

12412

No. _____

Supreme Court of Illinois

Harding.

vs.

Butt.

130

Abner B. Thayer

13

Samuel Buttrick

1857

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12452

1857



Plas before the Hon P. H. Walker Sitting in Exchange
with the Hon H. H. Mas Judge of the tenth judicial
circuit of the State of Illinois. began and held at the
court house in Maunmouth within and for the County
of Warren and State of Illinois on Monday the 17th day of
October in the year of our Lord one Thousand Eight hun-
dred and fifty three. (It being the third Monday in said
Month) of October aforesaid and of the Independence of
the United States the Seventy Eighth.

Present The Hon P. H. Walker
Judge of the fifth Judicial circuit of the State
of Illinois

Here follows a true copy of the declaration and
interpleader as a charge of the next grade of the court:
State of Illinois vs. Warren Circuit Court vs. the
County of Warren 3^d October Term A.D. 1853. Abner
C. Harding the plaintiff in this suit complains of
Samuel Butts the Defendant in the suit being in
custody &c.

For that Whereas the said plaintiff on the
first day of July in the year of our Lord One thousand Eight
Hundred & fifty three was possessed of a certain tract of land
with the appurtenances situate in the county of Warren
State of Illinois being known and designated as the
East half of the South East quarter of Section number
twenty in Township number Eleven North of Range
number three West of the fourth principal meridian
which said premises the said plaintiff claims in fee

and the said plaintiff being so possessed thereof the said Defendant afterwards, to wit, on the fifteenth day of July A.D. 1853. Entered into the said premises and Ejected the said plaintiff therefrom and unjustly withheld from the said plaintiff the possession thereof to the damage of the said plaintiff of one Hundred Dollars and therefore he brings Suit &c

Harding & Lumbly
Attys for Plaintiff

The following is the Notice.

To Mr Samuel Butts, you are hereby notified that the declaration with a copy whereof you are now in the Service and to which copy this notice is Subjoined will be filed on the fifth day of the present term of the Circuit Court in & for the County of Warren and State of Illinois in said Court which term will be began and holden at the Court House in the city of Monmouth in said County on the third Monday in the month of October A.D. 1853. that upon filing the same a rule will be entered requiring you to appear and plead to the said declaration within twenty days after the entry of such rule. and that if you neglect so to appear and plead a judgment by default will be entered against you and the plaintiff will recover possession of the premises specified in the said Declaration. Dated this fifth day of September A.D. 1853

Harding & Lumbly
Attys for plaintiff

State of Illinois } St Charles L. Ainsby do
Warren County } solemnly swear that I did on the
19th day of October AD 1853 serve the foregoing Declaration
in Exhibit and notice thereto subscribed in Samuel
Butts therein named by delivering to him personally a
true copy of the said Declaration & also a true copy of the
said Notice, Sown to & subscribed this 20th day of October
AD 1853 before me } Chas. L. Ainsby
Wm Billings Clerk }

And afterwards on Friday the 21st of October A.D. 1853
among other ~~the~~ things the following Record was made
in Said Court "Court".

Abner C. Harding }
vs } Ejectment
Samuel Butts }

This day came the Plaintiff by
his attorneys and filed his Declaration and notice and
it having been proven to the satisfaction of the Said
Court. Therefore it is Ordered by the Court that the said
defendant be ruled to plead within twenty days and if he
neglects to so appear and plead a judgment by default
will be entered against him. and the plaintiff will
recover possession of the premises and it is further
ordered by the Court that this cause be continued till
the next term of this Court.

Below is a true copy of the plea Filed Oct 21st A.D. 1853
of Ejectment in the above Entitled cause.

State of Illinois
County of Warren

Warren Circuit Court

October Term A.D. 1853

Samuel Butts

vs

Abner C. Harding

Exemption

And the Said Defendant comes and
Defends the writ and injury therein made. And says that
he is not guilty of unlawfully withholding the possession
of the Said premises above in Said Declaration described
and of that he puts himself upon the Country

Parrie Hanning & Davidson
attys for Deft

Please Before the Hon John S Thompson
Judge of the tenth Judicial circuit of the State
of Illinois, at the Circuit Court, began and held at
the Court House in Monmouth, within and for the
County of Warrick and State of Illinois, on the Second
Monday in the Month of April in the Year of our
Lord, One Thousand Eight Hundred and fifty Six

Present the Hon John S Thompson, Judge
of the tenth Judicial Circuit of the State of Illinois

Hon A H Craig State attorney

William Billings clerk

James Mc Gay Sheriff

Afterwards Seruit on Monday April 21st
A D 1836, Among the things the following Record
was made, "Court"

of Warren County

Abner C Harding } Circuit Court, April Term 1856
vs } Exemption
Samuel Burtis }

It is agreed between the parties hereto by their attys that the deposition legally taken by the plaintiff of John A. Fleming or any other witness upon the interrogations heretofore filed for the purpose of taking the deposition of said Fleming may be filed with the record hereof in the Supreme Court and considered apart of the Bill of Exceptions in that Court subject to legal objections thereto and it is further agreed that the Bill of Exceptions herein may be signed by the Judge and filed in this Court at any time within six weeks after this date and considered as if filed during this term of the Court.

It is also agreed that the plaintiff or defendant herein may have six months after the decision of this case in the Supreme Court for paying the costs and vacating the judgment rendered herein by the Circuit Court, at the present term of this Court. It is also further agreed that either party hereto may incorporate into the Bill of Exceptions herein such Records or papers now ~~in~~ in the office of the Circuit Clerk or County Clerk of said County of Warren as he may deem proper. It is further agreed that the record of this cause may be filed in the Supreme Court at any time during the next June Term thereof, ten day notice of the same having been filed being given to the attys of the opposite party before said case shall be called up for argument.

Monmouth Ills } Williams & Scammon attys for Defendants
April 21st 1856 } L. A. Harding Plaintiffs attorney

Abner C. Harding }
vs } Defendant
Samuel Butts }

This day came the Plaintiff by his attorney and withdraws his motion for a continuance herein and also came the defendant by his attorney and they waive a jury and for trial put themselves upon the court and by agreement judgment is to be rendered pro forma against the plaintiff Therefore it is considered by the court that the defendant is not guilty of withholding the possession of the premises in the plaintiff's Exclamation mentioned and described therefore it is considered by the court that the defendant have and recover of the Said Plaintiff his costs by him in this cause laid out and Expended and may have execution therefor And the Said plaintiff shall have Six Weeks from the date hereof to file his Bill of Exceptions in this cause and the same to be considered as filed if this term of this court

Here follows the Bill of exceptions

State of Illinois County of Hanau.
Circuit Court April Term AD 1836
Bill of Exceptions

Abner C. Harding }
vs }
Samuel Butts }

Be it remembered that on the trial of this cause it was admitted by the defendant that he was in possession of the premises described in the Declaration at the time of the commencement of this Suit and that the said premises have always been vacant and unoccupied until the year Eighteen Hundred and fifty six. And therefore in support of the issue of the fact of the plaintiff, the plaintiff offered in evidence the Judgment of the circuit court of the County of Hanau in the State of Illinois rendered at the May Term AD 1847 upon the tax list and for taxes of the year 1847. in the name of the State of Illinois which judgment was in the words and figures following

(A copy of said judgment will be found on pages 1, 2, & 3 of the "Attached" Manuscript document" marked in the margin "Exhibit A")

To the Introduction of the Said Judgment the Said
defendant then objected, and the court sustained the objection
and refused to receive Said judgment as evidence; and
to this ruling of the court in excluding Said judgment the
Said plaintiff then and there excepted. The plaintiff then
offered in evidence a newspaper called the Mammoth
Atlas to 21. Vol 11. Dated March 24th 1848 with the "List
of lands & Towns in Warren County, Ohio on which
Taxes remain due & unpaid for the year 1847" and the
advertisement of John Brown, Sheriff & Officer's collection
in & for Said County that he would apply for judgment
against the lands described in Said list. and would sue
the same on a certain day therein mentioned, and the
certificate of the publication of the Said list of lands &
hereto appended by the Editor of Said Newspaper, in
which number of Said paper was written the following
words "Filed 2nd May 1848." (Signed Butler Clerk)

[A Copy of said Newspaper with the List,
advertisement & Certificate will be found
on pages 4 & 5 of the attached
Manuscript Document marked in
the margin "Exhibit B"]

It was admitted here by the Said Defendant that the Monmouth
Atlas was at the date of said publication a weekly news-
paper printed in Monmouth Harrison County Indiana.
that the copy & number of the paper above described came
from the office of the clerk of the circuit court of Harrison
County & was found among the papers connected with
the sale for taxes of the year 1848 for the year taxes of
the year 1847 to court with the precept & list of lands
connected with the sale of the year 1848 and that the
words "Filed 2nd May 1848 Butler clerk now in the hand
writing of Geo F Butler clerk of said court at the date
of the said filing. To the admission of the Said
newspaper & endorsement including the list of lands
and the certificate of the printer in evidence, the
Said Defendant then objected and the Said newspaper

& endorsement including the list of lands & the certificate
of the printer the court then ruled should not be read
in evidence to which ruling of the court the Said
plaintiff then and then excepted, the Said plaintiff
then offered in evidence again the Said judgment and
the court ruled again that Said judgment should not be
read in evidence in this cause on the objection of Said
Defendant thereby, to which Said last nam'd ruling of
the court the Said plaintiff then and then accepted

Exhibit B

The Plaintiff has offered in evidence the precept issued upon said judgment on which the sale for the taxes of the year 1848 was made and the return of the Sheriff & Ex-officio collector of the sale made by virtue thereof

& Return A copy of said precept will be found on pages Six, Seven, and eight of the attached "Manuscript Document" marked in the margin "Exhibit C"

On receiving the said precept and return of the Sheriff
thereon in Evidence, the Defendant then objected and
the court ruled that the said precept & return should
not neither of them should be read in Evidence &
should be excluded. To which ruling of the court the
said plaintiff then and there excepted.

The Plaintiff then offered in Evidence the affidavit of
Abner G. Harding the plaintiff in that suit of the publication
fraud on which the due hereinafter named & offense was
made by the Sheriff.

[A Copy of Affidavit will be found
on pages 8, 9, & 10 of the attached
"Manuscript document" marked in the
margin "Exhibit D"]

The Plaintiff then offered in Evidence also the record
of the said affidavit in the office of the County Clerk
of Warren County.

[A copy of said Record of said affidavit
will be found on pages 11 & 12 of the attached
Manuscript document marked in the margin
"Exhibit E".]

The Plaintiff then offered in Evidence all the
collectors books for the year 1847, produced from the county
clerk's office aforesaid

[A copy of said collectors
book for 1847 will be found on page 13 of
the attached Manuscript document,
marked in the margin "Exhibit F."]

It was admitted here by the Defendant that said affidavit
was made & filed in the office of the said court clerk
before the due return was made by the Sheriff to the
plaintiff, to the reading of which said affidavit &
the record thereof and the said collectors Book in Evidence
now the said Defendant then objected & his objection was
sustained by the court, & the court ruled that the same and
each & either of them the said plaintiff could not read
in evidence, to which said ruling of the court and to each
of said rulings in excluding each of said last manuscripts
of evidence, the said plaintiff then & there accepted

The Plaintiff then offered in evidence a due from the
Sheriff of Mann County conveying the land described in
the declaration to Abner C. Harding the plaintiff dated
23^d August A.D. 1851.

(~~xxxx~~ ^{A copy of said} ~~deed~~ ^{deed} will be found
on pages 13, 14, & 15 of the Attached "Manu-
script document" marked in the margin
"Exhibit G")

Is the reading of which said deed in evidence the defend-
ant object, and the court ruled that the said deed could not
be read in evidence by the plaintiff to which ruling of the
court the said plaintiff then and there excepted

The Plaintiff then offered in evidence a deed made by
James L. B. Stapp auditor conveying the land described in
the Declaration among others to St. Marys dated 21st Oct 1893

(Let⁴ the copy of said deed will be found
on pages 15 & 16 of the attached "Manuscript
Document "marked in the margin "Exhibit
41")

To the reading of which due in Evidence - the Defendant
objected but the due was admitted by the court to be lead
in Evidence & the Defendant then and there excepted to
Said ruling

The Plaintiff then offers in Evidence a doc made
by H. Myers and Charlotte Myers embracing the land
described in the declaration to John Fleming dated June
6th 1836.

(A ^{Said} copy of Said will be found on
pages 17, 18, 19, & 20 of the attached Manuscript
document marked in the margin "Exhibit
2")

To the reading of which the Defendant objected. but the court ruled that the Said doc should be admitted in evidence & the S. Defendant then & there accepted to Said ruling of the court

The Said plaintiff then offered in evidence a copy of the will of John Fleming. and of the probate of Said will & the certificates thereto attached, and the original letter of administration to Said will attached.

(A copy of said will, the probate thereof, certificates & letters of administration with the will annexed, will be found on pages 20 to 20, inclusive of the attached Manuscript Document, marked in the margin "Exhibit 9")

To the reading of which Said will certificates & letters of administration or either of them the Said Defendant objected but the court allowed the same to be read in evidence to which ruling of the court the Said Defendant then and there accepted

The Said Plaintiff then offers in evidence the depo-
sition of John A. Fleming
Taken before E. W. Myers Comr.
On the 20th day of May A. D. 1836.

[The original deposition of said witness will
be found ^{between} on pages 10 & 11 of the attached manu-
script document marked in the margin "Exhibit A"]

In the reading of which in evidence the Defendant
then objects but the court admitted the said deposition
to which ruling of the court the said defendant then
is excepted

The Plaintiff then offers in evidence a deed dated
9th Sept A. D. 1844 made by John A. Fleming and William
H. Fleming Executors of John Fleming deceased conveying
the land described in the Declaration to Charles Horton

(A copy of said deed will be found on pages 30, 31, & 32
of the attached manuscript document marked in the
margin Exhibit A)

To the reading of which Due in Evidence - the
Defendant objected but the court ruled that the Same
Should be read in Evidence & admitted the Same, to
which ruling of the court the Defendant then & there
excepted.

Then the plaintiff offered in Evidence a deed
dated 30th May AD 1848 made by Charles Morton to
the plaintiff conveying to plaintiff the land described
in the declaration in this case.

(A copy of said deed will be found
on pages 33 & 34 of the attached manuscript
Account marked in the margin Exhibit Lth)

To the reading of which Due in Evidence the Defendant
then objected but the court admitted Said Due in Evidence
to which ruling the court the Defendant then excepted.

The Plaintiff then offered in Evidence the Statement of Lucius Kingman in regard to the payment of Taxes on the land described in the Declaration.

(A copy of said Statement will be found on pages 35 & 36 of the attached manuscript document marked in the margin "Exhibit M")

To the reading of which Statement in Evidence the Defendant then objected but the court admitted the same in Evidence to which ruling of the court the Defendant then and there excepted. Before said Statement was offered the Defendant admitted that said Statement was to be admitted & regarded as a deposition legally taken.

The Plaintiff then offered in Evidence a Tax receipt for the year 1840 for the land described in the Declaration signed by Ira F. M. Butler etc.

(A copy of said receipt will be found on page 36 of the attached manuscript document marked in the margin "Exhibit N")

The Defendant admitted that said receipt was in the handwriting of the said Butler but objected to said receipt the court ruled the same should be read & the Defendant then and there excepted to this ruling of the court.

The plaintiff then offered in evidence a Tax receipt for the taxes of the year 1841 for the land described in the Declaration signed by Hyatt St. Berry collector by E. S. Sumner and the defendant admitted that the said Sumner was the Deputy of the said collector & authorized to receive taxes for him and that said receipt was signed by the said Sumner in his hand writing.

(A copy of said receipt will be found on page 37 of the attached manuscript document marked in the margin Exhibit Q.)

So the reading of which in evidence the said Defendant then objected but the court admitted said receipt to which ruling the Defendant then & there excepted.

The plaintiff then offered in evidence a Tax receipt for the taxes of the year 1842 on the land in said Declaration described signed by Thomas D. Allen collector and the Defendant admitted that the said receipt was in the hand writing of the said collector signed by him.

(A copy of said receipt will be found on page 37 of the attached manuscript document marked in the margin Exhibit P.)

the reading of which receipt in Evidence the Defendant then objected but the court admitted the same to be read in Evidence to which ruling the Defendant then accepted

The plaintiff then offered in Evidence a Tax receipt for the taxes of the year 1843, on the land described in the Declaration signed by John Brown collector, which receipt the Defendant admitted was signed by the said collector

(Copy of said receipt will be found on page 38 of the attached manuscript document marked in the margin 'Exhibit 2')

So the reading of which in Evidence the Defendant then objected but the court admitted it to be read to which ruling the Defendant then & then accepted,

The plaintiff then offered in Evidence the collectors Book for the Taxes of the year 1844

(Copy of which collectors book will be found on page 38 of the attached manuscript document marked in the margin Exhibit R.)

To the reading of which in Evidence the Defendant then objected, but the Court admitted the same to be read to which reling the Defendant then and there excepted.

It was admitted here by the Defendant that all the taxes assessed on the tract of land described in the declaration for the year 1844 were paid by L. Knigman on the 30th Feb 1845.

The Plaintiff then offered in Evidence a tax receipt for the taxes of the year 1845, on the land described in the Declaration signed By John Brown collector, and the Defendant admitted that the signature of John Brown thereto was in his hand writing.

(A copy of which receipt will be found on pages 38, & 39 of the attached Manuscript document marked in the margin "Exhibit 2")

To the reading of which receipt in Evidence the Defendant then objected, but the Court admitted the said receipt to be read in Evidence, and to the reling the said Defendant then & there excepted.

The Plaintiff then offered in Evidence a Tax Receipt
for the taxes of the year 1846 on the land described in the
Declaration in this case signed by John Brown collector
and the Defendant admitted that the Said Receipt was
signed by the Said Collector.

(Copy of which receipt will be found on page 39 of
Said ^{Attached manuscript} document marked in the margin 'Exhibit G.')

At the reading of which in Evidence the Said Defendant
then objected, but the court admitted the same to be read
in Evidence & this the Defendant then & there excepted

The Defendant then admitted that he was in possession
of the land in controversy described in the Declaration
claiming under a conveyance made by a certain William
Dougherty in Philadelphia on the 17th March A.D. 1832,
to John W. Wheeler conveying Said Land described in the
Declaration & professing to be the brother & only heir of Daniel
Dougherty the seller to whom the Said land was patented to
which deed was attached the affidavit of Daniel Dougherty
of Philadelphia, the deputy of the Said William Dougherty

The Plaintiff then offered in Evidence the Deposition
of Daniel Dougherty taken before John B. Kenney a
Justice of the Peace in Philadelphia on the 16th day of
March A.D. 1836.

(The original deposition will be found between
pages 42 & 43 of the attached Manuscript document
marked in the Margin "Exhibit - V")

To the reading of which in Evidence the Defendant
then objected but the Court admitted the same to be read
to which ruling the said Defendant then & there excepted.

This was all the Evidence offered by the plaintiff in support
of the issue in this case

The Defendant then offered in Evidence the Deposition
of the Auditor Thomas H. Campbell

(The original deposition will be found
between pages 43 & 44 of the attached Manuscript
document, marked in the Margin "Exhibit - W")

To the reading of which in Evidence the plaintiff then
objected but the court admitted the same to be read in
Evidence to which ruling of the court the said plaintiff
then & there excepted. the plaintiff having the
objection that no affidavit was said Witnes resided out of
said court - was filed in said court prior to the taking of
said Deposition

The Defendant then offered the following little papers

1st A certified copy of a patent from the Government
of the U States to Daniel Dougherty having date Decemr
9th 1818 being for the land in controversy and describing
said Dougherty as a private in the corp of artillery in
the War of 1812

2^d A deed from William Dougherty claiming to be the
brother and only heir at law of Daniel Dougherty to John
Howell Whider dated the 17th day of March 1832 being
for the premises in controversy

3rd A Deed from John Howell Whider to Hamson
Dells dated March 22 1832 being for the premises in
controversy

4th A Deed from Hamson Dells and Lama his wife
to Hamilton Roney having date August 2nd 1832

In the introduction of the deeds the plaintiff objected but the Defendant stating that he offered these deeds merely for the purpose of showing that he claimed as owner under a paper title and a jury for the trial of this case having been waived the Court permitted the deeds to be read for the purpose of being considered by the Court with all the other evidence in the case in rendering a final judgment by the Court to which decision the plaintiff at the time Excepted.

It was admitted that the defendant was in possession as tenant of said Hamilton Poney and that all the taxes for the last four years and now due had been paid by both the plaintiff and said Hamilton Poney.

The Defendant then offered in Evidence the aforesaid list of real estate in said Warren County for the taxes of the year 1847 which aforesaid list had upon it the following endorsement "Aforesaid Book of Real Estate for the year 1847 Filed August 2nd 1847."

Daniel McNeil clerk

And it was admitted that said Daniel McNeil was at that time the clerk of the County Commissioners Court of said Warren County and that said endorsement and signature was in his hand writing.

24th

This was all the Evidence offered by the Defendant in
this case, and no other Evidence was offered by either
party to the court & the above is all the Evidence in
this case

The Plaintiff then moved the court for leave to the Clerk
of the said circuit court of Hannen County to record the
certificate of publication of the Editor of the Minnworth
Atlas in said paper contained & on the files in said
office of said clerk according to recy of the act Entitled a
Revenue of the Revised Statutes of 1843

But the court overruled said motion & refused the same
to which ruling of the court the plaintiff then & there excepted

It was agreed by the plaintiff & Defendant in this case
that a jury should be named & a trial had by the court
before the said Evidence was introduced & before the
commencement of the trial in this case.

And all the Evidence in the case having been heard
and considered by the court, the court found the issue
for the Defendant. Whereupon the plaintiff, moved
for a new trial because the verdict was against law
and Evidence which motion the court overruled and
rendered judgment for the Defendant to which several

Decisions of the Court finding the issue for the defendant
and overruling the motion for a new trial and rendering
judgment for the Defendant and the plaintiff except at the
time Each of said decisions was made and now except
and prays that this his bill of Exception be signed seal
and made part of the record hereof which is according
to and the counsel for the plaintiff and Defendant herein
agree in open Court that the record herein may be filed
in the Supreme Court of the State of Illinois in
either the northern or Middle Division of the State,

John S. Thompson Esq.

Haiding 3 Error, ~~For~~ Warner
Butler 3 Circuit Court.

"Manuscript Document", containing
Exhibits, depositions, and copies of
written evidence in the above entitled case
being a part of the bill of exceptions in
said case.

Here follows a True Copy of the judgment of the
Circuit Court of Hancock County for Taxes of the 1847.
rendered at the 9th day of May 1848. So far as relates
to the tract of land described in the declaration

Warren County

Place before Honorable Saml. H. Purple Judge of the fifth Judicial Circuit of the State of Illinois

At a circuit court began and held at the court house in the town of Hannibal on the second Monday in the month of May A.D. 1848.

Present the Honorable

S. H. Purple Judge &c

William Elliot States Attorney

Jos. F. M. Butler Clerk

John Brown Sheriff

Wherefore to wit on the second day of May A.D. 1848 John Brown Sheriff and Ex officio collector in and for the county of Warren and State of Illinois filed in the clerk's office of the Warren Circuit Court a newspaper entitled the Hannibal Star dated Friday March 24, 1848. containing the published list of lands, town lots and other real estate situated in the County of Warren and State of Illinois which taxes remain due and unpaid for the year A.D. 1847.

List of Lands and other real estate situated in the County of Warren and State of Illinois on which taxes remain due and unpaid for the year herein set forth

Name of present owner	In whose name taxes	Cost	Tax	Year	Land Value	Assess.	Description	County
Unknown	Land & Slaughter	.55	7.15	1847	960	320	\$2 20.118.377	Warren

State of Illinois }
 Warren County } I John Brown Sheriff and
 ex officio collector in and for the County of Warren and State
 of said hereby certify that the foregoing is a true copy
 of the List of Lands and Town Lots on which Taxes remain due
 and unpaid for the year and years therein set forth with
 the valuation Tax and costs annexed. and to satisfy which
 I have been unable to find personal property to pay the same
 I further state that those Lands and Town Lots have
 been advertised as the law directs.

Given under my hand at Mammouth this 2nd day of
 May A.D. 1848. John Brown } Sheriff and ex officio
 collector Warren County Ills.

State of Illinois }
 Warren County } I Daniel McNeil clerk of the
 County commissioners in and for
 said county hereby certify that the foregoing list of land
 and Town lots is a true copy of the Lands and Town lots
 on which Taxes remain due and unpaid as appears to
 me from an examination of the collectors Book for 1847

Given under my hand at Mammouth this 2nd day
 of May A.D. 1848. Daniel McNeil clerk

State of Illinois }
 Warren County } Set. Thomas John Brown collector of
 said County returned to the circuit court
 of said county on the second day of May 1848 the following

tracts and parts of tracts of land as names were applied for taxes by the assessor of Said County of Warren for the year 1847. And the taxes therein remain due and unpaid on the day of the date of the said collector's return and ^{that} the said respective owner or owners have no goods and chattels within this county in which the said collector can levy for the taxes interest and costs due and unpaid on the following described lands, to wit, (here insert the land)

And whereas due notice has been given of the intended application for a judgment against said land, and no owner hath appeared to make defence or shew cause why judgment should not be entered against the said lands for taxes interest and costs due and unpaid therein for the year and years herein set forth. Therefore it is considered by the court that judgment be and is hereby entered against the aforesaid tract and tracts of land and parts of tracts in the name of the State of Illinois for the sum annexed to each tract or parcel of land being the amount of taxes interest and costs due severally therein. And it is ordered by the court that the said several tracts of land or so much thereof as shall be sufficient of each of them to satisfy the amount of taxes interest and costs annexed to them severally be sold as the law directs.

May 9th 1848

N. W. Purple

The following ^{is a copy of the} Newspaper ^{which} was filed in this Office the 2^d of May 1848. as follows so far as relates to the tract of land described in the declaration including in said copy only the No & Vol & place of issue & date & name constituting the heading the filing of the copy in the Newspaper & the list of lands and agriculturalists of the Sheriff & certificate of the ^{sheriff} 1021 Vol II Monmouth Ill Friday March 24. 1848 Name

"The Monmouth Atlas" Filed 2^d of May 1848 Buster Clerk"
 (the words "filed 2^d of May 1848 Buster Clerk" written upon paper with ink)
"List of Lands."

And other real estate, Situated in the County of Warren and State of Illinois on which taxes remain due and unpaid for the year herein set forth To wit. 1847.

Owners Name	Description	Section	Acres	Valuation	Tax
Being generally patented					
David Dougherty	Shall 20.11.8.37		320	960	7.15

Notes. The costs on each of the above tracts of Land is Twelve cents and if Sale Take place fifty five cents. the cost on each Town Lot is five cents. and if offered for Sale twenty one cents.

I, John Brown Sheriff and Ex-officio collector in and for the County of Warren and State of Illinois, do hereby certify that I will apply to the circuit Court in and for the County of Warren, at the next term thereof, to be commenced and holden at the Court House in Monmouth in said County and State, on Monday the 5th day of May 1848. for a judgment against the aforesaid lands and Town Lots, and also for an order to sell the said Lands and Town Lots for the Taxes, Interest and costs due thereon for the year set forth and for the satisfaction thereof, and that on the fourth Tuesday next succeeding the day fixed by law for the commencement of said Term of Circuit

Exhibit B

* Both said certificates of said printer and collector being in print and in the same paper containing the list, and the certificate of publication not having been recorded by the Clerk of said Circuit Court in any of the records of said Court or of said the precinct and sale.

1- controll Lands and Town Lots against which judgment
shall be pronounced and for the sale of which an order shall
be made will be exposed to public sale at the Court House in
the Town aforesaid for the amount of Taxes, Interest and costs
due thereon. Sales to commence at 10 o'clock of said day and
will be continued from day to day untill all sold

John Brown { Sheriff's Office
Collector

We C. R. Smith & Co. editors and publishers of the Monmouth
Atlas do hereby certify that the above list of Lands and other
real estate, situated in the County of Haven and State of
Illinois, in which taxes remain due and unpaid for the
year 1847. were published in the Monmouth Atlas, a Weekly
Newspaper, published in the Town of Monmouth, Haven
County Illinois, on the 24th day of March 1848, and that
the number of Transcripts correspond with the number of
papers distributed for that Week, and, also, that we have
complied with the laws of the State in the distribution of
said papers. We further certify that the above list was
carefully compared with the original, and were found
to be correct, that the number of tracts and Town Lots
accurately correspond, and that the original lists were
literally followed in this publication

C. R. Smith & Co.

Monmouth March 24, 1848.

* Here follows a copy of the precept. Dated 12th May 1848

At 1848, upon the judgment obtained at the May term A.D. 1848
of the Monmouth Circuit Court against certain lands for the Taxes of the
year 1847, so far as relates to the tract described in the declaration (over).

State of Illinois

Waverly County, 3^d Sec. Thomas John Brown Collector of
Said County returned to the Circuit Court
of Said County on the Second day of May 1848. the following
tracts and parts of tracts of Lands as having been assessed
for taxes by the Assessor of Said County of Waverly for the
Year 1847 and that the taxes thereon remain due and
unpaid on the day of the date of the Said Collectors
return and that the respective owner or owners have no
goods and chattles within his county in which the
Said Collector can levy for the taxes interest and costs
due and unpaid on the following described lands, to wit:

Names of present owners	In what Name	Acres, Bolls, Pys.	Year	Value, Acres.	Description	County
M. K. Mann	Land Lehigh	55 7.15	1847	960 320	S 1/2 20. 11. & 37	Waverly

And Whereas due Notice has been given of the Intended
application for a judgment against Said Lands and no
owner hath appeared to make Defence or show cause
Why judgment should not be entered against the Said
Lands for Said Interest and costs due and unpaid thereon
for the Year and years herein set forth.

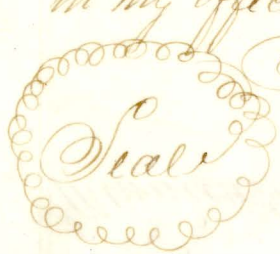
Therefore it is concluded by the court that judgment
be and it hereby entered against the aforesaid tract of
Land and parts of tracts in the name of the State of
Illinois for the sum annexed to each tract or parcel of
Land being the amount of Lands Interest and costs due

7 Severally thereon. And it is Ordered by the court that the
said several tracts of Land or so much thereof as shall be
sufficient of each of them to satisfy the amount of Tax
Interest and costs annexed to them severally be sold as the
Law directs.

May 9th 1848.

N. W. Purple

State of Illinois } S. C.
Hansen County } I, Geo. E. P. Butler Clerk of the circuit
court within and for said county of Hansen do hereby certify
that the foregoing is a correct list of lands and Town Lots
on which Judgment was obtained at the May Term A.D. 1848
of the Circuit Court for the taxes Interest and costs due
thereon for the year A.D. 1847. And also of the judgment
order entered against said lands as appears of Record
in my Office



In Testimony Whereof I have hereunto set
my hand and official seal at the said circuit
court at Mammouth 12th day of May A.D. 1848
Geo. E. P. Butler Clerk

State of Illinois } S. C.
Hansen County } I, John Brown Sheriff and Collector
in and for said County, hereby certify that in obedience of
the foregoing precept I sold at the court house in Mammouth
on the 30 & 31 days of May 1848. Between the hours of 10 o'clock

A. Mc. and 3 O'clock P.M. of said day for much of the
tracts and parts of tracts of Land and Town Lots therein
described as was necessary to raise the tax and costs assessed
opposite to each tract which had not been previously paid.
And reported the same to the clerk of the county commi-
sioners court in and for the ^{and state} county aforesaid as appears
of Record in his office.

Given under my hand and Seal at
Mannmouth 24th June 1848.

John Brown } Sheriff & Collector
 { Warren County Illinois

The following is a true copy of the affidavit and filing in
figures & words as follows.

State of Illinois }
Warren County } A. C. Harding being sworn to
saith that he caused a certain notice
of which the following is a copy and which is attached
hereto, to be three times published in the Mannmouth
Atlas a Weekly Newspaper published at Mannmouth
Warren County Illinois the first publication being the
paper dated the 1st day of February 1850 and the last
dated the 15th day of February 1850 as follows, to wit.

H. H. Sandubank. James Brooks. David
Dougherty. Eleazer Foster. George Davis and D. Griffin
you are hereby notified that I purchased at the sale for

the sales of 1847. in the County of Warren and State of Illinois
on the 30th day of May A.D. 1848. the following described lands
To Wit. The North West quarter of Section 34. Town 10 North
Range Two West of the 4th principal Meridian.

Also the South West quarter of Section 31 Town ten North
Range two West of 4th principal Meridian

Also the South half of Section 30 Town 11 North Range three
West of the fourth principal Meridian

Also forty acres. South West of the North East qr of Section
15 Town 11 North Range two West of the 4th principal
Meridian.

Also 36 1/2 acres of the South East of the North West quarter
of Section 30. Town nine North Range 3 West of the 4th
principal Meridian

And that the time for redemption from said sale will
expire on the 30th day of May next.

Jan'y 30. 1850.

W.

A. C. Harding

A. C. R. Smith publisher of the Wannmouth Atlas
a public Newspaper published in the County of Wannmouth
Warren County in the State of Illinois do hereby certify
that the annexed notice was printed and published
in said Newspaper for 3 Weeks successively the first
publication of said notice bearing date the 1st day of
February and the last the 13th day of February A.D. 1850

A. C. R. Smith

And that the said several tracts of land described in
 said notice printed as aforesaid and attached hereto.
 were not nor either of them taken in the name of any
 person that resided in the county of Warren and State
 of Illinois. Sworn and Subscribed before
 me this 14th day of January A.D. 1852.

Abner H. Harding

Notary Public Justice of the Peace

Filed January 12th 1852.

Wm. H. Smith att.

Here follows the original
 deposition of John A. Fleming taken
 before E. W. Myers on 20th May A.D. 1852

State of Illinois of Warren Circuit Court
Warren County 8 April Term 1886

I William Bellings
do hereby Certify that on the within
and foregoing pages with the after
Attached "manuscript document" is
contained a full and true copy of the
Record in the case of Abner C. Harding
Applicant Samuel Butts in Testament
Lately pending in the Circuit Court
of said County, and of the
bill of Exceptions filed in my
office signed by the said John
S. Thompson Judge of the Youth
Judicial Circuit Court of the
State of Illinois

In witness whereof I
have hereunto set my hand and
Seal of said Court this 10th
day of May A.D. 1886
Wm Bellings clerk

The following is a true Copy of the Affidavit
Recorded in the county clerk's office of Warren County
Illinois, on pages 19 & 20, which is in the words and figures
following:

State of Illinois }
Warren County } A. C. Harding being sworn saith
that he caused a certain notice of which
the following is a copy and which is all added hereto to
be three times published in the Monmouth Atlas a
Weekly Newspaper published at Monmouth Warren
County Illinois the first publication being the paper
dated the 1st day of February 1850, and the last dated the
15th day of February 1850 as follows "To Wit,"

To W. Scudderback, James Brooks David
Dougherty, Eleazer Foster George Davis and E. Griffin
you are hereby notified that I purchased at the sale
for the Sales of 1847, in the county of Warren and State
of Illinois on the 30th day of May A.D. 1848, the following desc-
ribed lands "To Wit,"

The North West quarter of Section 34 Town
16 North Range Two West of 4th principal Meridian.

Also the North West quarter of Section 21 Town ten North
Range Two West of 4th principal Meridian.

Also the South half of Section 21. Town 11 North Range
Three West of the 4th principal Meridian.

Also Forty Acres. South West of the North East quarter

of Section 13 Town 11 North Range 3rd West of the 4th
principal Meridian. Also 36 1/2 acres of the South East
of the North West quarter of Section 20 Town 11 North
Range 3 West of the 4th principal Meridian.

And that the term for redemption from said Sale
 will expire on the 30th day of May next.
June 30th 1856. A. C. Harding

C. R. Smith Publisher of the Monmouth Atlas a
public Newspaper published in the Town of Monmouth
Warren County in the State of Illinois do hereby certify
 that the annexed notice was duly published in said
 Newspaper for 3 weeks successively the first publication
 of said notice having date the 1st day of February
 and the last the 15th day of February AD 1856.
C. R. Smith

And that the said several tracts of land described in
 said notice printed as aforesaid and attached hereto
 were not nor either of them taxed in the name of any
 person that resided in the county of Warren and State
 of Illinois

Sworn & Subscribed before me this 3rd
 1st day of January AD 1856

Henry Durrity

Justice of the Peace

A. C. Harding

Copy of Collection Book for 1847, so far as relates to \$120. 11.8. 37

Patent	Present owner	Acres	Description	Value, Total, Rates									
				Acres	Value	Dist.	County Road	School	Other	Total	Pay	Pay	Pay
David Dougherty		320	\$120. 11.8. 37	3	960	336	144	144	72	715	144	144	Sold

A True Copy of Sheriff's Deeds to A.C. Harding
\$120. 11.8. 37

"Exhibit C"

Know all Men by These presents, That Whereas at the
May Term 1848. of the circuit court of Warren County in
the State of Illinois. a judgment was obtained in said court
in favor of the State of Illinois against the following descri-
bed tract of Land Situated in said county of Warren and
State of Illinois, viz. 320^{ac} Being the South half of Section
Twenty in Township Eleven North of Range three West of
the fourth principal meridian for the sum of Seven Dollars
and 70 cents being the amount of taxes Interest and cost
assessed upon said tract of Land for the year 1847. And
Whereas on the 30th day of May AD 1848. John Brown State
Sheriff of the County aforesaid by virtue of a precept issue
out of the circuit court of the county aforesaid. dated the 2nd
day of May AD 1848. and to the Sheriff of said county directed
did expose to public sale at the Court House in
the county aforesaid. in conformity with all the requisition
of the Statute in such case made and provided. the tract of
Land above described for the satisfaction of the Judgment
so rendered as aforesaid. and Whereas at the time and place
aforesaid. Almer C. Harding of the county of Warren and State
of Illinois having offered to pay the aforesaid sum of Seven

Dollars and 70 cents for 320[±] Sq. of 20 11x8. 3 1/2 the tract of
land above described which was the least quantity bid for
the said tract of land was stricken off to him for that price
I am therefore Rodliff. S. Allen Sheriff of Warren
County for and in consideration of the said sum of seven
Dollars and 70 cents to the Sheriff of said county as aforesaid
in hand paid by the said Abner C. Harding at the time of
the aforesaid sale and by virtue of the Statute in such case
made and provided have granted Bargained and Sold and
by these presents do grant Bargain and Sell unto the
said Abner C. Harding his heirs and assigns, the above
described tract of land viz. 320[±] Being the South half
of Section Twenty in Township Eleven North of Range
Three West of the fourth principal Meridian in Warren
County. To have and to hold unto the said Abner C.
Harding his heirs and assigns forever. Subject however
to all the rights of Redemption provided by law.

In Witness Whereof Rodliff. S. Allen Sheriff as
aforesaid by virtue of the authority aforesaid have hereunto
subscribed my name and affixed my seal this 23rd day
of August A.D. 1857.

Rodliff. S. Allen (Seal)
Sheriff and Collector of Warren County Illinois

State of Illinois 3rd fl.
Warren County 3rd fl. Certify that on the twelfth day
of January in the year of our Lord One Thousand Eight

15 Hundred and fifty two personally appeared before me
William F. Smith clerk of the county court for the county
of Hancock Robert A. Allen collector & Sheriff of said county
of Hancock who is personally known to me, the said clerk,
to be the identical person whose name is subscribed to
the foregoing deed as having executed the same and acknow-
ledged that he executed said deed for the uses and purposes
therein mentioned



In Testimony Whereof I have hereunto
subscribed my name and affixed the Seal of
said court the day above written

Wm F. Smith clerk

A True Copy of a Deed from Auditor. To H. Hayes for
\$1220. 11 A. 3 W.

The Auditor of Public Accounts of the
State of Illinois. To all to whom these presents
shall come greeting. Know ye, that whereas I did on
the 11th day of January A.D. 1833, at the town of Vandalia
in conformity with the requisitions of the several acts in
such cases made and provided upon to Public Sale a
certain tract of land being the South half of Section
Twenty Township Eleven North in Range three West of
the fourth principal Meridian for the sum of Five Dollars and
Eight cents being the amount of Tax for the year 1833, with
interest and costs chargeable to said tract of land. And whereas

Exhibit 4

at the time and place aforesaid St. Myers offered to pay
the aforesaid sum of money for the Whole of said tract of
land which was the least quantity bid for the said St
Myers has paid the sum of five Dollars and Eight cents into
the Treasury of the State. I have granted Bazarini and
sold and by these presents as auditor of the aforesaid State
do grant Bazarini and sell the Whole of the South half
of Section Twenty in Township Eleven North in Range three
West of the fourth principal Meridian to St. Myers his
heirs and assigns. To Have and To Hold said tract of land
to the said St. Myers and his heirs forever. Subject however
to all the rights of redemption provided by law

Seal

In Testimony of Which the said Auditor
has hereunto subscribed his name and affixed
his seal this 31st day of October 1835.

James L. B. Staff Auditor

Below is A True Copy of a Deed from Mordicai Meyers & Wife Le John Fleming.

This Indenture. Made the Sixth day of June in the year of our Lord one Thousand Eight Hundred and Thirty Six Between Mordicai Meyers and Charlotte his Wife of the first part and John Fleming of the City of New York of the second part. Witnesseth. That the said parties of the first part for and in consideration of the sum of Four Hundred Dollars to them in hand paid by the said party of the second part. the receipt whereof is hereby acknowledged. Have granted Bargained Sold Allured Remised Released enfeoffed and confirmed and by these presents do clearly and absolutely Sell alien Remise release enfeoff and confirm unto the said party of the second part and to his heirs executors administrators and assigns forever all the right title and Interest Now right title or claim or Demand whatsoever in law or equity of the said parties of the first part of in and to all that certain tract piece or parcel of Land situate lying and being in the State of Illinois in the tract appropriated for Military Bounties known and distinguished as the South half of Section Twenty of Township Eleven North in Range three West containing Three Hundred and Twenty acres being in the county of Hauwa in said State as will more fully appear by reference to the Auditors due to the party of the first part. To Have and To Hold all and singular the tract piece or parcel of Land with the rights members and appurtenances therunto belonging or in any wise

"Exhibit"

appertaining unto the said party of the second part his heirs
 executors administrators and assigns to their own proper use
 benefit and behoof forever, and the said parties of the first part
 for themselves and their heirs executors and administrators
 hereby covenant, promise and agree to and with the said party
 of the second part his heirs executors administrators or
 assigns that they the said parties of the first part have not
 done or committed and will not do or commit any act or
 thing whereby the right of the said party of the second part
 can in any manner or way be impaired to the said land
 hereby granted or conveyed.

On Witness Whereof the said parties of the first part
 have hereunto set their hands and seals the day and year
 first above written

Sealed and delivered in the presence

of "Two Hundred" Stricken and

"Four Hundred" Cursive before

execution. To Mr. Rogers & Mr. Rogers

To Charlotte Rogers & Mr. Rogers

Mr. Rogers
Charlotte Rogers

Seal
 Seal

State of New York

City and County of New York

On this sixth day of
 June in the year one Thousand Eight Hundred and Thirty
 Six personally appeared before me Mordecai Rogers to me
 known to be the Indenture described in and who executed
 the within Indenture and acknowledged the same
 for the uses and purposes therein mentioned

S. Spohn
Commissioner of Deeds

State of New York Columbia County, ss. On this Eighth day of June in the year One Thousand Eight Hundred & thirty Six personally appeared before me Charlotte Myers, to me known to be the individual, describe in & who executed the within Indenture, and on being examined to me privately separate and apart from her husband, and also within named acknowledged that she executed the same & that freely & voluntarily without any fear or compulsion of her said husband & for the uses & purposes in the same mentioned

S. Wilcox one of the judges of
the Court of the County of Columbia
of the degree of Commissioner &c

State of New York ss.
City and County of New York I Richard B. Connolly clerk
 of the City and County of New York and also clerk of the Supreme
 Court for said city and county do hereby certify that S. Spohn
 whose name is subscribed to the certificate of the proof or acknow-
 ledgment of the annexed Instrument and Harriet Mitten
 was at the time of attesting such proof or acknowledgment a
 Commissioner of Deeds for said city and county dwelling in
 the said city - commissioned and sworn and duly authorized to
take the same, and further that I am well acquainted
 with the handwriting of such Commissioner, and verily believe

that the Signature to the said certificate of proof or acknowledgment is genuine. I further certify that said instrument is executed and acknowledged according to the laws of this State as appears by said certificate.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of the said court and county the 4th day of April 1854

Rich^d. B. Connolly clerk

Below ^{Copy of the} True Copy of the Last will and Testament of John Fleming deceased and of the probate thereof and of the certificate thereto attached

In the name of God Amen, I, John Fleming of the city of New York do make and publish this my last will and testament as follows that is to say. I give devise and bequeath unto my executors hereinafter named and the Survivors and Survivor of them all the real Estate and personal property of which I shall be seized or to which I shall be in any way entitled at the time of my decease with full power and authority to sell said estate and property or any part thereof and to reinvest the same in such manner and mode as my said executors their Survivors and Survivor shall deem fit and expedient upon the Trusts and confidence following namely out of the proceeds thereof to pay my funeral expenses which I desire may be as frugal as may be possible in the opinion of my said executors their Survivors and Survivor and to the support and

maintenance of my children Sophia Augustus Edward
Augustus Agnes Wood Juliet Wadsworth George Washington
and Frederick Nichols and when the said Edward George
and Frederick shall eventually be capable of earning their
 own living the determination of which is hereby left discre-
 tionary with my said Executors their Survivors and Survivor
 then such Support and maintenance to be conferred to my
 said Daughters Sophia Agnes and Juliet or any or either
 of them as they my said Executors their Survivors and
 Survivor in their discretion may deem fit and proper
 also to the distribution of the legacies hereinafter follo-
 wing. Whereas my eldest Sons John William and Charles
 have severally incomes sufficient for their maintenance
 and will most probably be enabled to provide for
 themselves hereafter I consider it unnecessary to make
 provisions for them. But in token of my affectionate
 regard they shall receive the following legacies that
 is to say £. 20 to my son exclusively my lease of Rains
and also to him and my son William jointly my
Book case and all my printed Book and £. 20 to my
son Charles my Gold Watch and chain affectionately
 exhorting them severally by the recollection of the endear-
 ings which have hitherto united us to supervise the con-
 duct and with affectionate care and attention cherish
 and aid in the support of if their Dear orphan Brothers
 and Sisters and finally should there be any thing rem-
 aining after such distribution and the payment

of my just debts such remainder to be equally
 divided among my said Daughters who may then be
 u- married their Survivors and Survivor Subject here
 to the discretionary power herein before delegated to my
 Said Executors their Survivors and Survivor I do nomi-
 nate constitute and appoint my Executors hereinafter
 named their Survivors and Survivor Guardians after my
 decease of all my children who may then be minors I do
 hereby nominate constitute and appoint my executors and
attorneys James and Hisson Christopher, A. Rust
and Edward, W. Dunham Together with my Sons
John and William the Executors of this my last will
and Testament, In Testimony Whereof I have hereunto
 Subscribed my name and affixed my seal at the city
 of New York this second day of April in the year of our
 Lord One Thousand Eight Hundred and thirty seven
In Fleming City of New York this Fifteenth
day of April in the year of our Lord One Thousand
Eight Hundred and thirty seven Subscribed by us
 as Witnesses to the due execution of the foregoing inste-
 rument at the request of and in the presence of John
Fleming who at the same time acknowledged to each
 of us that he executed and declared the same to be his
 last will, Testament, Walter Bicker, James T. Hunt

In the Matter of proving the last will and }
Testament of John Fleming deceased }

City & County of New York. Be it Remembered that on this twenty third day of June in the year One Thousand Eight Hundred and thirty Seven personally appeared before James Campbell Esquire Surrogate of the County of New York. John A. Fleming who being by said Surrogate duly sworn and examined doth depose and say that he found the instrument in writing now produced and shown to deponent purporting to be the last Will and Testament of said John Fleming deceased after the decease of said John Fleming in a Secretary among his private papers. that said Instrument remained in the custody of deponent until he brought the same to the office of the Surrogate of the County of New York. Where he deposited the same for Probate and that whilst said Instrument remained in the custody of deponent the same was in no respects altered or changed.

Sworn this 23^d day of June 3^d J. A. Fleming
1837. Before me

James Campbell

In the Matter of proving the last will
and Testament of John Fleming deceased

County of New York. Be it Remembered that on this
twint third day of June in the year One Thousand
Eight Hundred and thirty Seven Before James

Campbell Sunogali of the county of New York personally
 appeared Walter Buettner who being by the said Sunogali
 duly sworn and examined doth depose and say that this
 deponent was well acquainted with John Flaming de-
 ceased that he was present as a witness and did hear the
 said John Flaming acknowledge that he had subscribed
 at the end thereof the instrument now produced and
 and shown to the deponent, purporting to be the last will
 and Testament of the said John Flaming deceased bearing
 date the the second day of April in the year one thousand
 Eight Hundred and thirty seven; that such acknowleg-
 ment made by the said Testator in the presence of this
 deponent and of James L'Hour that the Testator at
 the same declared the Instrument so subscribed by him
 to be his last will and Testament whereupon this depon-
 ent and the said James L'Hour signed their names
 at the end thereof, at the request of the said Testator and
 that said Testator at the time of executing and publishing
 the said last will and Testament was of age of sound mind
 and memory and not under any restraint

Sworn this 23^d day of June 1837 } Walter Buettner
 Before me James Campbell }

In the Matter of proving the last
 Will and Testament of John Flaming
 deceased

County of New York ss. Be it remembered that on the
 Twenty third day of June in the year One Thousand Eight
 Hundred and Thirty Seven Before James Campbell Surro-
 gate of the County of New York personally appeared James
 I. Hunt who being by the said Surrogate duly sworn and
 examined doth depose and say that this deponent was well
 acquainted with John Fleming deceased that he was pres-
 ent as a witness and did hear the said John Fleming acknow-
 ledge that that he had subscribed at the end thereof the
 Instrument now produced and shown to the deponent
 purporting to be the last will and Testament of the said
 John Fleming deceased bearing date the second day of
 April in the year one Thousand Eight Hundred and thirty
 Seven, that such acknowledgment was made by the said
 Testator in the presence of this deponent and of Walter
 Bicker that the said Testator at the same time declared
 the Instrument so subscribed by him to be his last
 Will and Testament: Whereupon this deponent and the
 said Walter Bicker signed their names at the end thereof
 at the request of said Testator, and that said Testator
 at the time of executing and publishing the said last
 Will and Testament was of full age of sound mind and
 Memory and was under any restraint

Sworn this 23^d day of June 1837.

Before me James Campbell Surrogate

County of New York
Surrogate's Office

Recorded the proceeding last will
 and Testament of John Fleming deceased together with
 the proofs and examinations taken thereon as the last will
 and Testament of the Real and personal Estate of said
 deceased which record is hereby signed and certified by me
 pursuant to the provisions of the revised Statutes the
Twenty third day of June in the year of our Lord One Thou-
sand Eight Hundred and thirty Seven

James Campbell
Surrogate

The People of the State of New York
By the Grace of God, free and Independent

Do all to whom these presents shall come, or may concern

Kind Greeting

Know Ye, That as the city and county of New York on
 the twenty third day of June in the year One Thousand
 Eight Hundred and thirty Seven before, James Campbell
Esquire Surrogate of the said county, the last will and
Testament of John Fleming deceased was duly proved
 approved and registered on the twenty fifth day of
 July in the year aforesaid the execution thereof was granted
 unto John A. Fleming and William H. Fleming two of the
executors in the said will named.

Said

In Testimony Whereof we have caused the Seal of
 Office of our said Surrogate to be hereunto affixed
Witness, James Campbell Esq Surrogate of our
 said County, at the city of New York the Twenty Second
 day of September in the year of our Lord One Thousand
 Eight Hundred and thirty seven and of our Independence
 The Sixty Second

James Campbell Surrogate



State of New York, County of New York
Surrogates Office, St Charles McLean
Sole Surrogate and presiding Judge of
 the Surrogates Court of the said County of
New York, in the State of New York the same being a Court
 having a Seal and having Jurisdiction of Judicial proceed-
 ings and of all matters relating to Wills and Testaments and
 intestate estates do hereby certify that the foregoing is a
 true copy of the last will and Testament of John Fleming
late of said State deceased and of the certificate of the
 probate thereof as the same now remain on record in my
 office. In Testimony Whereof (then being no clerk of said
 Court and being authorized by law to certify my official acts)
 I hereby set my hand and affix my Seal of Office at the city of
New York this Fifth day of September in the year of our Lord
 one Thousand Eight Hundred and forty five

Charles McLean

State of New York

County of New York

Surrogate's office I Charles McBean Sole Surrogate
and presiding judge of the Surrogate court of the said county
and State of New York do hereby certify that the said Charles
McBean was at the time of his preceding attestation Sole
Surrogate and presiding judge of the Surrogate Court of
the said County of New York and that his said attestation
is in due form of Law.

Given under my hand at my office in
the County of New York in the State of New
York this fifth day of September in the
Year of our Lord one Thousand and Eight
Hundred and forty five

Charles McBean

State of New York

County of New York

Surrogate's office I Charles McBean Surrogate
and presiding judge of the Surrogate's Court of said
County of New York in the State of New York do hereby certify
that the last will and Testament of John Fleming deceased
late of the City of New York in the State of New York of
which the foregoing is a true copy from the Records
of my office was duly proved to have been executed as
a will of real and personal estate on the twenty
third day of June one Thousand Eight hundred

and that none of which the probate above is a true copy
from the records of my office according to the laws of
 and usages of the State of New York at the time said
 will was executed. In testimony whereof (there being no



clerk of said court and being authorized
by law to certify my official acts I
 hereunto set my hand and affix my seal
 of office at the city of New York this fifth
 day of September in the year of our Lord
 one thousand eight hundred and forty five
Charles McLean
Surrogate

United States of America

By

Silas Wright

Governor of the State of New York.



It is hereby certified that
 on the 24th day of January 1844 Charles
McLean was duly appointed and commiss-
ioned Surrogate of the court of New York
in this State that he was sworn as such
and has held the said office since his
said appointment and is now Surrogate of said court
and that full faith and credit may and ought to be given
to his official acts as such. It is also certified that this
court is a court of record according to the laws of this State

In Testimony, Whereof the Great Seal of the State is
hereunto affixed. Witness my hand as the Clk. of Albany
the ninth day of September in the year of our Lord one
Thousand Eight Hundred and forty five

Silas Wright

At the Secretary's office the 9th day of
September 1845.

Arch^d Campbell Sec. Sec of State

Endorsement on will, "Recorded in Probate Office New York Co. Albany in Book 9 page 2592
 Feb 4th 1848. D. Grunhauf P. J."

"There is a true copy of a deed from John A. Fleming and
William W. Fleming Executors of the estate of John Fleming
deceased to Charles Morton (in full)"

This Indenture, made the second day of September in
the year of our Lord one Thousand Eight Hundred and forty
five. Between, John A. Fleming and William W. Fleming
Executors of the estate of John Fleming deceased, as Such executor
late of the County of Suffolk and State of New York parties
of the first part and Charles Morton of the city of Quincy in
the State of Illinois party of the second part. Witnesseth,
That the said party of the first part for and in consideration
of the sum of Eighty Dollars, lawful money of the United
States of America to them in hand paid by the said party of
the second part, at or before the sealing and delivery of
these presents, the receipt whereof is hereby acknowledged
have remised, released and quit claimed and by these
presents do remise, release and quit-claim unto the said

party of the second part and to his heirs and assigns forever
 all title to and estate in certain tracts of land known
 and described as the north East quarter of Section Ten in
Township Eleven North of Range one West. The South
East quarter of Section Twenty in Township Eleven North
of Range three West. the South West quarter of Section
Twenty in Township Eleven North of Range three West
 Each of said tracts lying in the county of Warren in the
State of Illinois and each containing One Hundred and Sixty
acres. and also all the estate, right, title and Interest which
 the said John Fleming had in his life time and at the
 time of his decease and which the said parties of the first
 part have by his last will and Testament or otherwise in
 the same. Together with all and singular the tenements
hereditaments and appurtenances therunto belonging or
in any wise appertaining and the reversion and reversions
remainders and remainders, rents issues and profits thereof
 And also all the estate right title interest property possession
 claim and demand. Whatsoever as well in law as in
Equity of the said part of the first part of in or to the above
described premises and any part and parcel thereof with
the appurtenances. To Have and To Hold. all and singular
 the above mentioned and described premises together with
 the appurtenances unto the said party of the second part
 his heirs and assigns forever. In Witness Whereof the said
parties of the first part have hereunto set hand and seal the
day and year first above written

signed sealed and delivered in the
presence of Wm. Underhill
William. C. Heard

John. A. Fleming Esq.
Executor of John Fleming
Wm. C. Fleming Esq.
Executor of John Fleming

United States of America.

State of New York.

Esq.

By this public Instrument
be it known to all whom the
Same doth or may in anywise concern
That J. Joseph B. Jones a Public
Notary in and for the State of New York by letters Patent under
the Great Seal of the said State duly commissioned and
sworn dwelling in the city of New York. do hereby certify
that on the day of the date hereof before me personally appeared
John. A. Fleming & Wm. C. Fleming known to me to be the same
persons described in and who executed the annexed Instrument of
writing and acknowledged to me that they had voluntarily and
freely executed the same for the uses and purposes therein
stated. and as executors of the estate of John Fleming deceased
In Testimony Whereof I have subscribed my name and caused
my official Notarial Seal to be hereunto affixed the 30th day of
June in the year of our Lord one Thousand Eight Hundred
and fifty five in the 19 year of the Independence of the
United States of America

J. B. Jones
Notary Public of the State of New York

Below is a true copy of a And from Charles Morton to
Abner C. Harding as follows.

This Indenture, Made the Thirtieth day of May in the year
 of our Lord one Thousand Eight Hundred and forty Eight.
Between, Charles Morton of Adams County and State of
Illinois of the first part and Abner C. Harding of Warren
 County and State of Illinois of the second part. Witnesseth
 That the said part of the first part for and in consideration of
 the sum of One Hundred Dollars lawful money of the
United States of America to him in hand paid by the said
 party of the second part, the receipt whereof is hereby acknow-
 ledged has, remised, released, and quit claimed and by
 these presents do remise, release and quit claim unto the
 said party of the second part and to his heirs and assigns
 forever all that certain piece or parcel of Land situate, lying
 and being in the State of Illinois in the tract appropriated
 by act of Congress for Military Bounties, known and
 described as follows, viz: Three Hundred and twenty
acres the South half of Section Twenty of Township
Eleven North of Range three West of the fourth principal
Meridian. Together with all and singular the tenements
hereditaments and appurtenances thereunto belonging ^{and} all
 the estate, right, title, interest, property, possession, claim
 and demand whatsoever as well in law as in equity of the
 said party of the first part, of in and to the above described

premises and any part and parcel thereof with the appur-
tenances. To Have and To Hold all and Singular the abov-
mentioned and describe premises Together with the appur-
tenances unto the said party of the second part and to his heirs
and assigns forever.

On Testimony Whereof the said party
of the first part have hereunto set his hand and seal the
day and year first above written.

To Have and deliver in the
presence of

Charles Morton Secy

State of Illinois

Warren County

Personally appeared before me the
undersigned a justice of the peace in and for said county
& State. Charles Morton personally known to me to be the
identical person whose name is subscribed to the foregoing
and as having executed the same and acknowledged
the same to be his act & deed for the uses & purposes therein
expressed.

Witness my hand & Seal this 30th day of May
1848.

Jerry Quincy J. P. Seal

"Holding" vs "By the"

Below is a true copy of Brigman's Statement in full

as follows, on which is endorsed the following words

"agreed to be admitted as a deposition Pam. & Lawrence Deft. vs"

I Lucius Brigman do hereby certify and state that Charles Morton did on the Twentieth day of February 1844 pay all the taxes for the year 1843, assessed upon the South half of Section Twenty in Township Eleven North in Range three West in Hamlin County in the State of Illinois; the said Charles Morton holding under the executors of John Fleming deceased by purchase & paying said taxes under the said title which he derived and received from the said Executors of said Fleming and not as agent for W. Edwards or otherwise; That said Morton did pay in said year the taxes on the Sec 20. 10. T. 3 N. in said County as agent for said Edwards, who claimed said last named tract but had no interest or estate in the said Sec 20. 10. T. 3 N. in said County."

I do further certify, that I did as agent for the said Morton pay on the said South half of said Section Twenty in Township Eleven North in Range three West in said County all taxes assessed thereon for the year 1844. and that the said Morton did pay all the taxes assessed on said land last mentioned for the year 1845. and for the year 1846. and that said payments were all made by him claiming & holding under the said Executors of John Fleming & not otherwise, and that the said Morton did not pay on said

Said under any other title or for any other person, that the said receipts are taken to Charles Morton & co & Charles Morton, & others, because the said lands were owned by me & said Morton & Ebenzer Moore jointly, but that the legal title stood in the name of & for convenience was taken & made to said Morton. I derive my knowledge of these facts partly from personal recollection & partly from the Books of the office and partly from papers & receipts found by me on file in the office of Ringman & Wilson at Quincy, Illinois & I believe the above statement of facts to be correct in every particular.

Quincy October 31st 1853. Lucius Ringman

Below a true copy of Receipt dated March 1. 1841.

State of Illinois } Collectors Office
Hancock County } March 1. 1841.

Received of J. A. & W. B. Fleming Seven Dollars and 20 cents in full of State and County Tax due on the following described tracts of Land for the year 1840. as below set forth

acres	Description	Yrs. Tax due	Value	Rate per ct	Tax
160	N 610. 11.8. 1W	1840	320	42	1.60
320	S 1220. 11.8. 3W	"	800		40
160	N 634. 11.8. 3W	"	320		1.60
					7.20
Jra J. B. Butler Colr					

W. B. Fleming

Below a true copy of Receipt dated Jan. 20, 1842.

State of Illinois (Collectors office
 Warren County (Jan. 20, 1842.

Received of Wm. S. Fleming Eleven Dollars and 32 cents in full for State County and Road Tax due on the following described tracts of Land for the year 1841, as below
 Set forth

Exhibit C
 Wm. S. Fleming

Acres	Description	Years Tax	Value	Rate per ct.	State & Co.	Road	Total
160	SE 10. 11. S. 1 W	1841	480	60	2.40	48	2.88
160	SE 20. 11. S. 3 W	"	480	"	2.40	48	2.88
160	SW 20. 11. S. 3 W	"	480	"	2.40	48	2.88
160	NE 34. 11. S. 3 W	"	480	"	2.40	48	2.88
Wm. S. Berry Col 134 U.S. Index							11.52

Below is a true copy of a Receipt dated June 23, 1843.

State of Illinois (Collectors office June 23, 1843. Monmouth
 Warren County (Received of Wm. S. Fleming Nine Dollars and four cents in full for State, County and Road Tax due on the following described tracts of Land for the year 1842, as below Set forth

Exhibit D

Acres	Description	Years Tax	Value	Rate per ct.	State & Co.	Road	Total
160	SE 10. 11. S. 1 W	1842	480	"	"	"	2.26
160	SE 20. 11. S. 3 W	"	480	"	"	"	2.26
160	SW 20. 11. S. 3 W	"	480	"	"	"	2.26
160	NE 34. 11. S. 3 W	"	480	"	"	"	2.26
							8.94

Thos. A. Allen Collector

Below is a true copy of Receipt Dated Feb 20th. 1844

State of Illinois Collectors Office

Warren County, Minnonth Feb 20th. 1844.

Received of Charles Morton Eight Seven Dollars and Sixty five cents in full of State and county Tax due on the following described tracts of Land for the year 1843. as below Set forth

Acres	Description	Year	Value	Rate	Tax
160	N E 10. 11 S. 1 W	1844	480		2.53
160	S E 20. 11 S. 3 W	"	480		2.53
160	S W 20. 11 S 3 W	"	480		2.53
					7.65
					John Brown Collector

Below is a true copy of the collectors Book for 1844

Land ship 11 S Range 3. 11 S. 11 S 3 W

Patentee	Amount due	Acres	Description	Value	Rate	Tax	Collector's return
Leah Dougherty		320	S E 20.	3	960	480	2.53
							Le Kingman 20 Feb

Below is a true copy of Receipt Dated 5 Jan'y 1846.

State of Illinois Collectors Office

Warren County Minnonth 5 Jan'y 1846

Received of Charles Morton Two Ten Dollars and Eight cents in full of State, county Road and School Tax due on the following described tracts of land for the year 1845. as below Set forth

1/2 lot 5"

acres	Description	Year	Tax	Value	Tax
160	NE 10. 11.8. 1st	1845		480	288
160	SE 20. 11.8. 3rd	"		480	360
160	SE 20. 11.8. 3rd	"		480	360
John Brown Collector					10.08

Below is a true copy of Tax Receipt Dated July 8, 1847.

State of Illinois Collector's Office
Hann County Hannouth July 8, 1847.

Received of Chas. Morton 800 Ten Dollars and 80 cents in full of State, County, Road and School Tax, due on the following described tracts of land, for the year 1846, as below set forth

1/2 lot 7"

acres	Description	Year	Tax	Value	Tax
160	NE 10. 11.8. 1st	1846		480	312
160	SE 20. 11.8. 3rd	"		480	384
160	SE 20. 11.8. 3rd	"		480	384
John Brown Collector					10.80

Below a true copy of Collector's report for 1847. So far as relates to Hann County

List of lands and other real estate situated in the County of Hann and State of Illinois on which Taxes remain due and unpaid for the year herein set forth

1/2 lot 11"

Name of present owner	Name of Patent	Acres	Tax	Year	Value	Description	County
unknown	David Senghutz	33	7.15	1847	960	NE 20. 11.8. 3rd	Hann

State of Vermont } ss.

Norfolk County } John Brown Sheriff and Officer's
collector in and for the County of Norfolk and State aforesaid
 hereby certify that the foregoing is a true copy of the List
 of Land and Town Lots, on which Taxes remain due and
unpaid for the year, and years therein set forth, with
 the valuation, Tax and costs annexed, and to satisfy
 which I have been able to find personal property to pay
 the same. I further state that those Land and Town
Lots have been advertised as the law directs.

Given under my hand at Wilmington this 3rd day of
May A.D. 1848.

John Brown } Sheriff and Officer's
Collector Norfolk County Ver.

State of Vermont } ss.

Norfolk County } Daniel McNeil clerk of the County
commissioners Court, in and for said county hereby certify
 that the foregoing List of Land and Town Lots is a true copy
 of the Land and Town Lots on which Taxes remain due
 and unpaid as appears to me from an examination of
 the Collectors Book for 1847.

Given under my hand at Wilmington this 3rd day
 of May A.D. 1848.

Daniel McNeil clerk

41

"Below is a true copy of Deed certificate taken from
filed in this county office May 2^d 1848
the two pages as follows,"

We C. R. Smith & Co editors and publishers of the
Memphis Atlas do hereby certify that the above list of
lands and other real estate situated in the County of Haven
and State of Illinois on which taxes remain due and unpaid
for the year 1847. Now published in the Memphis Atlas a
Weekly Newspaper published in the City of Memphis
Haven County Illinois on the 24th day of March 1848. and
that the number of transcripts correspond with the number
of papers distributed for that week and also that we have
complied with the laws of the State in the distribution of said
papers. We further certify that the above list was carefully
compared with the original and were found to be correct. that
the number of tracts and town lots accurately correspond and
that the original lists were literally followed in this publi-
cation

C. R. Smith & Co

Memphis March 24. 1848.

Here follows the Original Deposition of Daniel
Donahue Taken before John B. Remy on 6th March
A.D. 1856.

State of Illinois
Warren County

The People of the
State of Illinois
To C. V. W. Myers.

I now you, that trusting to your fidelity
and circumspection. We do hereby authorize
and ^{require} you to cause to come before you, at such
time and place as you may designate,
John A. Fleming, and William H.
Fleming. Witnesses on the part of the
plaintiff in a certain matter of controversy
now pending in our Circuit Court of
Warren County, Illinois, in which
Abner C. Harding is plaintiff and
Samuel Butts is defendant. And then
must there diligently examine the said
Witnesses upon their corporal oaths, touching
the said controversy, upon all and singular
the Interrogatories attached hereto attached
as well on the part of the plaintiff as the
defendant. That you return to writing each
of the said Interrogatories in the order in
which they are propounded? Together with
the answers of said Witnesses. And certify
the same to our said Court under your hand
and seal: Returning also this writ.



Witness William Billings clerk of
our said Circuit Court, at
Mumfords this 1st day of May A.D.
1866 And the seal thereof hereunto
affixed:

Wm. Billings Clerk

Interrogatories to be propounded on the
part of the plaintiff to John A. Fleming
and William H. Fleming. Witnesses on
the part of the plaintiff in a case pending
in the Warren Circuit Court. wherein
Abner C. Harding is plaintiff and
Samuel Butts is defendant.

Interrogatory 1st. Have you known
John Fleming late of the City of New York
when, where, and how long; and in what
relation did you stand to him?

Interrogatory 2nd. Is the said John Fleming
living or dead? and if dead, when and
where did he die?

Interrogatory 3rd. What children, heir or
heirs at law did he have? State their names
in full, and also whether they were the only
children and heirs at law of the said John
Fleming.

Interrogatory 4th. Who were appointed executors of the will of the said John Fleming? who were the "my sons John and William" spoken of in said will. a copy of which is now here shown to you. Marked Exhibit "A"

Interrogatory 5th. Did the said Christopher N. Hurst and Edward W. Dunham named as executors in said will, qualify themselves to act as such executors? did they accept or refuse the executorships to which they were nominated and appointed by the will of the said John Fleming? And did they at any time act as executors of the said will?

Interrogatory 6th. Did the said John H. Fleming and William H. Fleming? accept or ^{renounce} ~~rescind~~ their executorships under said ^{will} ~~will~~? and if they qualified, as such executors, state when and where they so qualified?

Interrogatory 7th. Did you or your brother William H. Fleming, pay taxes on the South half of section twenty, in township Eleven North in Range three West, of the fourth principal Meridian in Warren County in the State of Illinois? In what years

did you so pay such said taxes, and
for whom did you pay them?

Interrogatory 8th Look at the tax receipt
marked exhibit "B" and here shown to you.
dated March 1. 1841 signed by Era J. M. Butler
Collector, & acknowledging the receipt of the
State and County tax due on the South
half of section twenty in township Eleven
North, in range three West, of the 4th principal
Meridian, from J. A. W. H. Fleming, and
state whether the said taxes were paid by
you and your brother in person or by your
agent & whether they were paid for you and
your brother, claiming the land in your
individual right, or for you as Executors of
the Estate of your deceased father & as
representatives of the heirs of your brother?

Interrogatory 9th Where does William H.
Fleming, aforesaid reside. Were you at any
time authorized by him to sell the real estate
of your brother father?

Interrogatory 10th If you were so author-
ized to act by the said William H. Fleming
state when, where and by what kind of
instrument, or in what way, you were so
authorized.

Interrogatory 11th Where is said power of
Attorney, if in your possession, please mark

It Exhibit "C" deliver it to the Commissioner and have it attached to his deposition?

State also whether you own the same executed by the said William H. Fleming is or is not his signature attached thereto genuine and if you believe it to be genuine. and state your ~~go~~ means of knowledge.

Interrogatory 12th Do Exhibit "A" a full and true copy of the last will and testament of the said John Fleming?

Deposition of witness taken on the twentieth day of May A.D. 1851 between the hours of Eleven and Twelve A.M. At 229 Broadway in the City County and State of New York by E. V. W. Myers and upon the enclosed interrogatories and by virtue of the enclosed Commission to be read in evidence in a certain suit now pending in the Circuit Court of Warren County in the State of Illinois described in said Commission and interrogatories wherein Abner C. Harding is plaintiff

E. V. W. Myers Commissioner

and Samuel Butts is defendant

Deposition of John A. Fleming. The said John A. Fleming being first duly sworn doth depose and say, in answer to the several interrogatories as follows to wit:

Interrogatory 1st Have you known John Fleming of the City of New York, when, where, and how long, and in what relation did you stand to him

Answer - I knew John Fleming a former resident of the City of New York. he was my father. I knew him for Twenty three years

Interrogatory 2nd Is the said John Fleming living or dead, and if dead, when and where did he die:

Answer. John Fleming my Father is dead. he died on or about the 5th of May A.D. 1887 in the City of New York.

Examination

E. A. W. Myers

Interrogatory 3rd What children, heir or heirs at law did he leave.

State their names in full, and also whether they were the only children & heirs at law of the said John Fleming

Answer. My Father John Fleming left at his death Ten children, his only children and heirs at law. Mother died before him, and he left no widow. The names of the Ten children are John A. Sarah A. William H. Charles E. Sophia A. Agnes W. Juliet W. Edward A. George W. and Frederick W.

Interrogatory 4th Who were appointed executors of the will of the said John Fleming, who were the "My sons John and William spoken of in said will a copy of which is now here shown to you marked exhibit 'A'"

Answer Christopher N. Kristead
Edward W. Danham
John A. Fleming and

Commissary

E. W. M. Myers

William H. Fleming were appointed by my Father in his last will as executors. he had no other sons named John and William except the above named John & William H. Fleming

Interrogatory 5th Did the said Christopher Christopher W. Riestead and Edward W. Dunham named as ~~it~~ executors in said will qualify themselves to act as such executors. did they accept or refuse the executorships to which they were nominated and appointed by the will of the said John Fleming, and did they at any time act as executors of the said will.

Answer Christopher W. Riestead and Edward W. Dunham declined to qualify and act as executors of my Father's will. they never acted as such executors.

Interrogatory 6th Did John H. Fleming and William H. Fleming accept or renounce their executorships under said

E. A. McMyre Commissioner

will. and if they qualified as such
executors. State when and where they so
qualified.

Answer- I John A. Fleming, and
my brother William H. Fleming
accepted the executorships to which we
were appointed by our Father and
qualified as such executors in 1837. The
precise day I do not remember we acted
as such executors.

Interrogatory 7th Did you or your brother William
H. Fleming pay taxes on the South half
of Section Twenty in Township Eleven
North in Range three west of the fourth
principal meridian in Warren County
in the State of Illinois. In what years
did you so pay said taxes and for whom
did you pay them.

Answer- I and my brother William H. Flem-
ing as Executors of the estate of our Father
for the heirs of our Father by our agents
Moore Morton & Co paid the taxes for the
year 1840. on the 1st day of March 1841. for
the year 1841 on the 2nd day of January
1842. and for the year 1842. on the 25th day
of June 1843. being all the taxes assessed
on the South half of Section twenty in

E. P. W. Fleming
Complainant

Township Eleven North in Range three West. in Warren County Illinois for the said years 1840. 1841. & 1842.

Interrogatory 8th Look at the Tax receipt marked exhibit "B" and here shown to you dated March 1st 1841 signed by Dr. J. M. Butler Collector & acknowledging the receipt of the State & County tax due on the South half of Section twenty in Township Eleven North in range three west from J. D. W. H. Fleming and state whether the said taxes were paid by you and your brother in person or by your agent and whether they were paid for you and your brother claiming the land in your individual right, or for you as executor of the estate of your deceased Father and as representatives of the heirs of your father.

Answer— As Executors of our Fathers estate. and not in our individual right. by our Agents Moore Morton & Co. we paid the Taxes assessed on the South half of Section twenty in Township Eleven North in Range three west in Warren County Illinois for the year 1840. on the first day of March 1841. we did not claim the land

E. V. W. Myers Commissioner

in our individual right.

Interrogatory 9th Where does William H. Fleming aforesaid reside. Were you at any time, authorized by him to sell the real Estate of your Father.

Answer. William H. Fleming resides in New York City. I was authorized by him to sell the real estate of my Father by Power of Attorney in 1848. The Power of attorney is not in my possession and I cannot therefore attach it. I made a deed for the land afterwards with my brother.

Interrogatory 10th If you were so authorized to act, by the said William H. Fleming, state when, where, and by what kind of instrument or in what way you were so authorized.

Answer. I was by Power of attorney. We sold the South half of 20. in Township Eleven North in Range three West. in Warren County Illinois to Charles Thornton at least a year before we made the deed to him as Executors of our Father John Fleming. and this sale was made by me John H. Fleming. with the assent and approbation of my Co-executor William

Commissioner.

My ex. Commissioner.

H. Fleming.

Interrogatory 11th Where is said Power of Attorney if in your possession please mark it exhibit "C", deliver it to the Commissioner & have it attached to his deposition. State also whether you saw the same executed by the said William H. Fleming or is or is not his signature attached thereto genuine. and if you believe it to be genuine state your means of knowledge.

Answer - I do not know where it is

Interrogatory 12th Is Exhibit "A" a full and true copy of the last will and testament of the said John Fleming

Answer - Exhibit "A" is a full and true copy of the last will and testament of my Father John Fleming.

John H. Fleming

State of New York
City and County of New York

J. C. V. W. Myers a Commissioner
appointed by virtue of the annexed writ
issued of out of the Circuit Court of Warren

J. C. V. W. Myers
Commissioner

County Illinois and bearing date the
1st day of May A.D. Eighteen hundred and
fifty six. do hereby certify that the said
Witness John A. Fleming prior to the
taking of said deposition and on the said
Twentieth day of May A.D. Eighteen
hundred and fifty six was by me duly
sworn to testify the truth in relation to the
matter in controversy in the suit mentioned
in the caption to these depositions and in
the enclosed Commission. so far as he
might be interrogated in relation thereto and
that the said deposition was on the twentieth
of May A.D. Eighteen hundred and fifty six
at No. 227 Broadway in the said City
County and State taken and reduced to
writing and signed and sworn to by said
Witness in my presence.

Given under my hand and seal
this Twentieth day of May A.D. Eighteen
hundred & fifty six

E. V. W. Myers

Commissioner



Copy John Flemings Will

In the Name of God Amen. I John
Fleming of the City of New York do make
and publish this my last Will and Testament
as follows. that is to say. I give demise and
bequeath unto my executors hereafter named
and the Survivors or Survivor of them all
the Real Estate and personal property of which
I shall be seized or to which I shall be in any
way entitled at time of my deceased. with
full power and authority to sell said estate
and property or any part thereof and to
reinvest the same in such manner and
mode as my said Executors their Survivors
and Survivor shall deem fit and expedient
upon the Trust and Confidence following
namely. out of the proceeds thereof to pay my
funeral expenses which I desire may be as
frugal as may be possible in the Opinion of
said Executors their Survivors and Survivor and
to the support and maintenance of my
Children. Sophia Augusta. Edward Augustus.
Agnes Wood. Juliet Wadsworth. George Washington
and Frederick Nichols. and when the said
Edward George and Frederick shall severally

be capable of earning their own living the
determination of which is hereby left
discretionary with my said Executors their
Survivors and Survivor then such support
and maintenance to be conferred to
my said daughters Sophia. Agnes. and
Juliet or any or either of them as they my
said Executors their Survivors and Survivor
in their discretion may ~~may~~ deem fit and
proper. Also to distribution of the legacies
hereinafter following. whereas my eldest sons
John William and Charles have severally
incomes sufficient for their maintenance
and will most probably be enabled to provide
for themselves hereafter. I consider it un-
necessary to make provision for them, but in
token of my affectionate regard they shall
receive the following legacies. that is to say.
To my son John & exclusively my case of
Prayers and also to him and my son William
cojointly my book case and all my printed
Books and to my son & Charles my Gold
watch and chain affectionately exhorting them
& severally by the Recollection of endearing ties
which have hitherto united us to superin-
tend the conduct and with affectionate care and
attention cherish and aid in the support
of their dear Orphan & Brothers and Sisters

City of New York this sixteenth day of April in the year of our Lord one thousand eight hundred & thirty seven subscribed
by me as witnesses to the due execution of this foregoing instrument at the request of and in the presence of John
Fleming who at the same time acknowledged to each of us that he executed and declared the same to be
his last will and testament
Walter Becker - James S. Hunt -

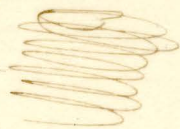
and finally should be any thing remaining
after such distribution and the payment
of my just debts Such Remainder to be
equally divided among my said Daughters
who may then be unmarried their Survivors
and Survivor subject however to the
discretionary Power herein before delegated
to my said Executors their Survivors and
Survivor. I do nominate constitute and
appoint my Executors hereinafter named
their Survivors and Survivor Guardians
after my decease of all my children who
may then be minors.

I do hereby nominate constitute and
appoint my excellent and esteemed friend
and Kinsman. Christopher N. Sturtead
and Edward W. Dunham together with
my sons John and William the Executors
of this my last will and testament. In
testimony whereof I have herunto subscribed
my name and affixed my seal at the City
of New York this second day of April in
the Year of our Lord one thousand eight
hundred and thirty seven

John Fleming

#

County of New York
Surrogate Office



Be it remembered
that on the twenty third day of June in
the Year of Our Lord one thousand
eight hundred and thirty seven. the last
will and testament of John Slemming
late of the City of New York. Deceased. bearing
date the second day of April in the Year of
Our Lord One Thousand eight hundred
and thirty seven. the preceding whereof is
a true copy was duly proven before James
Campbell Surrogate of said County
according to Law as and for the last will
and testament of the Real and Personal
Estate of said deceased which said last will
and testament and the proofs and exam-
inations taken thereon are recorded in this
office.



In testimony whereof the said Surrogate
hath hereunto set his hand and affixed
his seal of office the Twenty third day
of June in the Year of Our Lord One
Thousand eight hundred and thirty
seven

James Campbell

State of New York
Surrogate Office Be it remembered
that on twenty fifth day of July in the Year
of our Lord One thousand eight hundred
and thirty seven. before James Campbell
Surrogate of said County personally appeared
John A. Fleming and William H. Fleming
two of the executors in the last will and
testament of John Fleming Deceased named
and took and subscribed an Oath faithfully
and honestly to discharge the duties of such
executors according to law and Letters
Testamentary therein were then and there
granted to said Executors

In Testimony whereof the
said Surrogate hath hereunto set
his hand and affixed his seal of
Office the twenty fifth day of July in
the Year of our Lord One thousand
Eight hundred and thirty seven
James Campbell



State of Illinois
Adams County  I Theodore
Tonzalin Clerk of the County Court
for said County do hereby certify that the
within and foregoing is a true abstract of
the last Will and testament of John
Fleming Deceased also an Abstract of the
Probate thereof as the same appears of
Record in my office



In Witness whereof, I hereunto
set my hand and affix the seal
of said Court at my office in
Spring this 4th Day of April
A.D. 1864.

Theodore Tonzalin Clerk

I hereby certify that the foregoing are true
copies of original papers which were filed
in my office in case of Harding vs Butts
which I have this day forwarded to the
Clerk of the Circuit Court of Warren
County Illinois -

Witness my hand & seal of
Supreme Court of State of Illinois
at Ottawa this 19th day of March
A.D. 1860. L. Ireland
Clerk

Harding as Butts

Certified copies
of Disposition &c.

Fido in place of
original which is
sent to Orient Ch.
of Waver Ct. Ills.
March. 19. 1860.

L. Seland Ch.



State of Illinois } of the People of the State of Illinois
Hansen County } J. N. German Esq. of the City
of Philadelphia or to any Judge or
Justice of the Peace of the City or County of Philadel-
phia Know ye that trusting to your fidelity &
Circumspection we do hereby authorize & require
you to cause to come before you at such time
& place as you may designate Daniel Dougherty
and John Daly Nitwipes on the part of the
plaintiff in a certain matter of Controversy now
pending in the Circuit Court of Hansen County
in which Abner C. Harding is Plaintiff and
Samuel Butts is Defendant and there and
there diligently examine the said Nitwipes
or Nitwipes upon their Corporal oath touching
the said Controversy upon all & singular the
interrogatories hereto attached as well on the
part of the Plaintiff as the Defendant that
you reduce to writing the said interrogato-
ries in the order in which they are propoun-
ded together with the answers of said
Nitwipes & certify the same to our said Court
under your hand & seal returning also
this writ. Nitwip William Billings Clerk
of our said Circuit Court ~~and in said~~
County this third day of Decem-
ber A.D. 1835. & the seal of said
Court being hereto affixed.

Wm. Billings Clerk
By H. C. Mark Deputy
Clerk



Interrogatories to be propounded to ~~Exhib~~
Daniel Dougherty & John Daly on behalf
of said Plaintiff

Interrogatory 1st What is your name and
residence?

" 2^d Did or Did you not know one
Daniel Dougherty formerly of the
City of Philadelphia and State of
Pennsylvania?

" 3^d What was the occupation of the said
Daniel Dougherty?

" 4th Was he or was he not a Soldier
in the War of 1812 waged by this
Government of the United States of America
with & against Great Britain.

If aye. State whether he was of the Land or Sea
Service, at what age and at what place
he entered the Service, where he was
born, what occupations he followed before
entering the Service & when & where he was
discharged from said Service, and, also
the color of his eyes & hair & his height.
Whether he is now living or not & if dead
whether when he died?

Interrogatory 5th What brothers or sisters if any
did the said Daniel Dougherty leave
at his death? Was he ever married?
at his death did he leave any father or mother
or children? if aye State their names fully
& at large & whether they are now dead or living

Interrogatory 6.

Had or had not said Daniel Dougherty a brother named William Dougherty of age state his occupation his present residence & his age and all that you know in regard to him pertinent to this case?

Interrogatory 7.

Did or did not the said William Dougherty make a deed for a tract of land situated in the State of Illinois in the year 1852? if age state what you know in regard to said deed to whom it was made & when & where it was made?

Interrogatory 8. Are you or are you not related to said Daniel & William Dougherty? if age how are you related?

9614

Depositions of Daniel Dougherty and John Delay witnesses on part and behalf of the Plaintiff in a suit pending in the Circuit Court of the County of Warren - State of Illinois wherein Abner C. Harding is Plaintiff and Samuel Butts is defendant - to be used in evidence on the trial of said case - Taken before me John B. Kenney an Alderman and Justice of the Peace of the ~~Said~~ City of Philadelphia at my office in the said City on the Sixth day of March between the hours of one and three o'clock of said day - in obedience to and in pursuance of the Commission issuing out of said Court in said case hereto annexed.

The said Daniel Dougherty being duly sworn to testify the truth the whole truth and nothing but the truth deposes and says -

To the First Interrogatory to wit: "What is your name and residence" the deponent answers: -

My name is Daniel Dougherty - My residence is in the City of Philadelphia at the Corner of 23^d and Pine Streets.

To the Second Interrogatory to wit: "Did or did you not know one Daniel Dougherty formerly of the City of Philadelphia and State of Pennsylvania" the deponent answers -

I knew Daniel Dougherty who formerly resided in the City of Philadelphia or rather who stopped in the City when he came from sea. The man of whom I speak was my cousin and brother to William Dougherty who made a deed to John Howell Wheeler conveying to him the South half of Section Twenty in Township Eleven North in Range Three West in Warren County Illinois about three years ago. It may have been a year less or more.

To the 3^d Interrogatory to wit: "What was the occupation

of the said Daniel Dougherty" the deponent answers-

Daniel Dougherty of whom I speak, my cousin was apprentice to a Comb maker in Philadelphia about 1812 or 1813 and ran away to sea about that time as I have understood from the family - I saw him frequently and knew him only as a sailor - I have seen him on ship board - The last time I saw him he was on board of a Merchantman, on which he told me he was going out -

To the 4th Interrogatory to wit " Was he or was he not a Soldier in the war of 1812 waged by this Government against of the United States of America with and against Great Britain - If Aye, State whether he was in the Land or Sea Service, at what age and at what place he entered the Service, - where he was born, what occupation he followed before entering the Service and when and where he was discharged from said Service, and also the Color of his eyes and hair and his height - whether he is now living or not and if dead where he died" the deponent answers -

I do not know whether or not he was a Soldier in the war of 1812 - He went away from Philadelphia to Baltimore and shipped there - I do not know the Color of his eyes or hair - My recollection is not clear or distinct - My impression is that he was about five feet nine or ten inches high - that he was a Stout man - that his hair was dark and curly. Can tell nothing at all about his eyes - I do not know whether he is dead or not. He has not been heard of by his family for twenty years. If living now he would be about fifty or fifty two years of age - he was about Eighteen years of age in 1812

To the 5th Interrogatory to wit " What brothers or sisters if any did the said Daniel Dougherty leave at his death? Was he ever married - At his death did he leave any father or mother or Children - If Aye, State their names fully and at large and whether they are now dead or living" the deponent answers -

Daniel Dougherty if dead when last heard from twenty

years ago left no widow or children for he never was married as I knew of. His father and mother died before him. He left two brothers James and William as I have understood. I never saw or knew James. I have seen William. He always followed the sea - I do not know whether he is living or dead. I saw William sign the deed for the land in Illinois three or four years ago. He knew nothing of it till Wheeler told him he had a claim and gave him fifty dollars for it.

To the Sixth Interrogatory to wit "Had or had not said Daniel Dougherty a brother named William Dougherty, If Aye state his occupation - his present residence and his age and all that you know in regard to him pertinent to this case." The deponent answers -

Daniel Dougherty my cousin had a brother named William - his occupation was a seaman I do not know his present residence. His age if living is about sixty.

To the Seventh Interrogatory to wit "Did or did not the said William Dougherty make a deed for a tract of land situate in the State of Illinois in the year 1852 - If Aye state what you know in regard to said deed - to whom it was made and when and where it was made? Deponent answers -

William Dougherty brother to my cousin Daniel Dougherty made a deed in 1852 or 1853, which year I don't remember for the half section of land in Illinois which Wheeler said his brother Daniel drew to John H. Wheeler in this City. The first he knew of the claim Wheeler told him - Wheeler was going to get a deed from me and the other heirs, when William whom we supposed was dead turned up. I told Wheeler all he knew about the matter - I told him the facts as I have stated the story in this deposition.

To the Eighth Interrogatory to wit "Are you or are you not related to said Daniel and William Dougherty - If Aye, how are you related" Deponent answers -

I was the Cousin of Daniel and William Dougherty. My father was born in Ireland Daniel and William Dougherty were I believe born in Ireland. I do not know whether their parents ever were in this Country -

9312 I wish to explain my answer to the second Interrogatory in this particularly. I am not certain where the land was located that William Dougherty made the deed for to Wheeler. I only know it was some where in the west.

Taken sworn and subscribed Daniel Dougherty
before me this 6th day of March 1856

Mo BKerney

Alderman & Justice of the Peace.

State of Pennsylvania {
City of Philadelphia }

I John BKerney an Alderman and Justice of the Peace in and for the City of Philadelphia do Certify that the foregoing Deposition of Daniel Dougherty was taken before me at the time and place mentioned in the Caption. That the said witness was by me first duly sworn to testify the truth, the whole truth and nothing but the truth touching the said Controversy upon all and singular the Interrogatories hereto attached, which said Interrogatories together with the answers of the witness thereto were reduced to writing by me and signed by the witness in my presence. And I Certify that John Daly the other witness named in the Caption could not be found. Witness my hand and seal March 6th 1856.

Mo BKerney

City & County of Philadelphia.

Alderman & Justice of the Peace.

I James G. Gibson Prothonotary of the Court of Common Pleas of the County of Philadelphia do Certify that Mo BKerney Esq before whom the foregoing Deposition was taken is and was at the date thereof an Alderman and Justice of the Peace in and for the said City of Philadelphia, duly commissioned and sworn and that full faith and credit ought to be given to his official acts. Witness my hand and the Seal of the said Court this 19th day of March 1856.

J G Gibson

Prothy

Abner Hurd
" Samuel Butts

Deposition for Abner

Given April 14, 1856
Butts
clerk

No 22

Here follows the Deposition of Thomas Campbell
Auditor of State

Exhibit - W

"An exhibit" deposition of Thomas H. Campbell of the County of Sangamon and State of Illinois taken before me, Clerk of the Circuit Court of said County at the office of Messrs Stuart and Edwards in the City of Springfield in the County of Sangamon and State of Illinois on the eighth day of August in the year of our Lord One Thousand Eight Hundred and fifty-five, between the hours of 10 O'clock A.M. and 6 O'clock P.M. of said day, and continued from day to day, to be read in evidence in a certain cause pending in the Circuit Court of Warren County State of Illinois wherein Abner C. Harding is Plaintiff and Samuel Butts is defendant taken as the part of the said Defendant in pursuance of the enclosed notice:

Thomas H. Campbell of lawful age being first duly sworn depose and Say

Question 1.st State whether you hold any office under the Constitution and laws of the State - if so what, and how long have you held said office, also how long have you been employed about the business of said office either as the holder thereof or in any other capacity?

I hold the office of Auditor of Public Accounts of the State of Illinois; I have held said office since the month of March A.D. 1846. I was employed in said office from February A.D. 1843, till I was appointed Auditor.

(In consequence of Sickness of Witness taking of deposition continued until to-morrow morning at ten O'clock A.M.)

August 9, 10 O'clock A.M.

Question 2.- Please State in what manner the East half of the South East quarter of Section (20) Twenty in Township No (11) Eleven North of Range 3 West of the fourth principal meridian was taxed for taxation in said Office from the year 1828 until the year 1836 inclusive.

Answer: - So far as I have been able to ascertain, from the Books and Records on file in my said Office the diagram Marke "A" and made a part of my answer, will show the listing of the whole of the South half of said Section, together with other tracts of land therein described. I do not find the East half of the South East quarter of said Section listed in any other manner.

Question 3^d. Is or is not the said diagram an exact copy from the tax books in your said Office?

Answer: It is an exact copy from said Tax Books, so far as relates to the tracts of land therein described for the time aforesaid.

Question 4th. Does it or does it not contain ~~any~~ thing in said Books relating to the tracts of land described in said diagram for the years aforesaid?

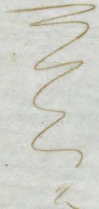
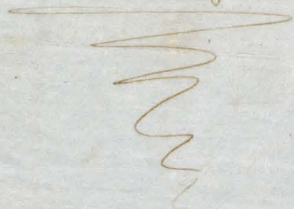
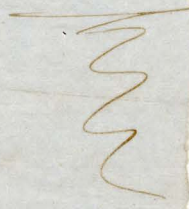
Answer: It does

Question 5. Will you please state whether the said Lands are listed in any other manner in any other books or files belonging to your said Office for the years aforesaid

Answer: Not to my knowledge. I have examined carefully and I do not find any different entries or listings of said land in any of the books or files of my said Office, except in Book N^o 1 for the years 1821 to 1828, the South half of said Section is taxed as the South West quarter and the South East quarter.

Question 6. The fifth column in the diagram shown by you has no heading. Will you please state whether there is or is not any heading

Lands lying between the Illinois and Mississippi R.

Abstracts	Acres	Patentees	Present Owner
254	160	Leonard Mitchell	A. Storo
	160	Robert Lang	Mechan. Bank of
	160	John Taylor	E. & Van Alst
			
		Joseph Ralph	Nathl Simons
		Levi Ralph	Same
		Chester Williams	S. T. Armstrong
		Ephraim Kendall	S. C. Allen
		Joseph Long	
		Ebenezer Deans	
		Thos. Simpson	H. W. Beeson
		Reuben Paine	Nathl Simons
		Robt McMillan	Patrick Delany
		James Day	S. Wheeler
		Nahum Walker	
		S. B. Kirkbard	Wm Woodbridge
		John West	W. B. Pinkney
		Robt Wingfield	Moses McBurn
		S. W. Short	
		Danl. Dougherty	

[Faint, illegible handwriting on lined paper, likely bleed-through from the reverse side. The text is arranged in several paragraphs across the page.]

[Large, stylized handwritten flourish or signature, possibly reading "A." or "L."]

State of Illinois Circuit Court
Warren County Sept. Term A.D. 1855

Abner C. Harding }
Samuel Butts } Exponent

The said Abner C. Harding will hereby ^{notice} take that the said Samuel Butts will on the eighth day of August 1855 at the office of Messrs Stuart and Edward in the city of Springfield in the County of Sangamon and State of Illinois between the hour of 10 o'clock A.M. and six o'clock P.M. of said day proceed to take the deposition of Thomas M. Campbell &c to be read in evidence in the trial of said cause; at which time and place you the said Abner C. Harding will attend and cross examine said witness if you think proper

Samuel Butts

By Lawrence V. Paine

July 16th 1855

Atty Gen

Received a true copy of the above notice this July 16th 1855

A. C. Harding

to that column in any part of the book from which the diagram is copied.
State, also, from what part of said Book the first three entries in said
diagram is copied?

Answer: There is no heading to said fifth column in any part of
said Book. The first three entries in the diagram are copied from the
first page of the Book and are the first entries on said page.

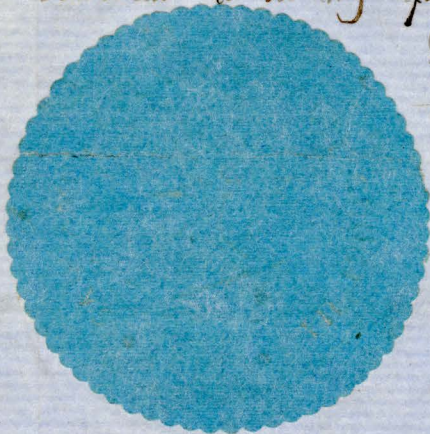
Wm. H. Campbell
(Diagram Marked "A" referred to in Answer to Question 2nd)

State of Illinois

Sangamon County ^{3rd}. I James H. Moathing Clerk of the Circuit Court of Sangamon County and State of Illinois do hereby certify that Thomas H. Campbell was by me sworn to testify the truth the whole truth and nothing but the truth as a witness in the case wherein Abner L. Harding is Plaintiff and Samuel Butts is a case now pending in the Warren County Circuit Court of the State of Illinois and that the foregoing deposition by him subscribed was reduced to writing by me at the time and place when and where the same were taken and in the enclosed notice specified, and that the same was subscribed to in my presence

Given under my hand and Seal of Office at Springfield
this Ninth day of August A.D. 1855.

J. H. Moathing Clerk.



Agreed due admitted
is a deposition

Exhibit to the record

Harding
for self

Test made and
Sept 5-55

Given Sept 17, 1855
Blumson

Clerks Fees taking Deposition
Paid by Defendant \$2.00

State of Illinois & Warrner Circuit
Warrner County & Court April Term
1856.

I William Phillips Clerk of the
Circuit Court in and for the said
County do hereby certify that on pages
1, 2, & three of the foregoing document is contained
a true copy of the Judgment of the Circuit Court
of Warrner County for the year 1848 against certain
land for the term of the year 1847 referred to
in the accompanying bill of exceptions in the case
of Harding vs. Bulls as "Exhibit A"; that on pages
four & five of said document is contained a true copy of
the number of the newspaper with the list of land,
filing of the Clerk, advertisement of the Sheriff,
and certificate of the printer referred to in said bill
of exceptions as "Exhibit B"; that on pages
six, seven, & eight of said document is contained a true copy
of the precept return of the Sheriff referred to in
said bill of exceptions as "Exhibit C"; that on pages

Eight, nine and ten of said document is contained
a true copy of the affidavit referred to in said bill
of exceptions as "Exhibit D"; that on pages
Eleven and twelve of said document is contained
a true copy of the second of said affidavits referred to in said
bill of exceptions as "Exhibit E"; that on pages
thirteen of said document just preceding a copy of the
Deed from the Sheriff to the Plaintiff is contained a
true copy of the collector's book for 1847 referred to
in the said bill of exceptions as "Exhibit F"; that on pages
thirteen, fourteen and fifteen ^{of said document} is contained a true copy of
the Sheriff's Deed to the Plaintiff referred to in said
bill of exceptions as "Exhibit G"; that on pages
fifteen & sixteen of said document is contained a true
copy of the Auditor's Deed to Myer referred to in
said bill of exceptions as "Exhibit H"; that on pages
17, 18, 19 & 20 of said document is contained a true copy of the
Deed from Myer wife to Fleming referred to in the said
bill of exceptions as "Exhibit I"; that on pages
20, 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30 of said document
is contained a true copy of the copy of the will of John
Fleming, the probate thereof, the letters of administration, and the
accompanying certificates referred to in said bill
of exceptions as "Exhibit J"; that on pages

30, 31, & 32 of said document is contained a true copy
of the deed from Ed^d Menning & Cha^d Morton
referred to in said bill of exceptions as "Exhibit - R";
that on pages 33 & 34 of said document
is contained a true copy of the deed from
Morton to the Plaintiff referred to in said
bill of exceptions as "Exhibit - L"; that on pages
34 & 35 of said document is contained a
true copy of the Statement of Lewis Mayhew
referred to in said bill of exceptions as "Exhibit - M";
that on page 36 of said document is a true copy
of a tax receipt for the taxes of 1840 referred
to in said bill of exceptions as "Exhibit - N";
that on page 37 of said document is contained
a true copy of a tax receipt for the taxes of 1841
referred to in said bill of exceptions as
"Exhibit - O"; that on page 38 of said document
is contained a true copy of a tax receipt for the taxes of
1842 referred to in said bill of exceptions as
"Exhibit - P"; that on page 39 of said document
is contained a true copy of a tax receipt for the taxes
of 1843 referred to in said bill of exceptions
as "Exhibit - Q"; that on pages 38 & 39

is a true copy of the collector's book for 1844
referred to in said bill of exceptions as "Exhibit R"; that
on pages 38 & 39 ^{of said document} is contained a true copy of the
tax receipt for 1845 referred to in said bill
of exceptions as "Exhibit S"; that on page 39 of
said document is contained a true copy of the
tax receipt for 1846 referred to in said bill of
exceptions as "Exhibit T"; that on pages 39 &
40, & ~~41~~ of said document is a true copy of
the collector's report referred to in said bill of
exceptions as "Exhibit - "; that on page
41 of said document is contained a true copy
of the Minister's Certificate referred to in
said bill of exceptions as "Exhibit U";
that between pages 42 and 43 of
said document is contained the original
deposition of Daniel Doreyherd
referred to in said bill of exceptions as
"Exhibit V"; that between pages 44 & 45
of said document is contained the original
deposition of Thomas Campbell auditor &
referred to in said bill of exceptions as
"Exhibit W"; that between pages ten & eleven of
said document is contained the original deposition of John A. Fleming

referred to in said bill of exceptions as Exhibits Xth;

That the said pieces of evidence & Copies
of Evidence offered in said case are
respectively true Copies of the Originals;
And are the identical instruments
& copies of instruments referred to in
the accompanying bill of exceptions
for admission as Exhibits of
which said they are parts and
were parts of the same & were presented
to the Court accompanying said bill
of exceptions when the same was
by the said Judge signed in open
Court.

In Witness whereof I have hereunto set
my hand & seal of said Court at
Bloomington this 12th day of May
A. D. 1856 Wm. B. B. Clerk

Harding Supreme Court of Illinois
Butts & April Term 2d 1859.

And now comes the appellant in said case, ^{and} assigns
for error - the following causes - which he
Smith hath intervened to his injury in the foregoing proceedings:

1. The court erred in excluding the
evidence of the plaintiff

2. The court erred in overruling the motion of
plaintiff William Clark Circuit Court Record certificate
of publication of advertisement for ^{tax} sale of 1848

3. The court erred in admitting the evidence of the
defendant

4. The court erred in ^{entering judgment} ~~admitting the evidence~~ finding
for the defendant

5. The court erred in not finding ^{and entering judgment} for the plaintiff.

6. The court erred in overruling the plaintiff's motion
for a new trial. Wherefore he prays the judgment may be reversed & for new trial.

George Harding
Appellant's Attorney

130
Abner C. Harding

vs

Samuel Butts

Filed April 21, 1857

L. Leland
Clerk

vers, patented by the United States to Individuals for their Military Services,

		Qual Section		Township & Range	1828	1829	1830	1831	1832
Baltimore aw	Schuyler	N E	4	16 1 S 1 W	" 1.60	1.82	1.60	240	240
	do	N W	"		" 1.60	1.60	1.60	240	240
	do	S E	"		" 1.60	1.60	1.60	242	240
Warren Co		N E	15	11 N 3 W	" 1.60	1.60	1.60	251	252
		N W	"		" 1.60	1.60	1.60	251	252
		S W	"		" 1.60	1.60	1.60	240	240
		S E	"		" 1.73	1.71	1.82 (1.00)	0.01	252
		N E	17		" 1.60	1.60	1.60	240	240
		N W	"	+ 160	" 1.60	1.82	1.60	1.60	240
		S W	"		" 1.72	1.60	1.82	1.00	240
		S E	"		" 1.60	1.60	1.60	251	252
		N E	18		" 1.73	1.72	1.60	240	240
		S E	"		" 1.74	Fulton	Fulton	Fulton	Fulton
		N E	19		" 1.73	1.60	1.60	262	240
		S E	"		" 1.74	1.71	1.68	248	240
		N E	20		" 1.72	1.60	1.60	240	240
		N W	"		" 1.73	1.60	1.60	262	240
		S E	"		320	3.26	3.46	3.31	4.80
									5.08

I, Thomas H. Campbell, A
of Illinois, do hereby certify that the fore
copy from the tax book in my office for
including the headings or caption found on
as it stands
In testimony whereof
and affixed the seal of
above written

Taxes to Individuals for their Military Services, and Taxed by the State of Illinois

Wardship & Range	1828	1829	1830	1831	1832	1833	1834	1835	1836	
1 S 1 W	1.60	1.82	1.60	240	240	150 Mont	Schuyler	Schuyler		
"	1.60	1.60	1.60	240	240	Mont	Mont	do	do	✓
"	1.60	1.60	1.60	262	240	Mont	Mont	160		✓
3	3	3	3	3	3	3	3	3	3	
11 N 3 W	1.60	1.60	1.60	251	252	Warren	Warren	Warren	Warren	
"	1.60	1.60	1.60	251	252	Warren	do	do	do	
"	1.60	1.60	1.60	240	240	Mont	Mont	do	do	✓
"	1.73	1.71	1.82	0.01	252	240	do	do	do	✓
"	1.60	1.60	1.60	240	240	Mont	Mont	do	do	✓
+ 160	1.60	1.82	1.60	1.60	240	Stblair	Stblair	do	do	✓
"	1.72	1.60	1.60	1.00	240	Fayette	Fayette	do	do	✓
"	1.60	1.60	1.60	251	252	Warren	Warren	Warren	Warren	
"	1.73	1.72	1.60	240	240	Mont	Mont	do	do	✓
"	1.74	Fulton	Fulton	Fulton	Fulton	Fulton		Fulton	do	✓
"	1.73	1.60	1.60	262	240	240	Warren	Warren	do	✓
"	1.74	1.71	1.68	2.48	240	240	Mont		240	✓
"	1.72	1.60	1.60	240	240		Warren	do	Warren	✓
"	1.73	1.60	1.60	262	240	2.40	do	160 do	do	✓
320	3.26	3.46	3.31	4.80	5.08	4.80	4.80	do	do	✓

Auditor's Office Illinois
August 8th 1855

I, Thomas H. Campbell, Auditor of Public Accounts of the State of Illinois, do hereby certify that the foregoing diagram is a true and correct copy from the tax book in my office for the year 1828 to 1836, inclusive, so far as including the headings or caption found on the first page of said book.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of my said office, the day and year above written.

Thomas H. Campbell Auditor

Story's Limitation laws which in terms act upon
Crest of Laws the right, not only, as the remedy, but
extinguish the right, and confer title

Townsend in Statutes of limitations which act upon the
Tammison. right, and confer title, considered and
G. How. 4/18-19, 20 approved

Fitch in Mann The statute of limitations is as a title, and
8 Barr 507. prevented a recovery by the Plaintiff

Parish in Under the act of 3 April 1804 for selling
Stevens unseated lands for taxes, the title given by
3 Perry & R. the Sheriff is good after five years have
elapsed from the sale, without action
being brought, whether the proceedings
were regular, or irregular, and that
notwithstanding the sale was for taxes
due before the passing of the act, and the
purchaser had not entered on the land

Robt in The act of limitation of Pennsylvania of
1 Bowen 1824, makes the limitation of five years
9 Barr 71. begin to run from the sale of the land
for taxes whether possession is taken or
not, and the law is held unquestionably
good

Shoenberger ^{vs} A limitation law vesting title after
Becht six months, held good, although the
5 Watts 195. land was vacant and unoccupied

Wallace ^{vs} The Statute of limitations of Tennessee
Wannum of 1819, vests in the occupant under the
1 Humph: 450 statute a good and indefeasible
title in fee simple in the land occupied
and the Courts sustain the law.

Anderson ^{vs} An uninterrupted possession and occu-
Gilbert pation of land for 20 years is a good
1 Bay 375 title against a grant

Taylor ^{vs} Twenty years adverse possession is a
~~Worde~~ positive title to the Deft; It is not a bar
1 Burr: 69 to the action or remedy of the Plaintiff only,
but takes away his right of possession

Pilesothers ^{vs} The seven years limitation law of
Bouldin Tennessee gives a complete title to the
6 Cond: 330 person who has the possession

Pillow ^{vs} The Statute of Arkansas confers title
Roberts upon the purchaser at a tax sale in five
13 How: 472 years after the sale, although he may
not be in possession of the land

Beckford & others
vs
Wade

17 Ves: 88

The Statute of limitations of Jamaica does not bar the legal remedies, but converts a possession for 7 years under a deed, will &c into a positive, absolute title against all the world

Bryan
vs
Estwater

5 Day 181. 190

Entry upon land is a disseizin of the owner, and if the disseizor remains in possession for 15 years he thereby gains a title

Jackson
vs
Lampshire

3 Pet. 280-287-9

The act passed by the N. Y. Legislature "To settle disputes concerning the titles to lands in the County of Onondaga" referring them to arbitration and making the award of the arbitrators conclusive, is not a violation of the Constitution prohibiting the passage of laws which violate contracts. It does not violate the obligation of a contract. It is Constitutional and valid. The time and manner of the operation of statutes of limitation - the exceptions to them, and the acts from which the time limited shall begin to run, will generally depend upon the sound discretion of the legislature, according to the nature of the titles, the situation of the Country, and the emergency which leads to their enactment.

Finley et al
v
Humble et al
2. A. K. Mar.
571

Twenty years possession not only
tolls the entry of an adverse claimant,
but by operation of law, vests the person
so possessed with the right.

Parker
v
Saultwick
6. Watts 377.
378

The effect of the statute is to transfer
the title lost - not to confirm a title
gained.

In the following cases the claimant
under the limitation law was Plaintiff,
and recovered.

Chilton et al
v
Miesons Hs
9. Humph 399.

The Plaintiff in this case claimed
title by virtue of the statute of limita-
tions alone - and the Defendant claimed
it by grant from the government.
The Plaintiff had judgment.

The Court said The statute of limitations
unites possessions, and vests the title
in him who is in possession at the
end of the term.

Stokes
v
Berry
2. Salk: 421.

Twenty years possession is a good
title in Ejectment for Plaintiff
as well as for Defendant.

Watson
v
Gregg
10. Watts 289.
295

The Deft in possession had paper title
deduced from the government. Plaintiff
claimed under the statute of limitations
only, and recovered. The Court said
The Plt was merely a trespasser, but
such an occupant, as, by law, gains a
complete title by disseizen.

Russell
in
Barney
6 McLean's Rep
578-9. 580-81

In this case Judge McLean discusses
the constitutionality of the law, and
upholds it.

Harvard
is
Brett

A Memoir of authorities
referred to in argument
by D. H. Browning

Abner C. Harding

vs.
Samuel Butts

1. The title under which the defendant is in possession is shown by the deposition of Daniel Dougherty, to be fraudulent and worthless in its inception, and the defendant ought not to be allowed to attack the tax titles of 1831 or of 1848.

Sec. 73. ch. 89. R. S. 1845.

2. The assessor's return is on the right day. Chap. 89. Sec. 21. R. S. 1845.

3. The Act of 1847 ought to be held to apply to those assessments only whose whole ~~assessments~~ proceedings could be conducted under its provisions. While Sec. 5. enlarges the period of assessment and Section 7 shortens it and while the former is inapplicable because the period limited has elapsed before the passage of the act the latter ought also to be held inapplicable that the law may be reasonable.

Attorney for Applicant

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Amos W. Harding
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Lumber Books

Argument

Filed May 5, 1857
S. Leland
Clerk