No. 11861

Supreme Court of Illinois

Holmes.

vs.

Fields.

71641 7

Mason County.

Vivian B. Holmes
vs
Amelia D. Field by et.

119

1851

11861

Defaulter

Pleas began and held at the Court House in the Town of Havana on Monday the 12th day of May in the year of our Lord One thousand Eight hundred and fifty one In and for the County of Mason and State of Illinois

Before the Honorable William A Minshall Judge of the 5th Judicial Circuit in the State of Illinois

Amelia D Field by her next friend B S Prettyman
vs
W B Holmes & others
} In Chancery

This day came the complainant by her next friend Benjamin S Prettyman and files her Petition and also the answers of the Defendants & Exhibits H

Which said Petition and answers are in the words and figures following to wit

To the Honorable William A Minshall Judge of the fifth Judicial Circuit of the State of Illinois composed of the Counties of Mason & others in Chancery Sitting

Your Orator Amelia D Field one of the Children and devisees of Drury S Field late of Sangamon County Illinois deceased a minor by Benjamin S Prettyman her next friend and Solicitor Humbly Complaining Sheweth unto Your Honor that in the year of our Lord Eighteen hundred and thirty five her father the late said Drury S Field

then a resident of Fayette County State of
Tennessee Entered into an agreement in writ
ing with one Vivion B Holmes to furnish
to the Said Holmes the Sum of twelve
Thousand five Hundred Dollars to be Expend
ed in Entering Land in the State of Illinois
in the name of said Drury S Field and
it was also agreed therein that the Said
Holmes bear his own Expense & locate and
Enter the Said Land & that after the entry
thereof the said Holmes & said Drury S Field
would divide the Said Land between them
so that the Said Drury S Field should have
three fourths and the Said Holmes one
fourth thereof which said article of
agreement dated 16th day of October Eight
een hundred and thirty five and signed
by the parties thereto is herewith filed
Marked (A) and by your orator prayed
to be taken as a part of this bill the same
as though herein inserted and your orator
further shows that in pursuance of said
agreement the said Holmes did locate &
Enter in the name of the said Drury S
Field in the Counties of Sangamon Tazewell
& McLean in the State of Illinois Ten thousand
Acres of Land and your orator further
shows that afterwards to wit on the 26th
day of September 1836 the said Drury S Field
since Deceased loaned to the said Holmes the
sum of one hundred and twenty Dollars and
that afterwards to wit on the 20th day of
October 1836 he loaned him the further sum
of Seven Hundred and fifty Dollars and
took his notes therefor the last note being

$750 Dollars

$750 Dollars drawing twelve percent interest annually until paid and due ten days from the date thereof and dated the 24th day of October 1836 aforesaid is herewith filed Marked (C) and prayed to be taken as a part of this bill your orator further shows that afterwards the said Drury S Field moved from the State of Tennessee to Sangamon County in the State of Illinois where a great part of the Lands Entered by said Holmes under said agreement the lay and the said Holmes & Drury S Field aforesaid does then in pursuance of this agreement proceed and divided the said Land so Entered in the County of Sangamon in pursuance of said agreement and your orator further shows that in consideration that the said Field had loned to the said Holmes the said sum of Eight Hundred and Seventy Dollars at the time and as set out in the said promissory notes aforesaid and in as much as the said Holmes could not then pay the same which was then due and payable the said Holmes agreed to and with the said Drury S Field that the land Entered in pursuance of said agreement in Tazewell County should be Kept by said Fields and held mortgaged as a security to him the said Drury S Field for the said $870 Dollars and Interest thereon then due and owing from the said Holmes to him as set forth in the said notes aforesaid which said agreement was also in Writing and Endorsed on the said original agreement

[illegible]

hereunto filed Marked (A) as aforesaid
and signed by the said Holmes and also
prayed by your orator to be taken as a
part of this bill the same as if here in
serted and your orator further shows
that afterwards to wit about the 9th day
of April 1838 the said Drury S Field
departed this life leaving surviving him
Amelia E Field his widow and
Albert J Field Algernon E Field Mary
Maria Sally & Lucy Field Ella F Elmer
and your orator his children & Devi
sees And your orator further shows
that previous to the Death of the said
Drury S Field he made his last
Will and testament wherein he
appointed the said Albert J Field
his Executor who took upon himself
the execution of the said trust and
said Drury S Field devised his propa
ty Real and personal among his said
heirs & Children aforesaid and his
said Widow in accordance with
the stipulations of his said will wh
ch is particular set forth and a copy
of which Will is also hereunto filed
& attached to an Exhibit Marked (B)
and also prayed to be taken as part of
this Bill the same as though it was
herein fully inserted by which said Will
the said Amelia E Field Widow
aforesaid received and consented and she
Elected to take under the said will a very
large part of the property of the Estate

"of the said Drury S Field deceased while she
"should continue to live and remain his Widow
"and who also therein appointed as Guardian
"of your Oratrix and it was and is expressly
"provided in said bequest to the said Widow
"and she so received the said property & trust
"Guardian of your oratrix that if she marrie
"or ceased to be his Widow then all of the rights
"and interest in the said property and in every
"part of said Bequest should together with
"the trust forever cease and the property
"devised to the said Amelia E Field should in
"such event of your oratrix then continue
"to have been vested in and remain the sole property
"of your oratrix and your oratrix further shows that
"for the purpose of carrying out the provisions of
"the said Will of the said Drury S Field it becoming
"necessary for the said Executor Albert J Field
"to petition to the court to designate and set a
"part the said Lands Entered in pursuance
"of the said agreement aforesaid in the Coun
"ties of Tazewell & McLean which had
"not been before divided between the said
"Drury S Field and the said Holmes to the
"said Holmes which was understood &
"to be and remain though designated and
"set apart still subject to the said lien of
"the said notes aforesaid from the said
"Holmes to the said Field deceased and
"accordingly or oratrix shows that the
"said Albert J Field at the September
"Term of the Tazewell Circuit Court A.D.
"Eighteen hundred and thirty eight filed
"as Executor his Petition praying the Court

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" the to set apart and designate the part of
" said Land which under the said article
" of agreement then shown to the Court and
" now herewith filed Marked (A) as ought
" to be in Equity so set apart to him that he
" the said Executor might with the remaining
" portions of said Land continue and carry out
" the said will of the said Denys Field by
" dividing it among the other heirs and chil
" dren of the said Denys Field other than your
" Oratrix whose portion said will is design
" ated and your Oratrix further shewes that
" on a hearing of said cause the said Court
" did Decree that Commissioners be and they
" are thereby the court appointed to divide and
" set apart the said Land to the said Holmes
" and the said Commissioners so appointed
" did proceed by metes and bounds entire
" thereof and designate and set a part of
" said Land so Entered in pursuance to
" said agreement to the said Holmes the
" following tracts of Land to wit The West
" half of the South East quarter of Section thirty
" five in Township twenty five north of Range
" two West of the third principal meridian
" also the East half of the north West quarter
" of Section twelve the West half of the South
" East quarter of the north West quarter of Sect
" ion thirteen the West half of Section twenty
" five the East half of Section thirty six
" and the East half of the north West of
" quarter of Section twenty six all in Township
" twenty four of Range two West 3rd principal meridian

"and reported their proceedings accordingly
"to the court which report was by the
"Court approved and is together with
"the order approving the same the Decree
"Exhibit answer petition and the proceed
"ings had in said Court as recorded here
"with filed and marked (B) also said
"Cause as recorded herewith filed and
"prayed by your oratrix to be made
"taken as a part of this Bill together with
"the certificate of the authenticity thereunto
"attached the same as though the whole
"matter were herein fully recited and
"your oratrix further shows that the
"said Amelia E Field in the year 1839
"intermarried with one Shipley Custer
"and that by virtue of the provisions of
"the said Will of the said Drury S Field
"and the acceptance of the Devise and Condi
"tions under the same the right and Inter
"est to all the property Real and personal
"taken thereby the said Amelia E Field
"immediately ceased and became vested
"in your oratrix and the said Amelia
"E also then ceased to be the Jurisdiction
"of your oratrix by said will and your
"oratrix further shows that at the time
"of the said Marriage aforesaid the
"the said Amelia E Field had by the provis
"ions of the said will in her house and pos
"session — And the property of and as the property
"of your oratrix by said will the said note
"dated October 24th 1836 for the sum of
"Seven hundred and fifty Dollars and
"signed by the said Vincent B Holmes

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4. payable to the said Drury S Field deceased
" as aforesaid and being the same note for
" which the said Land in Tazewell County
" aforesaid was by the said agreement
" aforesaid to remain and stand to secure
" the payment thereof and your orator
" charges that notwithstanding the
" trust under the said will of Drury S
" Field the said Amelia E Field as
" Guardian ceased immediately under the
" will on her said marriage as afore
" said and notwithstanding the said
" note money & interest then due thereon
" was then by the said provisions of the
" said will and acts of the said Executor
" and Guardian the lawful property of the
" your orator and ought then to have
" been immediately given up to the probate
" court or some Guardian for her and not
" squandered and not with standing the
" said Holmes knew all the provisions of
" the said will and knew of the said
" marriage and knew that all the
" rights to the property of Drury S Field &
" of the rights & power of the said Amelia E
" Field by the will on her marriage then
" ceased the said Amelia E Field did
" not deliver up the trust to the probate
" court or to a lawful Guardian but returned
" the said Note aforesaid and permitted the
" said Husband the said Shipley Luster to take
" and return the same knowing it was
" the property of your orator and the said

Holmes while the said note was so in the
hands of the said Shipley Lester and well
knowing all the facts and circumstances
attending the same and the manner in
which the said note came to the hands of
the said Shipley Lester paid to the said Lester
who Endorsed on the said note on the 9th
of October 1840 a credit and part payment
thereon the sum of Four Hundred and
thirty Dollars and twelve cents and your
Orator prays to the Court whether the
said Lester had a right to receive money
on said note said note in any way and whether the
said Holmes having paid the same to the said
Shipply Lester with a full knowledge of all
the facts and circumstances has a right to claim
the same as a credit on the said note or to be
credited therewith and charges that she is
advised that he ought and cannot and that
the whole amount of the note and all the
interest which has accrued thereon is
still due her and your Orator further
charges that the said Shipply Lester is now
dead and that he died insolvent and
further that Stella F Turner is also
deceased leaving surviving her as her heirs
Turner the husband Francis Albert Turner
William & Lucy E Turner the children and that
the said Mary J Field aforesaid has since
married one James M Ruggles
that the said Hortt Field aforesaid has
since intermarried also with one James D
Scott that the said Lucy Field aforesaid has
also intermarried with one William Woodbury

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"and that the the said Lucy is also deceased
"and that the said Mary Field aforesaid has
"also intermarried with one Benjamin F
"Gatton and that the said Smith Turner
"Francis Albert William & Lucy E Turner
"Mary J Ruggles James M Ruggles Sarah
"Jane James S & Jane William W Moor
"ing Albert J Field Algernon E Field Mor
"ah Gatton & Benjamin F Gatton and Amo
"lia E formerly Widow of the said Drury S
"Field deceased Claim to have some right
"or interest in the said Land aforesaid
"to your Oratrix unknown and that the
"said Vernon B Holmes also claims some
"right in and to said Land after the just claim
"of your oratrix shall be first satisfied out
"of the same which your oratrix charges
"that in Equity should be first done and
"and as she is already allowed any balance
"which may be left after paying off
"the said rate and interest should be paid
"over to the said Holmes and that the rate
"of said Claim of Encumbrance of said parties
"Vernon aforesaid and hereafter named as
"defendants herein are inferior in
"Equity and subsequent in date to the
"aforesaid claim of your oratrix and as
"your oratrix to the end thereof that the
"said Albert J Field Algernon E Field
"& Smith Turner husband of the said Lucy
"E Turner Lucy E Turner & William Turner &
"Albert Turner minors heirs of Ella F Turner
"deceased and the said Mary J Ruggles &

"James M Ruggles Benjamin F Gatton
"& Minna Gatton Sarah Scott & James A D
"Scott William W Woodbridge and the
"said Amelia E formerly Moore after said
"Darry J Field deceased and the said Levon
"B Holmes may be made defendants
"hereto and may each true and perfect
"answers make to all and singular
"the charges and allegations in this
"bill contained as fully and at large
"as though the same were in the form
"of Interrogatories most particularly aga
"inst herein inserted And your Orator
"further avers that the said James M
"Ruggles has by the Court of Probate been
"appointed and now is the acting Guar
"dian of your Orator and your orator
"prays that the said land in the said
"bill above described may be sold at
"Public Sale to the highest Bidder for
"cash in hand and that out of the
"proceeds thereof your orator may
"be first paid what ever by the said
"Court may be adjudged to be justly
"due and owing from the said Holmes
"to her on said note aforesaid and
"that any ballance which may remain
"after paying off the same may be paid
"over to the said Holmes and that the
"Peoples Writ of Subpoena may be issued
"to the said Defendants the said Levon
"B Holmes James M Ruggles Mary J Ruggles
"Benjamin F Gatton Minna Gatton
"Smith Turner Albert Turner Lucy E Turner

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"William Turner & Thomas Turner and
"Amelia E Widow aforesaid Albert J Field
"Algernon E Field to the County of Mason
"and to the said James A D Conner Sarah
"Conner William W Woodbury to the County
"of Vermilion in said State of Illinois
"commanding them the said Defendants
"and each of them to be and appear at
"the Circuit Court of Mason County
"at the next term thereof then to answer
"to the bill of this Complainant and
"Generally stand to perform and abide by the
"Judgement order and Decree of in
"the premises and for such other and
"further Judgement & decree on the prayer
"as to your Honor may seem meet
"and in accordance with Equity and
"good conscience and as in duty bound
"your Orator will Ever pray &c &c

Amelia D Field
per Benjamin S Prettyman
her next friend & Solicitor

"Amelia D Field
"vs
"V B Holmes & others } In the Mason County
"} Circuit Court - May
"} Term 1857.

"I do hereby Enter myself Security for Costs
"in the above Entitled Cause and acknowledge
"myself bound to pay or cause to be paid
"all costs which to the opposite parties or
"to any of the officers of this Court pursuant to
"the laws of this State on a trial or disposition
"of said cause

Bath April 11. 1857

B. S. Prettyman

Exhibit (B)

Pleas to the Circuit Court Tazewell County State of Illinois To the September Term in the year of our Lord one thousand Eight Hundred and Thirty eight Before the Honorable Jesse B. Thomas Judge of the first Judicial Circuit of the state of Illinois

Albert G. Field Executor of
Drury S Field Deceased
vs
D. B. Holmes
} In Chancery

Be it Remembered that on the nineteenth day of September in the year of our Lord one thousand Eight hundred and thirty eight that Albert G Field Executor of Drury S Field Dec'd filed by his Solicitor Urquhart filed his Bill for partition in said suit in the words and figures as follows to wit

To the Honorable Jesse B Thomas Judge of the Circuit of Tazewell County in the State of Illinois being one of the Counties in and belonging to the first Judicial Circuit the Petition of Albert G Field respectfully represents that one Drury S Field late of Sangamon County in the State of Illinois departed this life in the month of April 1838 ~~having~~ first made and published his Last Will in Writing a copy of which duly authenticated is herewith Exhibited as part of this bill

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the said Dwell at the time of his Death was
seized and possessed in absolute fee simple
of a large real Estate & personal Estate
lying partly in the Sangamon County
aforesaid and partly in the Sagewell
& McLean from the fact of the will
it will appear to the Court that there
are sundry specific devises of land
among the wife & children of the Testator
but the boundaries of the same are not
therein designated your petitioner by said
will is appointed said Executor and
is also one of the children and devisees of
the Testator your petitioner hath taken him
self the burthen of executing said will
in order to that end your petitioner find
that there is one outstanding claim set
up by one V B Holmes to some undivi
ded interest in part of the testators
lands in the Counties of Sangamon
Sagewell & McLean which must be ad
justed by a decision of this Court before
before your petitioner should be ~~able~~
enabled to execute the aforesaid will
The state of the case as it regards the claim
set up by said Holmes your petitioner
understands to be this In the ~~year~~ month
of October in the year 1835 the Testator
and said Holmes entered into an agr
eement in writing which is hereunto
to be annexed as part of this bill whereby
said Holmes undertook on certain con
ditions stated in said agreement to locate

and entrusted the funds of said Testator a large quantity of Government Lands lying in Illinois and for his services in this undertaking said Holmes was to be allowed one fourth of the land so required to be divided as agreed upon in said written contract In execution of said contract said Holmes located selected and entered a large body of land in Sangamon to wit
Hundred acres and the residue amounting to near Four Thousand acres in Tazewell & McLean some time previous to the death of Testator from the representation of said Holmes which your orator believes to be correct the Testator & said Holmes entered into a verbal agreement to divide all the lands so entered for their common benefit in the aforesaid counties In pursuance of said verbal agreement your Orator believes that the Testator and said Holmes did divide the lands acquired as aforesaid and in the contract aforesaid so far as they were contained in the limits of the County of Sangamon But then the verbal contract suspended by the intervention of the Death of the Testator and yet remains unexecuted and unfulfilled your Orator finds that while said Holmes interest in the said Lands in Tazewell & McLean is unascertained it will not be practicable for him as Executor to carry into effect the last will of his Father and Testator the late Duty S Field your orator is advised that it is proper for him to ask the aid of

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Court of Equity in construing and adjusting the claim of said Holmes as to the undivided interest that he sets up to the acquired land in Tazewell & McLean it is further necessary so do in order to obviate any difficulty in the partition of the testators lands in the aforesaid Counties among his devisees and on the last will of said Testator. your orator to that end in order that Justice may be done in premises and the rights of all parties be adjudicated by this Honorable Court prays said Holmes be made defendant to this bill and that he answer the same that on a view of the proceedings in this case and a full consideration of all the facts that a division of the said lands in Tazewell & McLean be made between your orator & said Holmes to this End your Orator prays the appointment of three Commissioners to lay off by metes and bounds the said undivided lands acquired by the Testator & said Holmes in the said Counties of Tazewell & McLean according to a right understanding of the written agreement herein referred and the verbal agreement if in the opinion of the Court such verbal agreement and other considerations can be regarded by this Court and your orator prays for such other and further relief in the premises as to your Honor may seem just and right & in duty bound will ever pray

October Term of the Circuit Court of Tazewell in the year 1838.

Albert J Field Executor of the devises of Drury S Field Decd

Now afterwards to wit on the said nineteenth day of September in the year aforesaid and one thousand eight hundred and thirty eight were filed the letters Testamentary and copy of will of said Drury S Field in the words and figures as follows to wit

State of Illinois
Sangamon County } The people of the state of
the state of Illinois to all to whom these
presents shall come greeting
Know ye that whereas Drury S
Field of the County of Sangamon and state
of Illinois died on or about the 9th
day of April 1838 as it is said after having
duly made and published his last will
and testament a copy of which is hereunto
annexed having at the time of his death
property in this state which may be lost
destroyed or diminished in value if speedy
care be not taken of the same and in
as much as it appears that Albert
J Field has been appointed executor
in and by the said last will & testament
to execute the same and to the end
that said property may be preserved
for those who shall appear to have a
legal right or interest therein and

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"said will may be executed accordy
"to the request of the said Testator we do hereby
"authorize him the said Albert J Field
"as such Executor to collect and secure
"all and singular the goods and chattels
"right, and credits which were of the
"said Henry S Field at the time of his
"death in whosoever hands or poss
"ession the same may be found in
"this State and well and truly to perform
"and fulfill all such duties as may
"be enjoined upon him in the said
"will so far as the same shall be property
"and the law charge him and in general
"to do and perform all such acts which
"may now or hereafter may be
"required of him by law Witness James
"Adams Probate Justice of the Peace
"(no public seal having yet been provided)
"the law has authorized my private seal
"which is here substituted this 24th
"day of April 1838

Seal

J Adams P.J.P.S.C

copy will

"Sangamon Cty Ills April the 1st 1838
"I Henry S Field of the above named County
"State make this my last will and
"testament of my worldly goods and chattels
"First I give and bequeath to my very
"and much beloved wife Amelia C
"Field during the time she shall
"remain my Widow and during her natural

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"life the mansion house in which we now
"dwell with four hundred acres of land
"with all my stock of Horses Cattle farming
"utensils of every description & carriage Wag
"gon &c together with my Household and kitchen
"furniture like wise further bequeath that my
"Executor during the time of her Widowhood
"shall annually pay over to her the sum
"of one hundred and fifty Dollars but
"Should she marry and become the
"wife of another she shall immediately for
"feit her dower of every description and
"have no further claim upon my Estate
"the land and other things named which
"I have given her to be in that event
"given to my Infant Daughter Amelia
"Drury Field or in the event of her death
"before she shall marry or become of age
"to be left to my other children my lands
"shall always be held subject to the pay
"ment of the annuity the annuity to cease
"at the death of my wife Secondly I give
"and bequeath to my Infant Daughter
"Amelia ~~her~~ D Field all the land and
"other things belonging bequeathed her
"mother at her death to be given over to
"her or in the event of her mothers marry
"again Furthermore I give her three hun
"~~three~~ dred acres of land to be laid off on the
"East Side of the land he queathed her mother
"and to adjoin the same with the addition
"of fifty acres of Timber land lying in the
"Sangamon bottom lastly I have her ~~one~~

one thousand Dollars lastly all the balance
" of my lands & moneys I give in the manner
" following first I give to my son Albert
" ~~I have~~ one hundred and sixty acres of
" land lying opposite the point known by
" the name of Atkins Point Extra for services
" rendered the Estate I give to my Daughter Ella
" T. Turner and her bodily heirs Eight Hundred
" Dollars together with an equal portion of
" my lands I bequeath all the rest of my
" lands and money amongst my other children
" with this Proviso that my four Daughters
" Mary Maria Sally & Lucy Shall be Entitled
" to two hundred and fifty Dollars each
" more than my two ~~Boys~~ Sons Albert I
and Algernon an account of their Education
" It is my will that after my lands are div-
" ided that my son Albert shall have the
" choice of same the balance to be given to
" Each as they become of age as Mary Ella
" and appoint my son Albert I Field my
" Executor of this my last will and testament
" and further I appoint him Guardian
" for ~~Mary Ella~~ children Algernon Mary & Maria and further more it is my
" ~~Lucy Field~~
" wishes that he Shall not be held to Se-
" curity for his acts unless it should appear
" that he was negligent or wasting the
" Estate In that event to be held to Security
" And I further appoint my beloved wife Amelia
" E Field Guardian for my Infant Daug-
" hter Amelia E Field so long as She rem-
" ains my Widdow and further it is my
" will that no Security be demanded of
" her for her guardianship and Should my

[11861-11]

"my child Amelia D die before she becomes
"of age or many in that event all the
"legacy which I have bequeath my wife
"Amelia shall then be at the disposal
"of my wife Amelia to will or to
"distribute it to any one or more of
"my children as she may wish or devise
"lastly is my will that my Daughter
"shall Stay and reside with my wife
"So long as it shall be agreeable to the
"of Both parties and I lastly will that
"should my wife Amelia wish
"it and leave it for the best inter
"est she shall have full Power to
"dispose or Sell off any or all the
"stock and other Chattels which I
"leave her In testimony whereof I
"have hereunto affixed my hand and
"seal this the day and year above
"mentioned likewise I further will &
"devise one hundred and fifty Dol
"lars to be paid by my Executor
"to my wife Amelia E Field in addi
"tion to her annuity for the purpose
"of furnishing and fitting the house
"as she may wish or in any other way
"she may think proper likewise the Pers
"Groceries for the family to be laid in by
"for the family by my Executor likewise I
"leave my wife Amelia Thirty acres of
"Timbered land lying in the Sangamon
"Bottom In testimony whereof I have
"and affix my hand and Seal

Witness Henry S Field Ex

" Thomas T Blunt
" Sarah Blunt
" A. G. Wallace

" State of Illinois
" Sangamon County } Set

" This is to certify to all
" to whom it may concern that the
" foregoing is a true copy of the last
" will and testimony of Henry S Field
" Dec'd of Sangamon County duly
" proved and recorded in Sangamon
" Probate Court as required by law

" Witness James Adams
" Probate Justice of the
" Peace for Sangamon County
" no public seal having yet been provided
" the law has authorized my private
" seal which is here substituted this
" 24th day of April 1858.

" J Adams
" P. J. P. S. C

" Now afterwards to wit on the nineteenth
" day of September in the year of our Lord
" one thousand eight hundred and thirty eight
" was filed an article of an agreement
" in said cause in words and figures
" as follows to wit

agreement

" Article of an agreement made and
" Entered into this 16th day of October
" one thousand Eight hundred and thirty five

[11861-12]

" Between Drury S Field of the County
" of Fayette and state of Pennsylvania of the
" one part and V B Holmes of the
" other part Witnesseth that for and
" in Consideration hereinafter specified
" the said Holmes has agreed to and
" with the said Field to proceed to the
" state of Illinois for the purpose of
" locating ten thousand acres of land
" for and in the name of the said
" Drury S Field he the said Holmes
" paying his own expense and the
" Field do by these presents bind himself
" to furnish the amount of money
" (say) twelve thousand five hundred
" dollars for the purpose of perfect
" ing the claim on or before the first day
" of March next or as soon after as the said
" Holmes notifies him that he has selected
" a the land for which services the
" said Field do by these presents bind
" himself his heirs to convey to the
" said Holmes by deed one fourth
" part of the land in the following
" manner to wit The said Field is to
" be allowed three first choices of
" quarter sections and the said Holmes
" the fourth choice and so on in
" the same way until the whole is
" divided We the parties now over do agree
" to make a division of said lands as
" above agreed within twelve months
" after the the completion of title as
" soon thereafter as either notifies
" the other of his wish for a division

In witness whereof we have hereunto
affixed our hands and seals the day and
date above written

Drury S Field (Seal)
V B Holmes (Seal)

This day Drury S Field and myself
have divided the the lands in Sanga
mon County and more over we have
agreed to let the Pagewell land remain
undivided and as security for the payment
of the sum of $870 as per notes one
executed the 24th day of October 1836 for
$750 and the other on the 26th Sept 1836
for $120.—

And heretofore to wit on the
18th day of said September the Defendant
V. B. Holmes files his Answer in the
words and figures as follows to wit

Answer

The answer of V B Holmes to a Bill of
Complaint exhibited by Albert J
Field in the Circuit Court of Pagewell
County Illinois against this Respond
ent

This respondent saving all
Just exceptions to said bill for answer to so
much as he is advised concerning
to answer answereth and saith that he
admits the Plaintiff is the executor of
the testator Drury S Field as alleged in
the Bill He also admits that the contract
referred to in said Bill and made part
of the same was entered into by and
between said Drury S Field in his lifetime
and your respondent Your respondent
further admits that so much of the
Plaintiffs Bill as relates to selection loca
tion ~~[illegible]~~ and entry of the lands on joint
account of the testator and this ~~[illegible]~~

[11861-13]

Respondant is true This respondant further answering saith that after the making of said written agreement and also after the removal of the said Testator to the State of Illinois after the land was located and entered it was verbally agreed on between the said Testator in his lifetime and this Respondant That the said Respondant Holmes should have one fourth part of each tract of land adjoining the two several Tracts of land in Sangamon County and one entire tract in Tazewell and McLean The parties forces and proceeded to divide the Sangamon tracts and the Testator made a deed to this Respondant for his share in the said tracts But the death of the Testator accurring to prevent the division of the Tazewell and McLean tracts on the principal which governed the division of the said Sangamon lands Your Respondant now submits the case to this Honorable Court and will abide by whatever decree it may choose right in the premises

V B Holmes

Sworn to and subscribed before me this 18th Sept 1838

J A Jones
Clerk

Now afterwards to wit at a Circuit Court began and held in the Town of Vermont on the third day Monday of September in the year of our Lord one thousand eight hundred and thirty eight Present the Honorable Jesse B Thomas Judge of the first Judicial Circuit ~~Continued~~ and on the fourth day of said Term Benny the minister on the 4th day of said September the following Decree was rendered in said Cause to wit

Albert G Fell & Executor
vs
V B Holmes

In Chancery

This cause coming on
this day to be heard by consent of parties
the Defendant having process and
entering appearance in the Bill ans
wer and Exhibits referd to and was
argued by Counsel on consideration
whereof the Court being of opinion
that the written contract between the
Testator of the Plaintiff and the Defe
ndant became modified in its terms
by the subsequent verbal contract set out
in the proceedings in this cause so as to
establish a rule of decision for the lands
in Tazewell McLean singular to that by
which the lands in Sangamon County
were decided by the Testator in his life
time and the Defendant doth as Judge
order and decree that a Partition be made
between the parties hereto of the said
lands in Tazewell & McLean referred
to and set out in the proceedings in
this cause in such manner that the
Defendant Holmes shall have allot
ted to him one equal fourth part of
the said lands in Tazewell & McLean
having respect to quantity ~~and~~
~~to~~ quality The Court doth further order
that Thomas Wilson Jesse Evans and John
Fitter of Tazewell County Isaac Plastus
of Cass County and Thomas J Blount
of Sangamon County be and hereby ap
pointed Commissioners to make Partition
of the lands in the proceedings mention
ed according to the principals of this decree
with power to any three of them to act and
that they or the majority of them proceed on
the Law day at such time as they may agree
on and assign and set off by metes and

and bounds one equal fourth part of the same to the defendant Holmes and make report of their actings to this Court in order to a further and final decree

And now afterwards to wit at a Circuit Court begun and held in the Town of Tremont the twenty fourth day of September in the year of our Lord one thousand eight hundred and forty and on the third day of said Term twenty sixth day of said September the following proceedings were had in said Cause

Albert S Field executor
vs
V B Holmes
} In Chancery

This day came the Plaintiff by his and files herein the report of the Commissioners herein together with a plat of the same annexed and which is approved by the Court and ordered to be filed and which report is in the words and following to wit

In the Circuit Court of Tazewell County at its Term 1839.

We Isaac Plastus of Cass County Thomas J Blunt of Sangamon County and Jesse Sawyer of Tazewell County three of the Commissioners appointed by order of said Court to make division of the lands of Irving S Field deceased lying in Tazewell & McLean Counties between Albert S Field executor and V B Holmes being duly sworn as the law directs proceeded to survey and examine said lands and has set apart allotted and assigned by metes and bounds to V B Holmes one fourth part having respect to quantity and quality as follows viz The West half of section No 25 The East half and the East half of NW quarter

of Section No 13 The East half of the NW quarter of section No 12 all of Township No 24 North of Range No 2 West of 3rd principal Meridian and the west half of the SE quarter of Section No 35 of Township No 25 North of Range No 2 West of 3rd principal Meridian being in all nine Hundred acres all of which will be clearly illustrated by the plat here to annexed

Thomas F Blunt
Jesse Sowers } Commissioners
Isaac Plasters

"With which said report was filed the
"Oath of office of said Commissioners and
"Surveyors Plat in the words and figures
"following to wit

oath of Comm

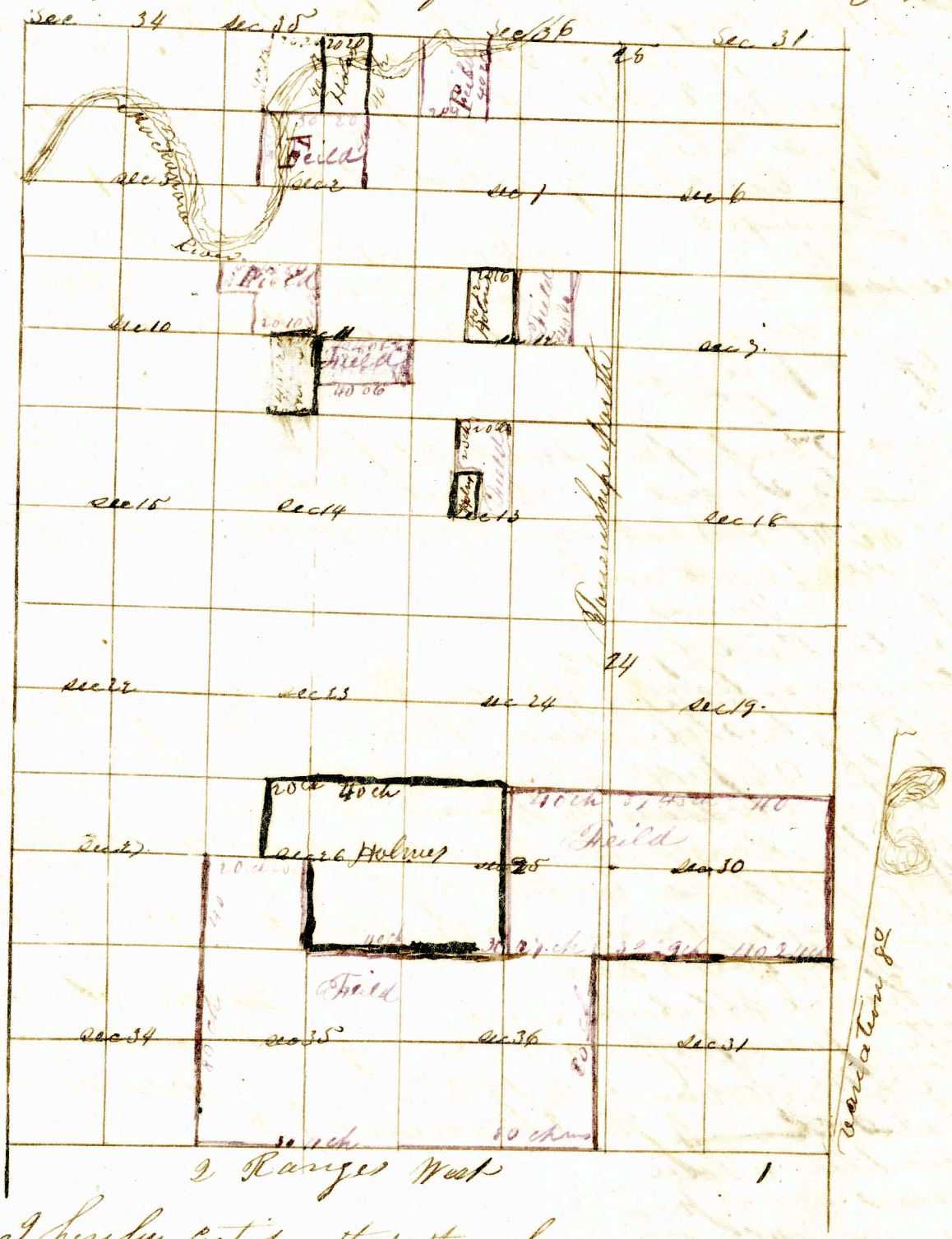
"State of Illinois }
"Fayette County } ss We Jesse Sowers Thomas F
"Blunt and Isaac Plasters being three of the
"Commissioners appointed in the foregoing
"decree do solemnly swear that we will discharge
"our duty as said Commissioners with impar
"tiality and to the best of our abilities and
"in accordance with the foregoing decree
"So help us God
"Subscribed and sworn to
"before me this 6th day
"of November A D 1838

Isaac Plasters
Thomas F Blunt
Jesse Sowers

J H Morrison J P

Plat

Showing the Division of lands between Field & Holmes



I hereby certify that the above is a correct plat of the division of lands between Albert G Field by executor of Darwin S Field Dec and V B Holmes

G W Janetson
Surveyor

State of Illinois }
Tazewell County } ss

I John A Jones Clerk of the Circuit Court in and for said County do hereby that the foregoing Pages are a true and full and Complete Record of all the papers filed and Proceedings had in said Circuit Court in the said entitled Cause of Albert J Field vs B S Holmes as fully and Completely as the same are of Record in my Said office

Seal

In Testimony whereof I have hereunto subscribed my hand and affixed the Seal of said Circuit Court at Pekin this tenth day of April in the Year of our Lord One thousand Eight hundred and fifty one

John A Jones Clerk

And Now afterwards to wit at a Circuit Court begun and held in the County of Mason in the Town of Havana on the 12th day of May in the year of our Lord one Thousand Eight hundred and fifty one and on the Second day of said Term the 13th day of said May the following proceedings were had in said Cause

Amelia D Field by her next friend B. S. Pettybone

vs

Vernon B Holmes

In the Mason County Circuit Court
May Term 1851
In Chancery

On this day came the Defendant and files herein his answer to the Complainants Bill and also came certain heirs of Irving S Field and files their disclaimer to any Interest in the event of said Suit and are in the words and figures following to wit

Amelia D Field amended answer

Amelia D Field by her next friend

vs

V B Holmes

In the Mason County Circuit Court May Term 185

In Chancery

Answer of V B Holmes.

Answer of V B Holmes

V B Holmes one of the defendants named in Complainants Bill reserving all manner of exceptions to said Bill for the many errors therein contained for answer thereto saith that he admits the charges and allegations therein contained and set forth to be true except the statements in relation to the endorsements on the note for $750.00 dated October 24 1836 & on the right of the said Shipley Lester & Amelia D Lester to receive the sum paid on said note which sum is $430.12 Cents & other matter denied in this his answer This respondant says that that said Amelia E Field was by the Probate Court of Sangamon County Illinois on the 24th day of April A D 1838 duly appointed Guardian for the said Amelia D Field That said Court had the right & jurisdiction to make said appointment that afterwards she married the said Shipley Lester and this respondant did on the 9th day of October A D 1840 pay to said Lester in the presents of his said wife for her use as guardian of the Complainant the sum of Four Hundred & Thirty Dollars & twelve which was endorsed on said note as this respondant believes it ought to have been that he paid said sum of money in good faith while the letter of guardianship issued by said Probate Court of Sangamon County were in full force and before the appointment of said Amelia D Field had been reversed or annulled and while such appointment by said Probate Court remained in full force —

That the said Amelia E Field then Amelia E Lester had possessed of said note as guardian of the Complainant at the time of such payment

and

" and that loved to see your respondent unlp
" ~~the~~ he paid said note or a portion of it
" That at the time of payment as afore said
" the said Complainant not living and boar
" ding with the said Lester and wife and
" said money was in the opinion of this res
" pondant needed to pay the Expences of
" Complainant and that said Lester and
" wife urged this respondant to pay the
" said sum of money he paid the same in
" good faith & denies knowing that the said
" Amelia E Field had not any right to
" receive the said sum of money and he
" denies knowing that her guardianship had
" ceased or that it had ceased and he also denies
" all knowledge of the contents of the will
" so far as it relates to said guardianship
" He also denies that said Lester died insolvent
" and alleges that there is now in said Mason
" County belonging to his Estate the undivided half
" one hundred and twenty acres of land worth
" $600 as this respondant is informed
" & believes and this respondant is informed
" and believes that there is in the state of Iowa
" at least one thousand Dollars worth of
" property belonging to said Estate

W B Holmes

" Subscribed & Sworn to this
" 15th day of May A D 1851.
" Before me Wm A Minshall
Judge

" And on the same day comes certain heirs of Henry
" S Field and files herein their answer to complainant
" Bill which is in the words and figures following

" Amelia E Field by her next
" friend B S Prettyman
vs
W B Holmes

In Chancery
May Term 1851.
of Mason Cir Court

The said Several defendants
" named in the bill of Complaint as claiming

[11861-17]

" any Interest thro D S Field or any one else
" come & waive service of Process & respond
" to the bill by way of Protestation & say they
" have no manner of interest to be affected
" by the bill of complaint & pray they may
" be discharged from further answering the
" same free of cost

S Turner for himself and
as the attorney of his children
Albert Lucy & William
Turner

A E Field
J M Ruggles
Mary J Ruggles
J A & Sance
Sarah Sance
Albert J Field
Benjamin H Gatton
Maria Gatton
W W R Woodbury

Afterwards to wit on the seventeenth day of
" May in the year of our Lord one thousand
" Eighteen hundred and fifty one at the Circuit
" court began and held at the court house in
" the Town of Havana in said Mason County &
" State of Illinois Before the Honorable William A
" Minshall Judge of the 5th Judicial Circuit
" in the State of Illinois and it being the fifth
" day of the said Term of the said Circuit court
The following Proceedings were had in said
" Court in said cause as appears of Record to wit

" State of Illinois }
" County of Mason } of the May Term of the Mason Circuit
court

" Amelia D Field by her
" next friend Benjamin S.
" Pettyman
vs
" Devion B Healnes

" And this day came again the said Complainant
" By her next friend Benjamin F Pettigrew and
" all of the said Defendants having entered their
" appearance in this Cause and the said Defendant
" Vinson B Healmes having filed his answer
" to this bill in this behalf and admitted all
" the Bill of Complaint except his knowledge
" of the will of Henry S Field in relation to the
" guardianship under the will and the right
" of the Husband of the Guardian under the
" will to receive the payment of $430.12/100
" Dollars and Endorse the same on the note in the
" Bill mentioned and all the other parties defend
" ants having entered and filed their disclaimers
" of all their interest respectively in the sub
" ject matter of the Bill and this Cause coming
" on to be heard on the bill answers & exhibits
" and the Court being fully advised in the pre
" mises it is by the Court ordered adjudged
" and decreed that the land in the said Bill
" mentioned or so much thereof as may be nec
" essary to raise the sum of Two Thousand and
" fifty eight Dollars and twenty five cents and cost
" of this proceeding be sold at Public auction
" to the highest bidder for cash ~~of~~ in hand after
" giving four weeks Public notice of the time
" and place of said sale of said land after
" paying said cost and charges be paid over
" to the Guardian ~~of~~ to the Complainant and that
" on a sale of the land aforesaid as aforesaid the Commission
" hereinafter appointed shall be and he is hereby
" required to Execute and deliver to the purchaser or
" purchasers a certificate or certificates of purcha
" se of the same And It is further decreed that
" the said Defendant Vinson B Healmes be au
" thorized and permitted to redeem the said lands
" so sold at any time within twelve months
" after the date of the sale of the said land
" on payment of the said Commissioner hereinafter
" named the sum of money for which the same
" may be sold and ten per cent interest thereon
" from the date of said sale until the time of

[11861-18]

" Redemption thereof And It is further ordered that
" B S Prettyman be and he is hereby authorized
" and appointed as Commissioner to sell the
" said land in the said bill mentioned to wit
" The west half of the south East quarter of section
" thirty five in Township twenty five north of Range
" two West of the third Principal Meridian also
" East half of the north west quarter of section twelve
" The west half of the south East of the north West
" quarter of section thirteen the West half of section
" ~~thirty five~~ twenty five (25) East half of section
" twenty six and the East half of the north West
" quarter of Section twenty six all in township
" twenty four north of Range ~~twenty four~~ two West
" of the third principal meridian and It is fur
" ther ordered and decreed that if the said
" Land herein aforesaid shall not be redeemed
" as aforesaid by the said Defendant Orrin B
" Holmes within twelve months from the day
" of said sale then the said Commissioner
" shall be and he is hereby required to make
" and Execute and deliver into the said purcha
" ser or purchasers a good and sufficient
" Deed or Deeds in fee simple conveying all
" the right title and Interest of every kind and
" description at Law and in Equity in and to the
" said ~~Land~~ of the said Defendant and of
" Each of them to the said purchaser or purchas
" ers - and which Deed or Deeds shall forever
" Vest all such right and interest of the said
" defendant to the said purchaser or purchasers
" and said Commissioner is hereby required
" to pay all cost and charges in this behalf out
" of the money received from said sale and required
" to sell the said Land aforesaid at such time and
" place as he may appoint in the County of Bureau
" and State of Illinois after having advertised the
" Same for the space of four Weeks as aforesaid in
" some public newspaper printed in the cities of
" Peoria and Chicago designating the time and place
" of said sale and the description of the Land to be
" sold and that he be authorized to redeem the
" Land aforesaid for the benefit of the Complainant

" from any tax sales that may have been had
" of and that may now be a lien against the
" same and charge the same among the cost in
" in this case and that he be required to
" make report of his proceedings in this behalf
" at the next term of this Court and this Cause
" is Continued

Endorsed Record W A Minshall
" Filed May 17th 1851 Recorder
J S Wilbourn Clerk

Then Comes the defendant
and prays an a writ of Error to the Supr
" eme Court and by agreement of the parties
" this Cause is taken to the third Grand
" Division of the said Supreme Court of
" the State of Illinois at Ottowa

State of Illinois }
Mason County } ss

I John S Wilbourn
Clerk of the Circuit Court in and for
said County do hereby certify that the
foregoing pages are a true full and com
plete Record of all the papers filed and
proceedings had in said Circuit Court
in the said Entitled Cause of Angelia S
Teitt by her next friend B F Prettyman
vs Clifton B Hallmes as fully and
completely as the same are of Record and
on file in my said office

In testimony whereof I have
hereunto subscribed my name and
affixed the seal of the said Circuit
Court at Havana this Second
day of June AD 1851.

John S Wilbourn
Clerk

[11861-19]

Vivian B Holmes

vs

Amelia D Field by her next friend &c

Supreme Court Illinois
Third Grand Division
June Term 1851.

And now comes the said plaintiff in error Vivian B Holmes by R S Blackwell his attorney and says that in the record of the proceedings aforesaid and in the rendition of the decree aforesaid manifest error hath intervened to the prejudice of the said plaintiff, in this, to wit,

1. The said circuit court erred in not dismissing the said bill of complaint

2. The said court erred in rendering a decree for the said complainants

3. The said court erred in rendering a decree for the said complainants for the sum of $2058.28 and in not deducting therefrom the payment by the said Holmes of $430.12 made to the guardians of the said complainant

4. The said court erred in rendering a decree in said cause without having the & Mrs Lester before said court as parties defendant to said bill

5. The said circuit court erred in ordering a sale of the land in said bill mentioned

6. The said court erred in rendering a decree for complainants below

wherein by the law of the land said decree ought to have been for defendant below

And this Defendant prays judgment for reversal of the Judgment he prays a reversal pr &c.

Blackwell

for plff in error.

Mason County

Amelia D. Twilley
heir of Francis B. &
Pettyman rec'd
W. B. Helmed
Recorder

Filed June 9th 1851.
S. Leland Clk.

fees to pay.
Fee $1.91

State of Illinois, sct.

WRIT OF ERROR—FREE TRADER PRINT.

The People of the State of Illinois,

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

BECAUSE in the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Mason county, before the Judge thereof, between Amelia D. Field by her next friend Benjamin S. Prettyman

plaintiff — and

Vivion B. Holmes

defendant it is said manifest error hath intervened, to the injury of the aforesaid defendant as we are informed by his 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 distintly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our justices aforesaid at Ottawa, in the county of La Salle, on the Second Monday in June inst. ~~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 9th day of June — in the year of our Lord one thousand eight hundred and fifty one —

L. Leland *Clerk of the Supreme Court.*

[U811-2]

Mason County

Holmes vs Fieldby et.

Writ of error

Filed June 9. 1851.
L. Leland Clk.

Vivian B Holmes
vs.
Amelia D Field
by B. S. Pettyman
her next friend

In the Supreme Court
Ottawa —

Error to Mason by
Consent —

Bill filed May 12. 1837. alleges in substance viz: that in the year 1835 Henry S. Field father & complts. then residing in Fayette Co. Tennessee entered into an agreement with the defendant V. B Holmes to furnish Holmes $12,500. to be expended in entering land in Illinois, Holmes to locate & enter the lands & bear his own expenses, & after the entry thereof the lands to be divided 1/4 to Holmes & 3/4 to Field, agreement dated Oct. 16. 1835 & filed as an Exhibit marked (A).

That in pursuance thereof Holmes did locate & enter in Field's name 10,000 acres of land in the Counties of Sangamon, Tazewell & McLean.

That on the 26th day of Sept. 1836, Field loaned Holmes $120 & on Oct. 24. 1836 $750 more & took his notes therefor — the last note for $750 with 12 % interest annually until paid — payable 10 days after date & dated Oct. 24. 1836 — note Exhibited marked (C).

That Field removed to Sangamon Co. Ill. where the greater part of said lands were located & there divided the Sangamon lands with

[11861-22]

Holmes under said agreement.
Holmes then agreed that the lands in Tazewell should remain undivided & be held by Field as a security for the payment of the loan of $870 & entered agreement in writing & endorsed on Exhibit (A.)

That Field died April 9, 1838 leaving surviving his widow Amelia E Field & children & devisees, to wit: Albert J Field, Algernon Field, Mary Field, Maria Field, Sally Field, Lucy Field, Ella F Turner, & complt. Amelia L Field.

That before his death Field made his will &c appointing Albert J Field his executor who took upon himself said trust &c.

That by said will Field divided his property between his wife & children as set forth in Exhibit (B.)

That by said will Amelia E widow &c elected to receive a large portion of the Estate &c while she should remain his widow. That by said will the said Amelia E, was appointed guardian of Gratry & it was expressly provided in said will & she so received said trust, that if she married or ceased to be the widow of testator, her property & guardianship was to cease &c with a division of the property to Gratry. Partition of the lands in

Mc. Lean & Tazewell made at the Sept. term 1838 of the Tazewell Circuit Court between Holmes & Field divisn. under which decree these lands set off to Holmes, viz:

W½ S.E. 35. 25 N. 10 W.
E½ NW. 12
W½ S.E. NW. 13.
W½ Sec. 25 } 24 N 2 W
E½ " 36
E½ NW. 26)

Subject to lien aforesaid Proceedings set forth Exhibit (B)

That in 1839, the widow intermarried with Shipley Luster by which her title to the property became divested & vested in Grating & rights of widow as guardian ceased &c.

That at the time of her marriage she had in her possession as guardian the note of Holmes for $750.

Charges that notwithstanding the provisions of the will & Holmes' Knowledge of the same, widow did not surrender up note &c, but permitted her husband to have & retain it, & Holmes paid Luster $430 12/100 Oct. 9. 1848. which was endorsed upon the note as a credit by Luster &c.

Submits the validity of the payment.

That Shipley Luster is dead & died insolvent. That Ella F Turner is dead also leaving her husband Smith Turner & children named Francis,

Albert, William & Lucy.

That Mary J Field has intermarried with James M Ruggles — that Harriet Field has intermarried with James I Spence — that Lucy Field has intermarried with Wm M Woodbury — that said Lucy is since dead — That Maria Field has intermarried with Benja H Gatton — That these persons all claim some rights in the lands set forth in this bill (including Amelia E Widow)

Makes all parties.

Alleges that Ruggles is guardian & acting by appointment.

Prays sale of the land &c.

Prays process &c — General prayer — Security for costs given.

Exhibit B.

Will of Field "Give to" my my & much beloved wife Amelia E Field during the time she shall remain my lawful widow, & during her natural life the Mansion House in which we now dwell with 40 acres of land, with all my stock of horses, cattle, farming utensils &c, carriage wagon &c. with my household & kitchen furniture. And further that my executor during the time of her widowhood should annually pay over to her $150; — but should

she marry & become the wife of another she shall immediately forfeit her dower of every description & have no further claim upon my estate, the land & other things named which I have given her to be in that event given to my infant daughter Amelia D Field &c.

Makes Albert T Field guardian of several of his children named in the will & dispenses with security &c.

"And I further appoint my beloved wife Amelia E Field guardian for my infant daughter Amelia D Field, so long as she remains my widow & further it is my will that no security be demanded of her for her guardianship" & should my child Amelia D. die before she becomes of lawful age or marries in that event all the legacy which I have bequeathed my wife Amelia shall then be the disposal of wife &c.

Gives his wife a discretionary power to sell or dispose of all of his chattels &c which I leave her -

Directs his executor to pay his wife $150 more -

Devises her 30 acres of timberland in the Sangamon bottom &c -

Agreement between Holmes & Field substantially set forth in bill -

[4861-84]

Memo. endorsed on this agreement as follows, viz:

"This day Penny S Field & myself have divided the lands in Sangamon Co. & we have agreed to let the Tazewell lands remain undivided & as security for the payment of the sum of $870 as per notes - one Oct. 24 - 1836 - for $750 - the other Sept. 26. 1836 for $120.

D. S. Field.

V. B. Holmes.

Answer of Vivian B Holmes May 12. 1857.

Admits all the allegations of the bill except as to the endorsement on note of $750 dated Oct. 24. 1836.

Then alleges that Amelia E Field was by the Probate Court of Sangamon Co. Ill. on the 24th day of April 1838 duly appointed guardian for the said Amelia E Field.

That said Court had competent power & authority to make said appointment - that afterwards she married said Shapley Luster & that defendant did on Oct. 9. 1840 pay to the said Luster in the presence of his said wife for her use as guardian of the entry the sum of $430 12/100 which was endorsed &c - that he

paid said money in good faith while the letters of guardianship were in full force &c.

That Mrs. Luster had possession of the note as guardian at the time of payment & threatened to sue your respondent.

* That the ward was living from home at the time & needed the money & the payment was urged for this reason.

Denies knowledge that she had no authority &c.

Denies knowledge of the contents of the will &c.

Denies insolvency of Luster's estate.

The other defendants disclaim &c.

No replication —

No Evidence —

Decree entered May 17. 1857 & recites —

Of hearing on bill, answer & Exhibits —

Decrees a sale to raise $2,058,25 & Cost —

Writ of Error by consent to 3rd Division —

Error assigned —

Presents the question as to validity of the payment —

[1861-25]

Vivian B Holmes
vs.
Amelia D Tilove.

Abstract.

Filed June 19th 1857