

No. 11863

Supreme Court of Illinois

Young. *et al*

VS.

Lorraine *et al*

71641  7

26

Alexander Lyngby

John Torrance

1850

Repairs

1862

State of Illinois
In said County

Pleas in the Jo Damp County Court begun and held
within and for the County of Jo Damp aforesaid on
the first Monday in the Month of April a 1848 before
the Hon Hays & Deaky presiding Judge of said Court

Julia Ann Bates by Alexander
Young her next friend & Elizabeth
Young & Alexander Young } Plaintiffs

John Sorran & Spencer Sorran } Defendants

Re it Reminded that
hereafter to wit on the 31st day of March a 1848
the Plaintiffs above named by their attorns filed in
the office of the Clerk of the Jo Damp County Court
a transcript from the Records of the Jo Damp County
Circuit Court together with their Declaration and
Notice which are in the words and figures following
to wit

Transcript
from } State of Illinois
Circuit Court } Jo Damp County

Pleas in the Circuit Court
of said County before the Hon Thomas C Brown
one of the associate Justices of the Supreme Court
and presiding Judge of the Sixth Judicial Circuit
in said State at the term of said Court begun
and held at Galena in said County on the second
Monday in the Month of March a 1848

2
Julia Ann Bates by Alexander
Young her next friend & Elizabeth
Young & Alexander Young

Plaintiffs

vs
John Lorrain & Shemuel
Lorrain

Defendants

Be it remembered that certified
to wit on the 13th day of March A D 1848 in the Record
of the proceedings of said Court in March term thereof
A D 1848 in the above entitled cause appears the following
entry and order of said Court to wit

Julia Ann Bates by Alexander
Young her next friend & Elizabeth
Young & Alexander Young

Plaintiffs

vs
John Lorrain & Shemuel Lorrain

The Plaintiffs by their attorney
came and filed their declaration and notes and in answer
of the plaintiffs by their attorney it is ordered by the Court
that this cause be docketed, and that the defendants
be ruled to plead to said declaration within twenty
days from this date

And afterwards to wit on the 18th day of March A D 1848
in said March term of said Court A D 1848
in the Record of the proceedings thereof in said cause
is the following entry to wit

Julia Ann Bates by her next friend
Alexander Young, Elizabeth Young
& Alexander Young

Plaintiffs

vs

John Lorrain & Shumie Lorrain }

Now at this day came
the Plaintiffs by their attornys and the Said Julia Ann
Bates by her next friend Alexander Young - and
the Defendants in proper person and agree in open Court
as per agreement on file that the venue in this case
be changed to the J^d Damp County Court of Perry
meaning all exceptions to the Regularity of the Proceedings
or the right of the Said J^d Damp County Court to try
this cause and Execute its judgment or in any manner
to the jurisdiction of the Said Court - It is thereupon
ordered by the Court that the venue herein be changed
to the J^d Damp County Court

State of Illinois }

J^d Damp County }

I William H Bradley clk of the
Circuit Court in and for Said County do hereby certify
the foregoing transcript to be a true and correct copy
from the Record of all the ads and entries of Said
Court as appears of Record in Said Cause of Julia
Ann Bates by her next friend Alexander Young
Elizabeth Young & Alexander Young against John
Lorrain & Shumie Lorrain and that the original
Declaration & Notice in Said Cause Marked A
and the written agreement on file Marked B are
herewith enclosed and transmitted to the Said J^d
Damp County Court with this transcript & Testimony
whereof I have herewith set my hand and
affixed the Seal of Said Court at my office
in Galena in Said J^d Damp County the 29th
day of March a 1848
Attest W^m H Bradley clk

Seal

Endorsed Filed March 31st 1848
In M. F. Jones
Chf

Declaration

State of Illinois Jo Duang County of

Julia Ann Bats

Alexander Young &

Elizabeth Young

vs

John Lorrain &

Shemuel Lorrain

}
} In the Grand term a d
} 1848 of the Circuit Court

Declaration

Alexander Young & Elizabeth Young his wife and Julia Ann Bats who sues by Alexander Young her next friend complain of the said John & Shemuel of Lorrain in a plea of trespass & Ejectment that whereas the said Alexander Young & Elizabeth his wife on the first day of January a d one thousand eight hundred & forty eight were seized in fee in right of the said wife Elizabeth of the one undivided half and the said Julia Ann Bats was seized in fee as of her own right of the one undivided half of the following described tracts & pieces of ground & premises situate in the City of Tullahoma County & State of said & designated upon the plat of the said City as follows to wit the North half (87 1/2) of Lot number four (5) in Block numbered Twenty nine (29) & the South half (87 1/2) of Lot A numbered six (6) in Block Twenty nine (29) on the East Side of Fever River and the said plaintiffs possessed of the same on the day & year aforesaid & being so possessed thereof the said defendants afterwards to wit on the day and year aforesaid entered into the said tracts & parcels of ground & premises & unlawfully withholds from the said plaintiffs the possession thereof to the great damage of the said plaintiffs

and against the peace of the people of the State of Illinois
And the said Alexander Young & Elizabeth his wife also
Complain as aforesaid of the said John & Samuel Johnson
for that whereas on the day & year aforesaid the said Alexander
& Elizabeth were possessed of the one undivided half of the follo-
wing other described tracts & parcels of Land situate in the City
of Galena County & State aforesaid & designated on the plat
of the said City of Galena as follows to wit: The North
half of Lot numbered five (5) and the South half of Lot
numbered six (6) both in Block numbered twenty nine
(29) on the east side of Jones River and being so possessed
through the said Defendants aforesaid to wit on the day
& year aforesaid entered into the tracts & parcel of Land
aforesaid & unlawfully withholds from the said
Alexander Young & Elizabeth his wife the possession thereof
to their great damage & against the peace of the people of
the State of Illinois. And the said Alexander &
Elizabeth his wife claim the said undivided half of
the premises aforesaid in fee in right of the said wife
Elizabeth. And the said Julia Ann Bates also
by Alexander Young her next friend complains of the
said Defendants that whereas on the first day of January
A D one thousand eight hundred & forty seven, the said Julia
Ann was possessed of one undivided half of the following
described tracts & parcels of other ground situate in the
City of Galena County & State aforesaid and designated
on the plat of said City as follows to wit: The North
half of Lot numbered five (5) and the South half of
Lot numbered six (6) both in Block numbered twenty
nine on the East side of Jones River and being so posses-
sed through the said Defendants aforesaid to wit
on the day and year aforesaid entered into the said
premises and unlawfully withholds from the said Julia

Ann the possession thereof to her great damage against
the peace of the people of the State of Illinois & And
the said Julia Ann claims the said undivided
half of the premises aforesaid in fee as of her own
right - Wherefore the said plaintiffs say they
are injured and have sustained damage to the amount
of one hundred dollars & therefore bring suit &c
Hoge & Wilson & Douglas
their attys

Messrs John & Spencer Serrain
Gentlemen

You will please take notice
that on the first day of the next term of the Circuit Court
to be holden within and for the County of Peoria and
State of Illinois at Galena on the second Monday of
March next we will file in said Court the declaration
in Ejectment a copy whereof is herewith served upon
you & upon filing the same shall move said Court
for a rule upon you to appear & plead to said declaration
within twenty days thereafter & and upon your failing
to appear & plead accordingly a judgment by default
will be entered against you and we shall recover posses-
-ion of the premises

Galena July 24th 1848

Alexander Young
Elizabeth Young &
Julia Ann Bates by her next
friends Alex^r Young

State of Illinois

Peoria County

W^m O'Neil being first duly
sworn on his oath states that on the 28th day of February
A.D. 1848 he delivered a copy of the foregoing declaration
and notice attached thereto, to John Serrain one of
the defendants within named Spencer Serrain

And afterwards to Wit on the first day of April 1848
1848 the said Defendants by their attorney comes
and files their Plea to the plaintiffs Declaration
in the words and figures following to Wit "

James et al

↳
Lorraine et al

}
}

Exhibent

County Court April Term
term 1848

And the said Defendants come
and defend on & for plea say that they are
not guilty of unlawfully withholding the premises

resented by the Pleuntopp as alleged in their decl-
-arations & of this they put themselves on the Country

Drummond
for drift

& Jeff Lakin
Douglas & Wilson
for Pleuntopp

Endorsement
April 1st 1848

In M. F. Drake
Clark

not found

Summited into evidence before
me this 29th Day of February

a d 1848

W^m H Bradley clerk

J^m P. Willard
ju 8 1/4

Endorsement filed March 13th 1848

W^m H Bradley clerk

also Filed March 31st 1848

J^m M. Ingelw clerk

and afterwards to Wit on the 8th Day of May a d 1849
in the report May Term a d 1849 of said J^m Damp
County Court in the record of said Court in said case
is the following entry to Wit

Alexander Young & Elizabeth
Young his wife & Julia Ann
Bates by her next friend Alexander
Young

Exigent

John Lorrain & Shumell Lorrain

On motion of the plaintiffs
attorney the Marriage of Julia Ann Bates one of the Plaintiffs
to Francis Marchildon is suggested on the record, and
on his motion the name of the said Francis Marchildon
is added to be placed upon the record as one of the parties
Plaintiff herein - And by agreement of the parties
by their attorneys - It is ordered by the court that this
Case be continued at the costs of the Defendant and
that Exigent issue therefor

And afterwards to Wit on the 11th Day of January

a D 1850 in the January Special term a D 1850
of said ^{to said court} Court in the records of said Court in said
Cause is the following entry to Wit:

Alexander Young and Elizabeth
Young his wife & Francis Marchildon
and Julia Ann Marchildon his
wife } Defendant

vs
John Lorrain & Sherrill Lorrain

Now at this day came the parties
by their attornys and upon issue joined by agreement
they waive the intervention of a jury and for trial
put themselves upon the Court and the Court after
hearing the evidence after inspection of the papers
and due deliberation finds the Defendants not
Guilty of unlawfully withholding the premises
described in the declaration of the Plaintiff and
the Plaintiff attorny moves the Court for a new
trial of this Cause & files his return therefor

On the trial the Plaintiff by their counsel made
the following exceptions which were allowed
by the Court and which are in the words and
figures following to Wit:

Alexander Young et al } In & Dunlap County
vs } Court
John Lorrain et al } In Defendant

Be it remembered that
on the trial of the above mentioned Cause the Plaintiff

to support the cause of action offered & read in enclosure
patent from the government of the United States as follows
to wit:

Patent
Receipt & } The United States of America
Register Certificate } shall to whom these presents shall come Greeting
No 365 } Whereas Elizabeth Bates and Julia Ann
Bates heirs at Law of Benjamin Bates deceased have deposited
in the General Land office of the United States a certificate
of the Register of the Land Office at Galena whereby it
appears that full payment has been made by the said
Elizabeth Bates and Julia Ann Bates Heirs as aforesaid
according to the provisions of the act of Congress of the 5th
day of July 1836 entitled an act to amend an act
entitled an act authorizing the laying off a town on River
River / River River in the State of Illinois and for other
purposes approved fifth February 1829 for Lots num-
bered one two three four five six seven eight nine ten
eleven and twelve in square numbered three from twenty
two and twenty three, and Lots numbered four five and six
in square numbered twenty eight and twenty nine East of
River River in the town of Galena containing ten acres and
three hundred and twenty five thousandths of an acre
according to the official plat of survey of the said town
returned to the General Land office which said lots
has been purchased by the said Elizabeth Bates and
Julia Ann Bates as aforesaid & none know ye that the
United States of America in consideration of the premises
and in conformity with the several acts of Congress in such
Case made and provided have given and granted
and by these presents do give and grant unto the said
Elizabeth Bates and Julia Ann Bates heirs as aforesaid
and to their heirs the said Lots above described to
have and to hold the same together with all the

rights privileges immunities and appurtenances of what
-soever nature thereunto belonging unto the Said Elizabeth
Bates and Helen Ann Bates Heirs as aforesaid and to their
heirs the Said Lots above described and assigns forever
as tenants in common and not as joint tenants, In testimony
whereof I James K Polk President of the United States
of America here caused these letters to be made Patent
and the Seal of the General Land office to be hereunto
affixed - Given under my hand at the City of Washington
the twelfth day of September in the year of our Lord
one thousand eight hundred and forty five and of the
independence of the United States the seventieth

By the President

James K Polk

Escal

By I Henry Tucker Secy

Records Vol 1 Page 365 E⁷

S H Langdon, Receiver
of the General Land office

and then affixed in evidence & read the following parts
of a deposition of Mrs Archangels W Dowell to wit:

State of Illinois
In Deane County 3 p

Deposition

The People of the State of Illinois do pass
B Brown of Keokuk County of Lee and State of Iowa
and in case of his absence or inability to attend to any
Judge or Justice of the Peace in and for Said County
last aforesaid as a Commissioner appointed in and
for the Said County of Lee & State of Iowa Greeting

Know ye that we in confidence of your piety
and fidelity have appointed you and by this presents
do give unto you full power & authority and do hereby
require & authorize you that at a certain time & place
to be designated & appointed by you for that purpose
you do cause the witness whose name is mentioned

in the Caption of the enclosed interrogatories as well in
the part of the said Plaintiff as on the part of the said
Defendants in the said different Subpoenas annexed
to come before you and them and then diligently
and faithfully examine him upon the said interrogatories
in his Corporate oath first taken before you both on the
part of the said Plaintiff and Defendants and none
other; and that you do take such his examination
and cause the said interrogatories as they are propounded
together with the answers thereto to be reduced to writing
in the non in which they shall be propounded & answered
And when you shall have so taken them you shall
cause the said witness to sign his name to the same
in its proper place in your presence; and then you
you will annex at the foot thereof a Certificate Sub-
scribed by yourself in which you must state that
they were sworn to and signed in your presence by the
Deponents and the time & place when and where the
same were taken & And after which you are to send
the said Depositions together with this Commission
and the enclosed interrogatories Carefully enclosed and
sealed up to the Clerk of the said Jo Daviess County
Court in and for the County of Jo Daviess and State of
Illinois with the names of the said parties litigant
endorsed thereon, And that you shall in no wise
omit

Witness my hand at Galena
the 13th day of August A.D. 1849
Attest Geo M. Hughes Clerk

Seal

State of Illinois
Jo Daviess County

Alexander Young & Elizabeth Young, Francis Marchalder & Julia Ann Marchalder	} In Jo Darnup County Court in Execution
Edmund Connor	

Same Plaintiff	} Same Plaintiff
"	"
Remond Dowling	} James Conroy

Same Plaintiff	} Same Plaintiff
"	"
Edmond Strong	} John Lincum et al

Same Plaintiff	} Same Plaintiff
"	"
W ^m A Jordan	} Thompson Campbell

Same Plaintiff	} Same Plaintiff
"	"
Clear Bayless	} Jacob Hryszinger

In the above named defendants in the above en-
-titled causes in Execution now pending & undet-
-ermined in the Jo Darnup County Court in and for
the County of Jo Darnup or to Thompson Campbell
Clerk thereof.

You will please take notice that on Monday
the thirteenth day of August next we will see out
of the Jo Darnup County Court in and for said
County a Commission directed to Jesse B Brown
of Rockwell County of the State of Iowa and in case
of his absence or inability to attend to any Judge

or justice of the peace in & for said County last
aforesaid as a Commissioner to take the depositions
of Archang Mc Dowell of the last named County
& State, on the annexed interrogatories to be read as
evidence on the trial of each of the above named
Cases now pending under the above named titles
in Circuit in the said Jo Daviess County Court
You can attend & Crap as advised if you see proper

Galena 25 1849

Wm H. Pilsen

for Piff

Interrogatories referred to in the above ~~process~~ notice
to be administered to Archang Mc Dowell a writing
to be produced, sworn and examined in the above
named Cases now pending & undetermined in the
said Jo Daviess County Court on the part & behalf of
the plaintiffs as follows to wit

Quest 1st Do you know the parties Plaintiffs
in the above entitled Cases - to wit Alex and
Mary & Elizabeth Young Francis Murchison
& Julia Ann Murchison or either & which of them
& how long have you known them respectively

Quest 2nd State the original family name of said
Elizabeth & Julia Ann - whether they are respectively
married to Alex and Mary & Francis Murchison
& when

Quest 3rd State whether you sustain any relationship
to said Plaintiffs or any of them & if yes what, &
whether you have had an opportunity of becoming
acquainted with them Circumstances & fortunes

Quest 4th State what were then (said Elizabeth and Julia Ann) circumstances as to property or means of support in the years 1842, 1843 & 1846 - what amount of property was owned by them - whether the rents & profits of their estate real & personal was sufficient or insufficient for their education & nurture during those years -

Quest 5th State if you know the same whether or not the personal estate of said Elizabeth & Julia Ann (if they had any) or the rents and profits of their real estate were faithfully applied to the purpose of their education & ~~personal~~ nurture during said years 1842, 1843 & 1846

Quest 6th State whether you were acquainted with Achemiah Bates deceased in his lifetime if you when he died & who were his heirs & what children he left himself surviving whether any other than said Elizabeth young late Elizabeth Bates & Julia Ann Marchalder late Julia Ann Bates & give the day of the month & year of the death of said Bates deceased & also the respective ages of said Elizabeth & Julia Ann with their birth days

Question 7th State anything else you may know of benefit to the said Plaintiff

Hoyt & Pulson for Piffs

Received the within notes August 2nd 1849 and I hereby agree that all exceptions shall be waived to the reading of the depositions in the within entitled cases on account of the same being embraced

in one Commission

Thompson Campbell
Atty for Defts

Entered files

13th August 1849

In McMillen's Case

Deposition of a witness produced sworn & examined
at Keokuk in the County of Lee and State of Iowa
before me Jesse B Brown a Justice of the Peace
in and for the Township of Jackson in said County
and State in the following entitled Cases to wit

Alexander Young	}	In p Deaup	
Elizabeth Young		County Court	
Francis Marchildon		}	In p
John Ann Marchildon			Edmont
Edmund Connor			

Samu Plaintiff	}	Samu Plaintiff
Bernard Dowling		James Connor

Samu Plaintiff	}	Samu Plaintiff
Edmund Hoyle		John Lorrain et al

Samu Plaintiff	}	Samu Plaintiff
W ^m A Jordan		Thompson Campbell
Samu Plaintiff	}	Samu Plaintiff

Elio Bayler	}	Jacob Hysinger
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Said Causes being now pending in the County Court of the County of Jo DeCamp in the State of Illinois, on behalf of the plaintiff in said suits

Archangl Mc Donnell of lawful age being sworn and examined on the part of said Plaintiff aforesaid and saith in answer to the following interrogatories as follows

Quest 1st Do you know the parties plaintiff in the above entitled Causes to wit Alexander Young and Elizabeth Young, Francis Marchildon and Julia Ann Marchildon or either and which of them and how long have you known them respectively

Ans. 1st Yes I know all of them, I have known Alexander Young ten years or there abouts, I have known Elizabeth Young about twenty years, I have known Francis Marchildon about one year I have known Julia Ann Marchildon about Eighteen years

Question 2nd State the original family name of said Elizabeth & Julia Ann whether they are respectively married to Alexander Young and Francis Marchildon and when

Ans 2nd The original family name of said Elizabeth & Julia Ann was Elizabeth Bates and Julia Ann Bates I am satisfied they are married, Elizabeth married the Mr Young in August 1847 and Julia Ann was married to Francis Marchildon about the 16th of August 1848

Question 3rd State whether you sustained any relation-
-ship to said plaintiffs or any of them and if you
what and whether you have had an opportunity
of becoming acquainted with their Circumstances
and fortunes -

Ans 3rd I do I am the Mother of the said Elizabeth
and Julia Ann and I have had good opportunity of
becoming acquainted with their Circumstances and
fortunes -

Quest 6th State whether you were acquainted with
Abner Bates deceased in his life time if you
when he died and who were his heirs & what children
he left himself surviving whether any other than
said Elizabeth Young late Elizabeth Bates & Julia
Ann Marchildon late Julia Ann Bates give the
day of the Month and year of the death of said
Bates deceased & also the respective ages of said
Elizabeth & Julia Ann with their birth days

Ans 6th I was acquainted with Abner Bates
Bates deceased in his life time he was my husband
he died the 12th of May 1835 he left when he died
Elizabeth Young late Elizabeth Bates and Julia Ann
Marchildon late Julia Ann Bates & and he left
no other heirs surviving himself the said Elizabeth
was born on 6th day of March 1829 which would
make her twenty years old in March 1849 the
said Julia Ann was born the 2nd day of May 1831 which
would make her Eighteen years old last May

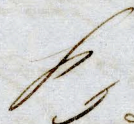
Question 7th State any thing else you may know -

of benefit to the Said Plaintiffs -

I dont know of any thing else of advantage
to the Plaintiffs

Archang W Dowell

State of Iowa
Lee County



Jesse B Brown Commissioner

named in the foregoing Commission do hereby certify
that in pursuance of said Commission I caused
Archang W Dowell the witness in the caption to the
interrogatories annexed to said Commission named
to come before me at my office in Keokuk Lee County
Iowa on the 25th day of August a 1849 a time &
place by me designated for that purpose and there
and there faithfully examined her upon said Inter-
rogatories having first caused her to be ^{solely} sworn before
me to testify the truth the whole truth & nothing
but the truth in said Causes and here reduced
the said Interrogatories together with the answers
there to writing myself in the now in which
they were proposed and answered and have caused
the said Witness to sign her name to said depositions
in my presence & In testimony whereof I have
hereunto subscribed my name this 25th day of
Augt a 1849

J B Brown Justice of
the peace

being all of it except questions and answers num-
bers 4th & 5th, which matters of evidence aforesaid
were admitted as evidence by the Court & The
Counsel of for the Defendants then admitted
in the presence of & before the Court then & there

that the said tracts of land in the declarations mentioned
were unoccupied & vacant tracts & were at the time
of the service of the declaration & notice claimed by said
defendants in fee simple & owned evidence of the
proof of said last named facts to wit the want of
occupancy & the claim of title by said defendants
at the time of the service of the said declaration & notice
which was all the testimony produced at that time by
the Plaintiffs - The said defendants, thereupon
to sustain their defense produced Richard Seal
a witness who testified that he was the clerk of the
County Court of St. Clair County & the Keeper of the
Records of the late Probate Court & who produced one of
the records of said Probate Court of its acts & doings and
testified that Elyah Charles was during the year 1830
the Probate Justice of the Peace in & for St. Clair County
& that he was acquainted with the hand writing of said
Charles & had seen him write & that the entries in said
Records of said Probate Court on pages 71 & 72 are in
the hand writing of said Charles & that said Charles
is now deceased - The said Defendants then offered
in evidence an entry on said pages all 71 & part of
72 of said Records to which the Plaintiffs Counsel objected
because of the lack of authority & power in the Probate
Court in appointing said Dismar guardians of said
wards until they should arrive respectively at the age of
Eighteen years, which objection was overruled by the Court
& the said entry admitted in evidence to which overruling
of the Court the Plaintiffs Counsel then & there excepted
which entry is as follows to wit^o

At a special term of the Court of Probate held at the
Court house in Gallena and County of St. Clair and State of
Illinois on the 23rd day of May A. D. 1840 the following proceedings

Seal's
testimony

App't
Gardner

was held to wit Present Elijah Charles Probate Justice of
the Peace in and for said County. Robert B Mc Dowell.
Mc Dowell heretofore appointed Guardian for Elizabeth and Julia Ann
Bates Minor heirs of Abraham Bates deceased personally
appeared in open Court and tendered in writing the following
Resignation. I Elijah Charles Probate Justice of
the Peace in and for the County of St Louis and State
of Illinois Sir I this day resign the office of Guardian
-ship for Elizabeth & Julia Ann Bates. And
whenever the Court having accepted said Resignation
and revoked the Letters heretofore granted to said
Mr Dowell. And it appearing to the Satisfaction
of the Court that the said Minors are possessed
of Real Estate do therefore appoint Thomas Brown Guardian
for the said Elizabeth and Julia Ann. Said Letters are
in the words and figures to wit

State of Illinois

St Louis County

3rd Set

The People of the State of Illinois
do Thomas Brown of said County

Granting Whereas Robert B Mc Dowell Guardian for Elizabeth
Bates of the age of Eleven years in February last and
Julia Ann Bates of the age of Nine years Minor heirs
of Abraham Bates dec^d have on this day filed in the
Office of Probate Court his Resignation as said Guardian
and the said Court having accepted said Resignation
and revoked the letters heretofore granted to said
Mr Dowell. Do therefore hereby appoint you Guardian
for the said Elizabeth and Julia Ann Bates Persons &
property until they shall arrive at the age of Eighteen
years. Witness Elijah Charles Probate Justice of the
Peace in and for said County at his office in St Louis
this the 23rd day of May A D 1840

Elijah Charles Probate JP

Decree
Appointed


The said Seal then produced a certain instrument
as follows to wit^o

Bond

Know all men by these presents that
The Thomas Drum John Atchison and Michael Murphy
are held and firmly bound unto the People of the State
of Illinois in the Penal sum of five thousand dollars for
the payment of which well and truly to be made we bind
ourselves, our heirs executors and administrators jointly
severally and firmly by these presents writing our hands
and seals this the 23rd day of May A D 1840

The condition of the above obligation is
such that if the above bound Thomas Drum who
has been appointed Guardian for Elizabeth and
Julian Bates shall faithfully discharge the office
and trust of such Guardian according to Law and
shall render a fair and just account of his Guardianship
to the Court of Probate for the County of A Damp from
time to time as he may be therunto required by said
Court, and comply with all the orders of said Court
lawfully made in relation to the goods Chattels and
moneys of said Minors and render and pay to said
Minors all moneys goods Chattels title papers and
effects which may come to the hands or possession
of him the said Guardian belonging to said Minors
when said Minors shall be therunto entitled or to any
Subsequent Guardian should said Court so direct then
this obligation shall be void or otherwise to remain in
full force and virtue

Attest

Tho Drum 

M Murphy

John Atchison

Enrolled filed May 23rd 1840

C Charles P J B

And Seal testified that the said Instrument was

one of the files of his said office & in his custody as such
received from his predecessors, the late probate justice
which said instrument was read in evidence the
signature of said Charles to the filing on its back being
proved by said seal. The defendants then offered
in evidence a printed notice & certificate as follows
to wit: Notice - The undersigned hereby gives
public notice to all concerned that he is guardian
of Elizabeth Bates and Julia Ann Bates Minors and
that his said wards are jointly seized of the following
described tracts or parcels of land to wit Lots No 2, 3, 4,
5, 6, 7, 8, 9, 10, 11 & 12 in Block No 22; Lots 7, 8, 9, 10, 11
& 12 in Block No 4, and lots No 4, 5 & 6 in Block
No 29 on the East side of Horn River in the late town
now city of Galena in the County of Jo Daviess and State
of Illinois according to the United States survey of said
town. And that it is necessary to the support and
education of his said Wards and will be conducive
to their interests to have the premises or some portions
thereof sold, and it is his intention to petition the Circuit
Court to be holden at Galena in said County of Jo
Daviess on the second Monday of March A D 1843
for license & authority to sell the same or so
much thereof as shall be necessary for their support
and education; when and where all persons concerned
may appear and show cause if any they have why
the prayer of said petition should not be granted
Thomas Durm Guardian

Galena Feb 14th 1843. 36f

J H C Mc Grew editor and proprietor of the Galena
Sentinel and printer & publisher of the said paper
a newspaper published in Galena in the County of
Jo Daviess do hereby certify that the notice a printed

Copy whereof is hereto annexed was published in four
numbers of said paper, the first in the paper dated
July 11. 1843 and the last dated March 11. 1843

H. C. W. Grew } Printer &
} Publisher

to the admission of which the Plaintiff objected
because the said notice was given & signed by
"Thomas Durm" & not by said "Thomas Drum" which
said objection was overruled by the Court & the said
notice & certificate admitted as evidence, to which
overruling of the Court & admission the plaintiffs
then & there excepted & the said defendants
then offered in evidence a certain instrument
in writing as follows to wit:

Petition
To the Honorable Thomas C. Brown associate
justice of the Supreme Court and judge of the Circuit
Court to be holden at Galena in the County of De Saux
and State of Illinois on the second Monday of March
A. D. 1843. Respectfully shows Thomas Drum
of Galena in the County of De Saux and State
of Illinois that he is Guardian of Elizabeth Bates
and Julia Ann Bates residents of said County minors
and children of Nathaniel Bates late of said County
deceased by the appointment of the Probate Justice
of the peace for the County aforesaid; and that his
said wards are seized each of an undivided half
of the following described tracts or parcels of land to wit
Lots No one (1) two (2) three (3) four (4) five (5)
six (6) seven (7) eight (8) nine (9) ten (10)
eleven (11) and twelve (12) in Block No twenty
two (22) Lots No seven (7) eight (8) nine (9)
ten (10) eleven (11) and twelve (12) in Block
No. four (4) and lots No four (4) five (5) &
six (6) in Block No twenty nine (29) situate on

the East side of four Acres in the late town now
City of Galena in Said County of Mc Sams
According to the United States Survey of said town
Your Petitioner would further represent that he
was so appointed Guardian of his said wards
on the twenty second day of May a 5 1840 and that
he here brings his letters of Guardianship into Court
and that at the time of said appointment nor
at any time before or since has there come into
the hands or possession of your petitioner any
personal property of his said Wards, and that
from time to time since his said appointment your
petitioner has advanced money for the support maintenance
and education of his said wards as more fully
appears from the account annexed, and that they
are now indebted for such money so advanced
and there is no money personal property or means
in his hands for the further support maintenance
and Education of his said wards and that it
has therefore become necessary for their support and
education and will be conducive to their interests
to have the said lots or some part thereof sold & Your
petitioner would further represent that he has caused
public notice to be given to all persons concerned of
this application by causing a notice thereof to be pub-
lished in the Galena Sentinel a public newspaper
printed in Galena for three weeks successively before
the sitting of of this Court a certified copy whereof
is herewith annexed therefore he prays the Honorable
Court to order and direct a sale of said lots or so
many thereof as shall be deemed necessary by your
petitioner for the support and Education of his said
wards and that your petitioner be authorized and

empowered upon making sale of said lots or any number or part thereof at such time & place upon such terms and conditions upon such notice being given as this Court shall order and direct to convey the same with good and sufficient deeds according to the Statute in such case made and provided

Thos Drum

Guardian

Objections
Endorsement
Petition of Thos Drum Guardian of Elizabeth Bates and Julia Ann Bates for sale of Real Estate

Filed March 14th 1843

Wm H Bradley Clerk

to the admission of which the Plaintiff Counsel objected because the Circuit Court had not jurisdiction of the subject matter of said petition & no power to order a sale of said realty therein, & that at the time of the filing of the same the said Drum as alleged by Counsel had ceased to be & was not the Guardian of said Elizabeth Bates, which objections were overruled by the Court & the said petition admitted in evidence to which overruling the plaintiffs Counsel then & there excepted &

The defendants then appeared in evidence concerning on the Records of the Circuit Court of W. Va. County made at its March term A. D. 1843 as follows

Copy from Record Book of Circuit Court page 342 & 3 at the March term A. D. 1843

In the Matter of Thomas Drum
Guardian of Elizabeth Bates }
and Julia Ann Bates Minors } an Petition for sale
Children of Archibald Bates } of Real Estate
deceased }

And now at this day

Order
of
Court

Comes Thomas Drum Guardian as aforesaid and files
his petition for sale of real estate in the city of Galena
in the County of Hamilton and State of Illinois belonging
to his said wards and having proved that due notice
of said application was published in the Galena
Sentinel a newspaper printed in said Galena
according to law for four weeks successively and
the Court being satisfied as to the facts stated in
said petition and that they are just and reasonable
causes for the sale of the real estate therein described
do now and decree that said Thomas Drum Guardian
as aforesaid shall sell at Public Sale the lots or tracts of
land mentioned in said petition belonging to his said
wards namely Lots No one (1) two (2) three (3) four (4)
five (5) six (6) seven (7) eight (8) nine (9) ten (10)
eleven (11) and twelve (12) in Block No twenty two
(22) Lots No seven (7) eight (8) nine (9) ten (10)
eleven (11) and twelve (12) in Block No four (4)
and Lots No four (4) five (5) and six (6) in Block
No twenty nine (29) Situate in the late town now city
of Galena according to the United States Survey of said
town or so many thereof as shall be deemed necessary
and expedient by the said Guardian for the purposes
set forth in said petition on Saturday the twenty second
day of April next between the hours of Nine O'clock
in the morning and six in the afternoon of said day
to the highest bidder and that the said petitioner
give notice of said sale by publishing notice thereof
in the Galena Sentinel aforesaid or any other news
paper in said city of Galena for three weeks success-
-ively the last publication whereof to be at least ten
days before the sale - Sale to be on the premises
Terms of sale, one third of the purchase money cash

one third in six months another in twelve months
with interest from day of sale, the purchaser or purch-
-asers to execute a Mortgage on the premises sold to the
Said Guardian for security of the notes taken for balance
of purchase money and the Said petitioner is hereby author-
-ized to make execute acknowledge and deliver to the pur-
-chaser or purchasers in due form of Law a good & sufficient
Deed for the Said premises or any part thereof conveying all
the right and title of his Said wards, And it is further
ordered that he make a return of his doings in this behalf
to the next term of this Court" to the admissibility
of which the plaintiffs counsel objected, because as
stated by said plaintiffs counsel it appeared from the
Said order & petition that the Circuit Court had not
jurisdiction of the subject matter of said petition
& no power to order said sale & it did not appear that
the Circuit Court were satisfied that the personality of said
wards had been all faithfully applied when it made said
order & because at that time the said Deem had
ceased to be and was not the Guardian of said Elizabeth
Bates & that the said order of sale was void as to said
Elizabeth & being a writ was therefore void as to said
Julia Ann, which objections, were overruled by the Court
& the said entry admitted as evidence, to which overruling
of the Court the plaintiffs counsel then & then excepted
The plaintiffs counsel then admitted before the Court
that during the year 1843 the said Elizabeth & Julia
Ann were residents of W. Damp County & waived proof
of that fact - The defendants then offered in evi-
-dence, in evidence a printed notice & certificate
to wit "Guardians Sale - Notice is hereby
given that agreeably to a decree for that purpose by
the Circuit Court of W. Damp County in the State of
Illinois holden at Salem at the March term thereof

Objection
to Petition

void
as to
Elizabeth

Notice
of
Sale

a d 1843 the undersigned Thomas Drum Guardian
of Elizabeth Bates and Julia Ann Bates Minors;
Children of Stephen Bates deceased will sell at
Public Sale on Saturday the twenty second day of
April next between the hours of Nine O'clock in
the forenoon and six in the afternoon, on the premises
to the highest bidder all the right and title of his
said wards in and to the following described tracts
of Land namely; Lot No one (1) two (2) three (3)
four (4) five (5) six (6) seven (7) eight (8) nine
(9) ten (10) eleven (11) and twelve (12) in Block
No twenty two (22) Lots No seven (7) eight (8) nine
(9) ten (10) eleven (11) and twelve (12) in Block
No four (4) and lots No four (4) five (5) and
six (6) in Block No twenty nine (29) Situate in
Galena in said County of Jo Damp on the east
Side of Four River equally to the united States
Survey of the late town of Galena now city or so
many thereof as he shall deem expedient & necessary
for the purposes set forth in the petition to said Court
in their behalf & Terms of Sale on third Cash on third
in six months on third in twelve months with Mortgage
on the property sold to secure the same dated at
Galena March 16th a d 1843

Thomas Drum
Guardian

J H C McCrewe printer & publisher of the Galena
Sentinel a newspaper printed in Galena do hereby
Certify that the notice a printed copy of which is
annexed was published for three weeks successively
in the said Sentinel in three different numbers
of said paper the date of the first being March 17th
1843 and the last being April 8th 1843

J H C McCrewe

to the admission of which Plaintiff Counsel objected
in cause the said motion was signed "Thomas Drum"
& not "Thomas Drum" which objection was overruled
by the Court & the said motion & Certificate admitted
to which overruling the Plaintiff Counsel then & there
excepted, The Defendants then offered in evidence
the return of said Drum of said Sale in words & figures
as follows to wit

State of Illinois }
In Deerp County } }

In the Matter of Thomas Drum Guardian
of Elizabeth Bates and Julia Ann Bates
Minors Children of Schemmels Bates
Deceased on Petition for sale of Real Estate
In Circuit Court

In the October term a D 1843

Whereas by an order of this Court made in this matter
on the petition of the above named Thomas Drum Guardian
as aforesaid, at the March term thereof a D 1843 it was
ordered that the said Thomas Drum Guardian as afore-
said should sell at public auction the lots or tracts
of Land mentioned in the petition of said Drum in
this Matter, belonging to his said wards, namely Lots
number one (1) two (2) three (3) four (4) five (5)
six (6) seven (7) eight (8) nine (9) ten (10) eleven
(11) and twelve (12) in Block Number twenty two (22) lots
number seven (7) eight (8) nine (9) ten (10) eleven (11)
and twelve (12) in Block Number four (4) and
Lots number four (4) five (5) and six (6) in Block
Number twenty nine - all on the East side of
Favor River in the City of Galena in the County of
Deerp aforesaid according to the United States
Survey of said Galena or so many thereof as should

be deemed necessary and expedient by the said
Guardian for the purposes set forth in said petition
on Saturday the 22nd day of April a 1843 between
the hours of Nine O'clock in the Morning and six O'clock
in the afternoon of said day to the highest bidder and
that the said Deem should give notice of said sale by
publishing notice thereof in the Galena Sentinel or
any other newspaper in said Galena for three weeks
successively the last publication whereof to be at least
ten days before the sale & sale to be made on the premises
on third of the purchase money cash on third in six
and the balance in twelve months secured by Mortgage
and agents fees for the same to the purchaser reference
being had to the said adm for a fuller specification
of his powers & duties & Now the undersigned Thomas
Deem Guardian as aforesaid makes report as follows
to "H" that in pursuance of the said adm he sold
at public sale on the twenty second day of April a 1843
between the hours of Nine O'clock in the Morning and six O'clock
in the afternoon of said day on the premises to the highest
bidder so much of the real estate in said order and petition
described as he thought necessary and expedient for the
purposes set forth in said petition being all the prop-
erty described in said petition and order except lots
numbered Eleven (11) and twelve in Block number
twenty two aforesaid as follows to "H" to
John Hunston Lot 5 in Block 22 aforesaid for one
hundred and twenty dollars
John Hunston Lot six Block 22 aforesaid for
one hundred & sixty dollars
Edward Conner Lot two Block 22 aforesaid
for Eighty five dollars
Henry Marfeld Lot one Block 22 aforesaid

for one hundred and twenty dollars
 Artemus L Holmes Lot ten Block 22 aforesaid
 for two hundred & thirty five dollars
 Elliker B Washburn the south half of Lot four Block
 29 for two hundred five dollars
 Jacob Frysinger the north half of Lot four Block
 29 for one hundred and fifty dollars
 Jacob Frysinger the south half of Lot five Block
 29 for one hundred fifteen dollars
 Lorenzi 8th the north half of Lot five Block B
 29 for one hundred thirty five dollars
 Lorenzi 8th the south half Lot six Block
 29 one hundred fifteen dollars
 Artemus L Holmes the north half Lot six Block
 29 for one hundred fifty dollars
 David H Cogley Lot number nine Block
 22 for two hundred thirty five dollars
 Elias Bayless Lot three Block 22 aforesaid
 for ninety dollars
 Elias Bayless Lot four Block 22 aforesaid
 for one hundred twenty dollars
 William Glasgow Jr twenty four ⁽²⁵⁾ feet ~~across~~ ^{across} back
 on south side of Lot seven Block 22 for
 one hundred forty two & $\frac{50}{100}$ dollars
 John C Abbott twenty six feet front on north side
 Lot seven Block 22 for one hundred forty
 two & $\frac{50}{100}$ dollars
 John Atkinson Lot eight Block 22 aforesaid for two
 hundred twenty five dollars
 Artemus L Holmes Lot seven Block four for two
 hundred eighty five dollars
 Artemus L Holmes Lot eight Block four for two
 hundred fifty dollars

Artemus L Holmes Lot nine Black four for two
hundred twenty dollars

Artemus L Holmes Lot ten Black four for two
hundred fifteen dollars

Artemus L Holmes Lot Eleven Black four for
two hundred twenty five dollars

Artemus L Holmes Lot twelve Black four for
one hundred fifty dollars

Having given notice of said time & place of sale
by publishing notice thereof in the Galena Sentinel
a Newspaper published in said Galena for three
weeks successively the last publication whereof was
on the eighth day of April aforesaid a certified copy
of which notice is herewith annexed marked (A)

The said Thomas Drum would further report that
the terms of said sale were one third of the purchase money
Cash & one third in six months and one third in twelve
months with interest at the rate of ten per centum per
annum from the day of sale secured by mortgages
on the premises sold, which said terms were complied
with by each purchaser as aforesaid and that he
executed acknowledged and delivered to the several
purchasers deeds for the premises by them severally
purchasing conveying all the right of his said lands

The said Thomas Drum Guardian as aforesaid
humbly prays this Court to accept and approve
of this return and report of his proceedings in this
matter and to order that it be recorded agreeable
to the Statute in such cases made & provided

The Drum
Guardian

Endorsed Filed Oct 28th 1843

W^m H. Bradley, clk. By W. C. Bostwick, dep

which was objected to, because said Drum was not then the Guardian of said Elizabeth which objection being overruled the said return was admitted the plaintiff then & then excepting thereto & the defendants then appeared in evidence two entries upon the records of the said Circuit Court Record Book G Page 490 & H page 44 made the first at its June term A.D. 1843 & the second at its Oct term A.D. 1843 as follows to wit

Record Book G

Entry on Page 490, June term A.D. 1843
Thomas Drum Guardian
of Elizabeth Bates and Julia
Ann Bates in the matter } Petition for sale of
of petition for sale of } Real Estate
Real Estate

Thomas Drum files his Motion to extend the time for Report of his proceedings in this matter to the next term of this court

Entry on Page 44 Record Book H Oct term A.D. 1843

Thomas Drum Guardian of
Elizabeth Bates & Julia Ann } Petition for sale
Bates Infant heirs of Abraham } of Real Estate
Bates dec'd

Now at this day came the petitioner by his attorney and presented a report of his proceedings in this behalf which is accepted by the Court and ordered to be filed and is in the words and figures following to wit

State of Illinois, Jo DeCamp County, In the matter of Thomas Drum guardian of Elizabeth Bates and Julia Ann Bates, Minors Children of Abraham Bates deceased in petition for the sale of Real Estate

In an act of the Court October term A D 1843. Whereas
by an order of this Court made in this matter on
the petition of the above named Thomas Drum guardian
as aforesaid at the March term thereof A D 1843 it was
ordered that the said Thomas Drum Guardian as
aforesaid should sell at public auction the lots or
tracts of land mentioned in the petition of the said
Thomas Drum in this matter belonging to his said
wards namely lots number one (1) two (2) three (3)
four (4) five (5) six (6) seven (7) eight (8) nine (9)
ten (10) eleven (11) and twelve (12) in Block number
twenty two (22) lots number seven (7) eight (8) nine
(9) ten (10) eleven (11) and twelve in Block number
four (4) and lots number four (4) five (5) and
six (6) in Block number twenty nine (29) all on
the East side of River Street in the City of Galena
in the County of Jo Daviess aforesaid, according
to the United States Survey of said Galena, or so
many thereof as should be deemed necessary and
expedient by the said Guardian for the purposes
set forth in said petition on Saturday the 23^d day
of April A D 1843 between the hours of nine o'clock
in the morning and six o'clock in the afternoon of
said day to the highest bidder and that the said
Drum should give notice of said sale by public
notice thereof in the Galena Sentinel or any other
newspaper in said Galena for three weeks preceding
the last publication whereof to be at least ten days
before the sale, sale to be made on the premises one
third of the purchase money cash on hand in six and
the balance in twelve months secured by mortgage and
execute deeds for the same to the purchaser, reference being
had to the said order for a fuller specification of his
powers and duties & Now the undersigned Thomas

Drewn Guardian as aforesaid makes report as follows
to Wt^r that in pursuance of said order he sold at
public sale, on the twenty second day of April 1853
between the hours of nine o'clock in the morning and
six o'clock in the afternoon of said day on the premises
to the highest bidder so much of the real estate in said
order and petition described as he thought necessary
and expedient for the purposes set forth in said
petition being all the property described in said
petition and more except Lots mentioned Elenus
(11) and twelve in Block number twenty two aforesaid
as follows to Wt^r N John Hunter Lot 5 Block 22
aforesaid for one hundred twenty dollars, John Hunter
Lot six Block 22 aforesaid for one hundred sixty
dollars, Henry Marford Lot one Block 22 aforesaid
for one hundred and twenty dollars, Edward Connor
Lot two Block 22 aforesaid for Eighty five dollars
Artemus L Holmes Lot ten block 22 aforesaid for
two hundred and thirty five dollars, Elean P
Washburne the South half of Lot four Block 29 for
two hundred ^{five} dollars, Jacob Pysinger the North
half of lot four Block 29 for one hundred and fifty doll-
ars Jacob Pysinger the North half of lot four block 29
for one hundred & fifty dollars, Jacob Pysinger the
South half of lot five block 29 for one hundred & fifteen dollars
Lorrain H the North half of lot five block 29 for one hundred
and thirty five dollars. Lorrain H the South half of lot
six block 29 one hundred fifteen dollars Artemus L
Holmes the North half lot six block 29 for one hundred
fifty dollars Dene H Bayley Lot number nine block 22
for two hundred thirty five dollars, Elias Bayless Lot three
block 22 aforesaid for ninety dollars, Elias Bayless
lot four block 22 aforesaid for one hundred twenty dollars
William Glasgow N twenty four (24) feet front one

South side of lot seven block 22 for one hundred
forty two $\frac{50}{100}$ dollars Jacob C Abbott twenty six feet
front, on North side lot seven block 22 for one hundred
forty two & $\frac{50}{100}$ dollars, John Atchison lot eight block
22 of aforesaid for two hundred twenty five dollars. Artemus
L Holmes lot seven block four for two hundred eighty five
dollars Artemus L Holmes lot eight block four for two hundred fifty
dollars Artemus L Holmes lot nine block four for two hundred
thirty dollars, Artemus L Holmes lot ten block four for two
hundred fifteen dollars, Artemus L Holmes lot Eleven block
four for two hundred and twenty five dollars, Artemus L
Holmes lot twelve block four for one hundred & fifty dollars
Henry given notice of said time and place of sale by
publishing notice thereof in the Galena Sentinel a
newspaper published in said Galena for three weeks
successively the last publication whereof was on the
eighth day of April aforesaid a certified copy of
which is herewith annexed marked A. The said
Thomas Drumman further report that the terms
of said sale were one third of the purchase money in
cash, one third in six months and one third in twelve
months, with interest at the rate of ten per centum per
annum from the day of sale secured by mortgage
on the premises sold, which said terms were com-
plied with by each purchaser as aforesaid, and that
he executed acknowledged and delivered to the said
purchasers deeds for the premises by them severally
purchased conveying all the right of his said wards.
The said Thomas Drumman guardum as aforesaid here-
upon prays the Court to accept and approve of this
return and report of his proceedings in the matter
and to adjudge that it be recorded agreeably to the Statute
in such case made and provided

Copy accepted.

Bye


Deed

to the admission of which last entry the plaintiffs
 Council objected because said entry only showed
 that said Circuit Court on the presentation of said
 Return by said Drumm had only accepted the same
 & would it to be filed and that the said Court had
 not approved & confirmed said Sale & that at the
 time of said entry said Drumm was not guardian
 of said Elizabeth, which objections were overruled
 by the Court & the said entry admitted to which
 overruling the plaintiffs Council excepted then & there
 The Defendants then produced Frank By a witness
 who testified that he went into the employment of
 the Defendants between the 16th & 20th April 1843
 & that said Defendants Computed the firm of
 Lorrain & Company at that time & for some time
 afterwards & on the 22nd day of April 1843 the
 Defendants then offered in evidence a deed from
 Thomas Drumm guardian of Lorrain & Co in words
 & figures following to Wit: To all persons to whom
 these presents shall come; Thomas Drumm of Galena
 in the County of W. Hancock and State of Illinois guardian
 of Elizabeth Bates and Julia Ann Bates Minors & children
 of Abner Bates late of said County deceased and
 Greeting - Whereas by an order of the Circuit Court
 holden at Galena within and for said County
 of W. Hancock at the March term thereof in the year
 of our Lord one thousand eight hundred and forty three
 the said Thomas Drumm in his capacity as guardian
 as aforesaid was empowered and licensed to make
 Sale of the real Estate of his said wards hereinafter
 described on Saturday the twenty second day of
 April a d 1843 between the hours of Nine o'clock
 in the Morning and six O'clock in the afternoon
 of said day and having given notice of said Sale

by publishing notice thereof in the Galena Sentinel
a newspaper printed in said Galena for three weeks
successively the last publication whereof was on
Saturday the seventh day of April aforesaid
and on Saturday the 22^d day of April aforesaid
within the hours aforesaid came the said Thomas
Myt & title in the premises herein described to be
exposed for sale pursuant to the said decree
at public auction on the premises and the same
was then and there struck off to Lorrain Jt &
for the sum of two hundred & fifty dollars they
being the highest bidders thereof. Now be it
known that I Thomas Drown in my capacity
of Guardian as aforesaid by virtue of the license
aforesaid and in consideration of the sum of two
hundred and fifty dollars to me paid by the said
Lorrain & Co the receipt whereof I hereby acknowledge
do hereby grant bargain sell convey unto the said
Lorrain & Co their heirs and assigns the following des-
cribed lot or tract of land situate in said Galena
to wit - the North half of lot number five (5)
and the South half of lot number six (6) on the
east side of Jones River agreeably to the United
States survey of the late town (now city) of Galena
I have and to hold the above granted premises
to them the said Lorrain & Co their heirs and assigns
forever. And I the said Thomas Drown for myself
my executors and administrators do covenant
with the said Lorrain & Co their heirs and assigns
that I will warrant and defend the granted premises
to the said Lorrain & Co against the lawful claims
of all persons claiming by from or under me in
the capacity aforesaid. In witness whereof
I have hereunto set my hand and seal this

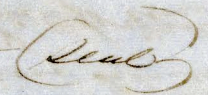
22nd day of April A D 1843

Signed Sealed &
delivered in presence
of A L Holmes
John G Potts

Thomas Drum 

State of Illinois }
In Deane County } 3

Be it remembered that on this
3rd day of May A D 1843 before me John G Potts
justice of the peace in and for the County aforesaid
appeared Thomas Drum who is personally known
to me to be the real person whose name is subscribed
to the foregoing deed as having executed the same
and acknowledged that he signed sealed executed
and delivered the same as his free act and deed
In testimony whereof I have hereunto set my hand
and seal the day and year above written

John G Potts 

State of Illinois }
In Deane County } 3

Recorder Office Gallatin
May 24th 1843

I Jeremiah Betts Recorder in and for said County
do certify that the within and foregoing deed of
Conveyance and Certificate of acknowledgment
are recorded in Book A Folio 386

Attest Jeremiah Betts
Recorder

and in connexion with & explanation of said
Deed 1st a Mortgage signed by said defendants
to said Drum in words & figures following to wit
This Indenture made and entered into this twenty
Second day of April in the year of our Lord one

Mortgage

thousand eight hundred and forty three between
John S Lorrain and Shemell S Lorrain partners in
trade under the style of Lorrain & Co of the County
of Ice Swamp and State of Illinois of the first part
and Thomas Drown of the County of Ice Swamp and
State of Illinois of the second part Testifies that
the said John S Lorrain and Shemell S Lorrain
of the first part for and in consideration of one
hundred sixty six and ⁶⁶/₁₀₀ dollars in hand paid
by the said party of the second part the receipt where-
of is hereby acknowledged have granted bargained
and sold and by these presents do grant bargain
sell convey and confirm unto the said party of
the second part his heirs and assigns forever the
following described piece or parcel of Land situate
lying and being in the County of Ice Swamp and
State of Illinois and known and designated as
the north half of Lot number five (5) and
the East South ^{half} of Lot number six ⁽⁶⁾ in Block
number twenty nine (29) on the south of East
Side of Genes River according to the United States
Survey of the City late town of Galena and situate
in said City, together with all and singular
the appurtenances thereto belonging or in any wise
appertaining. I have and to hold the above
described premises unto the said party of the
second part his heirs and assigns forever, And
the said party of the first part the assignee
trust or parcel of Land and premises unto the
said party of the second part his heirs and assigns
against the claim or claims of all and every
person whatsoever do and will warrant and
forever defend by these presents claiming by things
or upon them. Provided always that these presents

are upon this express condition that if the said
Lorrain or them here executors or administrators
shall will and truly pay or cause to be paid to
the said Thomas Drum his here executor or
administrators or assigns the sum of one hun
dred and sixty six dollars & $\frac{6}{10}$ with interest
in manner particularly specified in two certain
promissory notes for eighty seven dollars & $\frac{3}{10}$ each
one in six and the other in twelve months bearing
even date herewith executed by the said Lorrain & Co
to the said Drum then and thereunto these
present and every thing herein contained shall
cease and be void; any and every thing herein
contained shall cease and be void; any thing
thing herein contained to the contrary notwithstanding
- anding is In witness whereof the said parties
of the first part have hereunto set their hands
and affixed their seals the day and year first
above written.

Signed sealed & delivered
in presence of
John G. Potts

John Lorrain
Shemell Lorrain

State of Illinois
Jo Deane County

I John G. Potts a justice of
the Peace in and for said County do certify that John
Lorrain & Shemell J Lorrain whose signatures appear
to the foregoing deed of Conveyance and who are personally
known to me to be the identical persons who signed the
same this day appeared before me and acknowledged
that they had signed sealed and delivered the same
as their free act and deed for the uses & purposes
therein expressed; In witness whereof I have hereunto

Set my name and affixed my seal at Gallena
this fourth day of May A.D. 1843

John B. Bates J.B. Clerk

State of Illinois
In said County } p Records office Gallena May
13th 1843 I Jeremiah Bates
Recorder in and for said County do certify that the
within Mortgage deed, and certificate of acknowl-
-edgment, are recorded in Book A of Mortgages &
pages 65 and 66

Attest Jeremiah Bates
Recorder

Exposition Filed for Record May 13th 1843
at 11 o'clock A.M.

Recorded in Book A of Mortgages pages 65 & 66
2^{ndly} an entry in the Records of the Recorder's office
of said County in the words & figures following to
wit:

John S. Lorrain & } This Indenture made and entered
Shemuel S. Lorrain } into this twenty second day of
to } Mortgage } April in the year of our Lord
Thomas Drum } on thousand eight hundred
and forty three between John S.

Second
Deed

Lorrain and Shemuel S. Lorrain partners in trade under
the style of Lorrain & Co of the County of Lee County and
State of Illinois of the first part and Thomas Drum
of the County of Lee County and State of Illinois of the
second part Witnesseth that the said John S. Lorrain
and Shemuel S. Lorrain of the first part for and in consid-
-eration of one thousand six hundred and $\frac{66}{100}$ dollars in hand
paid by the said party of the second part, the receipt
whereof is hereby acknowledged have granted bargain
and sold and by these presents do grant bargain sell

Convey and Confirm, unto the said party of the second part
his heirs and assigns forever, the following described
piece or parcel of Land situate lying and being in
the County of Peoria and State of Illinois and known
and designated as the north half of lot number five
(5) and the south of lot number six (6) in Block
number twenty nine (29) on the East side of Peoria
River according to the United States Survey of the City
late town of Galena, and situate in said City together
with all and singular the appurtenances thereto belonging
or in any wise appertaining. I have and to hold the
above described premises unto the said party of the second
part his heirs and assigns forever. And the said party
of the first part the executor trust or parcel of Land and
premises unto the said party of the second part his
heirs and assigns against the Claim or Claims of all
and every person whatsoever do and will demand and
demand by these presents. Clearing by through
or under them. Provided always that these presents
are upon this express Condition that if the said Lorram
then heirs executor or administrators shall well and truly
pay or cause to be paid to the said Thomas Drum
his heirs executor administrators or assigns the sum
of one hundred and sixty six dollars & ⁶⁶/₁₀₀ with
interest in manner particularly specified in two Certificates
in promissory notes for Eighty three dollars ³³/₁₀₀ each one
in six and the other in twelve months bearing even
date herewith executed by the said Lorram to the
said Drum then and thereunto these presents and every
thing herein contained shall cease and be void; any
or every thing herein contained to the contrary notwithstanding
In witness whereof the said parties of the first part have here
unto set their hands and affixed their seals the day and
year first above written
John Lorram
Sherill S. Lorram

Signed Sealed & delivered
in presence of
John G Potts

State of Illinois
In Grant County } p I John G Potts a justice
of the Peace in and for said County
do certify that John Lorrain & Shemuel Lorrain whose
signature appears to the foregoing deed of conveyance and
who are personally known to me to be the identical persons
who signed the same this day appeared before me and ac-
-knowledged that they had signed sealed and delivered the
same as their free act and deed for the uses and purposes
therein expressed - In witness whereof I have hereunto
set my name and affixed my seal at Galena this fourth
day of May A D 1843

John G Potts J P (Seal)

Received this thirteenth day of May A D 1843 at Galena
O'clock A M Jeremiah Pettis Receiver

And the following Marginal Memorandum
to wit "

I know all men that I hereby acknowledge payment
and satisfaction in full of the within Mortgage, and do
hereby declare the same cancelled and of no further
force or effect whatever

Galena May 23rd A D 1844 Tho Drum

Signed with the paper & genuine signature of
Thomas Drum signed thereto - It was admitted
by Plaintiff that said Thomas Drum was dead
& proof of that fact by Defendants was waived and
3rd a deed from Thomas Drum to John Lorrain
& Shemuel Lorrain, in words & figures following to wit

To all persons to whom these presents shall come
Thomas Drum of Galena in the County of Adams
and State of Illinois Guardian of Elizabeth Bates
and Julia Ann Bates Minors and Children of
Abner Bates late of said County deceased said
Greeting & Whereas by an order of the Circuit Court
holden at Galena within and for the said County
of Adams at the March term thereof in the year
of our Lord one thousand eight hundred and forty three
the said Thomas Drum in his Capacity as guardian
as aforesaid, was empowered and licensed to make
Sale of the Real Estate of his said wards hereinafter
described, on Monday the twenty second day of April
A.D. 1843 between the hours of nine O'clock in the morning
and six O'clock in the afternoon of the said day
and having given notice of said Sale by publishing
notice thereof in Galena Sentinel, a newspaper
printed in said Galena for three weeks successively
the last publication whereof was on Saturday the
seventh day of April aforesaid; did on Saturday
the 22nd day of April aforesaid within the hours
aforesaid, cause the said Minors right and title
in the premises herein described to be exposed
for sale pursuant to said decree at public
auction on the premises, and the same thereof
there was struck off to John S Lorrain and
Shemuel J Lorrain for the sum of two hundred
and fifty Dollars they being the highest bidders
therefor & Now be it known that I Thomas Drum
in my Capacity of Guardian as aforesaid by
virtue of the license aforesaid and in consideration
of the sum of two hundred and fifty Dollars
to me paid by the said John S Lorrain and
Shemuel J Lorrain the receipt whereof I hereby

acknowledge do hereby grant bargain sell and
Convey unto the said John S Lorrain and Shemuel
S Lorrain their heirs and assigns the following
described lots or parcels of land situate in said
Galena. In Damp County State of Illinois to wit
the North half of lot number five (5) and
the South half of lot number six (6) in Block
twenty nine (29) on the east side of Jones River
agreeably to the United States Survey of the late
Town now City of Galena - being all the right
and title of the said Minors therein with all
the privileges and appurtenances therunto belonging

I have and to hold the above granted premises
to them the said John S Lorrain and Shemuel S Lorrain
their heirs and assigns forever, and I the said Thomas
Drew for myself my executors and administrators
do Covenant with the said John S Lorrain and
Shemuel S Lorrain their heirs and assigns that I will
warrant and defend the granted premises to said
John S Lorrain and Shemuel S Lorrain against the
lawfull Claims of all persons claiming by from
or under me in the Capacity aforesaid. Now
be it understood that this deed is a correction of
a similar deed made and signed on the 22nd day
of April a 1843 by the said Thomas Drew for
said two lots of land to wit the North half of lot
number five (5) and the South half of lot number
six (6) and recorded at Galena May 24th a 1843
in Book 3 on folio 386 said corrections
being in the names of purchasers Lorrain & Co
should be John S Lorrain and Shemuel S Lorrain
and the number of the Block 29 which is omitted
in said deed of April 22nd 1843. In witness
whereof I have hereunto set my hand and seal

this twenty third day of January in the year of our
Lord one thousand eight hundred and forty seven
at Geneva

Signed sealed &
delivered in the
presence of
A L Holmes

Thos Drum *(Seal)*

State of Illinois

In Camp County } p

Be it remembered that on
the twenty eighth day of January A D 1847 before
me John G Potts Justice of the peace in and for said
County appeared Thomas Drum who is personally known
to me to be the real person whose name is subscribed
to the foregoing deed as having executed the same
and acknowledged that he signed sealed executed
and delivered the same as he free act and deed
for the purposes therein expressed In testimony
whereof I have hereunto set my hand and seal
the day and year above written

John G Potts *(Seal)*

State of Illinois

In Camp County } p

Recorders Office Geneva
February 2nd 1847. I Jeremiah Potts Recorder in
and for said County do certify that the within deed
of conveyance and certificate of acknowledgment
are recorded in Book H of Deeds pages 138 and 139

Attest

Jeremiah Potts

Recorder

wherein said deed first mentioned from said

Drum to Lorrain & Co, was objected to by Plaintiff's Counsel because there was no evidence before the Court that said Defendants had complied with the terms & conditions of sale presented by said word of Court & because there was no approval & confirmation by the said Circuit Court of the said return of said Drum & because the tracts of land described in said deed did not appear to be the same described in the declaration and because the plat & survey of the United States of the City of Galena being made a part of the description in said deed made the defect apparent on the face of the deed. Which said Mortgage was objected to by Plaintiff's Counsel, because the same was the act and declaration of said Defendants & made at a different time from said deed, that there was no evidence that it had ever been delivered to said Drum and because said Mortgage was produced by & from the possession of said Defendants & because said Mortgage is to said Drum individually and to seem an individual indebtedness. The said entry on said Record was objected to for the same reason as said Mortgage & the said Marginal Memorandum signed by said Thomas Drum, because it was a mere declaration of said Drum a long time after said deed & was relating to an individual matter. The said second deed by said Drum to said John & Sherrill Lorrain dated 1844 was objected to because made by said Drum after his return was made to the Court & his power exhausted & that it was a mere declaration of said Drum & Each & All of which said objections

to said deeds, mortgages, entries, & Marginal mem-
-orandum on the record last mentioned were over-
-ruled by the Court & all the same admitted as
evidence, to all of which overruling & admissions
the Plaintiff Counsel then and there solemnly & respect-
-fully excepted.

which was all the evidence offered by said defendants

The said plaintiff then produced William
H. Bradley a witness who testified that that he was
the Clerk of the Circuit Court of Madison County &
had been for about ten years & that there were no
papers on file nor had been in his office to his know-
-ledge or remembrance in the matter of said application
of said Deem for the said sale of said Realty except
the following Papers to wit

(Copies of Papers filed in Circuit Court)

To the Honorable Thomas C. Brown associate justice
of the Supreme Court and judge of the Circuit Court
to be holden at Galena in the County of St. Clair
and State of Illinois on the second Monday of March
A. D. 1843

Respectfully Shows Thomas Brown of Galena
in the County of St. Clair and State of Illinois that
he is Guardian of Elizabeth Bates and Julia Ann
Bates residents of said County Minors and children
of Abraham Bates late of said County deceased
by the appointment of the Probate Justice of the
Peace for the County aforesaid and that his said
wards are seized each of an undivided half of the
following described tracts or parcels of Land to wit
Lots No one (1) two (2) three (3) four (4) five (5) six
(6) seven (7) eight (8) nine (9) ten (10) Eleven
(11) and twelve (12) in Block No twenty two (22)
Lots No seven (7) eight (8) nine (9) ten (10)
eleven (11) and twelve (12) in Block No four
(4) and lots No four (4) five (5) and six (6) in
Block No twenty nine (29) situate on the East
Side of Fever River in the late town now City of
Galena in said County of St. Clair according
to the United States Survey of said town & your
petitioner would further represent that he was so
appointed guardian of his said wards on the
twenty second day of May A. D. 1840 and that
he has brings his letters of guardianship into Court
and that at the time of said appointment nor
at any time before or since has there come into
the hands or possession of your petitioner any
personal property of his said wards and that from

time & time since his said appointment your
petitioner has advanced moneys for the support
Maintenance and education of his said wards
as more fully appears from the account annexed
and that they are now indebted for such moneys
so advanced and there is no money personal prop-
erty or means in his hands for the future support
Maintenance and education of his said wards
and that it has therefore become necessary for
their support and education and will be conducive
to their interest to have the said lots or some part
thereof sold & your petitioner would further
represent that he has caused public notice to be
given to all persons concerned of this application
by causing a notice thereof to be published in
the Galena Sentinel a public newspaper printed
in Galena for three weeks successively before the sitting
of of this Court a certified copy whereof is herewith
annexed & therefore he prays the honorable Court
to now and direct a sale of said lots or so many
thereof as shall be deemed necessary by your petitioner
for the support and education of his said wards &
that your petitioner be authorized and empowered
upon making sale of said lots or any number
or part thereof at such time and place upon such
terms and and upon such notice being given as this
Court shall now and direct to carry the same with
good and sufficient deeds according to the Statute
in such case made & provided

This Deem

Guardian

Annexed to the above is the following Noted Certificate

Notice - The undersigned hereby gives public notice to all concerned that he is Guardian of Elizabeth Bates and Julia Ann Bates Minors, and that his said wards are jointly seized of the following described tracts or parcels of land to wit Lots No 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11 and 12 in Block No. 22. Lots No 7. 8. 9. 10. 11 & 12 in Block No 4 and lots No 4. 5 & 6 in Block No 29 on the East side of Jones Street in the late town now city of Galena in the County of Jo Davenport and State of Illinois, according to the United States Survey of said town. And that it is necessary to the support and education of his said wards and will be conducive to their interests to have the premises or some portion thereof sold and it is his intention to petition the Circuit Court to be holden at Galena in said County of Jo Davenport on the second Monday of March A.D. 1843 for license and authority to sell the same or so much thereof as shall be necessary for their support and education when and where all persons concerned may appear and show cause if any they have why the prayer of said petition should not be granted

Thomas Durm

Guardian

Galena Feb 14th 1843. - 34

I H C Mc Graw editor and proprietor of the Galena Sentinel and printer and publisher of the said paper a newspaper published in Galena in the County of Jo Davenport do hereby certify that the notice a printed copy whereof is hereto annexed was published in four numbers of said paper the first in the paper dated Feb 11. 1843 and the last dated March 11. 1843

H C Mc Graw

{ Printer &
} Publisher

Endorsed " Petition of Thos Drum Guardian
of Elizabeth Bates and Julia Ann
Bates for sale of Real estate
Filed March 14th 1843
W^m H. Parley clk

In the Matter of Thomas Drum Guardian of Elizabeth
and Julia Ann Bates Minors on Petition for the
Sale of Real Estate

Term 11th 1843

In Circuit Court

Now at this day came the said Guardian and
names the Court to extend the time for the return
of his proceedings in this matter till the next term
of this Court

A. L. Holmes

for Drum

Endorsed " Motion

Filed June 30th 1843

W^m H. Parley clk

J^r W. C. Posthumus dep

State of Illinois }
In Circuit Court } 3

In the Matter of Thomas Drum
Guardian of Elizabeth Bates
and Julia Ann Bates Minors
children of Acherment Bates
deceased on petition for sale
of Real Estate

In Circuit Court to the October
Term 11th 1843. Whereas by an order of this
Court made in this matter on the Petition of the above

named Thomas Drum Guardian as aforesaid, at
the next term thereof a d 1843 it was ordered that
the said Thomas Drum Guardian as aforesaid should
sell at Public Auction the lots or tracts of Land men-
tioned in the ~~proceeding~~ petition of said Drum with the
Mortgages belonging to his said wards, namely Lots num-
bered One (1) two (2) three (3) four (4) five (5) six
(6) seven (7) eight (8) nine (9) ten (10) eleven
(11) and twelve (12) in Block numbered twenty
two (22) lots number seven (7) eight (8) nine
(9) ten (10) eleven (11) and twelve (12) in Block
number four (4) and lots number four (4) five
(5) and six (6) in Block number twenty nine
all on the east side of Jones River in the City of
Galena in the County of Jo Damp aforesaid according
to the United States Survey of said Galena or so
many thereof as should be deemed necessary and
expedient by the said Guardian for the purposes
set forth in said petition on Saturday the 22nd
day of April a d 1843 between the hours of nine
o'clock in the morning and six o'clock in the after-
noon of said day to the highest bidder and that
the said Drum should give notice of said Sale
by publishing notice thereof in the Galena Sentinel
or any other newspaper in said Galena for three
months successively the last publication whereof
to be at least ten days before the Sale & Sale to be
made on the premises one third of the purchase money
Cash, one third in six and the balance in twelve
Months secured by Mortgage - and execute deeds
for the same to the purchasers reference being had
to the said order for a fuller specification of his
powers & duties & also the undersigned Thomas

Orren Greenman as appraiser makes report as follows to Mt Shat in pursuance of the said order he sold at Public Sale on the twenty second day of April a 1843 between the hours of nine o'clock in the morning and six o'clock in the afternoon of said day on the premises to the highest bidder so much of the real estate in said order and petition described as he thought necessary and expedient for the purposes set forth in said petition being all the property described in said petition and order except Lots number Eleven (11) and twelve in Block number twenty two aforesaid as follows to Mt Wm Johnston Lot 5 Block 22 aforesaid for one hundred & twenty Dollars

John Johnston Lot six Block 22 aforesaid for one hundred & sixty Dollars

Edmund Connor Lot two Block 22 aforesaid for eighty four dollars

Henry Marple Lot one Block 22 aforesaid for one hundred & twenty dollars

Artemus Holmes Lot ten Block 22 aforesaid for two hundred & thirty five dollars

Elihu B Washburn the south half Lot four Block 29 for two hundred five dollars

Jacob Frysinger the north half of Lot four Block 29 for one hundred & fifty dollars

Jacob Frysinger the south half of Lot five Block 29 for one hundred fifteen dollars

Lorrain H the north half of Lot five Block 29 for one hundred thirty five dollars

Lorrain H the south half Lot six Block 29 one hundred fifteen dollars

Artemus L Holmes the north half Lot six Black
29 for one hundred fifty dollars
David H Cagley Lot number seven Black 22 for
two hundred thirty five dollars
Elias Payless Lot three Black 22 aforesaid for
ninety dollars
Elias Payless Lot four Black 22 aforesaid
for one hundred twenty dollars
William Glasgow Jr twenty four feet (24) front
on South side of Lot seven Black
22 for one hundred forty two & $\frac{50}{100}$ dollars
John C Abbott, twenty six feet front on South side
Lot seven Black 22 for one hundred
forty two & $\frac{50}{100}$ dollars
John Atchison Lot eight Black 22 aforesaid
for two hundred twenty five dollars
Artemus L Holmes Lot seven Black four for two
hundred eighty five dollars
Artemus L Holmes Lot eight Black four for two
hundred fifty dollars
Artemus L Holmes Lot nine Black four for
two hundred thirty dollars
Artemus L Holmes Lot ten Black four for
two hundred fifteen dollars
Artemus L Holmes Lot eleven Black four for
two hundred twenty five dollars
Artemus L Holmes Lot twelve Black four
for one hundred fifty Dollars
having given notice of said time and place of
Sale by publishing notice thereof in the Galena
Sentinel a newspaper published in said
Galena for three weeks successively the last publica-
-tion whereof was on the eighth day of April

as aforesaid a certified copy of which notice
is herewith annexed marked A. The said
Thomas Drum would further report that the
terms of said sale were one third of the purchase
-money cash, one third in six months and one
third in twelve months, with interest at the rate
of ten per centum per annum from the day of
sale secured by mortgages on the premises sold
which said terms were complied with by each
purchase as aforesaid and that he executed acknow-
-ledges and delivered to the several purchasers
deeds for the premises by them severally purchased
conveying all the right of his said wards. The
said Thomas Drum Guardian as aforesaid here-
-upon prays this Court to accept and approve of
this return and report of his proceedings in this
matter and to order that it be received agreeably
to the Statute in such cases made and provided

Thomas Drum
Guardian

Guardians Sale

Notice is hereby given that agreeably to a
decree for that purpose by the Circuit Court of St
Louis County in the State of Missouri holden at Salem
at the March term thereof A D 1843 the undersigned
Thomas Drum Guardian of Elizabeth Bates and
Julia Ann Bates Minors; Children of Stephen
Bates deceased will sell at public Sale on Saturday
the twenty second day of April next between the
hours of nine o'clock in the forenoon and six
in the afternoon on the premises to the highest
bidder all the right and title of his said wards

in and to the following described lots or tracts of
land namely; Lot No one (1) two (2) three (3)
four (4) five (5) six (6) seven (7) eight (8)
nine (9) ten (10) eleven (11) and twelve (12)
in Block No twenty two (22) Lots No seven
(7) eight (8) nine (9) ten (10) eleven (11)
and twelve (12) in Block No four (4) and
Lots No four (4) five (5) and six (6) in Block
No twenty nine (29) situate in Galena in said
County of St. Clair on the East side of Jones River
agreeably to the United States Survey of the late
town of Galena now City or so many thereof
as he shall deem expedient and necessary for
the purposes set forth in the petition to said
Court in their behalf. terms of Sale on third
Cash, one third in six months one third in twelve
months with Mortgage on the property sold to
secure the same. Dated at Galena March
16th A.D. 1843 Thomas Drum
Guardian

J. H. & M. Grew printer and publisher of
the Galena Sentinel a newspaper printed in Galena
do hereby certify that the notice a printed copy of
which is annexed was published for three weeks succes-
sively in the said Sentinel in three different numbers
of said paper the date of the first being March 17th
1843 and the last being April 8th 1843
H. & M. Grew

Endorse Thomas Drum Guardian of Elizabeth
& Julia Ann Bates on petition for sale of Real Estate
Report

Filed Oct 28th 1843
Wm. H. Bradley clk
for Wm. C. Bentum

Said witness also produced the records of said Circuit Court from and including the year 1843 to the present time & examined the indexes of said Records & from the indexes the said Records, & testified that he could find no other entries or proceedings in the said Matter of said application & Sale except the foregoing entries offered in evidence by the Defendants & that the said indexes were made up carefully & correctly & designed so to be & that he had never discovered error in them & believed them correct - that he knew of no other entries on said records relating to said Matter - that he had carefully examined the records of the proceeding at the June term 1843 and had not been able to find any action of the Court on the application by said Deane for the extension of the time to make said return & that he had examined the records of said Court of the said term when said return was accepted & sworn to be filed but had found no other or further proceeding than what appeared in the entries offered in evidence by said Defendants & the said Defendants then offered in evidence the remaining parts of the Deposition of said Archambeau
Mr Donnell next before read in evidence being questions & answers 4th & 5th to "H" "

Question 4th

State what were then (said Elizabeth and Julia Ann) circumstances as to property or means of support in the years 1842, 1843 & 1846 what amount of property was owned by them whether the rents and profits of their estate real and personal was sufficient or insufficient for their education and nurture during those years

And 4th During the years 1842, 1843 & 1846 they had a sufficiency of means of support without the sale of any property the rents and profits derived from their real and personal estate was considerable, at that time there were only three in the family consisting of myself and two daughters and the rents and profits amounted to about twelve or thirteen hundred dollars besides this amount there was a considerable sum of money due from Central Rail Road in the hands of Thomas Drown Guardian, I think the profits of the real and personal estate was amply sufficient for the education and nurture of my children aforesaid during those years if it had been faithfully applied

Question 5th State if you know the same whether or not the personal Estate of said Elizabeth & Julia Ann (if they had any) or the rents and profits of their real Estate were faithfully applied to the purpose of their education & nurture during said years 1842, 1843 & 1846

And 5th Mr Thomas Drown was guardian during the years 1842, 1843 & 1846 for my said daughters Elizabeth & Julia Ann in the year 1843 he sold real Estate belonging to said Minors to the amount of about three thousand seven hundred & twenty five dollars in the year 1845 he again made sale of real estate belonging to the Minors for a considerable amount, I think about three thousand dollars, I am sure that the amounts thus realized by Thomas Drown were not faithfully applied for my daughters did not realize but

very little of the proceeds of said sales, and they never received anything that I know of from Claims against the Central Railroad, to which the Defendants Counsel objected, & which objection was sustained by the Court to which Ruling of the Court the Plaintiff by their Counsel excepted them & there, which matters and things aforesaid were all the evidence offered or admitted in said Cause. Whereupon the Court found the Defendants not Guilty & the Plaintiff by their Counsel moved the Court for a new trial for reasons on file which matters & reasons are in the words following to Wit

Alexander Jomay

et al

vs

John Corrain

et al

In vs Deerp County Court
in Execution

The said Plaintiff by their Attorneys Douglass & Wilson Come & move the Court for a new trial in this Cause for the following reasons

1st Because the Court erred in admitting the entry on the record of the Probate Court produced by Richard Seal, the same showing an appointment of a Guardian for the full time of Minority & not ~~for~~ ^{until} fourteen years - being record pages 71-72

2nd Because the Court erred in admitting notes of an intention to apply to the Circuit Court to sell the real Estate of said Elizabeth & Julia Ann signed by Thomas Dunn

3rd Because the notice of sale attached to said report was signed "Thomas Drum" & the Court admitted the same as evidence,

4th Because the Court erred in admitting as evidence the order of sale of the Circuit Court

5th Because the Court erred in admitting the entry on the Record of Circuit Court at pg. where Court only accepted the return of said Guardian & ordered it to be filed & did not approve & confirm the said Report

6th Because said return of said Guardian was never approved by the Circuit Court, or confirmed or ordered to be recorded

7th Because the Court erred in admitting as evidence the said deed of Hester Drum to Lorrain &c dated 22nd April 1843

8th Because said Mortgage from John & Shumell of Lorrain was inadmissible

9th Because of the admission as evidence of the entry on the Record of Records Office & the Marginal writing signed by Thomas Drum

10th Because of the admission of the 2nd deed executed by said Drum to Lorrains dated in 1844

11th Because the said Defendants did not offer any evidence to prove a compliance with the terms & conditions of the order of sale

12th Because the Matters & things offered in evidence, by the Defendants all occurred prior to the issuing of the patent

13th Because at the time of said order of Court & sale said Drum was not the legal Guardian of said Elizabeth Bates

14th Because at the time of said Sale said Elizabeth & Julia Ann had no right or title whatever in said lots, but acquired their interest & title long subsequent to said Sale

15th Because the Circuit Court had not jurisdiction of the Subject matter of said petition

16th Because it appeared from the Evidence that the Court had no power to order the Sale of said Realty

17th Because it does not appear that the said Circuit Court when it granted the said order of Sale was satisfied that the said Thomas Drum had faithfully applied all the personal estate of the said Elizabeth & Julia Ann

18th Because the said petition does not show that Drum had faithfully applied all of the personalty - nor does it appear that there was no personalty belonging to said Wards

19th Because the Court erred in not admitting all of the Depositions of Archibald Mc Dowell

20th Because the finding of the Court was contrary to Law

21st Because the finding of the Court was contrary to evidence

22nd And for other reasons

Douglas & Wilson
for Plaintiffs

Proseur

Motion for new trial

Filed 11th Feby 1850

Chas W. Fildes

Att

which motion was overruled by the Court to which
overruling the Plaintiff Counsel then & then excepted
& to all of which ruling & overruling of the Court
against the plaintiff by their Counsel excepted
& then & then pray the Court to sign & seal this
their bill of exception & order that the same
be made part of the record in this cause which
is done accordingly

Hugh S. Dieckey
Judge &c

Endorsed

Bill of Exceptions

Filed 12th Jan'y 1850

Geo. M. Imboden

Att

and afterwards to "dit" on the 12th Day of
January a d 1850 as yet of the January Term
Term a d 1850 of said & said County Court
in the Records of said Court in said cause is the
following entry to "dit"

Alexander Young & Elizabeth
Young his wife and Francis
Marchalden and Julia Ann
Marchalden his wife

Exponent

John Lorrain & Shemell
Lorrain

Now came on to be heard
the Motion heretofore filed by the Plaintiff by their
attorney for a new trial in this case which motion
after argument is overruled by the Court to which

ruling & decision of the Court the Plaintiffs by their
attorney except, and the Defendants by their attorney
moves the Court for judgment upon the Record
of the Court heretofore entered in this case & it
is thereupon considered by the Court that the
Plaintiffs take nothing by their writ and that
the Defendants go hence without day - and also
that the Defendants have and recover of the
Plaintiffs their costs by them about their defense
in this behalf expended and that Execution
issue therefor

State of Illinois

In Deane County $\frac{2}{3}$ pt

I George M. Mitchell
Clerk of the Deane County Court in and for
said County do hereby certify that the foregoing
transcript is a true full and correct copy from
the Record of all the proceedings which were
had in the said Deane County Court in
the aforesaid Case of Alexander Jones
et al against John Lorrain and Shemell
Lorrain

In testimony whereof I have
hereunto set my hand and affixed
the Seal of said Court at Salem
this 13th day of February ad
1850

Attest
G. M. Mitchell Clerk

Assignment of Errors.

- 1st The Court erred in overruling the objection of the ~~plaintiffs~~ counsel to the admission as evidence of the entries in the Record of the Probate Court at pages 71 & 72. & in admitting said entries.
- 2nd The Court erred in admitting as evidence the printed notice signed "Thomas Drum" & the Certificate of the printer attached thereto.
- 3rd The Court erred in admitting as evidence the said Petition of Thomas Drum to the Circuit Court praying an order of sale.
- 4th The Court erred in admitting as evidence the said order of said Circuit Court at its March Term 1843, for a sale of said real estate.
- 5th The Court erred in admitting as evidence the said printed notice signed "Thomas Erum" & the Certificate thereto attached.
- 6th The Court erred in admitting as evidence the said return of said ~~Court~~ Drum to said Circuit Court at its October Term 1843.
- 7th The Court erred in admitting as evidence the said entry on the records of said Circuit Court at its October Term 1843, accepting said return of said Drum.
- 8th The Court erred in admitting as evidence the said deed from said Drum Guardian &

It said Lorrain her dated 22nd day of April 1843.

9th The Court erred in admitting as evidence the said mortgage from John & Shewell S. Lorrain to Thomas Drum -

10th The Court erred in admitting as evidence said entry of said mortgage from John & Shewell S. Lorrain, to Thomas Drum, on the Records of the Records Office.

11th The Court erred in admitting as evidence the said marginal memorandum on the said Record signed Thomas Drum.

12th The Court erred in admitting as evidence the ~~second~~ deed from Thomas Drum to John & Shewell S. Lorrain dated 23rd Jan 1847.

13th The Court erred in ruling out & rejecting part of the deposition of Archange Mc Dowell to wit answers 4th & 5th

14th The Court erred in finding the defendants not guilty.

15th The Court erred in overruling the motion for ~~the~~ new trial for reasons on file.

16th The Court erred in rendering judgment for the defendants.

17th The Court erred in not rendering judgment for the plaintiffs.

18th The Court erred in not finding for the plaintiffs.

Hoge & Wilson atty for
plutffs in error.

Fees for Transcript \$ 23.23
Certificates & seals (35
\$ 23.58

And now at this day comes the
Said Dft. in Error and says that in
the record & proceedings and in the
recognition of the Judgment there is no
Error. he therefore prays that the judgment may
be affirmed.

Samuel
Attly for Dft. in Error

Mr Young et al
vs $\frac{2}{3}$ Transcript
Loren et al

Filed April 21. 1850.
Veland Clk.

\$23⁵⁰ fees for
Transcript

Blower }
vs }
Fisher }

The decree of the circuit court is reversed with costs and the suit remanded with directions to that court to enter a decree in due form annulling the conveyance from Fisher to Hay and directing a conveyance from Fisher to Blower with covenants of warranty and upon the execution of such conveyance authorizing Fisher to withdraw the deposit. The decree must also adjudge the complainant to pay the costs of the circuit court.

Honey }
vs }
Holcomb }

The decree of the circuit court is reversed with costs, and the suit remanded with leave to ~~the~~ complainant to amend his bill as he shall be advised, & with leave to the defendants to answer the amended bill & for further proceedings.

Young & Co }
vs }
Laramie }

Judgment ~~reversed~~ reversed with costs & cause remanded for a new trial

Sanic }
vs }
Hearsh }

Same as an

26-1850
3 other Orders

State of Illinois,
Supreme Court, } SS.

The People of the State of Illinois

TO THE SHERIFF OF Jo Davies County.

Because in the record and proceedings, and also in the rendition of the judgment, of a plea which was in the ~~circuit~~ ^{County} court of Jo Davies county, before the Judge thereof, between Alexander Young & Elizabeth Young his wife & Francois Mauchildes & Julia Ann Mauchildes his wife, plaintiffs and

John Korani & Shewell S. Korani defendants, it is said that manifest error hath intervened to the injury of the said plaintiffs

as we are informed by their complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Ottawa, before the justices thereof, to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said John Korani & Shewell S. Korani

that they be and appear before the Justices of our said Supreme Court, at the next term of said Court, to be holden at Ottawa, in said State, on the second Monday in June next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said John Korani & Shewell S. Korani - notice, together with this writ.

WITNESS, the Hon. Daniel H. Treat
Chief Justice of our said Court, and the seal thereof,
at Ottawa, this 21st day of April
in the year of our Lord, one thousand eight hundred
and fifty

J. Seland

Clerk of the Supreme Court.

Supreme Court at Ottawa

Alexander Young et al.

vs
John Lorrain et al.

Sci. F. a.

To June Term 1850.

I Marshall B. Pierce Sheriff of Judlow's County, Illinois do make return to the within writ, that I have this 29th day of April A.D. 1850 according to the exigency thereof by John Doe & Richard Roe good & lawful men of my County I have caused the same to be read in the hearing of the within named John Lorrain and delivered a certified copy of this writ to said John Lorrain at same time personally, the within named Shovel Lorrain not found in my County said to be out of the state

Attest Me. B. Pierce Sheriff

Sherry 50
Mileage & Duty 15
Copy 30
Postage 5

Total \$ 100
Filed May 4. 1850. K. Velandt.

State of Illinois ^{Ottawa} ~~Franklin~~ County

Alexander Young Supreme Court
Elizabeth Young 3rd Grand Division
Thomas Marchildon To give Term
Julia Ann Marchildon 1850 -
John Lorrain & Error to Franklin County.
Hewell S. Lorrain.

I do hereby enter myself security for costs in this cause and acknowledge myself bound to pay or cause to be paid all costs that may accrue in this action either to the defendants or either of them or to any officers of this Court in pursuance of the laws of this State, or that may according to law become chargeable to or due from said plaintiffs in error or either of them to any person whatsoever, in pursuance of the laws of this State.

Dated this 17th day of April AD 1850

M. H. Smith *Secy*

Alex. Young stals.

John Kerani stals.

Bound for cuts

Filed April 21, 1850.
U.S. Land Off.

Galena April 17th 1850

J. Leland Esq
Clerk Supreme
3rd Grand Division

Enclosed please find a transcript
of case of Alex. Young et al vs John Lorrain
et al, which file & give scire facias to the
Sheriff of Jo Daviess County for defendants
Lorrain et al, returnable according to law.

By the same mail, with this you will find a trans-
cript of a case of same plaintiffs vs Edward
Kergh & money enclosed as advance fee - Five
dollars of which please deposit in this case.

Your Obedt Servt

Hoge & Wilson attys
for plaintiffs in Error

Alex. Young stat.

John Kerani stat.

Preiipe

Filed Apr. 21. 1850.
N. Island Ct.

J. Island Esq.

Clerk Sup Court

Atawa

Saballe
Jlle

State of Illinois, Ect.

The people of the State of Illinois,

To the Clerk of the circuit court for the county of *Jo Daviess* — Greeting :

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the ~~Circuit~~ ^{Court} Court of *Jo Daviess* — county, before the Judge thereof, between *Alexander Young & Elizabeth Young his wife & Francois Marchildon & Julia Ann Marchildon his wife* —

plaintiffs and *John Kerani & Shewell S. Kerani*

defendant, it is said manifest error hath intervened to the injury of the aforesaid

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

WITNESS, the Hon. *Samuel H. Treat*
Chief Justice of our said Court, and the seal thereof at Ottawa, this *21st* day of *April* in the year of our Lord one thousand eight hundred and *fifty* —

H. Ireland

Clerk of the Supreme Court.

not to law.

we may cause to be done therein, to correct the error, what of right ought to be done according to law.

WITNESS, the Hon.

Daniel Woodcock

one thousand eight hundred and fifty... in the year of our Lord... day of... Chief Justice of our said Court, and the

D. Woodcock

26

Alexander Young et al.

vs
John Kerran et al.

Writ of Error

To June Term 1850.

Filed April 21, 1850.
J. Keland Clk.

BECAUSE in the record and proceedings, as also in the rendition of the

To the Clerk of the circuit court for the county of... - Proceeding

State of Illinois, etc.

WILLIAM B. HARRIS - DEPUTY CLERK

STATE OF ILLINOIS, ERROR TO JO DAVIESS COUNTY,

In the Supreme Court, 3d Grand Division, to June Term, 1850.

Alexander Young, Elizabeth Young,
Francois Marchildon and Julia Ann
Marchildon,

vs.

John Lorain & Shewell S. Lorain.

IN EJECTMENT.

Commenced in Circuit Court and taken by change of venue by consent to Jo Daviess County Court.

Declaration with three Counts.

The 1st Count sets forth the seizin in fee of said Alex. Young and Elizabeth his wife, of the one undivided half, in right of the said wife, of the North half of Lot 5 and South half of Lot 6, both in block 29, on the East side of Fevre River in the City of Galena, County of Jo Daviess and State of Illinois, and also the seizin in fee of said Julia Ann Bates, of the one undivided half of said North half and South half of said Lots 5 and 6—dispossession by the defendant and unlawful withholding, &c.

The 2d Count is a several count by Young and Wife setting forth the joint possession of the one undivided half of said North half of Lot 5 and South half of said Lot 6, by said Young and Wife—a dispossession and withholding by defendant—that the said Young and Wife claim the said undivided half of said half Lots in fee in right of the said wife Elizabeth.

The 3d Count is a several count by Julia Ann Bates, setting forth the ~~joint~~ possession of the one undivided half of said North half of Lot 5 and South half of said Lot 6, by said Julia Ann Bates—a dispossession and withholding by defendant—that said Julia Ann claims the one undivided half of said North half of said Lot 5 and South half of Lot 6 in fee.

Notice attached to Declaration and regular service.

Rule to plead within 20 days.

Plea of the general issue and similiter. Francois Marchildon made a party by a suggestion of his marriage with Julia Ann Bates.

Trial to the Country.

The Bill of exceptions shows all the testimony offered or admitted by the Court, as follows:

1st on the part of the plaintiff.

Patent from the United States, granting to Elizabeth and Julia Ann Bates heirs at law of Nehemiah Bates deceased, according to the act of Congress &c., said North half of Lot No. 5 and South half of said Lot 6, in Block No. 29, among other lots, which said lots had been purchased by said Elizabeth and Julia Ann and granted to said E. and J. A., their heirs and assigns forever as tenants in common and not joint tenants. Patent dated 12th Sept., 1845; which was admitted by the Court as evidence.

Plaintiffs offered and Court admitted parts of deposition of Archange McDowell, taken on a commission, as follows:

Witness knew all the parties plaintiffs, Alex. Young 10 years, Elizabeth about 20 years, F. Marchildon about 1 year, and Julia Ann about 18 years.

That the original family name of Elizabeth Young and Julia Ann Marchildon was Elizabeth Bates and Julia Ann Bates; that Young and Elizabeth were married in August 1847—Marchildon and Julia Ann, about 16 Aug. 1848.

Witness is mother of E. and J. A., and has had good opportunity of becoming acquainted with their circumstances and fortunes.

That witness was wife of Nehemiah Bates in his life time; that Nehemiah Bates died 12th of May, 1835, leaving said Elizabeth and Julia Ann his only children and heirs, himself surviving.

That Elizabeth was born 6th March, 1829, and twenty years old March 1849; that Julia Ann was born 2d May, 1831, and 18 years old in May 1849.

Defendants counsel then admitted in presence of the Court and Jury and waived proof of the same, that said halves of said lots 5 and 6 at time of the service of the declaration and notice were vacant and unoccupied lots, and claimed by defendant in fee simple. Plaintiffs rested their case.

2d Testimony on part of defendant.

Richard Seal testified—he is Clerk of the County Court of Jo Daviess County—keeper of the Records of the Probate Court—he produced one of the records of said late Probate Court of its acts &c., and testified that the entries on pages 71 and 72 were in the handwriting of Elijah Charles, who was Probate Justice during the year 1840, and at date of said entries pages 71 and 72, signed “Elijah Charles”—that said signature is the proper signature of said Charles—that said Seal had seen him write and knew his handwriting, and said Charles is now deceased.

Defendant offered in evidence said entry on pages 71 and 72 which is as follows, to-wit :

“At a special term of the court of Probate held at the Court House in Galena and County of Jo Daviess and State of Illinois, on the 23d day of May, A. D., 1840, the following proceedings was held, to-wit: Present, Elijah Charles, Probate Justice of the Peace in and for said County; Robert B. McDowell, heretofore appointed guardian for Elizabeth and Julia Ann Bates, minor heirs of Nehemiah Bates deceased, personally appeared in open Court and tendered in writing the following resignation: To Elijah Charles, Probate Justice of the Peace in and for the County of Jo Daviess and State of Illinois, Sir: I this day resign the office of guardianship for Elizabeth and Julia Ann Bates; and whereas the the Court having accepted said resignation and revoked the letters heretofore granted to said McDowell; and it appearing to the satisfaction of the Court that the said minors are possessed of real estate, do therefore appoint Thomas Drum guardian for said Elizabeth and Julia Ann. Said letters are in words and figures, to-wit :

“STATE OF ILLINOIS, JO DAVIESS COUNTY—ss.

The People of the State of Illinois to Thomas Drum of said county, Greeting: Whereas Robert B. McDowell, guardian for Elizabeth Bates of the age of eleven years in February last and Julia Ann Bates of the age of nine years, minor heirs of Nehemiah Bates, deceased, have on this day filed in the office of Probate Court his resignation as such guardian, and the said Court having accepted said resignation and revoked the letters heretofore granted to said McDowell. Do, therefore, hereby appoint you guardian of the said Elizabeth and Julia Ann Bates, persons and property until they shall arrive at the age of eighteen years. Witness, Elijah Charles, Probate Justice of the Peace in and for said County, at his office in Galena this the 23d day of May, A. D., 1840.

ELIJAH CHARLES, Probate J. P.”

To the admission of this entry the plaintiffs counsel objected, because of excess of power in appointing longer than to 14 years of age respectively. Which objection the Court overruled and plaintiffs excepted and entry read in evidence by defendant.

Defendant offered and read in evidence a bond executed by said Drum as guardian, with John Atchison and Michael Murphy sureties in the penal sum of \$5000, dated 23d May 1840, conditioned for faithful discharge of office and trust of guardian, &c., &c.

Richard Seal proved that said bond was on file among the papers in his office as Clerk County Court, delivered over by the late Probate Justice.

The defendant then offered in evidence a printed notice and certificate in writing by H. C. McGrew Editor and Publisher of the Galena Sentinel, that said notice was printed in four numbers of said paper, the first insertion on 11th Feb. 1843, and the last 11th March, 1843.

The printed notice was signed Thomas Durm, dated Galena Feb. 14th 1843, and set forth that he was guardian of said Elizabeth and Julia Ann minors; that they were seized of certain lots and parcels of land, and among them said Lots No. 5 and 6 in said block 29, it was necessary for the support and education of said wards and would be conducive to their interests to have said lots or some portion of them sold, that it was his intention to petition the Circuit Court at Galena on 2d Monday of March then next for license and authority to sell the same or so much as should be necessary for their support and education.

To the admission of which notice and certificate the plaintiffs counsel objected, because said notice was given and signed by “Thomas Durm” and not “Thomas Drum.” Which objection was overruled and the notice and certificate admitted, to which overruling the plaintiffs counsel excepted.

The Defendants then offered in evidence a petition in writing, signed “Thomas Drum, guardian,” addressed to the Hon. T. C. Browne, Associate Justice of Supreme court and Judge of the circuit court, &c., which represented and set forth that said Drum was guardian of said Elizabeth and Julia Ann Bates, minors, &c., by the appointment of the Probate Justice for said county.

That his said wards were each seized of an undivided half of certain tracts of land, (describing them, and among others the said Lots 5 and 6 in Block 29.)

That said Drum was so appointed guardian on the 22d May, 1840, (profert of letters made.)

“That at the time of his said appointment, nor at any time before or since, had there come into his hands or possession any personal property of said wards.”

That from time to time since said appointment said Petitioner had advanced moneys for the support, maintainance and education of said wards, as appears by account annexed that they were then indebted to him for such moneys.

That there was no money, personal property or means in his hands for the support, maintenance and education of said wards.

That it is necessary for their support and education, and will be conducive to their interests to sell said lots or part of them.

That notice had been given to all concerned by publication in the Galena Sentinel, printed in Galena, for 3 weeks successively before the setting of Court, certified copy annexed.

Wherefore he prays the Court to order a sale of said lots, or as many as shall be deemed necessary by said petitioner, for the support and education of said wards; and that petitioner, on making sale at such time and place and on such terms as this Court shall order, be authorized to convey the same to the purchasers by good and sufficient deeds according to the Statute in such case made and provided. Signed, Thomas Drum.

To the admission of which petition the plaintiff's counsel objected;

BECAUSE—The Circuit Court had no jurisdiction of the subject matter of said petition:

AND—no power to order said sale:

AND BECAUSE—the said Drum had ceased to be and was not at the time the legal guardian of said Elizabeth ~~and Julia Ann~~.

Which objection was overruled by the Court, the plaintiff counsel excepting, and which petition was admitted as evidence.

Defendants counsel, offered in evidence an entry in said Record of said Circuit Court, at its March Term, 1843; setting forth that Thomas Drum, guardian, &c.; came, &c; that proof of publication had been filed according to law; and the Court being satisfied as to the facts stated in said petition and that there was just and reasonable causes for the sale of the real estate therein described, ordered and decreed that said Drum, guardian, &c., should sell at public sale the lots or tracts of land mentioned in said petition belonging to said wards, namely (setting forth a number of lots and among them said lots No. 5 and 6 in block 29,) or so many of said lots as might be deemed necessary or expedient by said guardian for the purpose set forth in said petition; on Saturday 22d April then next, between 9 o'clock in the morning and 6 in the afternoon of said day to the highest bidder. Notice to be given by guardian in a newspaper in Galena for 3 weeks successively, the last publication to be at least ten days before the sale—sale to be on the premises—terms, one-third of purchase money cash, one-third in six months, one third in twelve months with interest from date of sale, the purchasers to execute a mortgage, on the premises sold, to said guardian for security for notes taken for balance. The petitioner being authorized to execute, acknowledge and deliver good and sufficient deeds for the premises sold, conveying all the right and title of his said wards, and it is further ordered that he make a return of his doings in this behalf to the next term of this Court.

To the admissability of which the plaintiff's counsel objected—

Because it appeared from the said order and petition that the Circuit Court had not jurisdiction of the subject matter of said petition;

And, no power to order said sale;

And because, it did not appear that the Circuit Court were satisfied, that the personality of said wards had been all faithfully applied, when it made said order;

Because, at that time, the said Drum had ceased to be and was not the guardian of said Elizabeth ~~and Julia Ann~~.

That the said order of sale was void as to said Elizabeth, and being a unit was void as to said Julia Ann.

The objection was overruled—the entry admitted as evidence—and the plaintiff's counsel excepted.

Plaintiffs admitted that Elizabeth and J. A. were residents of Galena, at the time of the presentation of said petition and order of sale, and waived proof thereof.

The defendants then offered in evidence a printed notice and certificate of H. C. McGrew, publisher of the Galena Sentinel, that said notice had been published in said paper, printed in Galena, for three weeks in succession in three different numbers of said paper,—the first, March 17th, 1843; the last April 8th, 1843. Which said printed notice was headed Guardian's Sale, dated March 16th, 1843, and signed Thomas Erum, reciting that by virtue of a decree of Circuit Court of Jo Daviess county, Illinois, at March term 1843, the undersigned Thomas Drum, guardian of E. & J. A. Bates, minors, &c., would sell at public sale—Saturday 22nd April, then next, between the hours of 9 o'clock A. M., and 6 P. M., on the premises, to the highest bidder, all the right and title of his said wards in and to property described, and amongst others the said North half of Lot No. 5, and South half of Lot No. 6, both in block No. 29, east Fevre river, Galena, Illinois, for the purposes set forth in the petition to said Court.—Terms of sale—one third cash, one third in 6 months, one third in 12 months, with mortgage on property sold for security.

To the admission of this notice, &c., plaintiff's counsel objected, because the notice was signed "Thomas Erum" and not "Thomas Drum," which objection was overruled by the Court and plaintiffs counsel excepted.

The defendants then offered in evidence the return of said Drum of said sale, in words and figures, which was entitled, "In the matter of Thos. Drum, guardian of E. and J. A. Bates, minors, &c., on petition for sale of Real Estate. In Circuit Court, to the October term, A. D. 1843," which recites the order of Court hereinbefore set forth and that in pursuance thereof said Drum sold at public sale, 22nd April, 1843, between 9 A. M. and 6 P. M., on premises to the highest bidder, the real estate set forth in the petition and order, giving the names of purchasers, numbers of Lots and amount bid, and among others as follows:

"Lorain & Co., the North half of Lot 5, in Block 29, for \$135.

Lorain & Co., the South half of Lot 6, in Block 29, for \$115;"

that notice of time and place had been given, &c., and a printed copy of the notice and the certificate of printer, annexed and marked A, hereinbefore set forth; that the terms were the terms hereinbefore last mentioned; that said terms were complied with by each purchaser as aforesaid, and that deeds were executed and &c., to purchasers for premises purchased, conveying all the right of said wards, and that said Drum prayed the Court to ACCEPT and APPROVE of said return and report of his proceedings and to order it to be recorded according to Statute in such cases made and provided. Signed, "Thomas Drum, Guardian," and "filed October 28th 1843," Wm. H. Bradly, Clerk, &c.

Which return was objected to because said Drum was not then the guardian of said Elizabeth Bates, which the court overruled and plaintiff's counsel excepted.

Defendants then offered in evidence two entries on records of circuit court, ONE made at June Term, 1843, and the SECOND at October Term, 1843.

Entry of June Term 1843, recites the filing by said Drum of a motion to extend the time for reporting his proceedings in this matter to next term of Court.

Entry of Oct. Term 1843 begins as follows:

Thomas Drum, guardian of }
Elizabeth and Julia Ann } Petition for sale
Bates, infant heirs of Nehe- } of Real Estate.
miah Bates deceased. }

Now at this day came the petitioner by his attorney and presented a report of the proceedings in this behalf, which is accepted by the Court and ordered to be filed, and is in words and figures following, to-wit:—reciting the return verbatim—the contents are given above.

To last entry plaintiff's objected;

1st. Because, said entry showed that the Court, on presentation of said return by said Drum, only ACCEPTED the same and ordered it to be FILED; that the said Court had not APPROVED and CONFIRMED said sale.

2d. That at the time of said entry Drum was not guardian of said Elizabeth. Objection overruled and entries admitted, plaintiffs excepting.

Defendants then proved that defendants on 22d of April 1843, and before and after, composed the firm of Lorain & Co.

The Defendants then offered in evidence the following deeds, &c.:

Thomas Drum, Guardian }
To } Deed, dated 22d April, A. D, 1843; acknowledged
Lorain & Co. } 3d May, 1843; recorded May 24th, 1843.

Recites order of Court and notice of sale and sale of the said minors right, title and interest in North half of Lot 5 and South half of Lot 6. Being a sale of all the right and title of said minors. Special warranty against all persons claiming under said Drum in his capacity aforesaid. Signed, THOMAS DRUM, ~~Guardian~~ [Seal.]

No Block is mentioned in this deed.

And in connection with and explanation of said deed; 1st A mortgage, as follows:

John Lorain and Shewell S. }
Lorain, partners under the } Dated 22d April, 1843; acknowledged
style of Lorain & Co., } 4th May, 1843; recorded May 13th, 1843.
To } Consideration \$166 66.
Thomas Drum. }

North half Lot No. 5, }
South half Lot No. 6, } Block 29.

Conditioned to secure \$166 66 with interest, in manner specified in two promissory notes for \$83 33 each, one payable in 6 months and one in 12 months.

2d. An entry on Record of mortgages of Recorders office of Jo Daviess county, of mortgage last above; and the following marginal note: "Know all men that I hereby acknowledge payment and satisfaction in full of the within mortgage and do hereby declare the same cancelled and of no further force or effect whatever.

Galena, May 23rd, 1844.

"THOMAS DRUM."

Signed with the proper and genuine signature of Thomas Drum
Drum at time of trial was dead.

3rd. Thomas Drum }
To } Deed, dated 23rd, January 1847.
John Lorain & Shewell Lorain. } Acknowledged 28, Jan. 1847.
Record 2d Feb. 1847.

This deed is like the first from Drum to Lorain & Co., and names the block 29, recited THIS deed to a correction of THAT deed, as to the said block and the individual names of the grantees.

To the FIRST named deed from Drum to Lorain & Co., plaintiffs objected.

1st. Because of no evidence that defendants had complied with the terms and conditions of sale prescribed by said order of Court.

2nd. Because of no approval and confirmation by said Circuit Court of said return of said Drum.

3d. The lands in the deed did not appear to be the same with those in the declaration.

4th. Because the Plat and survey by the United States, of the city of Galena, being made a part of the description in said deed, make the defect apparent on the face of the deed.

The mortgage was objected to by plaintiffs counsel, because it was the act and declaration of the said defendants, and made at a different time from said deed, that there was no evidence that the same had ever been delivered to said Drum, and was produced by and from the possession of said defendants, because said mortgage is to Drum individually and to secure an individual indebtedness.

The said entry in said record of mortgages was objected to, for same reasons as were presented against said mortgage.

The marginal memorandum signed Thomas Drum, was objected to, because it was a mere declaration of said Drum a long time after said deed, and related to an individual matter.

The said second deed by said Drum to said John and Shewell Lorain, dated—1847, was objected to because made by said Drum, after his return was made to the Court and his powers exhausted, and was a mere declaration of said Drum.

Each and all of which objections to said deeds, mortgages, entry and marginal memorandum, were over ruled,—plaintiffs excepting.

End of Testimony of defendant.

Plaintiffs then produced Wm. H. Bradley as a witness who testified: was Clerk of Circuit Court in and for Jo Daviess County, Ills., and had been for about ten years; that there were no other papers on file nor had been in his office to his knowledge, in the matter of the said application of said Drum for the said sale of said realty, except:

1st. The petition, signed Thomas Drum, above described, and the contents given.

2nd. Printed notice signed Thomas Drum, and certificate of printer, above set forth, and contents given.

3d. Motion by said Drum at the June term, 1843, for an extension of the time for the return of said proceeding till next term.

4th. The return described above.

5th. The printed notice signed Thomas Drum and certificate of printer.

Mr. Bradley also produced the record books of said circuit court from and including the year 1843 to the present time, and examined the indexes of said records and from the indexes the records, and testified that he could find no other entries in the said records in the said matter of said application of said Drum, except the entries herein before mentioned and read in evidence by defendant's counsel; that he had never discovered error in said indexes and records, and believed them correct, and that he knew of no other entries in said records; that he had examined the records of said court that there was no other entry on the record in the matter; that he had carefully examined the records of the June Term, 1843, and was unable to find any action of the Court, on the application for the extension of the time to make said return, and examined the records of the term, at which return was accepted and ordered to be filed, but had found no other or further proceedings than the entries offered by defendants.

Plaintiff then offered the remaining part of the deposition of Archange McDowell, being questions and answers 4th and 5th.

The defendants counsel objected—the court sustained the objection—the plaintiffs' counsel excepted.

The answers 4th and 5th are responsive to the questions to which no formal exceptions were taken at any time, and show that during the years 1842, 1843, and 1846, the said Elizabeth and Julia Ann had a sufficiency of means of support without the sale of any property; the rents and profits derived from their real and personal estate was considerable at that time; the mother and two daughters were all the family, and the rents and profits amounted to about *twelve or thirteen hundred dollars*. Besides this amount there was a considerable sum of money due from Central Railroad, in the hands of Thomas Drum, guardian—thinks the profits of the real and personal estate was amply sufficient for the education and nurture of wards during those years if it had been faithfully applied. That Drum, as guardian, sold real estate of wards, in year 1843, to the amount of about \$3725 00; in the year 1845 again he made sale of their realty for considerable amount, about \$3000 00; these amounts were not faithfully applied by Drum for the wards, and they received nothing for claims against Central Railroad,

Which matters, aforesaid, are all the evidence offered or admitted by plaintiffs and defendants,

The plaintiffs moved a new trial, for the following reasons.

1st. The Court erred, in admitting the entry on the record of the Probate Court, showing an appointment of guardian for minority and not until 14 years of age.

2nd. The Court erred in admitting the notice signed "Thomas Durm."

3d. The Court erred in admitting the notice signed "Thomas Erum."

4th. Because of the admission as evidence of the order of sale of the Circuit Court

5th. Because of the admission of the entry on the records of Circuit Court where Court only accept and do not approve and confirm said return of guardian.

6th. Because said return of said guardian was never approved by the Circuit Court or confirmed or ordered to be recorded.

7th. Because of the admission as evidence of said deed from said Drum to Lorain & Co., dated 22nd April, 1843.

8th. Because of the admission of said mortgage as evidence.

9th. Because of the admission as evidence of said entry on records of Recorders Office and marginal writing signed Thomas Drum.

10th. Because of the admission of the 2nd, deed by Drum to said Lorains, dated in 1847.

11th. Because of no evidence of a compliance with the terms and conditions of said order of sale.

12th. Because the matters and things offered by defendants in evidence and admitted by Court all occurred prior to the issuing of said patent.

13th. Because at the time of said order of court and sale, said Drum was not the guardian of said Elizabeth.

14th. Because Elizabeth and Julia Ann had, at the time of said sale, no right or title whatever in said lots but acquired their interest and title long subsequent to said sale.

15th. Because the Circuit Court had no jurisdiction of the subject matter of said petition.

16th. Because it appeared from the evidence that the court had no power to order said sale.

17th. Because it does not appear that said Circuit Court, when it granted the said order of sale, was satisfied that said Thomas Drum had faithfully applied all the personal estate of said Elizabeth and Julia Ann.

18th. Because said petition does not show that Drum had faithfully applied all the personalty, nor does it appear that there was no personalty belonging to said wards.

19th. Because of the rejecting of said part of the deposition of Archange McDonnell.

20th. Because the finding of the court was contrary to law.

21st. The finding of the court was contrary to evidence.

22nd. And for other reasons.

Which motion for new trial was overruled by the court and the plaintiffs' counsel excepted.
Judgment on the finding for defendants.

*Hoge & Wilson attys for
plaintiffs in Error*

Abstract.

Young chal

Prain chal

[Faint handwritten notes on the right side of the page, including names like "John" and "Mary".]

[Large block of very faint handwritten notes in the center of the page, mostly illegible.]

[Handwritten notes at the bottom of the page, including the name "Committee".]

Judgment on the finding for defendant.

1307. Although motion for new trial was overruled, by the court and the plaintiff's counsel excluded.

1308. And for other reasons.

1309. The finding of the court was contrary to evidence.

1310. Because the finding of the court was contrary to law.

1311. Because of the rejection of any part of the deposition of Virginia H. Downing.

1312. Because said decision does not show that Down had (allegedly) objected all the husband's box was

1313. Because it does not appear that said Circuit Court, when it granted the writ of habeas corpus, was not

1314. Because the Circuit Court had no jurisdiction of the subject matter of said petition.

1315. Because it appeared from the evidence that the court had no power to order said writ.

1316. Because the Circuit Court had no jurisdiction of the subject matter of said petition.

1317. Because the time of said writ of court and said writ of habeas corpus was not the execution of said writ.

1318. Because the matters and things charged by defendant in evidence and admitted by Court are not

1319. Because of no evidence of a compliance with the terms and conditions of said writ of habeas corpus.

1320. Because of the admission of the said deed by Down to said location, dated in 1847.

1321. Because of the admission of the said deed by Down to said location, dated in 1847.

1322. Because of the admission of the said deed by Down to said location, dated in 1847.

1323. Because of the admission of the said deed by Down to said location, dated in 1847.

1324. Because of the admission of the said deed by Down to said location, dated in 1847.

1325. Because of the admission of the said deed by Down to said location, dated in 1847.

1326. Because of the admission of the said deed by Down to said location, dated in 1847.

1327. Because of the admission of the said deed by Down to said location, dated in 1847.

1328. Because of the admission of the said deed by Down to said location, dated in 1847.

1329. Because of the admission of the said deed by Down to said location, dated in 1847.

1330. Because of the admission of the said deed by Down to said location, dated in 1847.

1331. Because of the admission of the said deed by Down to said location, dated in 1847.

Assignment of Errors.

- 1st The Court erred in overruling the objections of the plaintiffs Counsel to the admission as evidence of the entries in the Record of the Probate Court at pages 71 & 72 and in admitting said entries.
- 2nd The Court erred in admitting as evidence the printed notice signed "Thomas Drum" and the Certificate of the Printer attached thereto.
- 3rd The Court erred in admitting as evidence the said petition of Thomas Drum to the Circuit Court praying an order of sale.
- 4th And in admitting as evidence the said order of said Circuit Court at its March Term 1843, for a sale of said estate.
- 5th And in admitting as evidence the said printed notice signed "Thomas Crum" and the Certificate attached thereto.
- 6th And in admitting as evidence the said Return of said Drum to said Circuit Court at its October Term 1843.
- 7th The Court erred in admitting as evidence the said entry in the Records of said Circuit Court at its October Term 1843, accepting said return of said Drum.
- 8th And in admitting as evidence the said deed from said Drum guardian of to said Lorrain Her dated 22nd day of April 1843.
- 9th And in admitting as evidence the said mortgage from John & Thewell S. Lorrain to Thomas Drum.
- 10th And in admitting as evidence said entry of said mortgage from John & S. S. Lorrain to Thomas Drum in the Records of the Record-ers office.
- 11th And in admitting as evidence the said Marginal memorandum on the Records signed Thomas Drum.

Assignment of Error contd.

- 12th The Court erred in admitting as evidence the deed from Tho^s Drum to John & S. S. Lorrain dated 23rd Jan 1847.
- 13th And in ruling out & rejecting part of the depositions of Archang^e McDowell to wit answers 4th & 5th.
- 14th And in finding the defendants not guilty.
- 15th And in overruling the motion for a new trial for reasons on file.
- 16th And in ^{not} rendering judgment for the ~~defendants~~ ~~plaintiffs~~ defendants.
- 17th And in not finding for the plaintiffs.

Dodge & Wilson attys for
plaintiffs in error.