

8539

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

# Supreme Court of Illinois

James D.Loyd et al

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vs.

Wm.L.Malone et al

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71641  7

At a Circuit Court begun and held  
before the Honorable Edwin Beecher  
presiding Judge of the Circuit Court  
of Hamilton County State of Illinois at  
the November Term A.D. 1838 of said  
Court in a certain cause in Chancery  
then pending wherein James D. Lloyd  
and Sebra Lloyd & others were Com-  
plainants and William L. Malone  
& others were defendants the follow-  
ing proceedings were had in the  
premises to-wit;

Hamilton Circuit Court October term  
1834

State of Illinois  
Hamilton County

In the Honorable S. S.  
Marshall Judge of the Circuit Court in  
Chancery sitting.

Humely complaining your  
Petitioner William L. Malone Guardian  
at law for Mary E. Sneed aged nine years  
William S. Sneed aged seven years and  
Sarah A. Sneed aged five years minor  
or heirs of one Sebra Sneed deceased  
late of said County represents unto your  
Honor that on or about the 19<sup>th</sup> day of  
March A.D. 1830, Sebra Sneed of said  
County departed this life leaving Se-  
bra Sneed (now Sebra Lloyd) his wife  
and the above named minors  
his lawful heirs surviving him,  
that during the life time of said

Seben Sued and at the time of his death as aforesaid he the said Seben Sued was seized in fee simple of a certain tract of land situated lying and being in Hamilton County State of Illinois known and described as follows viz: the S/2 of the NE/4 Sec 27 in Township four South of Range 7 East containing 80 acres

Your petitioner would further represent that the said Seben Sued at his death left Sebra Sued (who has since intermarried with one James D. Loyd his widow surviving him and now living having a dower interest of one third of said lands, and that said one third in said lands has never been assigned and allotted to her,

Your petitioner would further represent unto your Honor that since the death of Seben Sued as aforesaid the said Sebra Sued his widow has intermarried with one James D. Loyd (both of whom James D. Loyd and Sebra Loyd your Oration prays may be made parties defendants to this petition)

Your petitioner would further pray that in consideration of the premises and upon a final hearing of the proofs of the matter and things herein alleged your Honor will appoint three suitable and ~~qualified~~ discreet persons not

related to either party by consequence  
and disinterested whose duty it shall  
be to go upon the land and lay and  
make out by <sup>proper</sup> means and bound one third  
of above described tract of land to the said  
Sabra Loyd as her dower interest in the  
same, having due regard to the quality  
of said land, and that the said Sabra  
Loyd shall have the free use of said  
one third so marked out during her  
natural life, and said Commissioners  
appointed as aforesaid shall report in  
writing to this Court of their doings &  
doings in this behalf.

Your petitioner prays that the people's  
most gracious writ of subpoena in  
Chancery may issue to said defendants  
as aforesaid commanding &c and  
that they be compelled to answer the  
matters and things contained herein  
and that your Honor may grant such  
other and further relief in the premises  
as to your Honor may seem just and  
equitable and as in duty bound your  
petitor will ever pray &c

William S. Malone  
Guardian ad litem  
for Mary E. Sued  
William Sued &  
Sarah A. Sued

State of Illinois  
Hamilton County, Ill

Before me Clerk of the Circuit Court  
in and for said County personally  
came William S. Malone plaintiff in

the above petition who after being duly sworn says that the matters and things contained in the above petition as far he says are within his own knowledge are true and as far as he speaks from information from others he believes to be true

William L. Malone

sworn to and subscribed before me this 15<sup>th</sup> day of August A D 1854

J. Showmaker Clerk

State of Illinois  
Honorable Court Let the people of the State of Illinois to the Sheriff of said County greeting: We command you to summon James D. Lloyd and John Lloyd if to be found in your County to appear before the Circuit Court of said County on the first day of the next term thereof to be holden at the Court house in McLeanboro on the second Monday of October next to answer to a bill of Complaint filed in our said Circuit Court on the Chancery side thereof against them by William L. Malone Guardian at Law of Mary C. Sued. William S. Sued and Sarah A. Sued and hereof make due return to our said Court as the law directs to the J. Showmaker Clerk of our said Court and the Seal Judicial thereof at McLeanboro this 15<sup>th</sup> day of August A D 1854

WLS

J. Showmaker Clerk

Severed by having a Copy of the Decree  
with Sbra Loyd September the 1<sup>st</sup> 1834

John Bond Sheriff  
at the October Term A.D. 1834 of the said  
Circuit Court the following order  
was made to wit

William L. Malen }  
or } Bids for partition  
James D. Loyd et al }

On motion of Compts  
Court ordered that the defendants  
be ruled to plead by tomorrow making  
Cause again the Complainant by  
Sbra his attorney and the defendants  
being three times solemnly called Cause  
not but made default. It is therefore  
ordered adjudged and decreed by the  
Court that the prayer of the said Com-  
plainants bill be granted and that  
William C. Davis W. L. Lasater and Chas-  
tes Carpenter be and they are hereby  
appointed Commissioners whose duty  
it shall be make partition of the S<sup>1</sup>/<sub>3</sub> of  
the Neg<sup>o</sup> see 27 § 4 S. R. T. C. as described  
in Complainants petition and to set  
aside to Sbra Loyd one third of the  
aforesaid land as her lawful estate  
by proper metes and bounds having  
due regard to the proportionate  
value of said lands according  
to the prayer of the said Complainants  
bill and that the said Commis-  
sioners report to this Court their acting  
and doings

And whereas afterwards to wit at the  
May term 1855 of said Circuit Court  
the following report was made  
to wit:

William Lullaloue } Petitioner  
vs } assignee  
James D. Lloyd et al }  
Assignees

Circuit Court May term 1855  
To the Honorable Downing Bayne pre-  
siding Judge of the Hamilton Circuit  
Court in Chancery sitting, your  
Commissioners appointed at the October  
term A.D. 1854 would respectfully re-  
port that they find the lands de-  
scribed in said petition for Dower are  
susceptible of partition without material  
injury to those interested in the same  
and having so reported pray leave  
to be discharged &c

Charles Carpenter }  
Joseph Tipton } Comd

State of Illinois  
Hamilton County ss. Hamilton Circuit Court  
May term 1855.

To the Honorable Downing  
Bayne Judge of the Hamilton Circuit Court  
in the twelfth Judicial Circuit of Illinois  
in Chancery sitting

Your petitioner William L. Malone  
would respectfully represent unto your  
Honor that he is Guardian at law of  
Mary E. Sued William S. Sued and  
Sarah A. Sued minors and heirs at





maintenance and Education, and  
 he now the aid of this Court he pray  
 on behalf of his said Wards sell the above  
 described real estate for the further sup-  
 port maintenance and Education  
 of his said Wards wherefore he pray  
 that on a final hearing of this petition  
 your Honor may order a judge and  
 decree that your Petitioner sell the said  
 real estate on such terms and in such  
 manner as this Honorable Court may  
 direct in pursuance of law and that  
 the proceeds of said sale be applied to the  
 further support maintenance and  
 Education of said Wards, and that  
 your Honor may grant such other  
 and further relief in the premises as  
 may seem best and equitable and  
 as in duty bound will ever pray &c  
 W. L. Malone guardian  
 John McElvain Sol.

Notice is hereby given to all persons interested  
 that I will apply by petition in writing to the  
 Circuit Court of the County of Hamilton  
 and State of Illinois at the next term  
 thereof to be commenced and holden  
 at McLeansboro on the 3<sup>rd</sup> Monday of  
 May next for an order to sell the S & C  
 No 9 Sec 27 T 4 R 7 E. in said County  
 as the property of Mary E. Sued William S.  
 Sued & Sarah A. Sued minor children  
 of Sebum Sued deceased for the sup-  
 port and Education of said children

W. L. Malone Guardian  
February 28, 1853

To all whom it may concern, This is to  
certify that aunced advertisement was  
daily printed for six weeks successive  
ly in the Newspaper called the "Beuto  
Standard" issued weekly in the Town  
of Beuto the first and last publica-  
tion having been made on the days  
herein set forth to wit, first publica-  
tion Friday the 2<sup>d</sup> March 1853, last  
publication Friday the 6<sup>th</sup> April 1853.  
In witness whereof we hereunto sub-  
scribe our names at Beuto this 3<sup>o</sup>  
day of May 1853

John J. Gossman  
Printer & publisher  
of said paper

Hanniboro Circuit Court May Term  
1853

Ex parte

William L. Malone Guardian  
of Mary E. Sued William Sued  
& Sarah A. Sued

Petition to Sell land

Came this day the Complainant by W.<sup>e</sup>  
Elvain his solicitor and made proof of  
notice by publication. It is therefore  
ordered adjudged and decreed by  
the Court that the prayer of the said peti-  
tion be granted and that the said  
petitioner after having given a need

10

Based in the Probate Court that he be here  
by authorized and make sale of the lands  
and real estate in the said petition men-  
tioned to wit, the  $\frac{1}{2}$  Moq Sec 27 & 4 R  
& Co, situate in Hamilton County Illinois  
by giving six weeks public notice of the  
time and place of sale by posting up  
notices in four of the most public  
places in the neighborhood of the pre-  
mises one fourth of the purchase to be paid  
down the remainder to be paid in one  
and two years the purchaser giving  
his note with personal security and  
a mortgage on the premises and that  
he report &c

September Term of the  
Hamilton Circuit Court  
A D 1856

To the Honorable Edwin Becker presid-  
ing Judge of the Hamilton Circuit  
Court in the State of Illinois

In Chancery setting,  
Your Orator, and Oratrixes Sarah D  
Lloyd and Sarah Lloyd formerly Sued  
William Sued Sarah A Sued and  
Mary Sued respectfully represent  
unto your Honor that your Orator  
& oratrixes are now all residents of Lyfey  
Town County State of Illinois and that  
your oratrixes Mary & Sarah A. are  
minors under the age of twelve years  
and that William is a minor under  
the age of 14 and are the Children  
and heirs at law of one Sebun  
Sued late of Hamilton County de-  
ceased, and that your oratrix Sarah  
is the wife of your orator Lewis D. Lloyd  
and is the mother of your orator William  
and your oratrixes Mary & Sarah A.  
by said Sebun Sued deceased  
whose widow she is

That the said Sebun did inter-  
tate and left a tract of land of which  
he was seized and possessed in fee  
simple for his widow and children  
your orator William & your oratrixes  
Sarah Mary & Sarah A. to live on

That the said tract of land had a  
good fence on it and also a

dwelling and out houses and sufficient  
with proper management to have sup-  
ported his the said Sebens family  
and is described as the *Sp Reg Sec*  
27 Town 4 S R 7 East and contains  
80 acres and is situated in Hamilton  
County aforesaid, while said tract  
of land is all the property real and  
personal that the said Seben left after  
paying his debts,

That the said Sebens personal  
estate was not sufficient to pay all  
his debts, and there was a balance of  
about \$60, left unpaid by his adminis-  
trators John B. and William Seben, but  
your sister ~~rather~~ rather than let  
the land be for payment of debts  
actually gave up a part of what was  
allowed and set apart to her executor  
to pay said debts and all the balance  
and all the debts due by said Seben  
were by those means squared up  
and settled in full, and your sis-  
ter Seben and her children were ac-  
cordingly left in possession of being  
on the said tract of land so long as  
by them the said Seben also altho' he  
made no will not only requested  
before and the time of his death that  
this should be so, but <sup>was</sup> assured by  
his friends and brother that his children  
your sister William & your sister  
Mary & Sarah A. should have the  
said land, and the same should

Sh. paid 60

not be sold until they arrived at  
full age, that the said tract of land  
is now worth about \$500. and was  
occupied by your sister Setha  
and her family from the time  
of his death until some time after  
her intermarriage with your brother  
James D. Loyd who for sometime  
remained to reside upon it after he  
married your sister Setha and  
continued to support & educate and  
maintain your sisters Mary,  
Sarah & your sister William and  
provided for them in the same man-  
ner and in all respects and treated  
them as kindly as he the said Setha  
could or would have done had he  
been alive, and as well in fact  
as if they had been your brother  
James D. Loyd's own children, and  
has ever since he married your  
sister Setha treated your sister Wm  
and your sisters Mary & Sarah A.  
in the same up until the present time  
as he always does intend to treat them  
whether they are cheated and defraud-  
ed out of their inheritances or not  
or whether he one cent of their  
property or not, and has in fact  
always treated them as their natural  
Guardians, while he and your sis-  
ter Setha in fact are to all intents  
and purposes whatever, that the  
said Setha died some time or on

about the 9<sup>th</sup> day of March 1850 and  
 after his decease your sister Susan  
 was about to apply to the County Court  
 for letters of Guardianship for her said  
 Children before she married said  
 James D. Coyne but was told by her  
 brothers in law and others that it  
 would be useless expense and that  
 the Judge of Probate had said so  
 which was the reason she did not ap-  
 ply for letters of Guardianship she be-  
 ing also apprised of the fact that she  
 was entitled to her dower in said  
 tract of land and to the occupation  
 of the Homestead and appertinances  
 and that there would be little if any  
 thing for the Children in actual cash  
 after supporting and Educating them  
 as they ought to be, but so it is now  
 it please your Honor that one W<sup>m</sup>  
 L. Malone and one William White and  
 one John Sneed of said County of  
 Hamilton having conspired together  
 to get hold of the title that was left to her  
 and her Children by means of the fraud  
 ulent management and conspiracy  
 herein after mentioned by the said William  
 L. Malone applied for letters of Guardian-  
 ship for her said Children to the County  
 Court of Hamilton County, and without  
 any cause or reasons to justify him in  
 so doing and without her privity  
 knowledge or consent got himself ap-  
 pointed Guardian of your sister's

X

Mary Sarah A. and your orator W<sup>m</sup>  
and the first thing your orator, W<sup>m</sup>  
knew about the matter said Malone  
came and notified her that he was  
going to set apart her Dowry in the  
said tract of land but declared  
he had no idea of selling it as you  
dear at all, to which your orator  
consented in her husband's absence  
for he was not at home at the time and  
in fact your orator well knew that  
the Dowry could be set apart at any  
time on application and considered  
it was no use to contend against it  
and the truth is she had no objection  
whatever to have her Dowry set apart  
in the land according to law, altho'  
she could not see thro' the said Malone  
motives in so doing, at the October  
term, <sup>as</sup> 1854 of the Adulterous circuit  
Court a decree was made against  
her and her husband on the Petition of  
the said William Malone as Guardian  
of your orator's Mary & Sarah A. and  
your orator William to set apart her  
Dowry according to quantity and  
quality in the said tract of land which  
was a thing that could easily have  
been done, as can be made appear  
and Chester Carpenter, one William C.  
Davis and W. S. Suter were appointed  
Commissioners to make partition of  
said lands and not to set apart her  
Dowry pursuant to Decree as by refer



1  
use of said Secus will appear that  
in said Petition to have done a fine  
a judgment was rendered by default  
against your orator, her and her  
husband tho' in truth and in fact  
her husband your orator James D. was  
your home at the time and never  
knew any thing about <sup>the case</sup> that a summons  
has been served on her, she having  
never told him any thing about it  
from the fact that she he was <sup>satisfied</sup> ~~not~~  
to have ~~done~~ her done lawfully set  
apart and never dreamt of the fraud  
attempted to be practised upon them as  
herin after mentioned. That at the  
May term of said Court the said  
William Malone returned a report to  
said Court and had filed as the  
part of said Carpenter Davis & Lasater  
and actually moved the said Circuit  
Court for a jury to be impanelled to  
assess the annual value of your or  
tor's land which was the first  
time your James D. Loyd became  
acquainted with the crafty & fraudulent  
designs of the said Malone in the pre-  
misses, and on examining said pre-  
tended report of said Commissioners  
your orator Secus ascertained that  
the said Commissioners had never  
reported the land in susceptible of  
partition at all, and that instead  
of a report from them a report was  
filed from the said Chester Carpenter

and one Joseph Upton that the said  
tract of land could not be divided  
without great injury to the interest of  
the heirs, and your orator and orat-  
rix have personally been informed  
that the said Carpenter was neither  
named nor signed said report, but  
the said Upton does positively deny  
signing it at all, and thus may  
it please your Honor your oratrix  
Sera was by the actual fraud and  
continuance of said Malone in the  
premises to be ousted of her freehold  
Estate in said tract of land and  
all he the said Malone then had to do  
was to wrong the heirs out of their  
interest in the premises. That the  
said William J. Malone having procured  
himself to be appointed Guardian as  
aforesaid at the may term 1855 of the  
Honorable Circuit Court praying that the  
said land should be sold for the main-  
tenance Education & support of your  
oratrix Mary & Sarah A. and your ora-  
tor William and altho' he well knew  
that the allegations in said Petition  
were untrue and that your oratrix  
Sera and her husband your orator  
were strongly opposed to the sale of the  
said land and altho' he assured  
the said Sera that he did not intend  
to sell it all, when he apprised her of  
his intention to have her down set  
opart in the same, yet he the said

Malone obtained a decree of said Court at the may term 1853 ordered of said Court to sell the same for the maintenance Education and support of your sister William your orator's Mary & Sarah A. whilst they were not represented in the Court at all by a guardian ad litem or otherwise and not the slightest proof was adduced to show that there was any necessity whatsoever for the application or that they stood in need of money for their Education & support and the fact is may it please your Honor be the said Malone well knew that there was no necessity whatsoever for so doing and that the said minor heirs your orator and orator's William Mary & Sarah neither needed his assistance as guardian nor wanted their land sold for their maintenance and support.

That the said Malone upon obtaining said order of Court then proceeded to sell the said land and altho' your orator James D. Loyd on behalf of your orator & orator's John Sarah Mary & William and on his behalf publicly forbid the sale, he the said Malone went on and sold and conveyed the same to one William White for the sum of \$400. or thereabouts who has since then sold & conveyed by deed a portion of the said land to one John Reed who

X as well as the said White had full knowledge  
of the injustice of the course pursued by  
said Malone and were both apprised  
that your orators and oratrix were opposed  
to the said sale and had forbid the  
same, on the day of sale as aforesaid,

X Your orator James further sheweth  
unto your Honor that being entirely igno-  
rant of the Law and being told if he  
stayed on said land by said Malone  
and his Counsel and Conspirators that  
he would have to pay said Malone  
2/3<sup>rd</sup> of the rent if he stayed on the place  
whether his ropes down your set apart  
or not some time in 1854 left the place  
taking with him his wife and children  
but afterwards informed by his Counsel  
R. S. Alden that this was not the law he  
rented the said farm to his brother  
Abel Lord and gave him the most  
strict instructions not to give up the  
possession to said Malone or any  
one else, and the said <sup>accidentally</sup> Abel held  
possession of the said farm after the  
said fraudulent sale of the same to  
said White, that the said Malone  
was at the time the said land was  
sold and still is an acting Justice  
of the peace for Hamilton County &  
he the said White having demanded  
possession of said land by the direction  
of said Malone which said Abel re-  
fused to give up, he the said Malone  
issued a summons against your

orator tenant the said Abel in a plea  
of forcible entry and detainer and  
reduced a supersedeas in said plea  
of forcible detainer on a time then  
of had before him a jury against  
him the said Abel for restitution of the pe-  
nances and afterwards ~~giving~~  
issued a writ of restitution ~~binding~~  
with the said White who purchased  
the said land and a constable of  
the name of Edmund Sawthorne  
went to the said Abels house and  
X threatened to throw him out of door  
that in order to stop the lawless and  
unjust proceedings of said Malou  
who was acting as Guardian ~~and~~  
and posse or party concerned all  
at the same time your orator de-  
manded an appeal on behalf  
X of said Abel in the said Abel being  
present and consenting thereto  
but may it please your Honor  
said Malou exacted so high a  
Bond that said Abel could not  
give it and he refused to take  
your orator because he lived out  
of the County as security - the Bond  
X exacted being \$1000. or \$800. at the  
very least and there being nothing  
at stake but the right of possession  
and a few dollars cost which your  
orator & oratrix state to show what  
means the said Malou had  
to wrest from your oratrix ~~and~~

and your daughter, and sister Mary  
Sarah & William their said land  
by force fraud and violence  
combined and contrary to all  
law. That the said Abel finding  
that he was denied the right of ap-  
peal and that said Malou was  
Guardian, Justice of the peace  
and one - The pope of the office  
who came to demand possession  
in the absence of your brother Sir  
D. Sayd and contrary to his ex-  
press order gave up possession  
of the premises to said White, your  
brother James having the day be-  
fore given said Abel express notice  
not to go out until he was put  
out by force which he promised  
to do, but the fact is may it please  
your Honor the said Malou as  
he is informed used force as well  
as threats and working upon the igno-  
rance of said Abel in getting him  
out of possession as he supposes  
from the assurances given him  
by said Abel that he would be true  
to him and not shift the possession  
by any treachery of his - but so it is  
may it please you that the said  
Malou has thus actually ousted  
your brother John and his three  
children your brother & sisters  
William Mary & Sarah from the  
said farm and put <sup>SD</sup> the White

X

in possession of it whilst your own  
 his own right of Dower is still in-  
 tact and vested in her and her  
 in said land was not as much  
 as hinted at in said said Petition  
 of said Malou to have the said  
 sold for the pretended Education  
 and support of your Oator William  
 and your Oators Mary & Sarah  
 and has thus triumphed over law &  
 the plainest principles of Justice while  
 does not tolerate or allow for one mo-  
 ment the idea of a man being  
 Judge in his own cause.

X

Your Oator and Oators charge  
 that the said William S Malou obtained  
 the appointment of Guardian for the  
 William Mary & Sarah in order to  
 waste squander and get into his  
 own hands and that of the white  
 & seized the property of the said said  
 William, Mary & Sarah and not  
 sooner did he get appointed Guardian  
 than he commenced troubling  
 in the County Court with their rights  
 and kept employing Counsel and  
 dabbling with matters that no way con-  
 cerned him and endeavouring by  
 all means in his power to ~~in~~  
 expenses or to raise some charge  
 against his said Wards for the pur-  
 poses of getting their land sold  
 and even employed one Siper now  
 deceased as an attorney to write

X  
out the letters of Guardianship for  
which he pretended to charge two dol  
lars in truth and in fact so com  
pletely abused his trust as at last  
to have recourse to deception, con  
spiracy and goes to get a hold of  
the property

Your orators & orators also charge  
that there was never one dollar of ex  
pense necessarily incurred by said  
Malone as Guardian from first to  
last, nor was there any necessity for  
his appointment at all so far as the  
interest of your orator William &  
your orator, Mary & sons are  
concerned and your orator Wm  
and your orator, Sarah & Mary  
do charge that there never was any  
necessity whatever for the said land  
to be sold for their education and  
support, and that if there had been  
a dollar or two expense in provin  
g the appointment of him the said  
Malone as Guardian the portions of  
next coming to them would have paid  
in case said Sarah & Mary had been  
set apart to her and altho, it would  
not have been worth much yet it  
would have been worth enough  
to pay said Malone the expense of  
being appointed Guardian for the  
purpose of defrauding them out of  
their land for he was appointed for  
no other purpose whatever

X



But may it please your Honor it  
 is not for the expenses of the said Gen-  
 dearship that said Maloune has  
 sought to sell said land for so much  
 that he should do it for that your  
 orator James D would pay any ex-  
 pence legally incurred, but it is under  
 the false and frivolous pretext that it  
 is necessary to sell said land for the  
 support of your orator and oratrix  
 William & Mary, that said Maloune  
 has got himself & his friends so deep  
 into law, and your Orator and  
 Oratrix Charge that the said Maloune  
 real Cause for getting appointed  
 Guardian and trying to sell the  
 said placed was this being that he him-  
 self was engaged in business as a  
 X kind of Dry goods & produce  
 merchant and knowing that your  
 orator William was only about seven  
 years old and that Sarah and Mary  
 were also very young he could have  
 the use of the money arising from  
 the sale of their land until the  
 youngest Child came of age, that  
 the said William White & Sued  
 wanted the said land - his the said  
 Sueds dwelling house & well having  
 been actually built so near one cor-  
 ner of said 80 acre tract of Thoms  
 take that the 80 acres included a por-  
 tion of said Sueds garden & lot  
 X and it being thus suitable all around

3 X  
They the said Malou White & Sued  
made a bargain betweene to have  
the said sold and to get the land  
into their own possession by force &  
guard Committed as herein before  
stated and to get rid of your ora  
tor Debra had a false and fabrica  
ted report filed pretending that it  
came from the commissioners ap  
pointed by the Court and whilst  
the said Malou was as guardian  
to plan and work out his plans  
to have said land sold he was as  
X Justice of the peace to assist your  
orator & brother, and as one of the  
jury with the officer help to put  
said Abel out of possession, all of  
which actions and doings of the  
said Malou White & Sued as well  
as of the said Abel Loyd in yield  
ing possession of said land to them  
is contrary to Equity and good con  
science a palpable breach of trust  
and fraud on the part of said  
Malou as Guardian towards  
your orator & brother, and the  
fact is may please your Honor the  
said White and Sued are now in  
your possession of said land and  
the said Malou has a portion of  
the money the proceeds thereof in  
his pocket or has used it in his  
business as aforesaid and the  
said White & Sued have actually

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already gone to committing waste  
on said land and cut down  
timber and made material alter-  
ations in the condition of said farm  
the same as if they actually owned  
it and were rightfully in the posses-  
ion

3 +  
You charge that the posses-  
sion of the said White & Seward is il-  
legal tortious and wrongfully acquired  
and that the same is against your  
orsators & oratoris, fraudulent and  
of no force and effect in law, and  
that your orators & oratoris are real-  
ly in point of law in possession thereof  
of and also in point of equity and  
good Conscience entitled to be put  
in possession thereof and have an  
account of the rents from the said  
White and Seward and to have said  
proceedings in forcible entry and  
detainer set aside and cancelled  
for the reason the proceedings are all  
based upon fraud and Crime no  
Justice on account of the said  
Malone, direct interest in the result  
of the suit, and your orators & oratoris  
also charge that the said proceedings  
in Partition or Dower and the said  
Sale by said Malone as Guardian  
as well as the Decree and all the pro-  
ceedings there under have been Com-  
menced & prosecuted & obtained as fraud  
and are null & void and ought to be  
+

X  
set aside and held for nought  
and for as much as your Orator &  
Oratrix are without remedy save in  
the Honorable Court where pronounced  
matters of Guardianship and breaches  
of trust and Confidence <sup>by</sup> persons  
acting in a fiduciary capacity are  
peculiarly Cognizable and redressible  
he therefore prays the aid thereof  
and that upon proof of the facts that the  
said proceedings by said Malone to  
set aside the Order of your Oratrix  
Sabra and the Deed of Sale and deed  
made thereunder to said White by  
said Malone as Guardian as you  
said of the said tract of land may  
be set aside Cancelled and held  
for nought, and that the deed made  
by said White or said Malone for a  
portion of said land if any such  
deed has been made may be set  
aside Cancelled and held for nought  
and the said Malone may as Guardian  
be forever restrained from attempt-  
ing hereafter to pollard waste or con-  
vert to his own use the lands of your  
Orator William & his complainants  
Sarah & Mary and that your Orator  
and Oratrix may be restored to the  
possession of the said lands, and  
also that the said White said Malone  
and all others may be in the mean-  
time enjoined from committing  
any waste or disturbance whatever in

the said tract of land and also account  
 for the rents issues and profits thereof  
 your orator and orators further  
 pray that your Honor may be pleased to a  
 ward to your orators & orators, a writ  
 of Sequestrators in Chancery Command  
 ing said William Malone William  
 B White John Sued and Abel Loyd  
 to appear and answer this Bill as de  
 fundants at the next court to be  
 held in ~~the~~ Hamilton County in M<sup>e</sup>  
 Seasons &c and to grant such other  
 & further relief in the premises as to your Honor  
 may seem meet &c

James D Loyd Sibra Loyd  
 Mary Sarah & William  
 R. Nelson Solicitors Sued who are by D. Sams  
 & at their next finding  
 Complainants

State of Illinois }  
 Hamilton County } Def

This affiant James D  
 Loyd being first duly sworn and  
 ing to law deposes and says that the  
 matters and things in foregoing  
 Bill contained are true so far as they  
 are stated to his own knowledge &  
 from what he heard others say  
 in reference thereto he believes to  
 be true

James D Loyd  
 Subscribed and sworn  
 to before me this 9<sup>th</sup>  
 day of October 1856 J. Shuman Clerk

Hamilton Circuit Court Oct, Term 1855

James D, Lloyd et al

vs  
William S, Malou et al

In Chancery

On this day Monday Oct. 6<sup>th</sup> 1855 the complainants by Nelson their Solicitor asked the court for a rule on the defendants to answer the Bills herein by Wednesday morning which was granted & defendants required to answer &c and the parties referred to John W. Marshall to take testimony. Whereupon the said defendants come & files their answer to the complainants Bills herein which was sustained by the Court and upon leave being given said Bills is amended, whereupon said defendants are required to answer said Bills in 90 days whereupon an injunction is granted on defendant entering into Bond with John Beets Securing in the sum of one thousand dollars conditioned according to Law &c

And whereas afterwards tried on the 1<sup>st</sup> day of January A.D. 1857 the said defendants filed in the Clerk's office of the said Circuit Court their answer in the words and figures following to wit

William S Malou et al

James D Lloyd et al

In Chancery

Hanilton Cir, Court May 9 1857

William J. Malou John Sued and  
 William B. White defendants herein  
 saving and reserving to themselves all  
 benefit & exception to the many and  
 manifold untruths, mistatements, &  
 uncertainties in the Complainant's  
 Bill of Complaint herein contained,  
 for answer to the said Bill of Com-  
 plaint or to so much thereof as they  
 are advised it is important for them  
 to answer, answering say that true  
 it is that said Complainants are  
 all residents of the County of Jefferson  
 and State of said and that the  
 said Mary & Sarah A. Sued are  
 minors under the age of 14 years  
 and that the said William Sued  
 is a minor under the age of 14 years  
 and are children and heirs of Se-  
 ben Sued as stated in said bill  
 and that the said Complainant  
 Sarah Loyd is the mother of said mi-  
 nor children the wife of said Com-  
 plainant James D. Loyd and was  
 formerly the wife of said Seben Sued  
 by whom she had the said minor  
 children, and true it is that the said  
 Seben Sued died intestate and  
 left the tract of land in said bill be-  
 described to which he held title in fee  
 simple as therein set forth, Respondants  
 further admit that the said tract  
 of land had on it a small farm

but whether it was sufficient for  
the support of said family with pro-  
per management they are unable to  
say, and further that said tract was  
all the property real or personal which  
said Sebeum left after paying his debts,  
that the personal estate of the said Se-  
beum was not sufficient to pay all  
his debts, and that there was a consid-  
erable balance left unpaid by his  
administrators after the personal  
property was exhausted, But Res-  
pondants deny that said Sebeum paid  
unpaid balance of said debts as set  
forth in said Bill of Complaint by  
giving up for that purpose her own  
private property and that the said  
unpaid balance was by that means  
squared up and settled in full, Re-  
spondants admit that for some time  
after the death of the said Sebeum said  
the said Sebeum and her children re-  
tained quiet and peaceable posses-  
ion of said tract of land, as to the aver-  
ment in the said Bill that said Se-  
beum before and at the time of his  
death requested his wife so to do re-  
spondants know nothing but insist  
most positively that the complain-  
ants can gain nothing thereby even  
should it be true that such was his dy-  
ing request, they deny that he was as-  
sured by his brothers that said children  
should have said land and that the



same should not be sold until they  
 should come of age, Respondants  
 deny that said tract of land is worth  
 \$300, but admit that was occupied  
 by the said Sesa and her family till  
 some time after her marriage with the  
 said James D. Loyd. But Respondants  
 have good reason to disbelieve and  
 do disbelieve that Complainant James  
 D. Loyd at any time rendered support  
 Education & maintenance to the said  
 minor children or in any manner con-  
 tinued to support them without an in-  
 tentio<sup>n</sup> on his part to be well paid for  
 so doing at their expense notwithstanding  
 any natural feelings which may  
 have existed in the breast of their mother  
 and the generosity which he boasts of  
 so loudly in said bill of Complaint. Respondants  
 admit that said Sesa  
 died as stated in Complainant's bill  
 but as to whether she said Sesa was  
 about to apply for letters of guardianship  
 or what was or was not advised  
 to her by her brothers in law respond-  
 ants are informed further than she  
 did not apply for or obtain such  
 letters with her reasons for her not  
 availing herself of her right respond-  
 ants have nothing to do at all, respondants  
 deny most expressly that  
 they conspired together or with any  
 purposes as charged in said Bill  
 for the purpose of getting hold of what

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X  
was left to the said widow and children  
or for the purpose of taking any fraudulent  
but advantage of any one in connection  
with the transaction but that in  
all things connected therewith they acted  
in good faith touching the transaction  
mentioned in the said Bill, Respondent  
and Maloune admits that he was  
appointed Guardian for said chil-  
dren but that the same was done  
without his knowledge or consent  
and that the first intimation he  
had of the fact was when S. Lane  
sent him word of his appointment  
with a request that he would come  
and file a bond which he did  
and received the letters as he was  
properly entitled to without being  
called to an account for having  
done so or having his motives in  
question, however he denies having  
obtained such letters without the pri-  
vate knowledge or consent of the said  
Sabra, Respondents deny that the  
time said Sabra knew of his (Maloune's)  
appointment as aforesaid was when  
he informed her that he was going  
to set apart her dower in the premises  
Respondent Maloune denies that he ever told  
said Sabra that he was not going to  
sell the land or have it sold, but ad-  
mits that she the said Sabra consents  
to have her dower set aside as set  
forth in the bill herein, Respondents

admit that at the Oct Term of the Supreme  
 Circuit Court A D 1854 a Decree was  
 rendered against said Sebra and her  
 heirs based on the Petition of the said  
 minors by said Malone as the Guardian  
 as charged in said bill of Complaint  
 but deny that the setting apart of the said  
 one Dower could have easily been  
 done without material injury to the  
 parties interested in said lands. Res-  
 pondants say that there is that  
 Master Carpenter William L. Davis and  
 W. L. Lister were appointed Commis-  
 sioners to set apart to the said Sebra  
 one third of the said lands in such  
 manner as will more fully appear  
 by reference to said Decree. They ad-  
 mit that a default was taken against  
 said Sebra and James D. Lloyd but de-  
 ny that said James D. was unop-  
 pressed of the fact that Sebra had  
 been served on him but that on  
 the contrary as appears by the proper  
 files in said Cause not only legal  
 but actual and beneficial service  
 was had as well upon the said  
 Sebra as the said James D. Lloyd.  
 Respondants admit that said  
 Commissioners returned into Court  
 a report of the actings and doing  
 under said Decree which report is  
 signed by said Carpenter and was  
 two of the said Commissioners and  
 that it appears from said report

X that the names of Chester Carpenter  
and William C. Davis two of said  
Commissioners are signed thereto  
and that the name of Joseph Lipton  
two appears instead of W. L. Sarate  
But respondents deny that said  
Commissioners were in sworn as  
stated in said Bill of Complaint  
or that the said Malone at that time  
made an attempt to a survey ever  
X purposed to ascertain said Sebas  
Dover, they also deny that there was  
any fraudulent intent or craft on  
part of either of respondents which  
Complainant pretends to have at  
that time discovered in respondent  
Malone, and however true it may  
be that the name of Joseph Lipton  
was signed to the report of the Com  
missioners instead of W. L. Sarate  
it was occasioned by some over  
sight and misapprehension of the  
Commissioners or otherwise as the  
X case may be and not by procure  
ment Malone or any of respons  
ants, respondents assert that  
said Carpenter & Davis were sworn  
as such Commissioners in due form  
of law by a proper officer But it is  
true that the said Commissioners  
report as alleged in said bill that  
the land was not susceptible of  
partition without material injur  
y to those interested But that Car

porter was sworn and signed the  
 report in her own proper hand  
 writing, as to the part that said  
 Lupton took in the matter it is im-  
 possible for us respondents to know  
 any thing of it. Respondent Malone  
 most positively denies that he acted  
 either crafty or fraudulently in the mat-  
 ter. But he avers on the contrary that  
 all his acts in the premises were done  
 in good faith and for the actual  
 benefit of the minor children. Respon-  
 dents admit that the said Malone  
 applied to the Circuit Court of said  
 County for an order to sell the land  
 for the maintenance &c of said boys,  
 having been lawfully appointed their  
 Guardian, they being at that time  
 of tender years and having no other  
 estate than said land, and respondents  
 deny that the allegations in  
 said petition were untrue but that  
 on the contrary that the allegations  
 in said petition were properly proven  
 to the full and entire satisfaction  
 of the Circuit Court, and that on  
 such proof the decree was granted  
 at the time as set forth in said  
 bill full and ample proof having  
 been made that the proceeds of land  
 were needed in behalf of the children  
 and that it is may it please this Court  
 that by virtue of said order said  
 Malone proceeded to sell the said

lands not however under the protest  
of said James D. Soyde for respondent  
and deny that Soyde forbid the  
Sale as charged in his bill of Com-  
plaint It is also admitted that  
William B. White became the purchas-  
er of said tract at the Sale for the  
sum of \$400, which was at that  
time and it is believed is still a  
full and adequate price for the  
tract and that said White has since  
contracted a portion thereof to John  
Sneed and these respondents  
most positively deny any kind  
edge of the least injustice or un-  
fair dealing in the transactions  
referred to Respondents are unable  
to answer with regard to the alleged  
ignorance of the said J. D. Soyde on  
the arrangement with his brother  
Abel Soyde as they were not privy  
thereto and were content with attend-  
ing their own business affairs in a  
manner which they believed to be  
honest and honorable.

It is true that said Malone was a  
Justice of the peace as set forth in  
said bill, and that the said White  
having purchased the said land  
demanded possession from  
Abel Soyde who were then in actual  
possession but that said demand  
was made in maintenance of the ob-  
vious rights of said White and not

Through any Contumacee for advice  
 of the said Malone whatever that said  
 Abel refused to give up possession  
 and that White brought suit for entry  
 of possession before said Malone.  
 That summons issued &c in a plea of  
 forcible entry and detainer the  
 cause was tried by a jury as set forth  
 in the said bill and on the verdict  
 a judgment of restitution was awarded  
 in favor of said White and against  
 said Abel, but that said Malone  
 Edmund Hawthorn and the said  
 White went to the premises and  
 attempted to throw said Abel out of  
 doors these respondents most posi-  
 tively deny, respondents deny  
 that said Abel or any one for him  
 attempted to take an appeal from the  
 said judgment of Malone or that  
 Malone exacted unreasonable  
 bail or refused to take said S. D. Day  
 on account of his living out of  
 the County, but that said Abel in-  
 stead of attempting to appeal give  
 up the possession to said White peace-  
 ably and moved off - the land  
 but respondents are not able to  
 say what the orders of S. D. Day  
 have been to the said Abel touching  
 his holding possession of the land  
 respondents Malone indignantly  
 and positively denies making  
 any attempt to work upon the

ignorance of the said Abel and a  
veer that he acted as magistrate in  
the suit, but denies as utterly false  
and untrue that he was either a  
party or one of the pope or that he  
either used or threatened force in  
order - get said Abel off the  
land respondents admit that the  
right of dower of the said Sebra is still  
at least to some extent vested in her  
owing to the fact that Andrew Spon  
Esq. the attorney who brought the appli-  
cation to assign dower departed this  
life before a jury had been empan-  
nelled to assess the cash value of the  
dower, and afterwards while it was  
still competent to have such jury  
empannelled said Complainants  
procured an injunction while  
they pay for in the bills herein  
while said injunction respon-  
dents hope to have dissolved when  
they can state do ample justice to  
said Sebra by having the cash value  
of her dower ascertained, respon-  
dents expressly deny that said Malou  
got himself appointed guardian  
for said minor children for the  
purpose of wasting squandering  
and getting into his possession  
and that of White and send the  
property of said Complainants  
or that said Malou in any in-  
proper way tinkered with the



rights or that he in any way debbled  
 in the matter or employed Counsel  
 further than was actually necessary  
 to the performance of his duty to the  
 children as their guardian or that  
 he in any way incurred on acct  
 of expense unnecessarily, respondent  
 and Malone most positively deny  
 that he desired to appropriate any  
 of the money arising from the  
 sale of the tract of land to his own  
 use, and respondents Sneed  
 and White deny and repel the im-  
 putation that there was any concert  
 of action or understanding between  
 them, that Sneed and White were  
 to buy the land but that the land  
 was advertised according to law  
 and offered to the highest bidder  
 that a large number of persons  
 attended the sale and free com-  
 petition was offered to all bidders  
 without any collusion whatever,  
 respondents White & Sneed admit  
 that they have possession of the sev-  
 eral portions of the land and are  
 in the use and occupation of the  
 same, But deny country waste  
 or making alterations in the place  
 as they maintain they might law-  
 fully do, respondents deny any of  
 the proceedings had and taken by  
 said Malone was in fraud and  
 maintain that the same and

proceedings of Court on the applica-  
tion to assign dower as well as  
the application for leave to sell the  
lands are all void and need  
not be of record whatever,  
respondants do most positively deny  
that the \$101 paid to Hudson Sisson  
was a feigned or false charge but that  
that amount was paid to said Sisson  
on by respondent Malou for his  
services as Solicitor in preparing  
the petition for dower and attend-  
ing to the cause in Court, without  
that all the matters and things  
contained in the Complaints be-  
lieved and being expressly answered  
are hereby denied, and now having  
fully answered respondents pray  
hence to be dismissed with their  
reasonable costs &c

William L. Malou  
William B. White  
John B. Sneed

By John McElvain                      defendant  
their Solicitor

May Term A. D. 1857

James D. Lloyd et al

vs  
William L. Malou et al

{ In Chancery }

Came this day  
the parties by their attorneys R. S. Allen  
for Complainants & J. McElvain for  
the defendants and on motion

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leave is given to the parties to open depositions and the said parties referred to John W Marshall to take testimony. on further motion leave is given to defendants to answer this answer herein. and caused continued until the next term &c

Depositions of Abel Loyd, Wm. C. Doorn, Joseph Aptuo W. S. Sarater & Jeffrey McIntosh taken before John W Marshall on the 15<sup>th</sup> day of May 1857 between the hours of 10 o'clock A.M. and 10 o'clock P.M. of same day to be used in evidence in the case of Jas D Loyd et al against William L Malone et al.

Abel Loyd being duly sworn states his name is Abel Loyd, his age about forty one years, resides in Hamilton County Illinois I am one of the defendants in this suit, do not suppose I have any legal or pecuniary interest in the event of this suit, I know all the parties to this suit when I see them, part of them I have known about twelve years, part of them from their birth and W. B. White about eight or nine years, I once lived upon the land in dispute, as I understand I am acquainted with it, I knew Sabra Sneed the former husband of Lebra Loyd one of the complainants,

in this cause he before Sued  
died about six years ago, he left  
three children Mary William and  
Augustine, they all had double names  
I think, but do not now know what  
they were, the youngest probably Sarah  
Augustine, he left a widow Sarah  
Sued she married as I am in-  
formed James D. Loyd one of the  
Complainers, he Sued lived at  
the time of his death in Hermitage  
County on the farm I understand  
is in controversy, James D. Loyd  
and his wife lived about two years  
on the place after they were mar-  
ried he James D. Loyd rented the  
farm to me - I moved on the  
place and lived on it as his  
tenant or renter moved on  
the place April 15<sup>th</sup> 1853 and left  
the last day of March 1856 as far  
as I can recollect, I paid him  
the rent according to contract  
I was to give the place good at-  
tention and give him the third  
I made on the place - I rented  
it for one year and this prom-  
ise of three, or four or five if I  
wanted it he told me to keep  
possession of it and he would pay  
the damages, not to be scared off  
drove off or any thing of the kind  
I had not staid there quite a year  
when Mr. Edmund Hawthorn lived

a notice on me from W<sup>m</sup>. B. White one  
 of the defendants to leave the place  
 shortly or quickly or I would be dealt  
 with according to law, some time  
 short after that I was notified to  
 appear before W<sup>m</sup>. L. Malone being  
 acting associate Justice one of the  
 defendants in this cause, to show  
 cause why I had not left agreeable  
 to the notice served upon me from  
 W<sup>m</sup>. B. White, I suppose it was a writ  
 for forcible detainer, I was tried  
 by a jury and I was dispossessed  
 and I compromised with W<sup>m</sup>. White  
 that evening and I was to stay un-  
 til the 1<sup>st</sup> of April, and he would  
 pay all the costs if I would leave  
 by that time, he W<sup>m</sup>. B. White Mr. Haw-  
 thorn and William L. Malone went  
 me about the time I was getting  
 ready to leave and told me they  
 were going to put me off the place  
 I asked him what for and he said  
 I had forfeited my Contract, I had  
 pastured his stubble when when  
 I had agreed I would, he then said  
 (I agreed to it) that if I would leave  
 the next day by 12 o'clock & pay  
 half the cost they would let me alone  
 then, I did so, I left next day about  
 ten or eleven o'clock I got W<sup>m</sup>. White  
 to come and take possession of  
 the place as by contract, and then  
 left, we had a trial for forcible de-

X  
Cairnes William B White plaintiff and  
I the defendant, William S Malou  
was the Justice of the peace who sat  
upon the trial, I am told he is the  
Guardian of the receiver heirs of Se-  
ba Sued. I have heard him say  
so, Judgment was rendered against  
me for possession and was dispos-  
sessed unless I could give bond to  
carry it to Court, Mr White objected  
to my giving bond with my brother  
as security as he my brother lived  
out of the County, I have forgotten  
the amount of the Bond required  
William B White plaintiff said he must  
have a Bond of one thousand dol-  
lars with good men residents of this  
County Justice W. S. Malou said  
I should not be extorted on, the  
reason I did not give the Bond  
was that I made a Contract with  
White for him to take possession and  
I did not bother or frustrate my  
brother was then and wanted ~~to~~ me  
to appeal and stay on the place but  
I refused, I suppose I would have  
appealed if they had taken my brother  
as security, he lived in Jefferson  
in this State, my brother had land in  
this County at the time, had I think  
forty acres worth about four dollars  
per acre he had other property say  
160 acres in land in Jefferson Coun-  
ty, as I am informed and was

living on it then, had two head of  
 horses 3 cows & calves four or five  
 head of yearlings and two year olds,  
 a waggon & household furniture and  
 25 or 30 head of hogs & a yoke of oxen,  
 all the personal property worth about  
 four hundred dollars, I don't think  
 of his owning any thing I don't think  
 he could have indebted more than  
 one hundred dollars, I was there  
 when Mr Malone sold the land,  
 Carrall acted as the sale, and  
 William B White was the purchaser  
 at four hundred and four dollars,  
 or five hundred & four dollars,  
 I think, James D Soyd the com-  
 plaintant was there and perbed the  
 sale, and said who ever bought the  
 land would be a law suit, Mr  
 Malone was there in the crowd at  
 the time Mr Malone said well  
 well doctur we will attend to it  
 or risk it or some such language  
 implying that he would risk it  
 or go his length, Mr White was also  
 present and heard Mr Soyd perbe  
 the sale, the rent of the place was  
 worth I suppose about one hundred  
 dollars a year, it was handsomely  
 fixed off, good house good  
 water and a good orchard for the  
 country, I paid him my brother  
 as we supposed for the year I had  
 it three hundred and twenty bush.

As of course I did not have it all in  
course my brother had about nine or  
ten acres in oats the fence was  
in tolerable good fix with old rails  
when my brother left except a small  
piece that the heirs was not cut  
out, there was a few new rails hauled  
by my brother and put on the fence  
and lots and fenced the creek  
off to itself I gave possession when  
I left to Mr. B. White, he has posses-  
sion yet, I believe I see his family  
there when I pass, the minor heirs of  
Seban Sued seem to be well treated  
so far as I know always was when  
I was about the place, they live with  
my brother James D. Lloyd the Complain-  
ant, said children have been sent  
to school ever since the death of their  
father where there was opportunity to  
do so whilst in this County and  
there was generally a school close  
by, In a short time after I left the  
place there was a deed returned  
before me as Justice of the peace convey-  
ing a portion I think about ten a-  
cres of said land from Mr White to  
John B Sued one of the defendants  
in this suit I have been informed he  
was one of the Administrators of Seban  
Sued and I heard him say he had  
settled up as such Administrator and  
paid off the last claim, the trial of  
forcible detainer, was after the sale



of the land above spoken of, Mr Sneed told me that he and Mr. White had made a contract not to bid against each other that if Mr. White would make him a deed to ten acres of this land he would not bid against him, this was John B. Sneed one of the defendants in this cause,

Examined by John Malouin Esq  
 I did not tender my troth to W.<sup>m</sup> Malouin Esq as security on the appeal bond as I had a contract with Mr. White to leave the place as above stated, I did not offer a Bond to Malouin at all, when I met Mr W. B. White Har-  
 -thorn & Malouin he Malouin did not interfere, but expressed a desire that we would get along peaceably, W.<sup>m</sup> Malouin did not at any time use any threat or force to get me off the place, W.<sup>m</sup> B. White threatened and used force to get me off the place, John B. Sneed did not, both he and Malouin treated me friendly, the force White used was a legal course in law and forced me off, his threats consisted of telling me what he could do for me if I would take hold first, give me to understand he would whip me if I took hold first this was when Malouin Harthorn and White was going to set my things out in the yard, Malouin & Harthorn both insisted for peace, I do not know what Malouin & W. B. White with Harthorn for but supposed from what Mr Harthorn

said they were along to see my property  
put out.

Re Examined by Complainant  
When the Jury returned a verdict against  
me I called for a transcript to carry it  
to Court. W. B. White objected to taking  
my brother. I can't say that Mr. Malone  
said any thing about whether was  
good or not, my brother was there  
ready to go security.

Abel Loyd

William C. Davis being duly sworn  
deposes and says he is a resident of  
the County of Hamilton in the State of  
Illinois is about fifty one years of age  
I am acquainted with the parties  
plaintiffs and defendant, in the above  
cause I was called upon by defendant  
William S. Malone to set aside the dower  
of Sebra Sued now Sebra Loyd in the  
land in controversy. I went on the  
land and viewed the premises the  
survey commenced at the SE cor  
ner & run West a piece then north a  
piece I don't know how far until he  
came near the house & stopped Mr.  
Chas. Carpenter was the surveyor when  
they stop. Mr. Loyd told Mr. Malone  
when he wanted his wife's dower show  
ing him that he wanted the house  
and part of the orchard, the dower  
was not so set aside. Mr. Malone re  
fused to have it so done as the house

was about the middle of the land and would be injurious to the centering of the land but proposed to have the down stricken from either side, the Mr. Soyd spoken of was the husband of Sessa Soyd and Complainant in this cause Mr. Soyd wanted the houses & orchards mentioned as though he wanted it on the north side of the houses, I don't know that he named the amount of land he wanted but some of them named it would be some thirteen or fourteen acres this was the way Soyd wanted it and understood, Mr. Malone said if the down could not be set aside without injury to the farm, it could not be done at all and he or Carpenter read law to that effect and wanted the down set off at one side or the other of the land, If Soyd had got the building and 13 acres, I suppose the remainder of the land would have been worth as much - as said Buildings and 13 acres, If Mr. Malone or Mr. Carpenter told the widow that she was entitled to the Buildings &c I did not hear them I always thought the widow was entitled to the houses until they read law saying that it could not be done without an injury to the centering of the farm, I signed the report from my understanding of the law, as read at the time Mr. Soyd and Mr. Soyd was living on the place at the time, As not rec.

alleged who carried the chains I do not  
recollect whether we were sworn as  
conjurors or not.

Examined by Defts Counsel  
I understood from the reading of the  
law and Explanations that the Dower  
could not be set aside if it injured  
the remainder of the land so it could  
not be rented, the house as I under-  
stood was near the center of the land  
I do not know whether we could have  
started at either edge of the improvement  
and included the houses or not but  
rather think not. It would have been  
of great damage to the remaining land  
to have let off the 13 acres & house  
as requested, the land would have  
been left in an awkward shape  
and doubt would have been an  
injury to the sale of the land it would  
have taken more work to have en-  
closed the land, Do not know whe-  
ther it would have lessened its value  
for cultivation or not, I think if it had  
been stricken off it would have less-  
ened the value of the land per acre

Re Examined by pff

The reason I think the land would  
be lessened in value is that the house  
and orchard being taken off it of  
course would not be worth so much  
I suppose probably there might have  
been a line run from the stake in  
the barn to the north side of the

land including the houses &c and some  
ten or twelve acres without interfering  
with South field, Mr. Loyd wanted the  
dower stricken from the north

William C. Davis

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Joseph Upton being duly sworn says  
he is about fifty years of age a resident of  
Vermont in the state of Illinois and is acquaint-  
ed with the parties complainants and  
defendants, is acquainted with the  
land in controversy, was present at  
the time spoken of by Mr. Davis former-  
ly when the of Sera Loyd was to have  
been set aside I happened there that  
day, one of the Commissioners to set  
aside dower failed to be there and  
they chose me in his place I do not  
who chose me for certain dont know  
whether Malone chose or me or not  
I believe it was him or Carpenter  
or both of them. The first we done  
we went to the S E corner of the land  
we went out the west line. Me and  
French Loyd carried the chain, we got  
lost in the brush, dont think there  
was any particular measurement  
to surveyor set his Compass we then  
went north. I dont know how far  
into the same surveyor again set his  
Compass. Mr. Loyd then showed or  
told them how he wanted the dower  
laid off, about that time I think  
they took me in to act in place of  
Mr. Saratov. Mr. Loyd wanted them

To run up the north line then back so as to include the buildings. not to run clear through the land he wanted to take a square out of the center of the land. commencing at the north line including the house and 12 or 14 acres of land, it was thought at the time that the part so desired to be thickened off would be a part one third the value of the whole tract, before we started out either Carpenter or Malone read law showing that if the downer could not be thickened off without injury to the sale or rent of the land that it should not be thickened off - we went out and looked round and reported that it could not be thickened off without such injury. F. Loyd and myself I do not think we were sworn before we carried the chain, we were sworn (I <sup>think</sup>) as commissioners before we went out to view the land. I do not know whether ever I signed ~~on~~ the report or not. If I did was since the sale of the land I think I was acquainted with the minor children of Sebourn Sneed since his death up to the time they left this County. I lived about a mile from where they did. I believe they were as well treated any children in the County by Mrs. Sneed and by Mr. Loyd after his marriage to the widow.

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I consider Mr. Loyd and Mrs. Loyd as capable of maintaining the children as people generally are in the Country. I was ac

acquainted with the family from the time of the death of Mr Sued up to the time of their leaving the County - they left before the Sale - the children were sent to school as much as any children in the neighborhood - they were clothed as well as any children in the neighborhood - the farm was kept up as farms commonly are - there was I suppose some fifty or sixty acres in cultivation

Examined by depts Counsel

I consider had the dower been struck off as desired that it would have injured the sale of the balance of the land and even of the rent of it, it might not have injured the rent where another mans farm lay adjoining and he wanted to rent, Mr Soyd was present when we viewed the land - dont know whether he saw us sworn or not - land was lower in value than now I think, that land was then in a tolerable good state of improvement - could not state whether half the land was improved or not - I do not know whether Soyd intended to charge for taking care of the children or not - they lived there as part of the family -

Retained by pff

Had the land not been sold and Mr Soyd still remained on the farm and cultivated - I do not suppose that the sitting aside the dower as requested would have injured the land -

The buildings and the orchard and the  
small piece being taken off is the reason  
I think it would have injured the sale  
of the land. I consider that setting a  
side downer of any farm would in-  
jure it, that is what I mean by injuring  
I have heard John B. Sneed former  
Administrator of Seba Sneed and  
one of the defendants in this cause  
say that the widow furnished about  
sixty dollars toward paying the debts  
against the estate so as to save the land  
for the children. It is hard to say what  
the land was worth at the time of sale  
It must have been worth some five  
or six dollars an acre at that time  
or more  
Joseph <sup>his</sup> Hopton  
maker

Washington S. Sasater being sworn  
deposes and says he is about thirty  
years of age resides in Hamilton County  
in the State of Illinois and is acquainted  
with the party's Complainants and de-  
fendants in this cause. I never met  
with other Commissioners to set aside  
the downer of Seba Soyd to the land  
in controversy. I was notified by  
Mr. Soyd & Mr. Malone to appear on  
a certain and went and the other  
party's did not appear. I was notified  
a second time and started and met  
John B. Sneed who informed me I  
not go. The parties would not be there  
I was notified to appear a third time



but went away from home and did not get back in time. I never signed a report as Commissioner. I suppose the land was worth at the time of sale about six dollars per acre. doubtless it worth eight dollars now. Should think it worth more than seven now.

W. S. Lasater

Jeffrey M. Sutosh being duly sworn deposes and says he is about twenty two years of age resides in Hamilton County State of Illinois is acquainted with the parties to this suit and the land in controversy. was acquainted with the family of Sebon Sneed and James D. Soyd from the time of the death of Sebon Sneed nearly all the time up to the time of their leaving this County lived in the family from the death of Sneed until after Soyd and the widow married and then off and on occasionally for about a year thereafter the children were as well treated by Mrs Sneed and by Mrs Soyd as any children in the neighborhood. those that were old enough were sent to school as much I think as other children in the neighborhood. their names were Mary Elizabeth William Jeffrey and Sarah Angeline. Mary is now about 13 years of age William about 11 and Sarah about nine or ten years of age. Mr Soyd treated them as his own family they did not need any thing further

Support or education at any time  
I knew them - I have been to Mr. Loyd's  
since he went to Jefferson County twice  
did not notice any difference in their  
treatment - do not know that Mr.  
Loyd made any charge against  
them - The farm was kept up by Mr.  
Loyd about like common farms  
are he done some fencing there,  
I think the land is now worth about  
seven dollars per acre do not  
know whether it will be likely still to  
increase in value or not, don't think  
it is increasing as fast as some other  
land. there would be enough profits  
arising from the farm to keep it in  
repair if the downer had been thick  
en off

J. Jeffrey <sup>his</sup> M. C. Intash  
mark

~~November~~ term Hamilton Circuit Court A.D. 1857

James D. Loyd et al

vs  
William L. Malone et al

{ In Chancery }

Case is given  
to the parties to open disposition on  
Monday the 1<sup>st</sup> day of the term and  
by consent this cause is continued until  
the next term

Deposition of John D. Beck, Carroll  
Sueed Lewis C. Carter & Abel Loyd taken  
before John W. Marshall Notary Public  
in and for the County of Hamilton &  
State of Illinois at his office in said

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came on the 31<sup>st</sup> day of July A D 1857  
between hours of two o'clock A M and seven  
o'clock P M of same day to read in evidence  
in a certain cause pending in the said  
two Circuit Court on the Chancery side  
thereof wherein James D. Soyd, Seba Soyd  
William Sued, Sarah A. Sued and Mary  
Sued &c are complainants and Mrs  
J. Malone John Sued & William B. White  
and Abel Soyd are defendants  
John Bush being first duly sworn  
says I was present a sale of land on the  
premises where Seba Sued died It was  
the sale of the land of which said Sued  
died seized I know of Mrs J. Malone  
trying to induce one person to bid  
and here witness that although one fourth  
to be paid down that he would arrange  
that him not to let that stop him from  
bidding. It was witnesses brother who  
wished to buy and had not the money  
to pay the 1/4 down, my brother wanted  
to bid for the land but had not the  
money to pay the one down as the  
terms of the sale required I went to Mr  
Malone and asked him if there could  
be some arrangement made in re-  
gard to the one fourth if my brother  
would bid he said there could that  
he would loan or furnish him the  
money. There were several persons  
present at the sale. Carroll Sued  
the sale. The terms was one fourth  
down and the remainder on a cert-

It I did not hear any person trying  
you bidding for the land except James  
D Soyd who forbid the sale, the sale was  
cried for some time say an hour or an  
hour and a half think cried until  
there was no prospect of it bringing  
any more the bids had gone down  
to five cents bids - there was 80 acres  
offered and sold William B. Whitson  
the purchaser at about four hundred  
and three or four dollars - I suppose  
the land was worth at the time of sale  
about five dollars per acre

The houses farm and &c were in  
tolerable repair dont think there had  
been any repairing done since Sued  
death It is said that a part of the  
improvement was on a piece of land  
entered since the death of Sborn Sued  
& and before the sale by James D. Soyd  
and by him sold to my brother, I think  
there was between 30 & 40 acres of the  
land in cultivation I do not know  
whether my brother bid for the land  
or not Mr Soyd the land above al-  
luded to my brother since the death  
of Mr Sued and I think after the  
public sale of the land above alluded  
to the cleared land on the farm was  
all in one body If the land was  
now in the hands of widow & heirs  
and kept in good repair it would  
have been worth more than it was  
at the time of sale - I think if land

would still increase in value in the same ratio as it has since the sale - that in 15 years it would be worth double the amount that it sold for - If the farm was well managed the profits would pay taxes and keep it in repair until the children be come of age - I do not know why my brother did not bid only that he said he did not want to buy a lawsuit - there were other bidders beside whether Abel Loyd bid - he bid until they got to bidding five cents bids - dont recollect whether any other persons bid or not - when I speak of Mr. Loyd I mean James D. Loyd Couplet, I was acquainted with Sebourn Sneed I have seen the children several times lived about a mile and a half from them, I was there a few times the children seemd to be as well cared for as children generally was in the neighborhood so far as I know both during the widowhood of Sebourn Sneed and after marriage to Loyd, dont of their being sent to school, I meant that the land was worth \$5. Cash per acre, dont suppose it would be worth more than ten per more on a credit would not have given more for it I think five dollars per acre would have been a fair price for the land at time of sale - I dont think that the land would have been worth as much if divided as it would to remain as

it was. Think if the widows dower had been set off conveniently so as to include buildings that the remainder would not have been worth one half the whole value of the tract. It is tolerable hard to get a good tenant - very hard to get one that will keep a farm in repair without a person will manage very strictly. Mr. White the purchaser cried out during the sale that they need not be scared that he would give a hundred dollars more than the land was worth, whether he meant that they need not be scared at his bidding or at what I & Joyd said I do not know. I do not think a widows dower could be taken out of many farms without injury, it could of large farms probably if the land had remained in the hands of the widow & children and the dower set out I do not know that it would have injured the land. when I speak of the injury of the land I mean as to the sale, if it remained in her hands and she lived on and not rent it, if the land all remained in the widows possession until the children arrived at age I do not think the setting aside the dower would injure the land but if separated for sale or rent it would the reason I say it would be injured for rent is because there would be no well doing or orchard on the remainder I think also if the widow had taken

one third of the tillable land the remain-  
ing part would be too small to rent  
well. I think after the widow got house  
is arched &c the remainder might  
be rented tho' it would not rent so  
well in proportion.

John J. Buck

Carroll Sneed being first duly sworn  
on his oath says. I was at the Probate  
Court and requested the Court to ap-  
point a guardian for the children  
of my brother Simon Sneed dec'd, and  
suggested Mr. Malone as a proper  
person. Mr. Malone was not present  
and knew nothing of it, my reason  
for suggesting Mr. Malone was that  
I had \* understood that James D. Boyd  
their step father would not act and  
I thought Mr. Malone a proper person  
Mr. Malone never asked me to make  
this suggestion to the Court or said  
to me that he wished to be guardian  
he told me before he was qualified  
as guardian that he did not want  
to act, wanted nothing to do with  
it, and I insisted on his acting -  
I think he accepted the trust through  
my sollicitations, dont recollect  
any particular reasons he gave why  
he did wish to accept, he said it was  
troublesome business and might  
cause hard feelings - It was presented  
at the sale of the land above referred

\* objected to

to as the land of Seborn Sneed de C<sup>o</sup>  
I cried the Sale, public notice had  
been given of the time of Sale, the Sale  
was a public to the highest bidder Mr.  
W. S. Malone employed me to cry  
the Sale, he instructed me to sell for  
the best price it would bring I was  
anxious that it would bring its full  
worth, was afraid Loyd objecting to  
the Sale would cause it not bring as  
much as it otherwise would

(Mr. Malone here objected to hearing Evi-  
dence) I did not hear any person  
or see any person make any effort  
to keep the land selling for its full  
value except James S. Loyd who said  
that whoever bought the land would  
buy a lawsuit I cried the Sale along  
time longer than I usually do and  
as long as I had any prospect of re-  
ceiving any other bids, there were  
only three bidders as well as I recollect  
Mr. White also solicited other bidders  
Mr. Abel Loyd bid a five cent bid  
Mr. White said not to bid such bids  
it was minor childrens land and  
intended it should bring all it was  
worth, Loyd said he would bid ano-  
ther dollar if he had it some person  
proposed to loan it to him he bid  
the dollar and White bid a dollar  
over him, I thought then and still  
think that the land brought its full  
value at the time I was solicited by



my brother John Sued to bid for it  
 I did not do it for the reason it troubled  
 more than I was willing to give for it  
 I do not think the farm was sus-  
 ceptible of division so as to set aside  
 the widows dower without material  
 injury to the sale the farm at the time  
 of the sale I consider partially going  
 to decay ever since the death of my  
 brother James Barnes all the so a-  
 cres did not take in all the improvement  
 lacked some 2, 3, or 4 acres I suppose  
 I understood that S. D. Soyd entered  
 the land on which the remainder of  
 the improvement was the Barn was  
 hewed posts set in the ground not  
 weatherboarded only round the bott-  
 om & covered, I do not know whether  
 Mr & Mrs Soyd knew of Mr Malouys  
 appointment at the time or not dont  
 know of widow giving part of her dower  
 to save the same the land from sale  
 dont know that Sebern Sued requested  
 that the land should be kept for the  
 widow to live on - Mr White never  
 said to me that he wanted a part of  
 the land John Sued said he wants  
 about ten acres of the land but was  
 not able to buy all of it he also said  
 he wanted the land to bring it worth  
 he was afraid it would not this was  
 about the time of sale wanted me to  
 buy it and sell mine - Mr S. D. Soyd  
 married the widow something near

Two years don't know how long can't  
recollect after the death of Ebene Sneed  
don't know that he made any improvements  
after his marriage. My reasons for say-  
ing that it injures the value of the land  
to set aside the widows Dower is that  
the remainder would net for so much  
per acre as it would with houses &c at-  
tached that is one of my reasons for say-  
ing so. If the land had been left just  
as it was and the widow and Children  
had lived on it I do not think the  
land would have been worth more than  
the \$400. and the interest. I do not  
want to give any opinion as to what the  
land would be worth at the time the  
youngest Child be come of age. I have  
but little knowledge of Railroads, never  
saw one except in Kentucky, I saw  
one on which the Cars were drawn  
by a Horse. I am not positive but  
think there was a stable raised on the  
farm after my brother Ebene's death  
might have been raised before his death  
and covered after I am not certain  
about it. I think both parts of the land  
after Dower was taken out would be  
diminished in value.

Carol Sneed

Lewis C. Carter being first duly sworn  
deposes and says I had a conversation  
with James D. Lloyd a while before he  
moved off the farm in relation to the sale

of the land of which Simon Sued died  
deceased Lloyd said he would give four  
hundred dollars for the land if it brought  
more than that it might go though that  
was all it was worth, can't say how long  
this was before the sale, did not at that time  
make any objection to the sale, was speaking  
of the land by Mr Malone, I was not at the  
sale, I saw the land every day before the  
sale it was going to decay even since  
the death of Simon Sued up to that time  
I have lived close to the farm for three  
years, I think it brought all it was worth  
I would not have given as much for  
it as it brought at the sale if I had been  
there, the fences are rotting and all go-  
ing to decay from the time of Sued's death  
to Mr Lloyd's manage I recollect his haul-  
ing rails from the crop fences and put-  
ting on the fences of the farm and on the  
improvement his own land also, don't  
know how many rails he hauled and  
put on his own fence, I had intended  
to have bid for the land, but would not  
have paid the amount it brought had  
I have been there, William B White depts, is  
my father in law

Lewis C. <sup>his</sup> Carter  
March 1866

Abel Lloyd being first duly sworn de-  
poses and says that he was examined  
as a witness on or about the 15<sup>th</sup> day of  
May last in a deposition that in that  
deposition he is reported as saying Mr,

Sweed told me that he and Mr White had made a contract not to bid against each other that if Mr White would make him a deed to ten acres of this land he would not bid against him, this was John B. Sweed one of the depts in this cause. The conversation above alluded was as follows, Sweed said he wanted ten acres of the land but he would not bid against White if White would let him have ten acres of the land at cost, he wanted that much as it was close to him and had well &c on it if he could get that much he did not want to enthrall himself for any more said Mr. White and him agreed to the above proposition, this I think was a short time before or after but I think before the sale of the land. We had the had the conversation going home from Town said he would like to have forty acres of the land but was not able but was obliged to have that much so acres said he would to have the 80 acres but was too poor to buy it. said he was unable to buy more than the ten acres without enthralling himself. I am the same Abel Soyd who was summoned as defendant in this cause. am the brother of James D. Soyd Complainant, was present at the sale of the land, dont recollect of any person bidding for the land except Perry Sweed, Mr. B. White and myself. I think I bid four hundred & four or five hundred

and four dollars. I was bidding for Mr  
 Martin who authorized me to bid either four  
 or five hundred dollars and not to stand  
 on five on the price, this is the reason  
 I think that was four hundred and five  
 or five hundred and five dollars  
 + Examined

Charles Carpenter was the attorney  
 of W. B. White deft. in this cause on the trial  
 of forcible entry and detainer before W. J.  
 Malone as Justice of the peace and a Jury  
 I am informed that said Carpenter <sup>the</sup> County  
 Surveyor of this County I was informed  
 that he was one of the Commissioners to set  
 aside the dower in the land. he is the  
 only practicing attorney of the name in  
 the County that I know of the said speak  
 of was W. B. White pff and myself deft.

The crop of the farm in controversy the year  
 I left amounted to as we estimated ~~the~~  
 two 900 + 1000 Bushels. I think the rent  
 of the whole farm per year estimating at one  
 third the crop would be worth one hundred  
 dollars I did not tend all the farm. The  
 deed for the ten acres <sup>of land</sup> alluded to from  
 White was acknowledged before me then  
 an acting Justice of the peace for said  
 County - This was three or four weeks after  
 the sale at which time the deed from  
 Malone to White was also acknowledged  
 in stating in former deposition that the  
 deed was acknowledged after I left the  
 place I do not know what Question  
 led out this answer I must have meant

after I left the school house - By stating that  
the rent of the farm is worth one hundred  
dollars per year I do not mean to say  
exclusion of taxes and repairs. I do  
not know that there was any difficulty  
between the Sued family & Loyd or his  
wife until after Malone was appointed  
Guardian, heard it talked through the  
neighborhood that there was afterwards  
some time after my brother married the  
widow, John B Sued asked me if my  
brother or his wife talked hard of him. I  
said not only that Seb said John had  
brought her up to town to have her or some  
other person appointed Guardian, that Sued  
took her over to Martin's and told her to  
stay while he went to Court. Come back  
and said that Court said there was no  
use for a Guardian, they were doing  
well enough, that he gave her to under-  
stand that she was sole owner of the land  
and it had now turned out otherwise  
Sued said he was misunderstood  
though she knew it was her only father  
and done it for the purpose of saving  
expense. I never knew of any difficul-  
ties between the Sued family and  
Mrs. Loyd at any time except John said  
he was sorry she was hurt at him he  
never intended hurting her feelings, John  
Sued said he never intended doing  
Seb Sued any damage, he had just  
told her what the Court told him that  
there was no use for a Guardian

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the business was all settled up and there was about six dollars left after settling up, this was all in the same conversation I think, there was two fences removed I do not know where the rails was took too off one fence, I helped remove one of them myself the one running E & W, the rails were thrown in Piles on the same don't know that of them was put on Sued's land, they were aimed to make a fence on the line, they were not put up there, and I think they were all on the 80 acres of land

Abel Lloyd

Carrol Sued recalled

I was present when Mr Davis as one of the Commissioners, authorised Mr, Malone to sign his name to the report stating that the land was not susceptible of division, Mr Malone called Mr, Davis and read the report to Mr Davis, Davis said it was correct and told him to sign his name for him, I think the stable alluded to by me heretofore was put by me before his death and covered afterwards, I cannot tell verbatim the contents of the report read by me Malone it was concerning the setting aside the dower of the widow of Seborn Sued

Carrol Sued

Deposition of Chester Carpenter and  
Lewis B. White taken by Jas. S. W. Marshall  
County Clerk of Hamilton County Mo.  
at his office in the Court house in Mo.  
Seasboro on the 15<sup>th</sup> day of May A.D.  
1858, between the hours of ten o'clock  
A.M. and 6 o'clock P.M. on said day  
to be read in evidence in a certain  
cause pending in the Hamilton County  
Circuit Court wherein James D. Lloyd  
et al, are complainants and Mrs.  
S. Malone et al are defendants  
Chester Carpenter being duly sworn  
says to

Ques 1 by depts,

What is your name  
age and residence  
Ans.

Chester Carpenter aged twenty  
seven years and resides at Seasboro  
Mo. Illinois

Ques 2<sup>d</sup>

Are you acquainted with  
any or either of the parties complain  
ant or defendant to this suit and  
if so how long have you been ac  
quainted with them respectively  
Ans,

I am partially acquainted  
with Lloyd and his wife and have  
been for two or three years perhaps  
have seen the children, have known  
Mrs. Malone W. B. White and John  
B. Reed 7 or 8 years



62  
Ques 3<sup>rd</sup>

State whether you in connection with others acted as Commissioners concerning the setting ~~the~~ apart the dower interest of Serris Lord one of the Complainants in this cause in the real estate of her deceased husband Serris Sneed, if so with whom did you act as such Commissioners, when and where was the land situated

Ans. I in connection with William C. Davis and Joseph Upton acted as Commissioners in the setting aside the dower of Serris Lord to the real estate of her deceased husband Serris Sneed some two or three years ago, dont recollect the precise time the land is situated in Sec 27. T 4 R 7. in Hamilton County Illinois

Ques 4<sup>th</sup>

State whether you and the said Davis & Upton previous to your entering upon your duty as such Commissioners were sworn as such and by whom

Ans. We were sworn as Commissioners by one entering upon our duties by W. S. Malone a Justice of the peace at that time

Ques, 5<sup>th</sup>

Where were you sworn and who were present

Ans. We were sworn on the

premises in the dwelling house then occupied by Loyd and his wife French Loyd and perhaps others were present.

Ques, 6<sup>th</sup>

State if Joseph Lipton so far as you know acted as such Commissioner at the request of W<sup>m</sup> S. Malone

Ans, I do not think he did.

Ques, 7<sup>th</sup>

Did you with the other Commissioners make a report if so what was the substance of the Report and who of the Commissioners concurred in said report

Ans, We made a Report, the substance of the report was that we did not consider the land susceptible of division without material injury to the minor heirs. William C. Davis Joseph Lipton and myself concurred in the report.

Ques, 8<sup>th</sup> Do you know of any matter or thing which would be beneficial to the Defendants in this suit, if so state as particularly as if specially interrogated thereunto.

Ans, Nothing except that Loyd was present at the time we acted as Commissioners and selected the portion of land which he desired to be set aside as his wife's dower interest after we had agreed upon

our report he expressed himself satisfied  
I was of opinion at the time that  
the land was worth four hundred  
dollars on time payments did  
not believe that it would bring that  
amount cash down

Chester Carpenter

Lewis B. White being duly sworn  
on his oath says to

Ques, 1<sup>st</sup> What is your name age  
and place of residence?

Ans. Lewis B. White, aged 42 years  
resides in Hamilton County Missouri  
Ques, 2<sup>d</sup>

Are you acquainted with Jas  
D. Loyd and Serr Loyd complain-  
ants in this suit and if so how long  
have known them?

Ans, I have been acquainted  
with both of them about 5 years

Ques, 3<sup>rd</sup> State if you ever had  
a conversation with James D. Loyd  
concerning his wifes interest in the  
land of her deceased husband Se-  
bor Reed and if so when did such  
conversation occur, when did it  
occur, and what was the substance  
of that conversation as near as you  
can recollect

Ans, I had a conversation  
with him on the subject of her inter-  
est and the heirs interest since the  
suit commenced say about a  
year and a half ago at McLanahan

he was complaining that he thought  
Mr Malone had treated him badly  
in having the land sold and said  
that at the first start of the Guardian  
Ship Mr Malone wanted him to go  
to be appointed Guardian and that  
he refused, and Mr Malone told  
him he had better be appointed that  
he was living there had care of the  
farm and the children, he then  
said that after Malone was appointed  
Guardian that Malone came to him  
and told him there was some expenses  
to be paid and wanted him to pay  
them, said he told Malone he would  
not pay any expenses, that he did not  
put any expense on and would  
not take it off, said Mr Malone told  
him that if him or his wife did not  
pay the expense that the land would  
have to be sold to pay it, he said  
he told him Malone the land might  
be sold that he would not pay the ex  
pense

Ques 4<sup>th</sup> Do you know of any  
other matter or thing that would be  
beneficial to the defendants in this  
suit if so state as particularly as  
if you specially interrogated  
them

Ans. I do not think I do.  
L. B. White

May Term Hamilton Circuit Court A.D. 1858

James D. Soyd et al }  
vs } In Chancery  
William L. Malone et al }

On Monday the first day of the term leave is given to open depositions and afterwards term on the 8<sup>th</sup> day of the term the following testimony was taken in open Court

Be it remembered that on the 8<sup>th</sup> day of the term being the 25<sup>th</sup> day of May 1858 James Laine was produced and sworn in open Court as a witness in this cause who testified as follows "I am acquainted with said Soyd and Malone, I have known Malone for a good many years and Mr. Soyd for three or four years. I was County Judge when Malone was appointed Guardian of the heirs named in Cone plaintiffs Bill, I think he was not in Court when appointed. He never asked me to be appointed and I do not know that he knew he was to be appointed until after he was appointed. I think John and Perry, Deeds recommended Mr. Malone as a suitable person for Guardian. They were uncles of said children. I do not know that their mother ever applied to be appointed Guardian nor that she or Mr. Soyd knew that Malone was

to be appointed, I do not know that any  
lawyer was employed to get the appoint-  
ment made"

Also Joshua Shoemaker being being just  
duly sworn says "I am very well acquainted  
with Mr. Malone and partially with Mr.  
Soyd, Hudson Sisson was the solicitor to  
obtain an assignment of Dower for the  
widow of said Sued"

This was all the evidence offered at this  
time

Edwin Beecher

Judge Cir. Court 1858

On the 28th day of May 1858 personally  
appeared Joshua Shoemaker who after  
being duly in open Court says the  
petition for assignment of Dower is  
of Mr. Soyd is in the hand writing of  
Hudson Sisson, Mr. Sisson acted as  
counsel in the case and died  
soon after, also J. E. Whiting being  
duly sworn says that a reasonable  
fee in such case would be \$10,

This is all to be made a part of  
the record in the cause

Edwin Beecher

Judge Cir. Court

Whereupon this cause was submitted  
to Court for a final hearing and  
the Court not being sufficiently ad-  
vised took time &c

68  
November Term 1838

James D. Loyd et al }  
vs } In Chancery  
William G. Malone et al }

10<sup>th</sup> day of }  
the Term }

And now comes

the parties by their attorneys, and the Court having well considered and now being sufficiently advised in the premises what decree to render is of opinion that the law is with the defendants, therefore the decree is for the defendants for costs. Whereupon the said complainants pray an appeal to the Supreme Court which is allowed and complainants entering into bond in thirty days with Joseph Lupton, Joseph White, John Buck Lewis Richards, Samuel A. Martin or either of them as security in the sum of \$300, conditioned according to law.

And afterwards term on the 10<sup>th</sup> day of December A.D. 1838 the said complainants filed in the Clerk's office of the Circuit Court the following Tenet:

Know all men by these presents that we James D. Loyd and Sebra Loyd on our own behalf as well as on behalf of Sarah A. Sneed, Mary Sneed & William Sneed, heirs who were by the said James D. Loyd and Sebra as their next friends principals

and S. A. Mather and Lewis Rich-  
ards Securities are held and  
jointly bound unto W<sup>m</sup> L. Malone  
William White John Sued and  
Abel Loyd in the penal sum of  
(\$200.<sup>00</sup>/<sub>100</sub>) two hundred dollars  
for the payment whereof well and  
truly to be paid we jointly bind  
ourselves our heirs Executors and  
Administrators by these presents  
jointly and severally with our  
hands and seals this 10<sup>th</sup> day of  
December A D 1858

The Condition of the foregoing  
Bond is such that whereas at a  
Circuit Court Commenced at  
Newark in and for the County  
of Hamilton and State of Illinois  
on the 1<sup>st</sup> Monday in November  
A D 1858 in a certain Cause pend-  
ing on the Chancery side of said  
Court wherein the said James D.  
Loyd & Sarah Loyd, Sarah A. Sued  
and William Sued were complain-  
ants and the said W<sup>m</sup> L. Malone  
W<sup>m</sup> White John Sued and Abel  
Loyd were defendants a decree  
was rendered against the com-  
plainants for costs of suit from  
which the said James D. Loyd &  
Sarah Loyd on their own behalf as  
well as on behalf of said Sarah A.  
Mary & William Sued have taken  
an appeal to the Supreme Court



of this state,

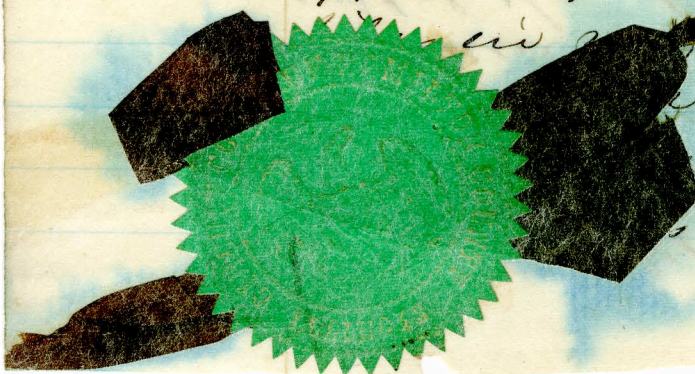
Now if the said James D. Loyd and Sarah Loyd shall and will well and truly prosecute the said appeal without delay and with effect and shall also pay or cause to be paid such judgment interest costs and damages as shall be awarded against them and the said Sarah A. Mary & William Reed in said Decree shall be affirmed then the foregoing Record shall be void otherwise the same shall be and remain in full force and virtue

James D. Loyd  
Sarah Loyd  
S. A. Martin  
Lewis Richards

State of Illinois  
Hamilton County

I Joshua Showmaker Clerk of the Circuit Court in and for the County of Hamilton and State of Illinois do hereby certify that the foregoing Record is a full and perfect copy of the proceedings had in cause from first to last including Bill, answer, depositions and orders &c as appears from the Records and

in my office  
testimony whereof I  
do hereby set my hand and  
seal of said Court at M. Leansu  
25<sup>th</sup> day of January A.D. 1839  
J. Showmaker Clerk



James D Loyd & Co appellants

vs  
William L. Malone & Co appellees  
appeal from Hannibal

In the Supreme Court of the  
State of Illinois 1<sup>st</sup> Grand Division  
November Term 1889

Cometh this day the appellant  
by Nelson their atty & say that  
the Circuit Court of Hannibal Co  
erred in rendering a decree  
in favor of appellees whereas by the  
Law of the land that Court ought  
to have rendered a decree in  
favor of appellants and there  
is manifest error for that reason  
in the record & proceedings  
aforesaid & this appellant are  
ready to verify &  
and for assigning special errors  
upon the record aforesaid the  
appellants say <sup>first</sup> that the Circuit  
erred in rendering the decree  
in this cause in favor of appellees  
secondly

That the Court erred in  
dismissing the Bill filed by appellants  
& refusing to grant the relief asked for  
by said Bill

Whereas they pray that  
the Judgment or decree aforesaid be  
reversed &  
Nelson for appellants

James D. Soyak,  
Sabah Soyak, Mary  
E. Sura, William  
J. Sura and  
Sarah A. Sura

Wm. L. Malms,  
John B. Sura &  
Wm. B. White &  
Abel Soyak

Filed Oct. 12, 1859-

St. Johnston City

Paid by J. D. Soyak \$5.00

James D. Soyak  
Sabah Soyak  
Mary E. Sura  
William J. Sura  
Sarah A. Sura  
Wm. L. Malms  
John B. Sura &  
Wm. B. White &  
Abel Soyak

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND DIVISION—NOVEMBER TERM, 1859.

Appeal from Hamilton.

JAS. D. LOYD, SEBRA LOYD, MARY E. SNEED, WM. J. SNEED & SARAH A. SNEED,

vs.

Appellants:

Page of  
Record.

WM. L. MALONE, JNO. B. SNEED, WM. B. WHITE & ABEL LOYD, Appellee.

1

Abstract of appellants case at the Oct. term, 1854, of the Circuit Court of Hamilton co., Ills., Wm. L. Malone, guardian of Mary E., Wm. J. & Sarah A. Sneed, who were the minor children and heirs at law of Seborn Sneed, dec'd, filed a petition in the said Cir. Court to set apart the dower of the widow of the said Seborn in an 80 acre tract of land owned by her husband at the time of his death, at which term of Court an interlocutory decree was entered appointing Wm. C. Davis, Wm. L. Lasater & Chester Carpenter commissioners to make "partition" of the said land, "whose duty it should be to set apart to Sebra Loyd (the widow) one-third of the said land as her lawful estate by proper metes and bounds, having due regard to the proportionate value of said lands."

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At the May term of the Hamilton Cir. Court a report was filed subscribed by Chester Carpenter and Jos. Upton as Commissioners against the said lands being susceptible of partition and deed; at the same term of Court said Malone, as guardian, filed a pet'n. to sell the said land for the "support and education" of the said children, upon which petition an order was made by said Court to sell the said real estate after having given a second bond to the Court of Probate; and said land was sold under said order to one White. The minor children, and their mother Sebra, and her second husband Jas. D. Loyd; forbid the sale and filed their bill to set aside the same, alledging that the personal estate of said Seborn was insolvent to the am't of \$60, and that to save their home his widow Sebra advanced the money to pay the said sum of \$60 out of her own estate, and resided on the land upon which was a good farm, dwelling house, barn and other appurtenances, and which was sufficient to support them.

That Malone well knew the above facts, and also well knew that the children who all under the age of 14 years were abundantly provided for every way, and did not need one dollar from any one, but notwithstanding proceeded to sell said farm, although forbid publicly proceeding so—that he was a Justice of the Peace, and no sooner did he sell the farm than he summoned Abel Loyd, tenant of said Jas. D. Loyd and Sebra, to appear before him in a plea of forcible entry and detainer, and actually in said plea, himself setting as Judge, ordered said Abel from the premises—and not only so, but came with White, the purchaser of the land at said public sale, a constable and others, and threatened to throw said Abel out if he would not go out of the house.

That said Abel wanted to appeal, but an appeal was refused by said Malone from his judgment—and that no sooner was the said land sold than it was partitioned out between

Page of said White and one Jno. B. Sneed, the uncle of the children, pursuant to an underhand  
Record. and fraudulent arrangement entered into between them before the sale.

18 This bill was filed to set aside the sale, &c., and for an account of rents, &c. Proof  
was taken, and the above allegations were clearly proven in substance.

19 The defnd'nts filed their answer, denying the allegations of the bill without oath,  
their oaths being waived, replication was filed and decree rendered for defnd'nts in the  
Court below.

The appellants bring their case up into this Court and seek to recover the decree en-  
tered herein for the order assigned upon the record.

R. S. NELSON, Atty

for appellants.

*Milford Pl<sup>d</sup> 113. This bill is properly filed  
I P Wms 737*

*Haymes  
2 Blackford 391 Guardian may apply to have  
down assigned  
11 Ill 637*

27-16

Soyra Sathers

by

Malouie et al

Abstract

Filed Nov. 16. 1859 -  
N. Johnston CM

STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND DIVISION—NOVEMBER TERM, 1859.

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their oaths being waived, replication was filed and decree rendered for defnd'nts in the  
Court below.

The appellants bring their case up into this Court and seek to ~~recover~~ <sup>reverse</sup> the decree en-  
tered herein for the ~~order~~ <sup>reason</sup> assigned upon the record.

R. S. NELSON, Atty

for appellants.

*Kelca -*

*Price William, 737*  
*Not paid pleads 113*

*Hays is*

*2 Blackp. 391*  
*A M. 637*  
*R. S. 1845 267 5 10*



Loyca & others

Malom et al

Agreed 18<sup>th</sup> / 11<sup>th</sup>

Filed Nov. 16. 1859 -  
A. Johnston et al

Come from

The above named party have come up into this Court and they so return the deuce on

that they have paid their debt and they so return the deuce on

the above named party

and the said Complainant  
has replicated to the answer of  
his said depts answer say the  
same is untrue, and Complain-  
ant's Bill is true, all which they  
are now and at all times ready  
to prove and verify when  
and thus are

Adson for Compt

State of Illinois }  
Harrison County } ss

I Joshua Showalter Clerk of the  
Circuit Court in and for said  
County do hereby certify, <sup>that</sup> the paper  
ing is a true copy of the replication  
written at the foot of the answer  
(in due pencil) and now on  
file in my office in the case  
of James D. Loyd et al against  
William S. Dialone et al

In testimony whereof I  
have hereunto set my  
hand and the seal of  
said Court at Milan  
this 15<sup>th</sup> day of November  
AD 1859

J. Showalter Clerk

27  
Loyen  
14  
Malouin

Amenda Plein

Filed Nov-17-1859-  
N. Johnston Clerk



STATE OF ILLINOIS—IN THE SUPREME COURT—FIRST GRAND DIVISION—NOVEMBER TERM, 1859.

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R. S. NELSON, Att'y

for appellants.

Loyce Luthers

my

Malone St

Julia Nov. 16. 1859-

N. Johnston City

for the

THE ALLEGEDLY BEING THEIR CASE UP IN THE COURT AND TO RECOVER THE DEBTS ON

COMES BEFORE

10 The debtors being advised that they are not and should not be held liable for the

and the court has ordered that the debtors be discharged from their obligations

13 This bill was filed to set aside the sale of the land for an account of rents and profits

and the court has ordered that the debtors be discharged from their obligations

No 27 - 16 -

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Nov. Term 1859 -

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Slyer et al

vs

Malone et al

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App. from Hamilton

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Rev. S. Remondy

8539