

No. 12060

Supreme Court of Illinois

Crain, et al

vs.

Caldwell

71641  7

Chas. E. Tagwell
James A. Crain et al.
vs
John G. Caldwell

25

Crain
Prepared

Caldwell

1853

12060

John G. Caldwell
vs
James A. Crain et al.

John G. Caldwell

vs

Jessie A. Grain & others

} In Supreme Court
Error to Iowa

And now come the said Plaintiffs in Error and say that in the Record & proceedings and in the rendition of the decree in this Cause there is manifest Error in this to wit

- 1st The Circuit Court Erred in rendering a decree in favor of complainant against defendants below
- 2nd The said Court erred in sustaining said bill there being no Equity on its face
- 3rd The decree is erroneous in ordering solicitors fees to be paid -
- 4th In directing Court to collect interest from the day of A.D. 18- to date of sale
- 5th The Court Erred in rendering any decree against Minor heirs - The Record not showing upon its face any evidence of the truth of the allegations of the bill.
6. The Court Erred in approving the Report of the Commissioners Sale. There being no time & place of sale advertised - But only Notice of a Sale between the hours of 10 O'clock A.M. & 4 O'clock P.M. of a certain day.

7th The Court Erred in approving said Sale, because
the Court, Reports that he advertised to sell
between the hours of 10 O'clock A.M. & 4 P.M.
and Reports that he sold between the hours
of 9 O'clock A.M. & 4 P.M.

For these and other manifest Errors in
said Records said Plaintiff in Error Prays that
the said several Decrees of the said Circuit
Court may be reversed.

June 16th 1853.

Prayer for Reversal in Error

John G. Caldwell. Compt

~~Advs~~
Jennet A. Crain
Louisa Cordine Crain
Amanda, J. Crain

Wife at Law of
Lewis H. Crain de;
Benjn Kellogg Jun (Deft)
Administrator of
Lewis H. Crain de;
And Unknown heirs of
Lewis H. Crain de;

in the Supreme
Court.
To Term
Term. 1853

Issue Writ of Error and
Scin. facias to hear Error in the above
intitled Cause in favor of the defendants
above named against the Comptment
Returnable to next Term —

J. Ireland Esq Clerk
Sept 4th 1852

Thos Hanger
for Defts

File the Record. Will send the \$5.00 as soon as I get it.

Plas to the fixed Court
of Yaguaru Center and
State of Illinois to the ap-
parent Term, in the year
of our Lord, one thousand
Eight hundred and Forty
Seven, before the Hon. Sam-
uel N. Smith, one of the
Justices of the Supreme Court
of the State of Illinois, assign-
ed to and presiding in the
Eighth Judicial Circuit, com-
posed of the Counties of
Juganum, Yaguaru, Wood-
ford &c. &c.

It is remembered, that on the 28th
day of June, in the year of our
Lord, one thousand Eight hundred
and forty Seven, John G. Calverly
by his Solicitor Samuel B. Bailey, filed
his Bill, Exhibit A, Bond for
cost. Affidavits of non resident Defendants
in the following entitled cause, to wit:

Bill
" John G. Calverly
" "
" James A. Cain, Lucia
" (Armande Cain, Ann-
" de J. Cain, minors and
" heirs at Law of Lewis F.
" Cain deceased, Juganum
" Kellogg McAdams, Executor of Lewis
" Cain deceased, and unknown Heir-
" of Lewis F. Cain deceased

In Chancery

which series Bill Bond for cash and affidavit of
non residents and Exhibits (A) are in the words
and figures as follows, to wit:

To the Hon Judge of the Jaycees Circuit
Court in Chancery sitting.

Your Orator John B. Caldwell Humbly com-
plaining shew unto your Honor, that some time
previous to the year of our Lord one thousand
eight hundred and thirty five your Orator and
one Lewis F. Corwin since deceased purchased the
following tract or parcel of Land of one Daniel
Dillon and wife. to wit: Three acres of Land
lying and being in Jaycees County & State
of Illinois the aforementioned tracts of land
is lying and bounded on the Illinois River in
the County aforesaid & is to be hereafter laid off &
to be taken off of the North of the South East frac-
tional quarter of Sec 4 in Township 34 North of
Range 5 West - in the district of land offered for
sale at Springfield in Sangamon County - commence-
ing at a stake in the margin of the river or
corner of said fractional quarter at its North-
corner thence running South along said line just
so far as or West line to the river thence along
the margin of said river to the place of beginning
shall enclose or enclose three acres. Together with
all the premises & privileges thereunto belonging
in any wise appertaining thereunto. Your Orator
further shew at the time of the purchase of said
Land your Orator purchased it for the joint benefit
of himself and said Lewis F. Corwin, and that before
the payment of the purchase money became due
the said Lewis F. Corwin departed this life which
was in the month of Sept^r 1834. Your Orator

“ further show that after the death of said Crain
“ in the year 1835 your Orator paid unto the said
“ Daniel Dillon the sum of Thirty Dollars which
“ amount your Orator paid out of his own individ-
“ ual funds, and that he caused the deed to be
“ executed to your Orator and the legal heirs of
“ said S. F. Crain by which deed it will more
“ fully appear marked A which your Orator files
“ and pray may be made part of this bill - which
“ said sum was for full purchase of said Land,
“ Your Orator further show that the heirs of
“ Lewis F. Crain dec^d are James Adair Crain
“ Lousia Caroline and Amanda Jane Crain and
“ that they are minors, and that they reside without
“ the limits of this state.

“ You — further show that on the 10th
“ day of April 1844 your Orator obtained a judg-
“ ment against Benjamin Kellogg Jr the admin-
“ istrator de bonis non of Lewis F. Crain dec^d
“ for the sum of Five Thousand Three Hundred
“ and forty Six $64\frac{1}{4}$ dollars which sum nor any
“ part of it ever has paid but remains due and
“ unpaid, and that the estate of Lewis F. Crain is
“ entirely insolvent and will not pay one cent on
“ the Dollar. Your Orator further show that at the
“ time of the rendering said Judgment Benjamin
“ Kellogg Jr as the Administrator
“ pled that he had fully adminis-
“ tered and it was so found as was
“ the pleadings in said cause will more
“ fully appear — Your Orator fur-
“ ther shows at the time of the pur-
“ chase of said land each one that is
“ Lewis F. Crain & your Orator were
“ each own one half of the said land

Bond
for
Cost

John G. Caldwell
vs
James A. Crain
Louisa Caroline Crain
Amanda J. Crain
Minors and heirs of Lem of
Lewis Crain decd
Benjamin Kellogg & and
the unknown creditors of
Lewis F. Crain decd

Circuit Court
Sept Term 1847
In Chancery

I do hereby enter myself security
for costs in this cause and acknowledge myself
bound to pay or cause to be paid all costs which
may accrue in this action either to the opposite
party or to any of the Officers of this Court in
pursuance to the laws of this state. Dated 2nd the
day of June 1847

Saml. P. Bailey

Exhibit

John G. Caldwell
vs
James A. Crain
Louisa Caroline Crain
Amanda J. Crain minors
and heirs at law of Lewis
Crain deceased Benjamin
Kellogg & and the unknown
creditors of Lewis F. Crain decd

Sept Term 1847
Circuit Court in
Chancery

John G. Caldwell having been
first duly sworn according to law Deposeeth and
saith that he is informed and verily believes
that all of the Defendants to this suit with
the exception of Benjamin Kellogg & ^{are now residents of the state.} and further
this deponent saith not.
Sworn to and subscribed

"before me this 28th day of *J*
"June AD 1847 *John G. Caldwell*
" *J. A. Jones* *clerk* *3*

Exhibit
A.

"This Indenture made this Twelfth day of January
"1835 in the year of our Lord 1835 Between Daniel
"Dillon late of Jaycewell County, & State of Illinois of
"the one part & John G. Caldwell of the County of
"Champaign & State of Ohio of the other part. Witnesseth
"That the sd Daniel Dillon sent for & in consideration
"of sum of Thirty Dollars to him in hand paid by sd
"J. G. Caldwell of the second part. the receipt whereof
"is hereby acknowledged hath granted bargained & sold
" & by these presents doth grant bargain & sell unto
"John G. Caldwell & the legal heirs & representatives
"of the late Lewis F. Loran (of Champaign & State of
"Ohio & his said Caldwell heirs & assigns & the afore-
"said legal heirs of the aforesaid Lewis F. Loran their
"heirs or assigns or legal representative the following
"described Tract of Land. (to-wit) Three acres of Land
"lying & being in Jaycewell County, & State of Illinois
"the aforementioned tract of Land is lying & bounded
"on the Illinois River in the County aforesaid & is to
"be hereafter laid off & to be taken off the North corner
"of the South East fractional quarter of section 4
"in Township 24 North of Range 5 West in the
"District of Lands offered for sale at Springfield in
"Sangamon County, commencing at a stake in the
"margin of the river or corner of said fractional
"quarter at its North corner thence running South
"along said line just so far as a West line to the
"river thence along the margin of said river to the
"place of beginning shall enclose or include three
"acres. Together with all the premises & privileges

thereunto belonging or in any wise appertaining
thereunto or in any wise appertaining unto the said
John S. Caldwell & the legal heirs of the said Lewis
F. Crain dec'd & each & every of said heirs of said
Caldwell & Crain & to their assigns for ever & the
said Daniel Dillon Sen & Ann Dillon his wife doth
a covenant & agree that they will warrant & forever
defend the right & title of the aforementioned tract
of land to the said John S. Caldwell his heirs &
the heirs of the said Lewis F. Crain for ever against
the claim or claims of every person or persons what-
soever. In witness whereof the said Daniel Dillon
Sen & Ann Dillon his wife have to these presents set
their hands & seals this day & year first above written,
Signed sealed acknowledged

delivered in presence of
Nathan Dillon
Moses Nashins

Daniel Dillon
Ann Dillon

Execut
seal

State of Illinois
Jagwell County

This day personally came the within
named Daniel Dillon Sen and Ann Dillon his wife
and both of them being personally known to me to be
the same persons that subscribed said deed and
Ann Dillon being examined separate and apart
from her husband as the law requires and did
acknowledge the signing of the within deed to be
a free voluntary act of his own for the purpose
therein named without any threats, coercion or
over persuasion from her husband and the said
Daniel Dillon also on his part did agree that
the signing of the within deed was a free
voluntary act of his own for the purpose
within named. As witness my hand and

" Seal this the 12th day of January 1835.

" Nathan Dillon J. N. D.

Records State of Illinois
Certif Jaycewell County. Records Office. Bk 19th Jan 1838
" J. C. Morgan Esq Recorder in and for
" said County do hereby certify that on the above
" day this deed was duly Recorded in this Office
" in Book C. page 344

" J. C. Morgan Esq.
" per J. N. Morrison Secy

Records State of Illinois, Jaycewell Co. Records Office 19th
Certif " Jan 1836 This deed was this day duly Recorded
" in this office Book C. Page 344

" J. C. Morgan Esq.
" per J. N. Morrison Secy

" Hereafterwards to wit on the said Twentieth day of
" June in the year of our Lord Eighteen Hundred and
" Forty Seven, Summons in Chancery was issued in the
" words and figures as follows, to wit:

Summ State of Illinois The People of the State of Illinois to
" Jaycewell County the Sheriff of said County Greeting:
" We command you to summon James A
" Grain Louis Caroline Grain, Amanda J. Grain,
" minors and heirs at law of Lewis F. Grain deceased
" Benjamin Kellogg & administrators of Lewis F.
" Grain deceased and the unknown Creditors of
" Lewis F. Grain deceased to be and appear before our
" Circuit Court for said County on the first day of
" the next Term thereof to be held at the Court House
" in the Town of Tremont on the First Wednesday
" of the Month of September next and then and

there to answer unto the matters and things
contained in a certain Bill in Chancery filed
in our said Circuit Court on the Chancery side
thereof by John G. Caldwell, and to do and
perform whatever our said Circuit Court shall
order and decree in the premises, And you hereof
make due return.

Witness J. A. Jones Clerk and the seal of
said Circuit Court at Fremont this 28th
day of June AD 1847.

J. A. Jones Clerk

Shff Ret. Served the within subpoena in Chancery by
leaving a copy with Benj Kellogg the others
not found this August 2^d 1847
A. W. Briggs Shff T. C.

Now afterwards to wit: on the Twenty ninth day of
June in the year of our Lord, Eighteen Hundred
and forty seven. Publication was had in the
words and figures as follows, to wit:

State of Illinois Circuit Court to the September
Term County Term AD 1847.

John G. Caldwell

James Addison Grain.

Louisa Caroline Grain.

Amanda S. Grain, minors and
heirs at law of Lewis F. Grain.

vs
Benjamin Kellogg & adm^r of
Lewis F. Grain, and the unknown
creditors of Lewis F. Grain. Dec^r

In Chancery

Affidavits having been filed in said
entitled cause satisfactorily showing, that the
defendants James Addison Grain, Louisa Caroline

copy
sent

Craig, Amanda J Craig, and the unknown creditors
of Lewis T. Craig, deceased, are non residents of
the State of Illinois, and summons having been
issued returnable to the September term AD 1847.
Now public notice is hereby to the said said non
residents that unless they be and appear before
our Circuit Court, for said County, on the first
day of the next term thereof, to be held at the
Court House in the Town of Tremont on the first
Wednesday of the month of September next and
plead, answer or demur to the complainants bill
of complaint herein filed, the matters and things
therein contained, will be taken for confessed as
to them and a decree entered according to the prayer
thereof. Dated at Tremont, June 29 AD 1847.
J. A. Jones, Clerk
Samuel P. Bailey, complainants solicitor.

And Cert. The undersigned hereby certify, that the notice
hereto annexed, was published in the "Tazewell
Whig" a newspaper printed in Tazewell County,
and State of Illinois, commencing the 29th
day of June Eighteen hundred and forty seven for
6 successive weeks September 3rd 1847.
G. Lawrence, Printer,
To the Honorable Judge of the Circuit Court of
Tazewell County.

Now afterwards to wit, at a Circuit Court begun and
held in the Town of Tremont on the First Wednes-
day of the Month of September in the year of our
Lord One thousand eight hundred and forty seven.
Present the Hon Samuel H. Treat; and on the
Fourth day of said Term the following proceedings

"there to answer unto the matters and things
"contained in a certain Bill in Chancery filed
"in our said Circuit Court on the Chancery side
"thereof by John G. Caldwell, and to do and
"perform whatever our said Circuit Court shall
"order and decree in the premises, And you hereof
"make due return.

"Test Witness J. A. Jones Clerk and the seal of
"said Circuit Court at Fremont this 28th
"day of June AD 1847.
"J. A. Jones Clerk

Shipp Rec. "Served the within subpoena in Chancery by
"leaving a copy with Benj Kellogg the others
"not found this August 2^d 1847
"A. W. Bugge Shipp T. C.

Now afterwards to wit: on the Twenty ninth day of
June in the year of our Lord, Eighteen Hundred
and forty seven, Publication was had in the
words and figures as follows, to wit:

"State of Illinois / Circuit Court to the September
"Term of Term a D 1847.

"John G. Caldwell

"James Addison Grain.

"Louisa Caroline Grain.

"Amanda T. Grain, minors and
"heirs at law of Lewis F. Grain.

"And Benjamin Kellogg & adm^t of
"Lewis F. Grain, and the unknown
"creditors of Lewis F. Grain. Dec^t

"Affidavit having been filed in said
"entitled cause satisfactorily showing, that the
"defendants James Addison Grain, Louisa Caroline

In Chancery

were had in said cause,

" John H. Caldwell

" vs

" James A. Brain and
" others heirs of Lewis F. Brain dec^d

In Chancery.

" This day comes the Complainant
" and on his motion, the Defendant Benjamin Kellogg
" is ruled to answer by Monday morning at the
" opening of this Court.

Now afterwards to wit: on the fifth day of September
being the fifth day of said Term the following order
was had in said cause.

" John H. Caldwell

" vs

" James Addison Brain and
" others heirs of Lewis F. Brain dec^d

In Chancery.

" This day again comes the Complainant
" and on his motion, Benjamin S. Prettyman Esq is
" appointed Guardian ad litem to the infant
" Defendants.

Now afterwards to wit: on the said fifth day of
September Benjamin S. Prettyman Esq Guardian
ad litem files his answer in the words and figures
as follows to wit:

" John H. Caldwell

" vs

" James Addison Brain &
" others minor heirs of Lewis
" F. Brain dec^d & others

Spencer Ct. Court. Sept.
Term 1847
In Chancery.

" Benjamin S. Prettyman Guardian ad
" litem of James A. Brain, Louis Caroline Brain,
" Amanda S. Brain minor heirs of Lewis F. Brain
" dec^d and defendants in the above entitled cause,
" for answer for the above defendants in the
" above cause aforesaid, answering, saying, that

Brain

Ans. Guard
ad litem

" that he knows of nothing, that, is contained in
" the plaintiff's bill as charges & allegations; but;
" admits nothing, and calls for strict proof in
" the premises &c &c

" Sworn to and subscribed S. S. Prettyman
" before me this 6th Sept 1847 Guardian ad litem for
" J. A. Jones Esq. depts &c

Decree
Now afterwards to wit on the Seventh day of
said Month being the seventh day of said Term
the following decree was had in said cause in
the words and figures as follows to wit:

" John G. Calverell

" or

" James Addison Crane

" Louisa Caroline Crane

" Amanda T. Crain minors

" heirs at Law of Lewis F.

" Crain deceased Benjamin

" Kellogg &c administrator of

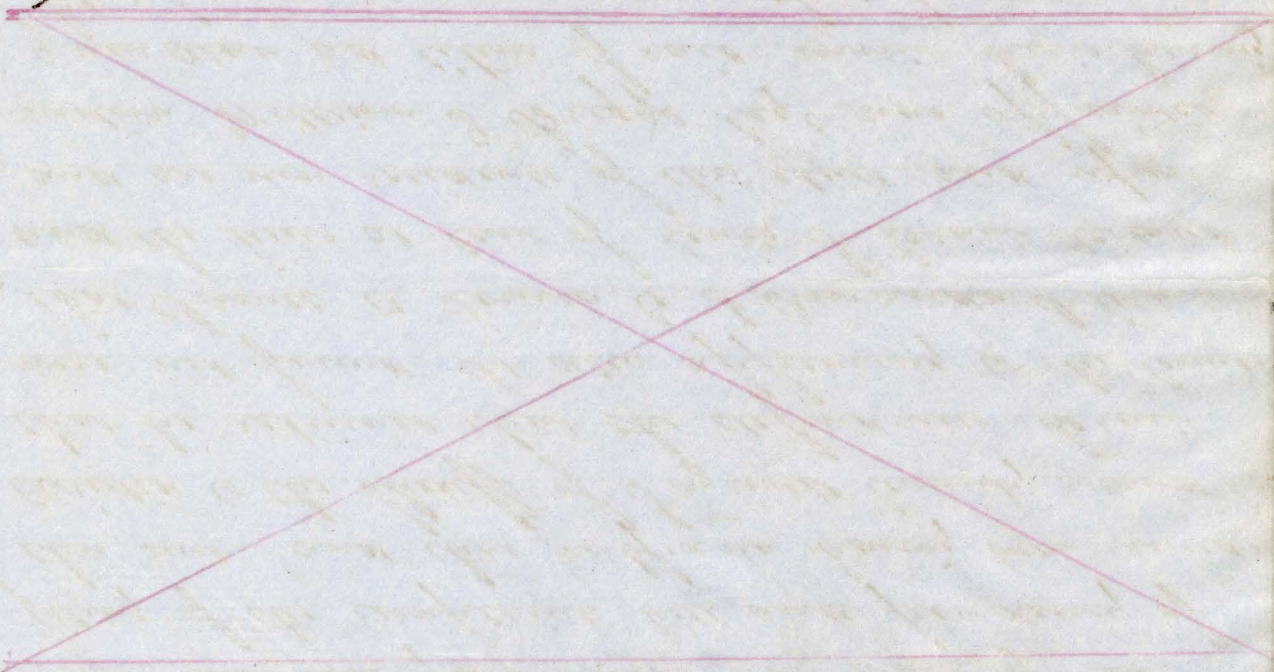
" Lewis F. Crain deceased and others

In Chancery.

" This cause came on to hearing on the exhibits
" and proof & it appearing to the Court that the
" land in the Complainant's bill mentioned was
" purchased by the Complainant and Lewis F.
" Crain. deceased in his life time, upon the joint
" account of the said Complainant and said Lewis
" F. Crain deceased. & that the deed thereto was taken
" to the said Complainant and the heirs of Lewis F.
" Crain deceased. It also appearing to the Court
" that the Complainant paid Twenty five dollars
" of the purchase money - It also appearing to the
" Court that Benjamin Kellogg the administrator
" de bonis non of Lewis F. Crain deceased was
" duly subpoenaed. It also appearing to the

"Court, that one publication was made of the
"filing of the complainant's bill and pendency of
"this suit - and that subpoena having been issued
"directed to the Sheriff of Tazewell County; and
"that he returned that the defendants herein
"were not found. It also appearing to the Court
"that James A. Lounsberry, Amanda J. Lounsberry,
"and the heirs at law of Lewis F. Lounsberry deceased
"and are non residents of this state and upon
"motion William F. Briggs Esq. was appointed
"guardian ad litem of said minor heirs, having
"filed his answer and says that he does not
"know of any of the matters or things set forth in
"said Complainant's bill but requires proof, and
"the Court after having the proofs of the matters
"and things in complainant's bill Benjamin
"Kellogg Jr. having failed to answer said bill
"of Complainant and being fully advised in the
"premises, with order adjudge and decree that
"the land set forth and described in the said
"Complainant's bill, to wit "Three acres of land
"lying and being in Tazewell County & State of
"Illinois the aforementioned tract of land is
"lying and bounded on the Illinois river in the
"County aforesaid & is to be hereafter laid off &
"to be taken off of the North of the South East
"fractional quarter of Section 4 in Township 24
"North of Range 5 West in the district of Land
"offered for sale at Springfield in Sangamon County,
"commencing at a stake in the margin
"of the river or corner of the said fractional
"quarter at the North corner of said fractional
"quarter running South along said river just
"so far as a West line to the river thence
"along the margin of said river to the place

" of beginning shall enclose or include Three acres
" together with all the premises & privileges there-
" unto belonging be sold at Public Auction for
" cash in hand, and that the William H.
" Holmes be and is hereby appointed commis-
" sioner, the Court doth further order that the
" said Commissioner to give public notice of the
" time and place of said sale by publishing in
" the Towns whig three succeeding weeks.
" The Court doth further order that the said
" Commissioner pay first the cost of suit &
" commissioners fees, & pay Solicitors fees & the sum
" of Twenty five Dollars and interest thereon
" from day of A.D. 18
" to the date of said sale to the complainant and
" the residue of said sale to be paid one half
" to the complainant and the other half to
" Benjamin Kellogg & the administrator of
" Lewis F. Cram's deced^t. The Court doth
" further order that the said Commissioner to
" execute a deed to the purchaser of said Land
" And also to report his proceedings in the
" premises to the next term of this Court.



And now afterwards to wit at a Court
Court began and held in the town of
Tremont on the first Wednesday day in the
month of April A.D. 1848. The following
proceedings were had in said Cause on the
fifth day of said Term and the Eleventh
day of said month of April —

John G. Caldwell

^{vs}
James Addison Crain
and others, Minors heirs of
Lewis F. Crain dec'd & others

In Chancery,

This day came William
H. Holmes Esq. the Commissioner appointed to
execute the decree in this Cause rendered and
presented his Report in the words and figures
as follows, to wit: —

State of Illinois }
Tazewell County }

To the Honorable Samuel
H. Treat Judge of the Circuit Court of the
County of Tazewell

The undersigned Commissioner
appointed in a cause in Chancery in said Court
wherein John G. Caldwell is Complainant &
Benjamin Kellogg Administrator of Lewis F.
Crain dec'd & James Addison Crain & others
were Defendants, respectfully makes Report
That in pursuance of the decree rendered in said
Cause at the September Term A.D. 1847, he did
after having given due notice of the time place
and terms of Sale by Publication in the "Tazewell
Whig" a public newspaper printed at Pekin in
said County of Tazewell in the manner and
for the time specified in said decree, on the 30th

day of October A.D. 1847 at the Post Office
in the town of Pekin between the hours of nine
O'clock in the forenoon and four O'clock in
the afternoon of said day expose the premises
mentioned in said decree "to wit" Three acres
of land lying and being in Tazewell County
& State of Illinois, lying and bounded on the
Illinois River in the County aforesaid & hereafter
to be laid off & to be taken off of the North
of the South East fractional quarter of Section
4 in Township 24 North of Range 5 West
in the District of lands offered for sale
at Springfield Sangamon County, Commencing
at a stake in the margin of the River or
Corner of the said fractional quarter at the
North Corner of said fractional quarter, at
the North Corner of said fractional quarter
running south along said line just so
far as a west line to the river thence along
the margin of said river to the place of be-
ginning shall enclose or include three acres

And Samuel P. Bailey
did then and there bid for said tract of
land the sum of Sixty Six Dollars,
which being the highest bid, the said tract
of land was struck off & sold to him for
that price. And the said Samuel P. Bailey
having paid said sum of money according
to the terms of sale I executed a deed
to him for the premises

The amount of
Printer's fees paid for advertising is three dollars
& fifty Cents. All of which is Respectfully
Submitted

Wm H Holmes Comr

Commissioners Sale
State of Illinois }
Tazewell County }
John G Caldwell

Circuit Court

vs
James Addison Cream
Louisa Caroline Cream & others

In Chancery

Notice is hereby given
that in pursuance of a decree of the Circuit Court
of Tazewell County entered in the above Cause
at the September Term AD 1847 I shall on the
thirtieth day of October next at the Post Office
in the town of Pekin between the hours of 10 O'clock
in the forenoon and four O'clock in the afternoon of
said day. Sell at Public Auction to the highest
bidder for cash in hand the following Real Estate
to wit, Three Acres of land lying and being
in Tazewell County and State of Illinois. The
aforesaid tract of land is lying and bounded
on the Illinois river in the County aforesaid and is
to be hereafter laid off and to be taken off of the
North of the Southeast fractional quarter of
Section 14 in Township 24 North of Range 5
West in the district of lands offered for sale
at Springfield Sangamon County, Commencing
at a Stake in the Margin of the river or corner
of said fractional quarter running North along
said line just so far as a west line to river
thence along the Margin of said river will
inclose or include three acres, together with
all the privileges thereunto belonging. A deed
will be executed to the purchaser upon the
payment of the purchase money.

Pekin September 28th 1847 William H Holmes
Commissioner

The undersigned hereby Certify that
the Notice hereto annexed was published
in the "Tazewell Whig" a newspaper printed
in Tazewell County State of Illinois, commencing
the first day of October Eighteen hundred
and forty seven for five successive weeks
October 30 - 1847

Lawrence & Rhoads,
Printers

To the Honorable Judge
of the Circuit Court of
Tazewell County

which said Report
is approved by the Court, and the
Commissioner for his services herein allows
the Sum of Ten Dollars

State of Illinois I John A. Jones
Juryman of said Court, do hereby certify, that the foregoing
pages contain a true, full and
complete Transcript of all the Papers
filed and all the Proceedings had
in said entitled cause of John G.
Ladwell against James St. Clair, Louis
Caroline Parry, Amanda J. Parry mi-
nor and her at Law & Louis St. Clair
deceased, Benjamin Kellogg Ad-
ministrators of Louis St. Clair deceased
and the unknown parties of Louis
St. Clair, deceased, (at fully and
completely) as the same are of
Record in my said Office
by Testimony whereof I
have hereunto set my hand
and Official Seal at St. Louis
this 3^d day of September in
the year of our Lord one thousand
eight hundred and
seventy two

John A. Jones
Clerk

Lazenwell
James A. Brainards.
vs
John G. Caldwell
Receiv & Exors

Filed Sept. 7. 1882,
L. Ireland CLK.

STATE OF ILLINOIS, } ss { Supreme Court of
La Salle County, } said State, 3d
Grand Division.

James A. Crain, Louisa Caroline Crain, Amanda Crain, Heirs at Law of Lewis F. Crain deceased, Benjamin Kellogg jr. Administrator of Lewis F. Crain deceased, and unknown Heirs of Lewis F. Crain deceased vs. John G. Caldwell, Error to Tazewell.

IT appears by affidavit on file in the Clerk's office of the said Supreme Court, at Ottawa, in the above entitled cause that John G. Caldwell, the above named defendant in error, is a non-resident of the said State of Illinois, and the said Plaintiffs in error having sued out their writ of error herein and a Seire Facias having been issued herein according to law: Now you the said John G. Caldwell are hereby notified that the said Writ of error and Seire Facias are made returnable at Ottawa aforesaid on the second Monday in June next, at a Term of the said Supreme Court, then and there to be held.

Dated at Ottawa, September 25th, 1852.

L. LELAND, Clerk of said Supreme Court.
PURPLE & SANGER Attys. for Plffs. in error.
-4w.

I Geo. Smith publisher of the "Tazewell Weekly Mirror", a weekly newspaper printed in the City of Pekin, Tazewell County, Ill. do certify that the annexed notice James A. Crain and others vs. John G. Caldwell, Error to Tazewell, was duly published in the "Tazewell Weekly Mirror" for four successive weeks, commencing with April 15. 1852. and ending June 3d. 1852.

Geo. Smith,
Publisher.

Dofu

Please find the Certificate of printer for the publication of notice sent.

B. K. J.

James A. Crain ^{Vol.}
John G. Caldwell

Proof of publication

Filed June 15th 1853.
L. Seland Clk.
By P. H. Seland Depy.

State of Illinois, set.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of *Tazewell* GREETING :

BECAUSE in the record and proceedings, as also in the rendition of the ^{Decree} judgment of a plea which was in the Circuit Court of *Tazewell* county, before the Judge thereof, between

*John C. Caldwell Complainant and
James A. Crain, Louisa Caroline Crain, Amanda
J. Crain, heirs at law plaintiff and of Lewis F. Crain dec'd.
Benjamin Kellogg Jr. Adm'r, of Lewis F. Crain
dec'd. & unknown heirs of Lewis F. Crain dec'd.*

defendant^s it is said manifest error hath intervened, to the injury of the aforesaid *defendants* as we are informed by *their* complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our justices aforesaid at Ottawa, in the county of La Salle, on the *22^d Monday in June* next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *7th* day of *September* in the year of our Lord one thousand eight hundred and fifty *two*.

L. Deland Clerk of the Supreme Court.

James A. Crain states
John G. Caldwell
Wit of Crain

Filed Sept. 7. 1852.
Holland Ok.

James A Grain et al^{vs} } Supreme Court - of
John G. Caldwell } the State of Illinois
Sci Sa

Benjamin Kellogg Junior being
first-duly sworn, doth depose and say
that John G. Caldwell, one of the parties
to the above entitled Cause, is a non
resident of the State of Illinois
and further saith not - - -

Subscribed & sworn } B Kellogg
to before me this 2nd
day of September 1852

R H Ireland Clerk
Co Court Tazewell
County Ills

25

Crain Oct 4. 1852
affd. for further.

Felix Sept. 25. 1852.
W. Ireland & Co.



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Chicago March 17th 1854.

Sixty days after date for value received I promise to
 pay to John B Farnur or his order the sum of
 Six hundred and fifty^{one} dollars with interest at the
 rate of ten per cent per annum being for money actually loaned.

~~Edward Wright~~

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[2060-15]

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P. Wright

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STATE OF ILLINOIS, }
Supreme Court.

The People of the State of Illinois,

To the Sheriff of the County of *Tazewell*

Greeting:

BECAUSE in the record and proceedings, and also in the rendition of the ~~judgment~~ ^{decree} of a plea which was in the circuit court of *Tazewell* county, before the Judge thereof, between *John G. Caldwell Complainant & James A. Crain, Louisa Caroline Crain, Amanda J. Crain, heirs at law of Lewis F. Crain decd., Benjamin Kellogg Jr. Admr. of Lewis F. Crain decd., & Unknown heirs of Lewis F. Crain decd.*

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

Defendants

as we are informed by *their* complaint, the record and proceedings of which said ~~judge~~ ^{decree} ~~ment~~ we have caused to be brought into our Supreme Court of the state of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said *John G. Caldwell*

that *he* be and appear before the justices of our said supreme court, at the next term of said court, to be holden at Ottawa, in said state, on the *2^d* Monday in *June* next, to hear the records and proceedings aforesaid, and the errors assigned, if *he* shall see fit; and further to do and receive what said court shall order in this behalf; and have you then there the names of those by whom you shall give the said *Caldwell* notice, together with this writ.

Witness, the Hon. SAMUEL H. TREAT, Chief Justice of our said Court, and the seal thereof, at Ottawa, this *seventh* day of *September* in the year of our Lord one thousand eight hundred and fifty *two*.

A. Iceland Clerk of the Supreme Court.

John Nathan Moore & Son
H. Nathan cannot be found
in this County Jan. 1852
Return 1855 Sept 16

25
James C. Caldwell
John Q. Caldwell
Sci. Fa.
To June Term 1853.

Filed Sept. 25. 1852.
Meland RR.