash Clerk of the  
 LaSalle County & Circuit Court in and for  
 said County and State do  
 hereby certify that the above and foregoing record  
 comprises a true, full, perfect and complete copy  
 of all the pleadings, exhibits, papers, also all the  
 orders of the Court & the final decree, together with  
 the stipulation for an appeal which was filed in  
 lieu of a bill of exceptions, and the appeal bond, in  
 the case of Patrick Walsh vs. Thomas D. Corley, David  
 Brown and John P. McCahan, the whole together  
 making a complete record in said cause.  
 In Testimony Whereof I have hereunto set  
 my hand and the Seal of said Court at  
 Ottawa this 31<sup>st</sup> day of March 1837  
 J. F. Nash Clerk



148.  
David Brown &  
John P. McEahan  
" Patrick Welch  
Record

Filed Apr. 22, 1857.  
S. Island Clerk

Less \$22.52



State of Illinois, Supreme Court  
3<sup>d</sup> Grand Division.

David Brown  
and John P. McCahaw }  
vs. } Error to LaSalle.  
Patrick Melch }

Assignment of Errors.

And now come the said David Brown and John P. McCahaw, plaintiffs in error, by Bushnell & Gray & Jenkins, their attorneys, and say, that, in the Record and Proceedings aforesaid, there is manifest error, in this, to wit:

1<sup>st</sup> There was no evidence before the Court below, of fraud or sufficient notice to charge the plaintiffs in error, but on the contrary thereof, the Record and Proceeding show that the plaintiffs in error were bona fide purchasers for a valuable consideration, without notice.

2<sup>d</sup> The judgment and decree of the Court below was in favor of the defendant in error, and against the plaintiffs in error, whereas according to equity and the laws of the land, the said judgment and decree of said Court ought to have been the reverse thereof.

Wherefore they pray that said judgment and decree be reversed, and they be restored to their rights.

Bushnell & Gray & Jenkins Attys. pro p<sup>l</sup>ffs  
in error.



~~Patrick Welsh~~  
V. Brown & McLean

<sup>or</sup> Patrick Welsh } And now comes  
the said Patrick Welsh by Chas-  
les & Harney his attorneys and  
says that there is no error in  
the record & proceedings aforesaid  
and prays that that the decree  
aforesaid may be in all  
things affirmed

Charles & Harney  
Sifts alleg.



148

Thomson McCahan

Welsh 148.

Hindu in Wro.

Filed April 24, 1857

L. Leland

Club.



<sup>1448.</sup>  
Supreme Court,  
3<sup>d</sup> Grand Division  
April Term 1857.

David Brown  
et al.,  
vs.

Patrick Welch

Assignment of  
Errors.

Filed April 24, 1857  
L. Leland  
Clerk

Bushnell & Gray &  
Lusk vs.  
Atty. gen. plff. in  
error.



STATE OF ILLINOIS, } ss.  
LA SALLE COUNTY,

The People of the State of Illinois:

To the Sheriff of La Salle County, Greeting:

WE command you to summon

*Thomas D. Curly, David  
Brown & John P. McCahan*

if to be found in your county, personally to be and appear before the Circuit Court  
of said county, on the first day of the next term thereof, to be holden at the Court  
House in Ottawa, on the *12* day of *May* next, to answer to a certain bill  
of complaint filed in our said Circuit Court, on the chancery side thereof, against

*Thimby Patrick Walsh*

; and have you then and there this  
writ, and make return thereon in what manner you execute the same.

WITNESS, JOHN F. NASH, Clerk of said Court, and the  
Seal of said Court, at Ottawa, this *4<sup>th</sup>* day of *January*  
A. D. 185*6*

*Seal*

*J. F. Nash*

Clerk.



On the back of said Summons was the return of  
the Sheriff in words and figures following viz

" Executed this writ by reading the same to the within  
named David Bond and John P. McLean and by  
leaving a copy with each of them, the within named  
Phineas D. Bond not found in my County  
February 28<sup>th</sup> 1836

|   |             |         |
|---|-------------|---------|
| 1 | Sent return | 1.10    |
| 1 | 30 miles    | 1.50    |
| 1 | 2 copies    | 1.00    |
|   |             | <hr/>   |
|   |             | \$ 3.60 |

" F. Warrin Sheriff  
" by L. S. Harris Depty.



Illinois Supreme Court

Brown + McLean  
appellants

vs

Patrick Melsh  
appellee

April Term 1837

(No. 148)

Appeal from Decree entered  
in Salado Circuit Court

Appellate Brief & Points

II. The Bid & proofs show a strict performance of the conditions of the sale of the premises from the Reft. Coaly to Reft. Couple. Melch 100 far as the same was practicable - Coaly having absconded, which establishes an Equitable Title to the premises in the Couple. Melch, which is good as against all the world except subsequent bona fide purchasers without notice & creditors

In Registry act, R. S. p 108. §§ 22 & 23

3 Atkyns R. 647 to 654 - 2 Scam 501.

3 Melcalp 405. — 4 " 202

1. Atkyns R 585. — 34 " 389

3 Barbons Chy B. 403

III. To defeat an Equitable Title thus acquired, either by filed or adverse notice, the Refts must aver, and prove by legal testimony that they purchased without notice of the prior Equitable title. And that the purchase was upon a valis consideration & which had been actually paid before notice.

3. Barbons  
Chy R. 403 & 407

Sayden on  
Vendors Vol 3,  
544

(12561-117)

1. Mitford, pl. 320-321, & sequen - Story Eq. pl. 602

2. 604. & §§ 805 & 6 - 1 Shabhart Eq. 90 - \*10 3.

3. Atk. 814 - 2. Dec & Batt. 360, \*10 Petus 177, 1. Sumner 506



4. Wash. C.R.  
691

(a) The Recital in the deed, of the payment of the payment of the consideration is no evidence of the fact, as against a person not a party to nor claiming through or under the deed  
1. Salkes 286. 1 B.R. 704-25 Men 456. 4 Matts 359  
4. Binn 231-7. 1 Dallas 67. 9. Casey 29. 1 Leon. R. 622  
6. Barr (Pa) 239. 5 Barr (Pa) 145. 1 Wharton 410  
7. Leon. R. 362. 11. Foster 562. 12. Newham, R. 248

10 Pet. 210  
4 authorities  
there cited

(a) The defense interposed - that the Defts Brown & McCahan are bona fide purchasers

14. John 6274 without notice, necessarily admits the Compt

8. Cow R 3874 Eynatble <sup>title</sup> as set forth in the Bids - i.e. independ  
394-  
dant of the Defts - 4. Sandford Chy R 594

3 mason  
378.

2 John Ch R 62  
= in same case again upheld on them to plead same  
Vol. 10 97. (in margin) 3 Cooper Equity Pl. page 6

1. Gil 7503

1 Green Chy 40

8 71, 26 280

12. Pet. 178

7. Ohio. 478.

2 Sum 489

(b) This being new matter in avoidance of the matter charged in the Bids, & such in issue by the Repleader the issue is thereby narrowed down to this sole question and not being supported by proof - the Compt <sup>little must be</sup> must be proved - as the plea must be considered false. (See margin)

4. Cranch 408 - 15 Maine 125 - 17. Pet. 178  
II II. The Evidence shows that the Defts Brown & McCahan had actual notice that there had been a sale of the premises from Coaly to Melch. from Towar to whom they applied for information in regard to the premises - or at least sufficient <sup>information</sup> to put them upon inquiry

3. Fred 117. 1. Rawle 386. 2. Ser 1 Batt 395  
4. Scan 202. 1. Smies & Marshall Chy 45. 3. Mitealf-  
405 1. Cow. 622. 1. John Chy R 261. 4 do 39.  
7. do 65. 17 Vert. 329



(a) It is not necessary the purchaser should know the particular estate trust - general notice that some one holds a prior Equitable title is sufficient.

1. Murphy (N.B.) 219

From the facts in this case as disclosed by the Record, in connection with the principle affirmed in the foregoing authorities, it is submitted:

1. That the Complainant Welch, has an unquestionable Equitable title to the premises, acquired through the contract of sale from Coaly to him - which is admitted by the answer.

2. That the Defts Brown & McLean had notice of the Complainant's Equitable title when they took their conveyance from Coaly on what was equivalent - actual knowledge that the Complainant Coaly had previously acquired an Equitable interest in the premises, which information was as-  
=



-ficient to put them upon Enquiry, and which renders them chargeable with notice of all such facts as to the nature and extent of the Compt's interest in the premises, as they might have acquired by reasonable Enquiries.

3. That instead of making Enquiries as they were bound to do after the conversation with Towar - to whom they applied for information in regard to the premises, they hastened to examine the Records - and not finding the Howe from Coaly to which on Record immediately consensuated their fraudulent intentions by taking a Conveyance from Coaly

4. They fail utterly, to show that they ever paid the first dollar of the Consideration Money for their pretended purchase, and hence do not sustain their allegations that they have a legal title acquired by a bona fide purchase which can prevail against the Equitable title of the Complainant.



5. Her Equitable Title of the Complainants  
being admitted by the answers, and  
fully established by the proofs, the  
issue is really narrowed down to a  
single question, <sup>made by the answers in answer of the motion</sup> viz. whether the Defts  
are bona fide purchasers for a valuable  
consideration actually paid before  
notice of the Complainants Equitable  
Title. As there is no evidence whatever  
of the payment of the first dollar of  
the consideration money mentioned in  
the deed from <sup>Coaly</sup> Brown & McCallan,  
it is confidently submitted, that they  
are not bona fide purchasers.  
And the decree of the Circuit Court  
should be affirmed.

Chambers Eldredge

Atty for Complainant

In the Case of Smith vs. Backell 5 Gil 534

There was no defence that the Defts  
were bona fide purchasers for  
valuable consideration actually paid  
-but simply contained a denial  
of the allegations in the Bill - and hence  
the Court held that the affirmative  
of the issue was upon the Compt  
and the question not being raised  
by the pleadings the Compt. must



recover upon the case made by the  
 Bill - But <sup>between that &</sup> in the case at bar, there  
 is this manifest distinction - The  
 defence is that the ~~compt~~ <sup>compt</sup> ~~depts~~  
 are bona fide purchasers & de  
 notice - a defence which necessarily  
 admits the Compt's Equity title  
 title - ~~to~~ upon which issue is  
 formed by the Ref - And being  
 matter not responsive to the Bill  
 and not supported by proof  
 the defence is not sustained  
 and the Compt's Equity is Confirmed  
 - The principles governing this defence  
 are the same whether by plea  
 or answer - The Compt's Equity  
 title being admitted & the defence a  
~~not~~ <sup>not</sup> in accordance being sustained  
 by proof - The Allegation & probable  
 agree and the decree should  
 be affirmed

Supreme Court  
 Davis Brown & al  
 appellants

19

Patrick Melick  
 appellee

Points & authorities  
 on each of appellee

The Bill does not  
 call for any answer  
 - Ans. not required

4 Paige 504

Chas. Mason & Elizabeth  
 attys for appellee



## State of Illinois---Supreme Court, 3d G. D.

DAVID BROWN and JOHN P. McCAHAN, }  
vs. } APPEAL TO LaSALLE.  
PATRICK WELCH.

### ABSTRACT.

*Page 1*  
This was a Bill in Chancery, filed in the LaSalle Circuit Court, by Patrick Welch, complainant, against Phineas D. Cooley, David Brown and John P. McCahan, respondents, Feb. 4th, 1856.

The Bill of Complaint charges, that on Oct. 13th, 1855, Phineas D. Cooley made and delivered to Patrick Welch the following bond for a deed :

#### EXHIBIT A.

*13*  
Know all men by these presents, that I, Phineas D. Cooley, of Peru, LaSalle county Illinois, am held and firmly bound unto Patrick Welch, of said place, in the sum of twelve hundred dollars, lawful money of the United States, to be paid to the said Welch, his executors, administrators, or assigns, for which payment well and truly to be made, I bind myself, my heirs, executors and administrators firmly by these presents, sealed with my seal, and dated the thirteenth day of October, A. D. 1855.

The condition of this obligation is such that, whereas, the said Welch has this day purchased and bargained with the said Cooley for the following described premises or tract of land, situate in LaSalle County, and state of Illinois, viz :—

The south half of the south east quarter of section eighteen, township thirty five, range one east, for the consideration of twelve hundred dollars, to be paid in the following manner, viz : One hundred dollars to be paid on the execution and delivery of this instrument ; one team of horses, valued between the said parties at the sum of three hundred and twenty five dollars, also to be delivered upon the execution and delivery of this bond ; one hundred dollars with interest to be paid on the thirteenth day of October next ; seventy-five with interest, to be paid on the thirteenth day of October, 1857, and a good and sufficient warranty deed in fee simple, free from all incumbrances, of the following described premises, to wit :

Being the north half of the east half of the west half of lot one, in block seventeen in the (old town now) city of Peru, with the house thereon, and all the appurtenances thereto attached, which deed the said Welch will execute and deliver to the said Cooley on the first day of January, A. D. 1856—it being understood between the said parties, that the said Welch is to receive from one James Finn, from whom he purchased said lastly described premises, a good and sufficient deed of the same on the seventeenth day of December next—the possession of the said house and lot to be delivered by the said Welch to the said Cooley upon the execution and delivery of this bond ; and it being fully understood between the parties, that the said Cooley is to have the use of the said premises free from any rent or any other expense, until he receive from the said Welch a deed of the same, as herein provided for.



It being further understood that the said house and lot is valued at six hundred dollars, making the balance of the twelve hundred dollars consideration, to be paid by the said Welch.

Now, if the above bounden Cooley, on or before the first day of January next, (shall do and upon the request of the said Welch,) he, the said Welch, having first performed the conditions herein provided for him faithfully to be performed, make, execute and deliver, or cause so to be, a good and sufficient warranty deed in fee simple, free from all incumbrances, and with the usual covenants of the premises herein first described, then the above obligation to be void, else to remain in full force and effect. It is further understood and agreed between the parties, that upon the execution and delivery of the deed lastly provided for, the said Welch will execute and deliver to the said Cooley, a mortgage of said premises to secure the two last payments thereon.

(Signed,) PHINEAS D. COOLEY, [L. s.]

Phineas D. Cooley, to Patrick Welch. Bond of Conveyance. October 13th, 1855.

(COPY.)

STATE OF ILLINOIS, } NO. 73.  
LaSALLE COUNTY. }

16 I certify that this instrument was filed for record, December 12th, 1855, at 11 o'clock, A. M., and duly recorded in Book 45, pages 717 and 718.

[L. s.]

J. F. NASH, Clerk.

The bill further alleges, and the the answers of Brown and McCahan admit the payment of \$100, and the delivery of the team of horses at \$325, mentioned in said bond, by said Welch to said Cooley, at the execution of the bond. And that Welch offered the debt's, Brown and McCahan, to perform to them his covenants with Cooley, contained in said bond, at the time stipulated, Cooley having previously left the state, which debt's, Brown & McCahan, refused to accept. The bill further alleges, that on October, 26th, 1855, Cooley conveyed to David Brown and John P. McCahan, the premises mentioned in said bond, by the following warranty deed :

*Exhibit "F," is in the words and figures following, to wit :*

46-70  
THIS INDENTURE, made this twenty sixth day of October, in the year of our Lord one thousand eight hundred and fifty five, between Phineas D. Cooley, of the county of LaSalle and state of Illinois, party of the first part, and David Brown and John P. McCahan, of the county of LaSalle, in the state of Illinois, parties of the second part, witnesseth, That the said party of the first part, for and in consideration of the sum of seven hundred dollars, paid by the said parties of the second part, the receipt of which is hereby acknowledged, do, by these presents, grant, bargain and sell unto the said parties of the second part, their heirs and assigns, the following described tract or parcel of land, situated in the county of LaSalle, and state of Illinois, viz : The south half of the south east quarter of section eighteen, (18,) township thirty five, (35,) range one, (1,) east of the third principal meridian; together with all and singular the hereditaments and appurtenances thereunto belonging, or in any wise appertaining; to have and to hold the said premises as above described, with the appurtenances, unto the said parties of the second part, their heirs and assigns, forever. And the said party of the first part, for himself and his heirs, executors, and administrators, do hereby covenant to and with the said parties of the second part, their heirs and assigns, that he is well seized of the premises above conveyed, as of a good and indefeasable estate in fee simple, and has good right to sell and convey the same in manner and form as aforesaid; that they are free from all in-

[12501-51]



cumbrance, and that the above bargained premises, in the quiet and peaceable possession of the said parties of the second part, their heirs or assigns, against the claim of all persons whomsoever, he will forever warrant and defend.

In testimony whereof, the said party of the first part has hereunto set his hand and seal, the day and year first above written.

PHINEAS D. COOLEY, [L. s.]

Signed, sealed and delivered in the presence of

[L. s.]

STATE OF ILLINOIS, }  
LaSALLE COUNTY. } ss.

On this twenty sixth day of October, 1855, personally appeared before me, a Notary Public in and for said county, Phineas D. Cooley, to me personally known to be the person whose name is subscribed to the above deed, as having executed the same, and acknowledged that he had freely executed the same for the uses and purposes therein expressed.

Given under my hand and seal Notarial, the day and year aforesaid.

[L. s.]

JAMES STRAIN, Notary Public.

On the back of said deed was a certificate of registry in the words and figures following, to wit:

STATE OF ILLINOIS, } NO. 2881.  
LaSALLE COUNTY, }

I certify that this deed was filed for record, Oct. 29, 1855, at 8 $\frac{1}{4}$  o'clock, A. M., and duly recorded in book 44, page 710.

J. F. NASH, Clerk.

The Bill charges that Brown and McCahan fraudulently purchased said premises and took their Deed from Cooley, with notice that Cooley had before that time sold said premises to Welch, and of Welch's equitable rights under said Bond. And that Brown and McCahan, well knowing the equitable rights of said Welch under said Bond, and with intent to defraud said Welch, caused their said Deed for said premises, from said Cooley to be recorded, prior to the time that the Deed of said Welch from said Cooley for the same premises was filed for record.

The Bill prays for an answer from the defendants, the oath waived, and that Brown and McCahan may be decreed to convey said premises to Welch by Deed, and that the Deed from Cooley to Brown and McCahan be cancelled and set aside as fraudulent and void.

The several answers of Brown and McCahan deny that they knew of the said Bond or of the sale of said premises by Cooley to Welch, until the first week of December, 1855, when they were informed of said fact by Welch.

The said answers further set up that—On the 23d day of October, A. D. 1855, the said Cooley came to Brown and McCahan, both of whom then resided and still reside in the city of LaSalle, in LaSalle County, aforesaid, and offered to sell to them the said South half of the South-East quarter of Section eighteen, (18,) in Township thirty-five, (35), of Range one (1) East, in said County of LaSalle, for the sum of eight hundred dollars, and that they agreed with said Cooley that they would go on to the said land and see it; and accordingly on the 25th day of October, 1855, they went together on to the said Land, and then and there found that there was a small dwelling-house on said Land, but no fencing except a little fencing around the house; and that at said time there was no person in possession of said house, or upon said Land; that said dwelling-house was then vacant and unoccupied, the door was not locked, and that there was no furniture or other property of any kind in said house nor upon said premises, at that time; nor any appearance whatever of any person having lately been in possession, then in possession, or about to be in possession of said house or premises. And Brown & McCahan further say, that they returned



from said premises to LaSalle on the same day, viz : October 25th, 1855, and that on the morning of October 26th, A. D. 1855, they offered the said Cooley the sum of seven hundred dollars for said premises, upon condition that the title to the same was in him, and the title was unincumbered, clear and good ; and that on the first train going to Ottawa, from LaSalle, thereafter, to-wit : in the forenoon of the said 26th day of October, A. D. 1855, the said McCahan took passage thereon to Ottawa, for the purpose of examining the Record of said County for the purpose of ascertaining before they purchased whether or not the said Cooley had the title to said premises, and had a good right to sell and convey the same ; and whether or not the said premises were free and clear of all incumbrances ; that he returned from Ottawa to LaSalle on the noon train, on October 26th, A. D. 1855, and informed said Brown that he had caused the Records of LaSalle County, at Ottawa, to be searched and examined for the purpose aforesaid, and found from said examination of said Records, that the title to said premises was in the said Cooley, who had a good right to sell and convey the same ; and that there were no incumbrances thereon ; and thereupon, in the afternoon of said 26th day of October, A. D. 1855, they jointly purchased said real estate from him for the sum of seven hundred dollars, and paid him the same, and received from him a Warranty Deed for said real estate ; and that said deed was filed for Record at Ottawa, on the 29th day of October, A. D. 1855. And Brown & McCahan deny that at the time that they took their said deed for said premises from said Cooley, to-wit : on October 26th, 1855, they had any notice whatever of, or was aware that said Cooley had previously thereto, sold the said premises to said Welch, or to any one else, or that said Welch or any one else had any equitable right or interest as to the said Cooley in said premises, by virtue of the said Bond set forth in the said Welch's Bill of Complaint, or in any other way. And Brown & McCahan wholly deny that they took their said deed for said premises from said Cooley, with the intent to defraud the said Welch out of any equitable title in said premises by reason of said Bond, or of any equitable rights that said Welch had therein under said Bond ; but said ~~Brown~~ aver that they acted in perfect good faith, ~~and he believes said McCahan also acted in good faith,~~ in the purchase of said premises by them of said Cooley, as aforesaid, and were not, and are not guilty of any fraud in the premises. And Brown & McCahan admit that they caused their said deed from said Cooley for said premises to be entered of Record, and recorded in the office for recording Deeds in LaSalle County aforesaid, on the 29th day of October, A. D. 1855, which was long prior to the said Bond of said Cooley to said Welch for said premises being entered for record in said office. But these defendants deny that, at the time of filing their said Deed for record, as aforesaid, they knew of any equitable rights or interests of said Welch in said premises, under the said Bond ; or that their said Deed was so filed for record, with a view to defraud the said Welch, or to impair in any way his title to said premises, that said Welch might have by reason of said Bond. And Brown & McCahan further answering say that, it is not true that said Welch, immediately after the date of the execution of said Bond on the 13th of October, A. D. 1855, took actual possession of said premises, or that said Welch kept possession, or had actual possession of said premises at the time said Cooley deeded said premises to them, as aforesaid, on 26th day of October, A. D. 1855 ; and as to the improvements thereon, to-wit : a fence around the house on said premises, which said Welch claims to have made, in his said Bill of Complaint, these defendants say, that said fence was there on said 25th day of October, A. D. 1855, when they went to look at said premises as hereinbefore stated ; but they say that of their own knowledge they do not know who built the said fence, nor had they, at said time, or at the time of their purchase from Cooley as aforesaid, any notice or intimation whatever that said improvements were made by the said Welch.



49-50

The complainant Welch files several replecations to the answer of Brown and McCahan.

The complainant Welch read in evidence the following depositions of George Towers and Thomas P. Halligan :

*Deposition of George Towers :*

51

Interrogatory 1st—What is your age, name, occupation and place of residence ?

Answer 1st—George Tower ; Farmer ; Troy Grove Township, LaSalle co., Illinois.

Int 2d—Are you acquainted with the parties to this suit, and if so, how long have you been acquainted with them, respectively ?

Ans 2d—I am acquainted with Welch nearly a year, not quite a year ; with Cooley a year or more ; he boarded at my house some three weeks or more, and while boarding there he built a house on the south half of the south east quarter of section eighteen, township thirty five, range one east ; Brown came to my house, I think, the last of October or the first of November, 1855 ; this was the first time I became acquainted with Brown ; McCahan I never saw but once, that was in May, unless McCahan was with Brown when he, Brown, came to my house ; my impression is that he was ; it was stated to me by one of them at my house, that the man with Brown had lately come from the east.

Int 3d—Are you acquainted with the locality and situation of S  $\frac{1}{2}$  of S E  $\frac{1}{4}$  sec. 18, T 35, R 1 E., and was you so acquainted prior to 13th Oct., 1855, and how far do you reside from said land ?

Ans 3d—I am acquainted with its location and situation, and frequently been on it and over it for the last five years ; the land is nearly a mile from my house.

Question—Did you ever have any conversation with the def'ts, or either of them relative to said land, and if so, with which of them, and when and where ?

Ans 4th—I had a conversation with Cooley at my house ; should think it was in the last part of October ; I had a conversation with Brown and the man who was with him at my house subsequent to the conversation I had with Cooley, and within a week or two.

Int 5th—State, as near as you can, the conversation you had with defendant Cooley ?

Ans 5th—Cooley told me that he had sold the land to an Irishman ; he showed me a horse that he said he had got ; I asked him if he got paid ; he said he said had got part pay ; that he had got a span of horses ; the one he had at my house was one of them that he had got in part payment ; he came at that time to pay his board bill.

Int 6th—State, as near as you can, the conversation you had with Brown and McCahan, the other def't, or with either of them ?

Ans 6th—They came then to inquire about the location of the land, and I told them where it was, and then told them that Cooley had sold it to an Irishman ; my impression is that Brown stated that the Irishman had backed out.

Int. 7th—State if you know anything in relation to a fence round the house upon the land above spoken of, and whether it was built by Welch or not ?

Ans 7th—There was a fence, but I do not know who built it.

Int 8th—What countryman is the complainant, Patrick Welch. ?

Ans 8th—I should think he was an Irishman.

GEORGE TOWER.



*Cross-Examination of George Tower by defendants:*

Int 1st—Mr. Tower will please state <sup>whether</sup> ~~what~~ he, when Brown and McCahan came to his house to make inquiry as to the land as referred to him in his answer to the 6th Int., he, Tower, did not use the language, "that he had understood that Cooley had sold that land to an Irishman, but had since been told the Irishman backed out?"

Ans 1st—I do not recollect; my impression is that I did not know that the Irishman backed out until Mr. Brown told me so.

Int. 2d—Is your recollection of what was said and took place at the times you refer to, vague and indistinct?

Ans 2d—What I have stated is correct so far as I know.

Int 3d—Please state whether the house you refer to, as being on the land in dispute, is within sight of your place of residence?

Ans 3d—Yes, the House is within sight of my place of residence.

Int 4th—Has any one been in actual possession of the premises in dispute since the time you refer to when Brown and McCahan was at your place making the inquiries you refer to?

Ans 4th—Not that I know of.

Int 5th—If there had been any one in possession during the time referred to, would you be almost certain to have know it?

Ans 5th—My impression is that there was no family living in the House; the land is unbroken prairie; I have seen no one at work on it.

GEORGE TOWER.

*Deposition of Thomas P. Halligan,*

Who, being sworn deposes and says:

Int 1st—What is your name, occupation and place of residence?

Ans 1st—T. P. Halligan; attorney at law; Peru.

Int 2d—Did you ever tender to defendants, or either of them, and if so, which of them, any deeds or mortgages, or other papers, and what when and where, and if you have the papers tendered, make an exhibit of them.

Ans 2d—I have tendered to David Brown the deed and mortgages now exhibited by me, and marked 'A.' and 'B.' on the second day of January, 1856; I had previously been, on the first day of January, 1856, to make a tender of these papers, but was unable to find the defendants, or either of them, at the time of making the tender I read both the deed and mortgage to Mr. Brown; I made a demand for a warantee deed for the south half of the south east quarter of section eighteen, township thirty five, range one east, which Mr. Brown refused to give, and also refused to receive the deed and mortgage; I tendered to him all this; I <sup>also</sup> ~~was~~ at the instance of Mr. Welch and for him.

Int 3d—Did you ever have any conversation with the defendants, or either of them, and if so, with which of them and where and when, in relation to the sale of the land by Cooley to the complainant, and what was such conversation?

Ans 3d—My impression is that I had a conversation with David Brown subsequent to the tender of the papers, at LaSalle, in which he stated Cooley had told him that Welch had backed out of the sale.

Int 4th—Look on the paper marked exhibit 'C.,' and state what you know about it?

Answer 5th—I drew it up at the instance of Cooley and Welch, on the day of its date, and saw Cooley sign it on the same day, and was delivered to Welch by Cooley on the same day; Cooley acknowledged the receipt of one hundred dollars in cash, and also a team of horses, which were to be paid in accordance with the terms of said exhibit, marked 'C.'

THOMAS P. HALLIGAN.

55

{12501-55}



STATE OF ILLINOIS, LaSALLE COUNTY, ss. }  
In the Circuit Court thereof. }

PATRICK WELCH,  
vs.  
PHINEAS D. COOLEY, *et al.* } IN CHANCERY.

69 It is hereby stipulated that there is evidence in this cause, that David Brown, one of the defendants in this cause, returned from an examination of the premises in controversy, to LaSalle, on October 25th, 1855, and that on the 26th October, 1855, said McCahan went to Ottawa to examine the records of LaSalle co., to ascertain if Cooley's title to said land was perfect, good and unincumbered, and that on said day said McCahan caused the said records to be searched for said purpose, and found that the title to said premises, as appeared by said records, was in said Cooley, and that said land was not incumbered.

GRAY & JENKINS, Att'ys for David Brown and J. P. McCahan.  
CHUMASERO & ELDRIDGE, Att'ys for Welch.

73 At the February special term of the LaSalle Circuit Court, 1857, Hon. M. E. Hollister, judge of said court, decreed, that Brown and McCahan were trustees for Welch, and decreed that they should convey the premises in controversy to said Welch.

79 The defendants pray an appeal to the Supreme Court, at the same time, which is granted on condition that the defendants, within 30 days from Feb. 24th, 1857, file an appeal bond, payable to the complainant, in \$300, with Alexander Campbell as security, and that defendants have 30 days to prepare and file a Bill of Exceptions in this case.

On 3d March, 1857, an agreement in lieu of a Bill of Exceptions was filed, in the words and figures following, viz :

IN CHANCERY—At February Special Term, A. D., 1857, of the LaSalle County Circuit Court.

DAVID BROWN and JOHN P. McCAHAN, }  
Impleaded with Phineas D. Cooley, }  
ads. }  
PATRICK WELCH. }

80 Whereas, the above entitled cause having been heard and determined by Hon. M. E. Hollister, judge of the circuit court, within and for the county of LaSalle in the State of Illinois, at the term above named, and a decree pro confesso entered against the said Phineas D. Cooley, and a decree against the said Brown and McCahan, after hearing and considering the proofs and exhibits. And whereas, the said David Brown and John McCahan are about taking an appeal to the Supreme Court.

Now, therefore, this agreement is entered into by the parties, complainant and respondents, Brown and McCahan respectively, through their respective attorneys, that all the depositions read in the trial of this cause, in the circuit court, to wit : The depositions of George Tower and Thomas P. Halligan, and all the Exhibits and proof that were used, or belonging to this cause on the hearing, except the depositions taken by defendants, which were withdrawn by defendants by leave of the court, and were not considered in evidence before the circuit court; Exhibits D. B. A. C. and a certain stipulation, signed by the respective solicitors of the parties, relative to the respondents, Brown and McCahan, having had the records of deeds examined, and other matters therein marked E., and a certain deed from the said Phineas D. Cooley to the respondents, Brown and McCahan, marked Exhibit F.



That said Exhibits, stipulation and proof, shall be taken and considered a part and portion of the record in this cause, and be so certified to and sent up with the other papers to the Supreme Court, in this cause, by the clerk of the circuit court; and on the hearing in the Supreme court, they shall be taken and considered for what they purport to, (to wit: (Exhibits,) Proofs) and Stipulation or agreements, including the depositions and this agreement. And the judge of the circuit court is asked to approve of this stipulation, and make an order making it a part of the record in this cause, as well as the matters and things herein contained, and agreed to be made a part of the record, and that said order shall be entered as being made on the 23d of February instant, it being the day on which said decree was rendered.

GRAY & JENKINS, Solicitors for Respondents, Brown and McCahan.  
CHUMASERO & ELDRIDGE, Solicitors for Complainant.

The foregoing is approved by me and ordered to be made a part of the record as set forth.

M. E. HOLLISTER,  
Judge of the 9th Judicial Circuit.

82 The defendants filed their appeal bond, as required, on March 3d, 1857.



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Brown  
vs  
Welsh

The defendant filed their answer on March 28, 1901.

The foregoing is approved by me and entered to be made a part of the record  
this 1st day of April 1901  
M. F. HOLLISTER

CHAMBERO & EIDRIDGE, Solicitors for Complainant.

GRAY & LEIKINE, Solicitors for Respondents, Brown and McQuinn.

ing the day on which said decree was rendered.

order shall be entered as being made on the 23d of February instant, it be-  
thing herein contained, and agreed to be made a part of the record, and that  
order making it a part of the record in this case, as well as the matters and  
large of the circuit court is referred to before of this stipulation, and make an  
tion or agreements, including the depositions and this agreement. And the  
considered for what they have to do: (to wit: (Exhibit) (Book) and Exhibits  
circuit court: and on the hearing in the Supreme Court, they shall be taken and  
with the other papers to the Supreme Court in this case, by the clerk of the  
ing the day on which said decree was rendered, and be so certified to and  
The foregoing is approved by me and entered to be made a part of the record  
this 1st day of April 1901  
M. F. HOLLISTER

CHAMBERO & EIDRIDGE, Solicitors for Complainant.

GRAY & LEIKINE, Solicitors for Respondents, Brown and McQuinn.

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with the other papers to the Supreme Court in this case, by the clerk of the

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The foregoing is approved by me and entered to be made a part of the record



*Patricia Welch*  
**Brown**

**Welch**

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