No. 8530

Supreme Court of Illinois

Dunlap

vs.

Wilson, et al,

71641 7

1.

State of Illinois Union County ss

Pleas held before Hon Alexander M Jenkins Judge of the Circuit Court of said County at the Court House in Jonesborough at a special term of said Court begun and held on the 10th day of February AD 1863

Promissory Letter of Court to

James Dunlap Complainant

against In Chancery

Levin J Wilson et

William Z Coleman

Names of Parties, Date of filing Record in Union County.

Be it remembered that on the 21st day of May 1862 the following Copy of the Record of the Circuit Court of Massac County was filed in the Clerk's Office of said Court with the original papers referred to in said Copy

[8500-1]

Record of Massac Circuit Court Transmitted to Union County

At a Circuit Court begun and held at the Court House in the City of Metropolis on monday 10th day of September 1860. being the second Monday in September in and for the County of Massac Ills. in pursuance of law. The Hon Wesley Sloan Presiding. On Tuesday the 2nd day of the Term of said Court the following Order was duly entered, as among the judicial proceedings of said Court, (viz)

James Dunlap vs Levin J Wilson and William Z Coleman — compl. Bill in chancery to set aside deed — Defendants

Came the complainant by his counsil, and the Defendant Levin J. Wilson though now three times solemnly called came not, but made default. on Motion of complainant counsil the Bill herein taken for confessed as to him.

And afterwards to wit. on Wednesday of this Term Defendant by his counsil verified by affidavit moved the Court to set aside said Default, which motion was entered by the Court. Default set aside and answer filed, cause continued until the next term of this Court.

And afterwards to wit at a Circuit Court began and held at the Court House in the City of Metropolis on the 4th Monday in the Month of April 1861, in and for the County of Massac in pursuance of law, being the 22nd day of said Month, the Hon. Wesley Sloan presiding.

On Thursday the 4th day of the said Term of said Court, the following Order was duly entered in said Court, viz.

James Dunlap vs Levin J Wilson & William J Coleman — Compl't. Bill in chancery to set aside Deed. Defendants.

Came the Complainant by Green & Smith his Solicitors who filed the Replication to answer filed, and leave given to open Depositions, and this cause continued as per agreement filed, which said agreement are in the words and figures following to wit,

James Dunlap vs Wilson & Coleman — April Term 1861. No. 19. Bill in chancery

It is agreed that this cause be set for trial at the next Term of this Court. This April 22nd 1861.

J Dougherty for Deft.

The depositions in this case not having come to hand we agree to the above.

Green & Smith for Complt.

Filed 22nd April 1861.
Jno B. Hicks clk.

And afterwards at a Circuit Court, began and held at the Court House in the City of Metropolis, on the 16th day of September 1861. (3rd Monday) in and for the County of Massac in pursuance of law, the Hon. Wesley Sloan presiding

Minutes of the Court.

Cause continued on wednesday 3rd day of the term.

And afterwards to wit, at a Circuit Court began and held at the Court house in the City of Metropolis, on the 29th day of April 1862 the Judge of the Court being absent, on Monday the 28th April 1862, in and for the County of Massac in pursuance of law, the Hon. Wesley Sloan presiding

Came the parties, by their respective counsel & by agreement, the venue of this Cause is changed, to the County of Union Clerk to transmit copy of record and all papers appertaining to said cause, Which is hereby done accordingly

1st Bill marked filed 10th February 1860
James Elliott Clk

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2nd " , Subpoena in chy.
marked filed 20 February 1860
James Elliott clk,

3rd " Answer of Wm. F. Coleman
marked filed 14th June 1860
James Elliott clk

4th " Deed from Gatewood to Levin J. Wilson
marked filed 12th Septr 1860

5th Answer of Wilson marked filed 12th
Septr. 1860. James Elliott clk

6th — Affidavit to set aside default
marked filed 12th Septr. 1860
James Elliott clk

7th — Replication, marked filed 25th April 1861
Jno B. Hicks clk

8th, Deposition of Alexander Kirkpatrick
filed 25th April 1861
Jno B. Hicks clk

9th, notice & printer certificate.

10th, written agreement

11th, Fee Bill

12th, Statement of the receiver filed

13th — copy of Record from Gallatin County referred
to in Bill.

14th — copy of Deed from Jno. E Hall M. C. to
James Dunlap

7.

State of Illinois }
Massac County } I John B. Hicks Clerk of the Massac County Circuit Court, Do hereby certify that the five preceding pages (this one included) contains a true and correct statement of the various orders taken as well as the files themselves had and used in the Massac County Circuit Court, in the Case of James Dunlap against Levin J Wilson and William Coleman Bill in Chancery to set aside Deed, the venue of which is changed to the County of Union Ills.

L. S.

Witness Jno B Hicks Clk. of said Court and Judicial seal thereof this 6th day of May 1862.

Jno B Hicks Clk. M.C.C.C.

The following are copies of the papers referred to in said record, to wit,

The Bill in Chancery.

State of Illinois Massac County } Set
Circuit Court. Pleas
of the April Term 1860

To the Hon. Wesley Sloan Judge of Said Circuit Court, Sitting as a Court of chancery

Bill filed 10 February 1860 Massac County.

Your Orator James Dunlap of Morgan County, in Said State, Firstly. complaining Shows and States, unto your honor. That on or about the 19th day of February A.D. 1840 one Ephraim H. Gatewood was Seized in fee of a certain tract of land Situated in the County of Pope; but now in the County of Massac; being the North half of Section Six (6) in Township Sixteen (16) South of Range five (5) East of the third principal Meridian, and being so Seized, he the Said Gatewood (his wife Elizabeth J. Gatewood joined him therein) Executed his certain deed of Mortgage to the President Directors & Company of the Bank of Illinois for the purpose of securing the payment of certain Sums of money therein Specified; and thereby granted and conveyed to the said Bank of Illinois, the Said tract of land together with various other tracts, to have and to hold the Same as Mortgaged, unto the Said President Directors & Co. and their Successors, and assigns forever, upon condition as Expressed in Said Mortgage "That Whereas the Said Ephraim

[5830-5]

H Gatewood party of the first part stands indebted to the said Bank of Illinois, in the just and full sum of twelve thousand five hundred dollars, for which he has this day Executed to the said Bank his promissory note payable seven months after date thereof with interest thereon at the rate of Eight per cent. per annum from date until paid; Now if the said Ephraim shall well and truly pay and satisfy said note to the Bank according to the terms thereof and in the event of his being allowed by said Board of Directors to renew, said note, for said debt, or any part thereof, shall well and truly satisfy & pay such renewed note according to the terms thereof, and so on as often as he shall be allowed to renew the same, shall satisfy & pay such renewell notes, respectively according to the terms thereof, then this conveyance to be void; otherwise to be and remain in full force, and absolute at law".

Which said Mortgage was recorded by the recorder of the County, in which said land was situated, on the 20th day of January 1844, having been previously recorded in Gallatin County, (where part of the mortgaged land was situated) on the 11th day of March A.D. 1840.

Bill

Your Orators further State that in the year 1848, the said Ephraim Gatewood departed this life, intestate, leaving him surviving, his widow Elizabeth J. Gatewood, & his children Wm. J. Gatewood and Theodore Gatewood, to whom the tract of land aforesaid passed, by force of law, subject to the Mortgage aforesaid

Your Orators further State that in September A D 1850, Albert G. Caldwell, and Ebenezer F. Ryan, assignees of the Bank of Illinois, commenced their suit in chancery in the Circuit Court of Gallatin County Illinois, against the said widow & heirs of said Ephraim H. Gatewood, and other parties, in Court in the premises, for the foreclosure of Mortgage of said Gatewood, a major part of the property conveyed by said Mortgage being situated in the County of Gallatin aforesaid, to which said Abner Flanders Administrator of the Estate of said Gatewood was made a party defendant, and such proceedings were thereupon had in said suit, as that at the July Term of said Circuit Court A D 1852, a decree was rendered by said Court, finding and declaring that there was due to the said complainants upon the mortgage, Executed by the said E. H Gatewood the sum of Twenty four

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Thousand Three hundred and seventy two dollars & twenty two cents; & that there was conveyed by said mortgage, to secure the payment of said sum of money, divers lots & tracts of land; including the tract of land herein before described, and also requiring the defendants in that suit to pay the complainants in said suit or to John E. Hall Master in Chancery of Gallatin County, for the use of said Complainants the aforesaid sum of Money in the notes or certificates of the Bank of Illinois, on or before the 1st Monday of September then next after said decree, had been rendered; or in case of their failure to make such payment, that they the said Defendants should stand foreclosed, of and from all Equity of Redemption in and to the several Town lots & tracts of land conveyed by the Mortgage aforesaid; and further that the said lots and lands should be sold at public auction to the highest bidder to pay and satisfy the amount decreed, to be due to the complainants as aforesaid; Your Orators further State that on the 19th day of October A.D. 1852, the lands & lots, ordered to be sold by said decree were sold by John E Hall Master in Chancery as aforesaid, in the manner &

Bill

upon the terms of the decree aforesaid and your Orator purchased the said North half of Section Six in T. 16 S. R. 5 E. of the third Principal Meridian containing 275 68/100 acres for the sum of Twenty three hundred & fifty seven dollars & 68 cents and at the December Term A D 1852 of said Circuit Court, the said Sale of land and Town lots, by said Master in Chancery was ratified & confirmed by the said Court, and the said Master in Chancery upon making the sale aforesaid, Executed to your orator a deed in due form & in pursuance of the authority vested in him by said decree, which deed was Recorded by the recorder of Massac County on the day of A D 185 and a copy of which is herewith filed as part of the Bill marked (A). Your Orator States that at the time of his purchase aforesaid, the said tract of land was ~~[illegible]~~ vacant & unoccupied, and no part of it had ever been cultivated or even inclosed; and your Orator had no knowledge nor suspicion of any claim to said land, other than that held by the Mortgagee aforesaid, and which passed to your Orator by virtue of the decree aforesaid, and the sale made thereunder,

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Your Orator further States, that after his purchase of said tract of land, he was informed that on or about the 4th day of October 1843, the said Ephraim H. Gatewood for the purpose of paying or compromising a liability existing against him in favor of one Levin J. Wilson, then of the City of New Orleans, granted and conveyed to said Wilson Two hundred acres of said tract by a deed purporting to convey a title in fee, which Deed the said Wilson caused to be recorded in the County in which said land was situated on the 20th day of January A D 1844.

Your Orator further States that said deed was prepared and obtained from said Gatewood by Henry Eudy Esqr. who was the attorney or agent, of said Wilson, and well knew that the said tract of land had been Mortgaged to the said Bank by said Gatewood. Your Orator further States that said Wilson was present at Shawneetown when the said deed to him was Executed, and your orator States & charges that the said Wilson had notice at the time of the execution of the said deed to him as aforesaid of the indebtedness of said Gatewood to the

Bill

Bank of Illinois, and also had notice of the Mortgage executed to said Bank by said Gatewood, as hereinbefore stated; and accepted and received his said Deed, of conveyance with full knowledge in the premises of the existence of the rights of the Bank of Illinois under and by virtue of the Mortgage aforesaid. Your Orator further states that said Wilson never entered upon said land or took or attempted to take possession thereof, nor did any act asserting right or title thereto except to have his deed recorded as aforesaid. ~~nor did any other act~~ that the said land still remains vacant & unoccupied & unimproved. Your Orator states, and so charges, that he is advised that his title to said land is the hollow title thereto in law & equity; and in respect thereof, that the title of said Wilson is fraudulent & utterly void.

And your Orator further states that he is informed the said Wilson on the 15th day of Dec. 1856, by his deed attempted to convey the said land Except 50. acres off the East end, to one Wm. Z. Coleman, the nephew of him the said Wilson without any bona fide consideration passing from the said Grantee Coleman, to the said Wilson, & only the sum of $100, being named in said deed as the

[50-30-8]

consideration, and your Orator states and so charges, that the said Deed so Executed on the 15th Dec. 1856. was made by said Wilson to said Coleman, without any consideration whatever, and with full knowledge at the date thereof of the right of your Orator in the premises, on the part of said Wilson And your Orator further charges that said Wm. L. Coleman is the Nephew of said Wilson Because said Deed for said land, not as a bona fide purchase; but as gift, or advancement from said Wilson, and that said Col-
~~Wilson~~ eman had never entered upon or occupied the said land but that the same still remains unoccupied, yet the said Wilson & Coleman, have recently asserted a claim to said land, based upon his deed obtained as aforesaid; and if enforced, said claim will operate as a fraud upon your Orators rights. And your Orator states that the assertion of title to said land by said Wilson, and the existence of his said deed thereto ~~are counter~~ are calculated to, and do, operate as a cloud upon your Orators title to said land, which your Orator obtained in good faith, having purchased said land, and paid a full & valuable consideration therefor, as aforesaid In tender consideration of the premises &

Bill

[2580-8]

Inasmuch as your Orator can find no relief save in this Honorable Court, your Orator prays that said Levin J. Wilson and Wm. F. Coleman may be made defendants to this Bill & compelled to answer on their corporal Oaths, all and singular the allegations in this Bill, as fully as if thereto specially interrogated; and on a full hearing in the premises, that your Honor will order adjudge and decree that the said Deed to the said land from the said Gatewood to the said Levin J. Wilson, & the deed from said Wilson to said Wm. F. Coleman, be cancelled and declared utterly void, and of no Effect, whatever in law & Equity. And that your Honor may grant such other & further relief as may seem Equitable, & according to good conscience And that the writ of subpoena in Chancery may issue, directed to the Sheriff of Alleghany County, commanding him to ~~appear~~ summon said Levin J. Wilson & Wm. F. Coleman, to be and appear before the said Circuit Court on the 1st day of the next April Term to answer said Bill & abide the order of this Court, and as in duty bound your Orator will ever pray, &c

Green & Smith
Solicitors for Complainant

Affidavit of Nonresidence of the defendants

State of Illinois
Massac Co } W. H. Green being duly
sworn deposes and says, he is informed & believes that Levin J. Wilson, Wm Z. Coleman are not residents of this State,

Subscribed & sworn to W. H. Green
before me, this 16th Feby, 1860.
James Elliott Clk.

Record of the Gallatin Circuit Court made an Exhibit in the foregoing bill.

Record of Gallatin Cir court made an Exhibit

State of Illinois Gallatin County. } ss
Pleas held befor the Hon. the Judge of the Circuit Court of Said County Sitting and acting as a as a Court of Chancery at the Court House in Shawneetown,

Albert G. Caldwell & Ebenezer Z. Ryan
against
Elizabeth Gatewood widow Ephraim H Gatewood Dec'd, William J. Gatewood & Theodore Gatewood, heirs of Said Ephraim H. Gatewood, William Fellows, Cornelius Fellows, Benjamin J Adams, Horatio D. Newcomb Warren Newcomb & James Dunlap.

Be it Remembered that on the 12th day of September A.D. 1850. the said complainants, filed their Bill in Chancery herein, in the Clerks Office of Said County, upon which proceedings were had as hereinafter Stated, the Said Bill is in the words following.

[8530-4]

State of Illinois } Circuit Court of Gallatin County
Gallatin County } Sitting in Chancery Nov. Term 1850

To the Hon. William A Denning presiding in Chancery in Gallatin County Illinois,

Humbly complaining Showeth unto your Honor, your orators, Albert G. Caldwell and Ebenezer Z Rhyan, the first of Gallatin County and the other of Lawrence County Illinois, assignees of all the personal Estate, Rights and credits of the President, Directors of the Bank of Illinois at Shawneetown, That heretofore to wit, on the 19th day of February A D 1840, one John Charles Stickney of Shawneetown, was Seised of an Estate in fee in the following described Lots in said Town to wit, lots Eleven Hundred, & Eleven & lots Eleven hundred & Twelve, that being so Seized thereof the said John C Stickney determining to erect thereon valuable buildings and other improvements prior to the said 19th day of February A D 1840, applied to the President Directors & Co. of the Bank of Illinois at Shawneetown, for certain loans and advances of Money which the said president Directors & Co. made to him at different times prior to said date, that at the said time the said Stickney being unable to complete the said buildings applied to said bank for further aid in Money which the said president Directors & Co.

advanced to him, amounting in the whole to the sum of Twelve Thousand Dollars, for which sum of money the said John C. Stickney, on the said 19th day of February 1840, executed his said note payable to the said President Directors & Co. of said Bank Twelve Months after the date thereof with interest thereon at the rate of Eight per cent pr annum from date until paid; and then and there on the said 19th day of February 1840, in Order to secure to the said Bank the payment of said note the said Stickney together with his wife Abby Anna, executed to the said President Directors & Co. of the Bank of Illinois, their certain Mortgage Deed a copy of which is herewith filed marked Exhibit (N) and prayed to be taken and received as part of this Bill, by which said deed of mortgage the said Stickney & wife, Granted, Bargained and Sold, unto the President Directors & company of the Bank of Illinois, the two said Lots, in the ~~Town~~ of Shawneetown, described as lots Eleven hundred & Eleven, and Eleven hundred and Twelve, together with all ~~and Singular~~ the Buildings and materials for Building thereon which said Mortgage deed was Executed and delivered in consideration of Twelve Thousand dollars, subject nevertheless, to a condition then underwritten by which it was witnessed that whereas the said John Charles and one ——

Recorded of Galleation continued

[8530-12]

John Stickney, were indebted to the said Bank of Illinois, on different liabilities, some due by the said John Charles, individually with other security and others due by the firm of John Charles Stickney & Co. composed of both of said persons, with other persons liable thereon, in the sum of Nine thousand nine hundred Dollars Exclusive of interest costs & charges, and with a view to enable the said John Charles to complete the Building then in process of Erection, on the said lots, the said Bank agreed to advance to him on Bills for work to be done on or for materials to be found for said Building, such further sums as with the foregoing debts, costs and interest would amount to the sum of Twelve thousand dollars, said Bills for work to be done on, or materials to be found for said Building to be verified to the satisfaction of said Board of Directors of said Bank and receipted to them by the persons, entitled to receive the same, for which aggregate sum of Twelve thousand dollars, the said John Charles Stickney had that day Executed his promissory note to the said parties of the second part, payable twelve months after the date thereof, with interest thereon at the rate of Eight per cent pr annum from the date till paid, with the understanding that at maturity the said John Charles should be allowed to renew the same, for another period of twelve months

on paying the interest only, and at the maturity of the second note, to be allowed to renew the same on paying the interest, and One thousand dollars, of the principal, and so on to be allowed to renew at the end of every twelve months on paying the interest and one Thousand Dollars of the principal at each renewal until the whole debt shall be paid and satisfied, and with the further understanding that the said Bank should keep an interest account with the said John Charles, in respect to the money to be advanced over and above the present liabilities, so that the said Stickney should only be required to pay interest upon the excess over, and above the nine thousand nine hundred dollars, as the same was advanced to him, It was further stipulated therein that if the said John Charles, should faithfully comply with the terms of the said agreement by renewing the first note given upon that day and paying the interest which should be due thereon at ~~the~~ its maturity, and at the maturity of the said second note should faithfully renew the same and pay up the interest then due with one thousand dollars of the principal debt, and so on as often as he should renew the same at regular periods, of twelve months, should faithfully pay up the interest then due with one Thousand dollars of the principal debt, and

Record of Galveston

[2530-13]

so on at each renewal then the said Deed to be void, otherwise the said deed upon failure to comply with any of the above stipulations, was to continue in full force, which said Deed of Mortgage was filed for record and duly recorded in Gallatin County, on the 10th day of March AD 1840, Your Orators further show unto your honor, that afterwards and while the said mortgage was unsatisfied and a charge and lien upon the said two lots, No. 1111 & 1112, to wit, on the 29th day of December AD 1840, the said John C. Stickney, and Abby Anna, his wife, by their certain deed of Indenture, of that date, granted bargained, and aliened the said two lots with all the buildings thereon erected to one Ephraim H. Gatewood of Shawneetown Illinois, who then and there became by said conveyance seized of the fee, in said two lots, subject to the mortgage so by said Stickney executed to the Bank,

Your Orators further show unto your honor that at the time the last recited deed was Executed that by agreement, between the said Stickney & the said Gatewood, the said Gatewood was to pay the said note of Twelve Thousand dollars to the President Directors & Co. of the Bank of Illinois for the Security of which the said mortgage Deed was given by said Stickney, which said mortgage deed was still to remain and continue

as a security for the payment of the money thereby secured to be paid,

Recital of Execution

Your Orators further show unto your honor that afterwards, to wit, on or about the first day of July A.D. 1842, and whilst the said mortgage from Stickney to the President Directors & Co. was in full force, the note described therein unpaid and entirely due and unpaid, and afterwards the said Stickney had conveyed the fee in said Lots No 1111. & 1112. to the said Ephraim H. Gotewood ~~executed his~~ he the said Ephraim H. Gotewood Executed his certain deed of Mortgage upon said Lots 1111. & 1112. together with 35 feet front off of the East ~~part~~ of in Lot 871. in said Town & running Back 104. feet. also thirty six feet of the north side of in Lot 834 in said Town and extending 104 back to one Horatio D Newcomb, and one Warren Newcomb, to secure to them the payment of Four thousand & forty eight dollars according to the conditions thereof, which will more fully appear by reference to said Mortgage, deed a copy of which is herewith filed, marked Exhibit (B) and referred to as part of this Bill, which said mortgage was executed by the said Gotewood and received by the said Newcomb, subject to the Mortgage of the President Directors & Co of the Bank of Illinois, upon said lots No 1111. & 1112. & 871. and 834. as in and by said,

Mortgage it is evidenced and declared.

Your Orators further State and declare that at the time the said Mortgage was given by the said Gatewood, to the said Newcomb. the president & Directors & Co of the Bank of Illinois held no other mortgage upon the said lots 1111 & 1112, than the one first above referred to as executed, by John C Stickney & wife which your Orators allege is the Mortgage referred to in the mortgage from Gatewood to Newcombs to which the said Mortgage of Newcombs is postponed as a Junior Lien

Your Orators further Show unto Your honor that after the Execution of the said mortgage to Wm. D. & W. Newcomb to wit, on the 19th day of August A.D. 1843. that Ephraim W. Gatewood then being in failing circumstances, Greatly embarrassed and in debt, to the said President Directors & Co of the Bank of Illinois, by Sundry notes in a large Sum of Money exceeding Sixteen Thousand dollars which he was wholly unable to pay substituted with the assent of said Bank his own notes for the note of Twelve Thousand dollars given by and Secured as afore recited, which note with the interest thereon accrued to fifteen thousand two hundred & Eighty dollars for which sum the said Ephraim W Gatewood executed his note dated as aforesaid and payable in Seven months after the date thereof, with interest from

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note until paid as he had agreed to pay said debt when the said Stickney conveyed to him lots No. 1111 & 1112, for the security of which the said Stickneys mortgage was to stand until the said sum of Money secured thereby was paid, that afterwards the said Gatewood executed on the said 19th of August AD 1843, together with his wife Elizabeth Gatewood executed their certain deeds of mortgage to secure the payment of the said note of $15.280, by which said deed of mortgage the said Gatewood and wife, granted, bargained, sold, aliened & and conveyed unto the said President Directors & Co. of the Bank of Illinois, all the following described lots and lands to wit, in lots in Shawneetown No 1111 & 1112, also a certain lot of land in Gallatin County, described as follows commencing at the North East ~~corner~~ of the South East quarter of Sect. 36. T. 8. S, R. 10. E. and and running thence due North fifty one poles with the half section line to a Stake, thence due South 158 poles, to a Stake, thence due East 51 poles to a Stake upon the Range line, thence due North with the Range line to begining, containing fifty acres & 58 poles, also part of in lot in Shawneetown number 871 being the East part of said lot, fronting 36 feet on first north Street, and running back North along the line of Mrs Marshalls

Recorded 7 Gallatin

[2530-157]

lot numbered 871. one hundred and four feet and thirty feet in width the whole distance back also a part of in lot No. 834 being the North part of said lot. running thirty eight in front. and the whole distance back also in lot in Shawneetown No. 1108. also in lot No 842. in said Town. all in Gallatin County Illinois. Which said deed of Mortgage was subject to a certain condition therein. which recited that if the said Ephraim H. Gatewood should well & truly pay or cause to be paid the said promissory note. so by said Gatewood given for fifteen thousand two hundred & eighty dollars then the said Mortgage should be void, otherwise to remain in full force, which said mortgage deed was delivered to the President Directors & Co. of said bank and filed for record in Gallatin County, on the 22nd day of August A.D. 1843. as is evidenced by the said mortgage deed a copy of which is herewith filed marked (C) as an exhibit and prayed to be referred to on the hearing hereof. as fully as if the same was set set out & recited at large herein, that afterwards the same was so filed for record and on the same day John Liddell Cashier of the Bank of Illinois at Shawneetown, entered upon the margin of the record of said mortgage, from John C. Stickney & wife, to said Bank in the recorders office in said County, the following receipt.

I do hereby as cashier of the Bank of Illinois acknowledge to have received full Satisfaction for this Mortgage. 22nd August 1843. John Siddall cashier Test Lemuel White recorder.

Recorded of Gratuation

Your Orators aver and allege that although the said John Siddall, acknowledged ~~in~~ full Satisfaction of said Mortgage from said John C. Stickney to the President Directors & Co of the Bank of Illinois, that nothing was paid in money or paid to or accepted in anything else by said President Directors & Co. of said Bank in discharge and Satisfaction of said mortgaged debt, other than as above recited, Your orators distinctly charge and declare that it was not the intention or design of the President Directors & Co of the Bank of Illinois to release their prior lien upon said two lots No. 1111, & 1112, upon which two lots had been ~~Executed~~ Erected by the said Stickney with the money of said Bank a Valuable Brick Building worth Eight Thousand dollars now known as the Gatewood house, but the said John Siddall supposing that the said Mortgage Given by C. H. Gatewood & wife, had reference to being for the identical money loaned to said Stickney, for the Security of which the said Mortgage by Stickney was executed would continue the prior lien of the said Stickney Mortgage Given to the Bank. So as to ~~pre~~ secure their priority of

[1280-16]

Satisfaction out of Said Mortgage property inadvertantly entered Said receipt upon the margin of Said Mortgage from Stickney to the Bank of Illinois, as above herein set out, Your orators contend that the Said entry is a mere receipt not conclusive, but Subject to construction or Explanation and as the money secured by Said Stickneys Mortgage has never been paid but is still due and in arrears, they are not Barred from maintaining their bill & suit therein But so it is May it please your Honors the said Horatio D Newcomb. and Newcomb with William & Cornelius Fellows, and one Benjamin F. Adams of Louisville Kentucky who claim to be assignee of the Said Newcomb Mortgage and as such Your Orators contend they are bound by all the Equity against the Said Newcombs, all of whom are made respondents to this Bill - against equity and good conscience allege and pretend that as the Mortgage of John C. Stickney & wife to the president Directors &c of the Bank of Illinois; is Receipted by the Said John Siddall as afore cited that the said mortgage given by the Said Gatewood to Newcombs and by them assigned to Fellows & Co. is to be first paid and Satisfied out of Said mortgaged property this pretence they iniquitously set up notwithstanding the Said Mortgage to the ~~said~~

Newcomb by its own terms postpones it payment to the Mortgage held by the President Directors &c of the Bank of Illinois, which has not been paid to this day, but the money & debt thereby secured is still in arrears and a subsisting debt.

Because of Galeton

Your Orators contend that they have not lost their priority by said receipt, and that if this Hon. Court should be of Opinion that the lien created by the original Mortgage from John C. Stickney and wife to the said Bank was not continued and preserved by the Mortgage from Gatewood & wife to the President Directors &c of said Bank, which your Orators insist was so continued and preserved, that it will set aside and hold for nought the receipt entered by said John Siddall, as satisfaction of the said Stickney Mortgage.

Your Orators further unto your honor. that after the said Mortgage was so executed by the said Stickney to the Bank of Illinois, and whilst the sum of Money thereby secured was in arrears and unpaid & said Mortgage a subsisting lien upon said Lots 1111, & 1112, that the said Ephraim H. Gatewood & wife, to wit, on the 16th day of August A D 1842, executed and delivered to one James Dunlap of Jacksonville Illinois, whom your Orators also make a defendant, their certain Mortgage Deed

[8530-17]

upon said two Lots No 1111. & 1112, in Shawneetown, being the same property Mortgaged to the Bank by said Stickney. said last recited mortgage, your Orators allege was to indemnify the the said James Dunlap as Special for the said Ephraim H. Gatewood in a certain suit depending in the Court of Common pleas in St Louis County Missouri, in which one Eben Wade was plaintiff and the said Gatewood defendant, said Mortgage your Orators allege was given for the feigned consideration of Three thousand Dollars, that at the time said James Dunlap accepted said Mortgage from Gatewood he had notice of the Mortgage Executed by Stickney that he was an Officer of the Bank of Illinois, familiar with the debits of the Business and that at the time the receipt heretofore recited was Executed by said Sidall that the said Dunlap was President of the Bank of Illinois at Shawneetown participated in its administration and was furnished with the most secret debits of its Business and operations from which facts, your Orators insist the said James Dunlap cannot pretend ignorance of the fact that the ~~said~~ President Directors & Co of the Bank of Illinois, never intended to release their lien upon said two lots No. 1111. & 1112, for their claim per Money by them

advanced to said Stickney and expended upon said two lots and by said release to give priority to the claim of said Dunlap & Fellows & Co to the amt. of Eight Thousand Dollars the entire value of said property as the said Dunlop against Equity & good conscience now pretends,

Recorded of Gatewood

Your Orators allege that there is due amt. unpaid upon said note, first secured by Stickneys Mortgage and secured by Gatewood and further, and further secured by Gatewoods mortgage above the sum of Twenty one thousand Seven hundred & Seven Dollars

Your Orators further show unto your honor that on the 24th Sept. 1840, said Ephraim H. Gatewood, was seized of a part of in Shawneetown No 871, and described as the East part of said Lot fronting on North first Street thirty five feet & Running Back 104. also all that part of in lot in Shawneetown known as thirty eight feet front by 104 feet Back of the north side of Lot No. 834, did by his certain deed of Mortgage bearing date 24th September 1840, grant Bargain, sell and convey unto the President Directors & Co of said Bank the two last described lots of land which said deed was subject to a condition therein written to the effect that as the said Gatewood had that day Borrowed of the said Bank of Illinois

the sum of nine hundred and forty dollars for which sum he had duly executed his certain promissory note payable in seven months from the date thereof with eight per cent interest until paid, then if the said Gatewood should pay the said note, when due, or pay any other note, given as a renewal of the same then the said Mortgage deed to be void & of no effect, otherwise to remain in full force & effect your Orators allege that the said Gatewood has never paid or renewed said note and there is now due thereon the sum of Sixteen hundred & forty Eight dollars which said Mortgage deed was filed for record in Gallatin County on the second day of October 1840, a copy of which is herewith filed marked Exhibit ( ) and prayed to refer to on the hearing hereof which said Mortgage, which said Mortgage your Orators allege is the one second referred to in the Mortgage of Gatewood to Newcomb, and to be first satisfied out of said two lots,

Your Orators further show unto your honor that the said Ephraim H. Gatewood being seized in fee of in lots in said Town No 1108 died on the 20th day of August A D 1840 good bargain, sell and convey the same by his

certain deed of Mortgage to the President Directors and Company of the Bank of Illinois which said deed of Mortgage is duly recorded on the 27th day of August AD 1840. and which said deed was and is subject to a condition thereunder written which recites & declares, that as the said Ephraim H. Gatewood, has this day executed to the said President Directors & Co. of the Bank his promissory note for $500. payable on the 31st day of May 1841. with interest thereon at the rate of Eight pr cent from date until paid, if the said Gatewood should well and truly pay the same according to its terms & effect, the said deed of Mortgage should be void, otherwise to remain in full force, a copy of which said Mortgage so delivered to the said bank is herewith filed as Exhibit (D). and prayed to be taken as part of this Bill. Your Orators State that the said thereby secured is wholly in arrears and that there is due thereon the sum of Nine hundred and ten dollars.

Record of Gallatin

Your Orators further show unto your honor that on the 19th day of February AD 1840. the said Ephraim H. Gatewood being indebted to the President Directors & Co of the Bank of Illinois in the further sum of Twelve thousand Five hundred dollars, he the said Ephraim H. Gatewood together with Elizabeth his wife, by their certain

[8530-12]

23. Deed of Mortgage of that date duly acknowledged and recorded in Gallatin County, on the 11th March AD 1840. Granted bargained & sold unto the President Directors & Co. of the Bank of Illinois. all the following lands and Town lots in which the said Elizabeth released her dower to wit. in the County of Gallatin Illinois out lots numbered 157. 158. 189. 190. 191. 192. 193. 194. 227. & 228. containing six acres each also in lots in said town numbered as 842 & 1124 also the one undivided fourth part of all those lands known as the S½. NE qr. & SE qr. Sect 22. the East half of Sect 27. NE qr. Sect 29. SE qr of SE qr Sect 20. E½ NW qr of 27. all in Township Eight South of Range Six East, containing 210 acres. also the SE qr of NE qr Sect 29. T. 7. S R 10 E. 40 acres. W½ NE¼. Sect 29 T. 7. S R 10 E. containing 80 acres, NE qr of NE qr Sect 29. in T. 7. S R 10. E. the NW. qr of SE qr Sect. 20. T. 7. S. R. 10. E. the SW. qr SE qr 20 T. 7. S R 10 E. the SW. qr fr Sect 7 in T. 7. S R 11. E containing 157 acres. also the NE qr of the SW qr. & the NW of the SW qr Sect 13. T. 7. S R 9 E. 80 acres. situated in White county. the N½ NW¼ 30. T. 7 S R 10. E. 80 $\frac{24}{100}$ acres. the SW¼ SE¼ Sect 33. T. 7. S R 9 E. the E½ NW¼. 13. T. 7. S R 9. E. the NW¼. of SW¼. 11. T. 7 S R. 8 E. the NE¼. of SW¼ of 28. T. 7. S R 10. E. also lot no. 34. in the Town of New Haven in said Gallatin County, also the undivided third part of the SE¼. of Sect 17. T. 7. S R 10. E. part of the NE¼ Sect 20 same township & range embracing the town plat of New Haven the SW¼

of Sect 17. T. 7. S R. 10 E. The N W¼. 20. T. 7. S R 10 E. the E½ S E¼ Sect 19. T 7. S R 10 E. which said Cost lands were purchased by said Gatewood, with one Rawlings & Kirkpatrick, with the Exceptions of lots in New Haven numbered 1. 2. 3. 4. 9. 10. 32. 33. 34. 35. 36. 37. 38. 51 56. 57. 58. 59. 60. 76. & 77. Excepting also from this all such lots in said Town of New Haven as have been sold bargained or contracted away and the said Gatewood reserved the right to make partition between himself and his Co. Tenants, Rawlings & Kirkpatrick which said division when made. this Mortgage was to attach to & cover, as the Sole Estate of said Gatewood, also the following tracts of land in the County of Pope (now Massac) Illinois, W½ section Six Town 16. S R 5 E. containing 275 68/100, acres. also the following tract situated in the County of Alexander (now Pulaski) the E½ of Fr. Sect. 32. T. 15 S R 1 E. containing 184 48/100, acres, the N½ S E¼. Sect 17. T. 15 S. R 1 E. W½. N E¼. 5. T. 13. S R 1 E. all of which town lots & lands now granted subject to a condition in said deed of Mortgage written by which it was witnessed that the said Ephraim Gatewood was indebted to the Bank of Illinois, in the sum of twelve thousand five hundred dollars, by his promissory note ~~given~~ payable in seven months after the date of said Mortgage with interest at the rate of eight per cent, per annum, then if the said Gatewood should well and truly pay and satisfy said note,

Record of Gatewood

[8530-20]

24. according to the terms thereof & well & truly pay any renewed note by him given for the same then the said Mortgage deed should be void, otherwise to remain in full force, all of which will fully appear by reference to said deed of Mortgage a copy of which is herewith filed marked Exhibit (F) & prayed to be referred to upon hearing hereof.

Your Orators over there is due and in arrears upon the said note the said sum of Twenty two Thousand five hundred dollars, for which said sums, they are well entitled to have sale of said Mortgaged premises.

Your Orators further show unto Your honor that the said E. H. Gatewood, having seized of in lot No. 842, in said Town did together with his wife Elizabeth on the 3rd day of March 1841 by their certain deed of Mortgage Grant Bargain and sell unto the said President Directors & Co. of said Bank said lot No. 842, which said Mortgage is duly acknowledged, and recorded in Gallatin County on the 16th day of March 1841, and which Mortgage is subject to a condition thereunderwritten, by which it is Witnessed that as the said Gatewood had on that day Executed his promissory note to the Bank of Illinois for the sum of Eight hundred dollars payable seven months after the date thereof with interest at 8 per cent. per annum after due until paid then if the said Gatewood should

well and truly cause the said Note to be paid or any new note on the renewal thereof, to be paid according to their tenor then the said Mortgage to be void, otherwise to remain in full force, Your Orators aver there is due upon said promissory note the sum of Thirteen hundred and Seventy five dollars, the sum being entirely in arrears and unpaid,

Record of Gatewood

Your Orators further show that on or about the day of A D 1848, the said Ephraim H. Gatewood departed this life, leaving the said Elizabeth Gatewood his Widow, William J. Gatewood & Theodore Gatewood his only children and heirs, whom your Orators make defendants to this Bill & who are infants for whom the Court is asked to appoint Guardian ad litem, Your Orators further State that the said Ephraim H Gatewood at the time of his death was indebted to your Orators as assignees of the President Directors & Co, of the Bank of Illinois upon the often described Mortgages and notes in the sum of Forty Eight Thousand One hundred and forty one dollars, that the said Gatewood died hopelessly insolvent and that the entire property so Mortgaged to said President Directors & Co, of the Bank of Illinois, will not pay his liabilities thereon to your Orators, as assignees, Your Orators further show that Lots No 1111 & 1112, 871, & 834, with the Buildings and improvements thereon Erected are of more value than all the residue of the

Estate Mortgaged by him, that upon said lots 1111 & 1112, there is Erected a large Brick Building used as a Hotel, and Stores, and Offices of very considerable Value, Your Orators State that as the House is Mortgaged for more than its value three times to different Mortgages, all of whom by their Several Bills are contending for priority of lien in this honorable Court, that no one of them is willing to Expend money upon the said premises to Keep them in repair, that the said House is fast going to decay the walls sinking & cracking and otherwise deteriorating in value that the interest of all parties require that the rents arising from said House should be applied to its repairs Your orators further Show that since the death of the said E. H. Gatewood his widow Elizabeth has received and used a large part of the said rents, Your Orators in the consideration of the facts, asks that a receiver may be appointed by this honorable Court whose duty it shall be to rent said House and Receive the rents thereof, and under the orders of of this Court apply such an amount of the rent as may be necessary to repair said House, & the residue to be paid over to the persons thereunto Entitled, under the order of this Court,

Your Orators distinctly charge and allege that the said promissory notes given by the said Gatewood to Newcomb, which were secured by

the said Mortgage to Newcombs were claimed by said Fellows & Co. are wholly paid and satisfied Your Orators charge that after the Execution of the said Mortgage & notes, the said Gatewood being in failing circumstances, his paper was depreciated in the market to less than half its face, that said Gatewood was indebted to said Fellows & Co. upon other accounts in a large sum, Your Orators think near $4000 that the said Newcombs & Co proposed at Shawneetown before the date of said assignment to sell said Mortgage of Gatewood & notes by them held for less than "50 cents on the dollar that E.H. Gatewood proposed to said Fellows & Co. or they to him that Fellows & Co should buy the said Mortgage for the use of said Gatewood and hold the same in trust for said Gatewood and that if Mrs. Gatewood, who had not signed the original Mortgage, to Newcombs & Co. would sign the same thereby releasing her dower, that when the said Gatewood should repay to said Fellows & Co the amount due to them, they the said Fellows & Co. would convey the two lots in fee to Mrs. Elizabeth Gatewood, thereby by such arrangement trying to defraud the Bank of Illinois out of its security unless the said bank first paid the individual debt due to Fellows & Co from Gatewood upon other accounts, the Newcombs mortgage and which debt was no lien on or

Recovery of Gatewood

[8830-227]

upon said Lots. Your Orators, allege that in conformity with this corrupt agreement, and to carry it out that the said respondents William Fellows, Cornelius Fellows and Benjamin F Adams, did purchase of the said Newcombs their mortgage and notes, by them held, that they paid therefor the sum of Fourteen hundred and ninety eight dollars only and took the same then at their own risk as by said deed of assignment filed in this honorable Court, is shown and to which Your Orators prays to refer as a record on file of said Court, Your Orators further charge that under the corrupt agreement aforesaid the said Fellows & Co. would have no right no Equity even if the said Newcombs Mortgage should be prior lien to enforce the collection of more than $1498 76/100, out of said Mortgage property, But Your Orators insists that after said Corrupt agreement was made that the said Gatewood paid to said Fellows & Co. by themselves and their agents received more than Two thousand dollars, from the rents of said mortgaged Estate, which it was understood by said Gatewood should be first applied to discharge the said $1498 76/100, and which in Equity and good conscience should have been so applied but which Your Orators believe the said Fellows & Co. to Overreach the said Bank of Illinois have applied to their other debt, against said

Gatewood, this depriving your said Orators of their Equitable right as diligent, and careful creditors secured by mortgage, your Orators charge that the said Fellows & Co, or some one of the said firm, in further carrying said corrupt agreement, entered into a Bond or agreement in writing with Mrs Elizabeth Gatewood by which they agreed to convey to her the said two lots as soon as her husband should pay their debt within six years, all which corrupt agreement, cunning device and overreaching of the said William Fellows Cornelus Fellows and Benjamin J. Adams, are against Equity and good conscience tending to the prejudice & injury of your Orators as assignees as aforesaid. your Orators charge that the said Mortgage given by Gatewood to James Dunlap a copy of which is herewith filed marked Exhibit (F.) was subject to a condition therein which recited that the said Mortgage was taken to indemnify the said Dunlap as Special Bail for said Gatewood, your Orators insist that the said Bail Bond was never prosecuted that the said Dunlap was not damnified thereby and has no ~~legal~~ right ~~or~~ legal or equitable to seek satisfaction of his Mortgage out of said Mortgaged lots 1111. & 1112,. your Orators in tender consideration of the premises pray the people Gracious writ of Supoena commanding the said

Record of Execution

[2530-23]

27. Elizabeth Gatewood widow William J. Gatewood Theodore Gatewood, William Fellows, Cornelius Fellows, Benjamin J. Adams, Horatio Newcomb Warren Newcomb, and James Dunlap to be and appear before this Honorable Court, and fill and true & perfect answers make to all and singular the charges and allegations herein contained upon their Oaths Except the said Elizabeth, William J. & Theodore whose oaths are waived, and that the said Horatio D. Newcomb and Newcomb may State on answer how much money property or goods was by the said Gatewood to them paid or delivered upon the said notes or upon any other account or manner after the date of said Mortgage, and how much was thereon actually due at the time the same was assigned to Fellows & Co. and that William Fellows, Cornelius Fellows and Benjamin J. Adams may severally and each upon their respective Oaths without mental reservation or Equivocation answer and State all the circumstances fully under which they Bought the said notes and Mortgages given by Gatewood to Newcombs, State also how much they paid for the same, what amount if any thing did the said Gatewood owe them upon other accounts, Whether when they bought the said notes & Mortgages of Newcomb there was not an understanding and agreement, or arrangement of some kind between them or some one of them

and said Gatewood, that said Gatewood should only be responsible to them for the amt. by them paid to Newcombs, for said Mortgage, and distinctly answer whether they would not have felt themselves morally bound by their understanding with Gatewood to have done due to Gatewoods wife or otherwise secured the Newcombs mortgage if on the day after they received the said assignment from Newcombs, the said Gatewood had paid them in money the sum of $1498 76/100, with all interest thereon together with the full amount of his other indebtedness to them out of other transactions than the Newcombs mortgage whether they did not Buy the said Newcombs mortgage for said Gatewood or with the understanding & intention that they were only to require of him payment of the amount by them advanced for it with the other debts, he owed them, State how much money the said Gatewood has paid to them or Either of them on any account, whether since they became the Equitable holders of said mortgage, whether before the date of Newcombs deed of Assignment to them or not that they may fully State how much rent of said mortgaged premises, they have received since the said Mortgage was assigned to them whether the same was received by ~~others~~ orders drawn upon the tenants in said Gatewoods life time or

Record of Gatewood

[2530-24]

28. otherwise, State how much rent any agent of theirs has received, whether such agent has accounted to them or not, how much they or any agent of theirs owe for the rent thereof, and State how said rents have been applied in the discharge of the indebtedness to them, whether on the debt bought of the Newcombs or their other debts and that they answer fully all that is herein charged against them, as though they were thereunto specially interrogated and that the coming in of said answer and hearing the proofs herein, this honorable Court will order adjudge and decree that the said Mortgaged premises be sold to satisfy the Several liens & debts of your Orators and that the Equity of redemption therein be forever barred and foreclosed and that out of the purchase money arising from said Sale your orators debts be first paid postponing the claims of said Fellows & Co, & Dunlap to the first claims of your Orators and that your Honor will grant them such other and further relief in the premises, as to this Court, may seem meet and proper & to them just Your Orators further shows unto your honor that by an act of the general assembly of the State of Illinois, Entitled an act to reduce the State debt, one million of Dollars, and put the Bank of Illinois into Liquidation approved February 28th 1845, all debts due the bank of Illinois at Shawneetown were required to be assigned to

your Orators which act is herewith Exhibited
you hence that in pursuance of said act, the
President Directors & Co of said Bank of Illinois
make and Execute their deed of assignment
to your Orators of the personal Effects of said
Bank dated April 10th 1845, a copy of which is
herewith Exhibited marked ( ) that under and
by virtue of said Deed of assignment and said
act of the Legislature the notes and Mortgages here-
tofore recited and referred to were assigned, trans-
ferred and vested in your Orators, as fully and
completely as they were held by the said President
Directors & Co. of said Bank, and your Orators
well Entitled to sue upon the same as such
and your orators will Ever pray,

Prayer of Execution

Albert G. Caldwell
assignee in his proper person
for himself & co assignees

Exhibits filed with foregoing Bill.

[P530-29]

This Indenture made and entered into this 3rd day of March A D 1841, between E. H. Gatewood and Elizabeth his wife, of the first part, and the president Directors & Co of the Bank of Illinois, of the second part Witnesseth, that for and in consideration of the sum of Eight hundred dollars, to them of the first part paid the receipt of which is hereby acknowledged, they have granted, bargained, sold, aliened and conveyed, and do by these presents grant, bargain sell, alien and convey unto the said party of the second part, all that certain tract or parcel of land situate in Shawneetown known and designated on the plot or map of said town as in number Eight hundred and forty two, (842) To have and to hold the same with all the appurtenances thereunto, unto them the said parties of the second part, or their successors in Office as a good and indefeasable Estate in fee simple the said E. H. Gatewood for himself, and his heirs covenants that he is well seized of the aforementioned premises that he will warrant and defend the same to the parties of the second part against the claim or claims of all others by or under him, nevertheless and this conveyance is made under this Express condition. Whereas the said E. H. Gatewood has this day Executed

promissory note to the Bank of Illinois for the sum of Eight hundred dollars payable in seven months after the date, with interest at the rate of Eight per cent. per annum from date till paid, now if the said E. H. Gatewood shall well and truly pay or cause to be paid the aforesaid promissory note or any new note for the same or less sum being part of the same consideration above mentioned which the said President Directors & Co. of the Bank of Illinois, may permit him to make then this conveyance to be null and void, otherwise to remain in full force and virtue in law. In Witness of which the said parties of the first part have hereunto set their names and seals this day and year first above written

Record of Execution

E. H. Gatewood (Seal)
Elizabeth Gatewood (Seal)

State of Illinois } Before me the undersigned
Gallatin County } a Justice of the Peace in and for said County, personally came E. H. Gatewood and Elizabeth Gatewood, wife of the said E. H. Gatewood, both known to me as the real persons who signed the foregoing deed and acknowledged, the same to be their voluntary act for the purposes therein mentioned & the said Elizabeth wife of the said E. H. be examined

(8580-26)

by me seperate and apart from her said husband declared to me upon such Examination that she signed the deed fully and voluntarily and without compulsion of her said husband, Given under my hand and seal this 2nd day of March AD 1841.

James M Jones (J P)

Endorsed
Recorded 23rd April 1841.
State of Illinois }
Gallatin County } I I. E. Hall Clerk & Ex officio Recorder of said County, do hereby certify that the foregoing is a true copy of Deed of mortgage from Gatewood and wife to Bank as appears from the records of my office.

Given under my hand & seal ~~this~~ of office at Shawneetown this 20th day of Sept 1851.

I. E. Hall Clerk & Ex officio
Recorder G. C.

Copy of Note

$800 00/100 Bank of Illinois
Shawneetown 24th Feb 1841

Seven months after date I promise to pay to the president Directors & Co of the Bank of Illinois Eight hundred dollars, with interest at the rate of Eight per cent per annum from date until paid without defalcation, for value Received

E. H. Gatewood

Record of Gallatin

This Indenture made this 19th day of February AD 1840, between Ephraim H. Gatewood, and Elizabeth his wife, of Gallatin County, Illinois of the first part, and the President Directors ~~&c~~ and Company of the Bank of Illinois at Shawneetown of the second part, Witnesseth; That the said parties of the first part, for and in consideration of the sum of Twelve Thousand ~~dollars~~ five hundred dollars, lawful money of the United State to the said Ephraim in hand paid, the receipt of which is hereby acknowledged, have granted, bargained and sold and by these presents, do grant, bargain, alien, sell, and convey unto the said parties of the second part, their successors ~~in office~~ and assigns forever, all those certain tracts, parcels and lots of land, situate in the Counties hereinafter mentioned, and known and described as follows to wit, In the County of Gallatin, out lots in Shawneetown, numbered on the map or plat of said town by the numbers 157, 158, 189, 190, 191, 192, 193, 194, 227, and 228, containing six acres Each In lots in said Town, numbered as aforesaid, by the numbers 842, and 1124, the former purchased from D. H. Lathrop and the latter from Thos C. Brown also the following lands, situate in said County The undivided fourth part, of the South ½ of the N.E. qr. and the S.E. qr. of Sec 22, the E½ of Sec 27 of the N.E. qr of Sec 29, of the S.E. ¼ of the S.E. qr of Sec 20

[9586-27]

of the E½ of the N.W. qr of Sec 27. all in township 8. S. in Range 6. E. which undivided fourth part containing 210. acres, and was from Edward H. Gibbon. The S E¼. of the N E qr. of Sect. 29. in Township 7. S. in Range 10 E. containing 40 acres and purchased from one Ebenezer Stewart. The W½ of the N E. qr of same Section township and range containing 80 acres, and purchased from one Augustus Stewart The N E¼. of the N E. qr of the same Section township and range. containing 40 acres, and purchased from the United States. The N. W¼ of the S E qr. of sec 20. in the same township and range containing 40 acres and purchased from the United States, the S W¼. of the S E qr of the same Section township and range containing 40 acres and purchased from the United State. The South W qr of Fractional Section 7. in township 8. S. in range 11. E. containing 157.^{78} acres and purchased from the United States. also the N E¼. of the S W. qr. and the N W¼. of the S W qr of Section 13. in township 7. S. in range 9 E containing 80 acres, and purchased from George Barnet of White County. where said tract is situated The North ½. of the N W qr. of Sec. 30. in township 7. S. in range 10 E. containing 80.^{74} acres and purchased from Wiley A. Shackleford and althea his wife, situate in Gallatin County. The S W¼ of the S E qr of Sec 33. in township 7. S. in range 9. E.

containing 40 acres, and purchased from one John Foster, the E½ of the N W qr. of Sec 13, in the same township and range, containing 40 acres and purchased from one John Wood, The N W¼ of the S W qr. of Sect. 11, in township 7. S in range 8. E. containing 40 acres, and purchased from one William Harget, (situate in White County,) The N. E¼. of the S W. qr Sec 28. in township 7. S. in range 10 E. containing 20 acres, and purchased from one John Gop (situate in Gallatin County) also lot No. 34. in the town of New Haven in said County of Gallatin, purchased from one Davis North, Guardian &c by deed bearing date the 26th April 1836, also the undivided third part of the S E¼. of Sec 17. in township 7. S in range 10. E. containing in all 160. acres. part of the N E. qr. of Sec 20. in the same township and range. containing 150. acres Embracing the town plot of New Haven, The S W. ¼ of Sec 17. in the same township and range containing 160 acres, the N W. ¼ of Sec 20. in the same township and range, containing 160. acres, and the E½ of the S E. qr. of Sec 19. in the same township and range. containing 80 acres and which were purchased by the said Ephraim, Moses M. Rowlings and Alexander Kirkpatrick from one Davies North guardian for the minor heirs of Wm. P. Robinson decd with the Exception of lots in said Town of

Record of Gallatin

[9530-28]

New Haven numbered, 1, 2, 3, 4, 5, 9, 10, 32, 33, 34, 35, 36, 37, 38, 51, 56, 57, 58, 59, 60, 76, + 77, which had been previously disposed of said Robinson in his lifetime, and Excepting also from this conveyance all such lots in said Town of New Haven, as has been bargained and sold, or conveyed away, since the said Gatewood, Rusling and Kirkpatrick became the proprietors of said premises, and the said Ephraim H. Gatewood, party of the first part, reserves the right to enter into a contract of division and to make a partition of the said premises, between himself and his said co-proprietors, of said premises, which when made this conveyance is to attach and cover the Estate and interest which may be such partition fall to his share, in severalty, as fully and to all intents and purposes, as if such partition were now made, and the seperate interest and Estate of said Ephraim therein, herein particularly described, also the following tracts of land, situate in the County of Pope Illinois The N½ Sec 6 in township 16. S in Range 5. E. containing 275.68 acres, and purchased from the United States, also the following tracts of land situate in the County of Alexander Illinois the E½ of ~~the~~ Fractional Sec 32, in township 15. S in Range 1, E. containing 184.48 acres purchased

from the United States, the N½ of the SE qr sec 17, in the same township and range, containing 80 acres, and also purchased from the United States, and the West ½ of the NE qr of Sect 5. in the same township and range, containing 80 acres, also purchased from the United States. To have and to Hold all and singular the before described premises, with the appurtenances thereof unto them the said parties of the second part their successors and assigns forever, as a good and indefeasible estate in fee simple. Nevertheless and this conveyance is made upon this Express condition that Whereas, the said Ephraim H Gatewood party of the first part, stands indebted to the said Bank of Illinois in the just and full sum of twelve thousand five hundred dollars for which he has this day Executed to the said Bank his promissory note, payable seven months after the date thereof, with interest thereon at the rate of 8 per cent, per annum from date till paid. Now if the said Ephraim shall well and truly pay and satisfy said note to the said Bank according to the terms thereof, and in the event of his being allowed by the Board of Directors of said Bank to renew said note for said debt, or any part thereof, shall well and truly satisfy and pay such renewed note according to the terms thereof and so in as often as he shall be allowed to-

Record of Galesburg

[8530-25]

renew the same, shall pay and satisfy such renewed notes respectively according to the terms thereof, then this conveyance to be void, but otherwise to be and remain in full force and absolute at law, and the said Ephraim party of the first reserves the right to retain the possession of the said premises, and Each and every parcel thereof until default shall happen in the foregoing condition, during all which time, he covenants and agrees that he will pay all the taxes and and other legal assessments upon the same, and it is further agreed and understood, by and between the parties to these presents, that the said party of the first part shall be at liberty to sell and convey any portion or the whole of said premises, whenever he may find it convenient to do so, at a fair price he paying over the proceeds of such sale to the said Bank, till the same shall be satisfied for its said debt, and when ever any such sale shall be made and the money so paid over to the said Bank the premises so sold shall be released in due form at law, from the above lien of this Mortgage, In Witness whereof the said parties of the first part, have hereunto set their hands and seals the day and year first above written

E. H. Gatewood (Seal)

Elizabeth Gatewood (Seal)

State of Illinois } Sct.
Gallatin County } Before me the undersigned notary public in and for said County duly Commissioned and Sworn, residing in Shawneetown, in said County, this day appeared Ephraim H. Gatewood, and Elizabeth his wife, both personally known to me to be the real persons, who have subscribed the foregoing deed and severally acknowledged the same to be their free and voluntary act for the purposes therein mentioned, and the said Elizabeth, wife of the said Ephraim, being made acquainted with the contents of said deed and Examined by me seperate and apart from her said husband according to law, She declared that She had Executed the said deed and relinquished her dower in the premises thereby conveyed freely and voluntarily, and without the compulsion of her said husband, all which I do hereby accordingly testify.

Receive of Gatewood

In testimony whereof I the said notary have hereunto set my hand and affixed my notarial Seal at Office in Shawneetown in said County this 29th day of February A.D. 1840

L S

James Dorah
notary public

[8530-30]

Copy of note.

Bank of Illinois.

Shawneetown 19th Feby. 1840

Dollars $12.500 00/100.

Seven months after date I promise to pay the President Directors ~~and~~ and Company of the Bank of Illinois Twelve Thousand five hundred dollars with interest at the rate of Eight per cent per annum, from date until paid, without defalcation, for Value Received

E. H. Gatewood

This Indenture made and entered into this twentieth day of August A D 1840. between Ephraim H. Gatewood of the County of Gallatin and State of Illinois, of the first part, and the President directors & Co. of the Bank of Illinois at Shawneetown, of the second part, Witnesseth that for and in consideration of the sum of five hundred dollars, to the first party in hand paid the receipt of which is hereby acknowledged, the said Ephraim has this day bargained sold and delivered, and by these presents doth grant, bargain, sell, and deliver to the said party of the second part and their Successors — all that certain piece of ground situate in Shawneetown and known and designated on the map of said Town as in lot, numbered one thousand one hundred and Eight (1108) To have and to hold the same to them the said party of the second part and to their Successors as good and indefeasible Estate in fee simple, with all its appurtenances. Nevertheless, and this conveyance is made upon this Express conditions, Whereas the said Ephraim H. Gatewood party of the first part, has this day executed to the said party of the second part, his promissory note, in the words following (to wit.) $500. Bank of Illinois at Shawneetown August.

Recorded of Gallatin

[5530-01]

20th 1840. On or before the 31st day of May next. I promise to pay to the President Directors and Company of the Bank of Illinois, at Shawneetown, Five hundred dollars with interest at the rate of Eight per cent per annum from date until paid, for value received,

E. H. Gatewood"

Now if the said Ephraim shall well and truly pay or cause to be paid the said described note, according to its tenor, or to the satisfaction of the party of the second part, or shall pay any new note of a less amount, that he may give to the said party of the second part then this conveyance to be void, otherwise to be and remain in full force, and effect. In Witness whereof the said party of the first has hereunto subscribed his name and affixed his seal, day and year first above written

E. H. Gatewood (Seal)

Subscribed and acknowledged before me this 20th 1840.

James M Jones J.P.

This Indenture made and entered into this 24th day of September AD 1840, between E. H. Gatewood of Shawneetown, Gallatin County Illinois, of the first part, and the President Directors & Co. of the Bank of Illinois at Shawneetown, in said County, of the second part Witnesseth, That for and in consideration of the sum of Nine hundred & forty dollars to him of the first part in hand paid, the receipt of which is hereby acknowledged hath granted bargained and sold, and by these presents doth grant, bargain, & sell, unto the said parties of the second part, their Successors and assigns forever, all that certain lot or parcel of ground situate in Shawneetown, and known and designated on the plat or map of said Town as a part of in lot numbered (871) Eight hundred & seventy one, being the East part of said lot fronting thirty five feet, on North first street running back North along the the line of Mr. Marshalls lot number 872 the entire depth of said lot, say 104 feet, and thirty five feet in width the whole distance back, being the same which the said E. H. Gatewood bought of John Campbell, by deed bearing date the 28th day of May 1840, & on which he is now erecting a frame warehouse, also all that other certain parcel or lot of Ground —

Recorded of Gallatin

[8536-32]

Situate in Shawneetown & Known and designated, on the plat or map of said Town, as thirty Eight feet front by one hundred & four feet back of the North side in lot numbered Eight hundred & thirty four, which the said E. H. Gatewood purchased of the Estate of Saml Marshall recd, by of the administrator bearing date the 13th day of December 1833, and on which he is now Erecting a brick dwelling house, To have and to hold the above described premises with the appurtenances thereof, unto the said parties of the Second part, their successors & assigns in fee Simple forever, Nevertheless, and this conveyance is made upon this Express condition that whereas the said E. H. Gatewood has this day borrowed from the said Bank of Illinois the Sum of Nine hundred and forty dollars, for which he has this day Executed his promissory note payable Seven months from the date thereof, with Eight pr ct. pr annum interest thereon from due until paid now if the said Gatewood shall well and truly pay the said note when due, or any other note which the directors may allow him to make in renewal of the above mentioned note, or renewed notes, then this conveyance to be null and void, but otherwise to remain in full force & virtue in law, and the said Gatewood, warrants his title to the said property

above described, for himself and his heirs & covenants that the same is not encumbered & that he is well seized of the same, But he reserves the right to retain the possession of the same until default shall be made or happen in the condition of the foregoing conveyance, during all of which time, he agrees that he will pay the taxes and other legal assessments upon the said lots.

Reserve of Possession

In Witness whereof the said Gatewood of the first part, has hereto set his hand and seal the day and year first above written

E. H. Gatewood Esq.

State of Illinois } Sct.
Gallatin County }

Before me James M. Jones a Justice of the Peace, for said County, duly appeared this day E. H. Gatewood to me personally known as the real person who ~~acknowledged~~ subscribed the foregoing Deed and acknowledged the same to be his free and voluntary act, for the purposes therein mentioned Given under my hand and seal this 24th September 1840.

James M. Jones J.P.

State of Illinois } Sct.
Gallatin County }

I Leonard White Recorder in and for the County aforesaid, Certify that I have on this day duly recorded the annexed deed of Mortgage, in my Office, Liber K. folio 561.

[8530-33]

Witness my hand and official seal at Equality this 14th day of October 1840.

Leonard White
By J. Randolph Finley

copy of Note.

Bank of Illinois, Shawneetown 24th Sept 1840.

Dollars $940 00/100.

Seven Months after date I promise to pay to the President Directors and Company of the Bank of Illinois, Nine hundred and forty dollars, with interest at the rate of Eight per cent per annum, from date until paid without defalcation for value received

E. H. Gatewood

This Indenture made this 19th day of February A.D. 1840, between John Charles Stickney and Abby Ann, his wife, of the first part, and the President Directors and Company of the Bank of Illinois at Shawneetown of the second part, Witnesseth, That the said parties of the first part, for and in consideration of the sum of Twelve Thousand dollars, lawful money of the United States, to said John Charles in hand paid the receipt of which is hereby acknowledged, have granted bargained and sold, and by these presents do grant, bargain alien, sell and convey unto the said parties of the second part, their Successors and assigns all those certain lots or parcels of land situate in Shawneetown Gallatin County Illinois and known and described on the map or plat of said Town as in Lots numbered Eleven hundred and Eleven, and Eleven hundred and Twelve, (say 1111, & 1112,) with the buildings and the materials for building thereon. To have and to hold the said premises hereinabove described, with every part and parcel thereof, and with the appurtenances unto them the said parties of the second part, their successors and assigns forever, as a good and indefeasible Estate ~~of~~ in fee Simple, and the said John Charles

Recorded of Gallatin

[2530-3]

for himself, and his heirs, covenants and agrees to and with the said parties of the second part, their successors and assigns that he is well seized of the said premises that they are wholly unincumbered by any act by him done or suffered, Except by a prior Mortgage to said Bank, which this conveyance is designed to replace, and that he will forever Warrant and defend the same against the claims of himself and his heirs and of all other persons whatever,

Nevertheless and this conveyance is made upon this Express condition that Whereas, the said John Charles, and one John Stickney are indebted to the said Bank of Illinois on different liabilities, some due by the said John Charles, individually with other security, and others due by the firm of John Charles Stickney & Co. composed of both of said persons, with other persons liable thereon in the sum of Nine thousand nine hundred dollars Exclusive of interest costs and damages - and with the view to enable the said John Charles, to complete the building now in process of erection on the said lots, the said Bank has agreed to advance to him on Bills for work to be done on, or for materials to be found for said buildings,

Such further sums as with the foregoing debts certain interest with, to the sum of twelve thousand dollars - said bills for work and materials, to be done and furnished to be verified to the satisfaction of the said Board of directors of said Bank and receipted to them, by the persons entitled to receive the same, for said John Charles Stickney. has this day Executed his promissory note, to the said parties of the Second part, payable Twelve months after the the date thereof, with interest thereon at the rate of Eight per cent per annum from the date till paid, with the understanding that at maturity the said John Charles. shall be allowed to renew the same for another period of Twelve months, on paying the interest only, and at the maturity of the second note, to be allowed to renew the same, on paying the interest and one thousand dollars of the principal, and so on, to be allowed to renew at the end of Every twelve months on paying the interest and one thousand dollars, of the principal at each renewal until the whole debt shall be fully paid and satisfied - and with the further understanding that the said Bank shall keep an interest account, with the said John Charles in respect, to the money to be —

Record of Collection

[8536-38]

advanced over and above the present liabilities, so that the said John Charles shall not be required to pay interest on the whole Twelve thousand Dollars, until the whole shall be paid out for his use as aforesaid, Now if the said John Charles shall faithfully comply with the terms of said agreement by renewing the first note, this day given to the said Bank, and paying the interest which shall be due thereon at its maturity and of the maturity of the second note shall faithfully renew the same, and pay up the interest then due with one thousand dollars of the principal debt, and so on, as often as he shall renew the same, at regular periods of twelve months, shall faithfully pay up the interest then due, with one thousand dollars of the principal at each renewal then this ~~obligation~~ conveyance to be void but otherwise in case of a failure in any or either of the several renewals contemplated in this condition to pay the interest on the interest and one thousand dollars of the principal debt then this conveyance to remain absolute at law, and the said parties of the second part, to be at liberty to foreclose the same, and the said John Charles reserves the right to continue in

Possession of the said premises, until a breach of the foregoing condition shall occur during all which time he covenants and agrees that he will pay all taxes or other assessments, upon the same, and will cause the same to be insured, and kept so. so long as any part of the said principal debt shall remain unpaid.

Record of Execution

In Witness Whereof, the said parties of the first part, have hereto set their hands and seals, this day and year first above written

John Charles Stickney (seal)
Abby Ann Stickney (seal)

State of Illinois } Set.
Gallatin County } Before me the undersigned a notary Public in and for said County, duly commissioned and Sworn, this day appeared John Charles Stickney and Abby Ann, his wife, both personally known to me to be the real persons, who have Subscribed the foregoing deed, and Severally acknowledged the same, to be their free and voluntary act. And the said Abby Ann, wife of the said John Charles, being made acquainted with the contents, of said deed and Examined by me Seperate and apart from her said

[8530-36]

husband, according to law. She declared that she had executed the said Deed and relinquished her right of dower in the premises thereby conveyed, freely and Voluntarily and without the compulsion of her said husband, all of which I do hereby accordingly certify.

In testimony whereof I have ~~hereu~~ set my hand and affixed my notarial Seal, at my office in Shawneetown in said County, this 24th day of February A D 1840.

Seal

James Darroh not Pubc

State of Illinois }
Gallatin County } I Leonard White recorder in and for said County, do hereby certify that I have duly Recorded the within Mortgage in my office in Book H. Page 333. In testimony whereof I have hereunto set my hand and the seal of my said Office at Equality this 10th day of March A.D. 1840.

Leo White

upon the filing of which bill and Exhibit a summons was issued as follows,

State of Illinois } The people of the state of
Gallatin County } Illinois, to the sheriff
of said County Greeting

Return of Gallatin

We command you to summon Elizabeth Gatewood, William J. Gatewood, Theodore Gatewood William Fellows, Cornelius Fellows, Benjamin J. Adams, Horatio D. Newcomb, Warren Newcomb & James Dunlap, 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 Shawneetown on the 3rd Monday in the Month of November next, to answer to a Bill of complaint filed in our said Circuit Court, on the chancery side thereof, against them, by Albert G. Caldwell & Ebenezer Z. Ryan, assignees of the President Directors & Co. of the Bank of Illinois, and hereof make due return to our said Court, as the law directs, Witness J. E. Hall Clerk of our said Court and the seal thereof at Shawneetown 13th day of September A.D. 1850.

J. E. Hall clerk

And the said complainants filed an Affidavit of continuance as follows,

[8536.37]

41

State of Illinois } ss. } Circuit Court of Gallatin
Gallatin County } } County In Chancery
November Term A.D. 1850.

Albert G. Caldwell
& Ebenezer F. Ryan
vs
Elizabeth Gatewood
William J. Gatewood
Theodore Gatewood
William Fellows
Cornelius Fellows
Benjamin J. Adams
Horatio D. Newcomb
Warren Newcomb
James Dunlap
} in Chancery

This day personally appeared before the undersigned Clerk of the Circuit Court of Gallatin County, Albert G. Caldwell, who being first duly sworn, declares to the best of his knowledge & belief that William Fellows, Cornelius Fellows Benjamin J. Adams, Horatio D. Newcomb and Warren Newcomb defendants in the above entitled cause, are non Residents of this State, residing in the State of Kentucky and that William J. Gatewood another of said defendants, now residing out of this State, in the Territory of California, so that the advertising process of law by ~~which~~ Summons cannot be served upon him, whereupon the complainants require notice

to be given them by publication,
Subscribed & sworn to this 10th day of September 1850 — A. G. Caldwell
J. E. Hall.

Upon the filing of which affidavit, ~~on motion~~ a notice was published as follows

Record of Galentin

Satisfactory affidavit being filed in my office in the above entitled cause of the non-residence of William Fellows, Cornelius Fellows, Benjamin F. Adams, Horatio D Newcomb, Warren Newcomb and William G. Gatewood, a portion of said defendants, the said non-residents will take notice, that the said complainants have filed against them their Bill in Chancery for foreclosure of a mortgage and general relief in said Court of Chancery in Gallatin County That Summons has issued from said Court against them and their Co-defendants, Elizabeth Gatewood, and Theodore Gatewood returnable to the November Term of said Court AD 1850, to be commenced and holden at the Court House in Shawneetown, in said County on the third Monday of November next when & where said Defendants are required to appear plead answer or demur to said Bill or in the event, of their failure so to do the said Bill will be taken for

42. confessed and a decree entered against them.
Witness John E. Hall, Clerk of the Gallatin Circuit
Seal Court at office in Shawneetown this 12th day of
September 1850. John E. Hall clerk G.C.C
Septr 13th 1850.

State of Illinois }
Gallatin County } I William Edwards one of the
Editors and publishers, of the Southern Illinois
Democrat, a public newspaper published
weekly in Shawneetown Illinois, do certify that
the notice of publication in the Case of Albert
G Coldwell, & Ebenezer F. Ryan assignees of
the President Directors & Co of the Bank of
Illinois at Shawneetown, against Elizabeth
Gatewood and Others a copy of which is
hereunto attached was published in said
paper four weeks in succession the first
publication was made on the 13th day of
September 1850, and the last on the 4th day
of October 1850, all which appears by the
files of said paper in my possession.
Given under my hand this 21st Oct, 1850.
Wm Edwards.
The foregoing certificate signed & sworn
to before me this 21st day of October 1851.
J. E. Hall

And afterwards at the November Term 1850 of said Court, "Comes the complainants and moved the Court to appoint a Guardian ad-litem for the minor heirs of E. H. Gatewood deceased, whereupon the Court appointed John E Heall, Esqr. such Guardian, and ruled him to answer next monday morning nine O'clock,"

Record of Gatewood

The said John E. Heall, appointed Guardian Ad-litem in said cause filed his answer as follows, [The Sheriff having returned on the Summons issued herein as follows, "Executed on Mrs. E. Gatewood 1st. September 1850, by leaving with her a true copy of the within Summons, and on Theodore Gatewood by leaving a true copy of the within Summons with E. Gatewood, a white person over the age of ten years, who is the head of the family to which the said Theodore belongs and informing her of the contents thereof, at her said place of residence Sept 18th 1850,

J. S. Watters S G C"]

43. Albert G Caldwell & Ebenezer Ty. Ryan assignees of the Bank of Illinois

vs

Elizabeth Gatewood
William J. Gatewood
Theodore Gatewood
Wm Fellows et al

In the Gallatin Circuit Court, November Term 1850.

Bill to foreclose & General relief against incumbrances

I John E Hall guardian ad-litem of Wm J. Gatewood, & Theodore Gatewood minors heirs of Ephraim H. Gatewood, deceased & defendants in the above entitled cause, for answer says that he has examined said complainants Bill &c, & that he knows no reason why Judgment should not go against them in the premises, so far as they are concerned Except for the in lots No. 1111 & 1112 & Buildings thereon, for that because to wit, on the 22nd day of Aug. 1843, John Siddall as cashier of the Bank of Illinois, acknowledged to have Received Satisfaction in full for the Mortgage Given by J. Charles Stickney on the above named property, by entering the Same on the margin of the record Book of said mortgage, as will more fully ~~appear~~ by reference to the Bill of complainants & the Records of the County, & further States

for answer that the aforesaid, W. J. & Theodore Gatewood are minors & incapable of guarding their interests &c and asks the Court to guard and protect, their interests in this behalf, not suffering anything to be adjudged against them for lack of legal diligence & defence on their part, and prays the Court, to grant them all the relief from the defects of said Bill, which may be Equitable &c, & he will ever pray &c. and prays to be hence dismissed with his reasonable costs &c.

Record of Gatewood

John E. Heath
Guardian Ad-litem

To which answer the complainants afterwards filed the following replication,
The said complainants for replication to the answer of William J. Gatewood & Theodore Gatewood, by their Guardian ad litem, says, the matters and things stated and alledged in the bill are true certain and sufficient, and that the matters stated in said answer are uncertain untrue & therefore he prays for decree &c

Wm Thomas Solicitor
for complts.

and afterwards at the September term 1851, of said Court, the following proceedings were had

[8530-40]

Albert G Caldwell & Ebenezer G Ryan assignee of the President Directors & company of the Bank of Illinois — } September Term 1851. final order

against } In Chancery.

E. H Gatewood

It being made to appear to the Court that Albert G Caldwell has deported this life, it is ordered that this cause stands and be proceeded in, in the name of Ebenezer G Ryan as surviving assignee,

And afterwards at the same term September 1851, the following order was entered,

Bank vs. Elizabeth Gatewood & Others &c,

On this day came the complainants by Thomas their attorney and moved the Court, to appoint a receiver herein to receive the rents and profits arising from the mortgaged premises,

upon the making of which motion an affidavit was filed as follows.

State of Illinois Gallatin County
In the Circuit Court of said County } S.

Ebenezer F. Ryan surviving assignee of the President Directors & Company of the Bank of Illinois
against
Elizabeth Galewood & others

In Chancery.

Recorded of Gallatin

William Thomas being duly sworn states, that by an order of the Circuit Court of the United States for the District of Illinois entered in a cause pending before said Court, in favor of the Bank of Missouri, complainants against David A. Smith & Others, defendants, of the July Term 1851, this deponent, deponent, was appointed Trustee of the Bank of Illinois for the purpose of finally winding and closing its business and affairs, vested with power to prosecute suits & claims in favor of said President Directors & Co or in favor of the assignees in the name of said assignees or the survivors that upon Examination of the Notes & Mortgages, referred to in this Bill filed in this cause he finds that there is due to complainants more than fifty thousand dollars (50000) that upon enquiry made in regard to the value of the mortgaged premises he has become, and is satisfied that said premises are not worth anything like the amt. due as aforesaid, that said premises

[8530-41]

45. Will not likely sell per one half of said amt.
He further states that he is informed and
believes that the following named persons occupy
portions of said property under leases or contracts
with Elizabeth Gatewood, viz. John McRee,
Peoples & Thomas Ridgeway, Thomas G. Ridgeway
John T. Knox, John Kirkpatrick, James Peyton
Henry Ruckle, Daniel T. Hazen, Doct. Charles
Bishop, Charles Redman, & James H. Heat.
Dr Samuel A. Dockes, and John W. Sunnell
that he notified said Tenants on the 18th Septem
ber 1851, that he as trustee as aforesaid was
entitled to the rents of the premises so occupied
by them and would require payment thereof
from said date. he further states that he is
informed and believes that said Mortgaged
premises or the improved part thereof require
repairs and that a large amount should
now be applied to the repairs of said property
He further states that upon lot 1111 & 1112, or one
of them there is a block of Brick Buildings
occupied as a Tavern in part and partly
Occupied as Stores, offices and family residence
said Buildings require repairing and should
be insured against fire and other casualties
the said Thomas per the foregoing recitals asks
that a receiver be appointed to take charge of
the whole of the mortgaged ~~property~~ premises

& rent them and use the rents in making repairs and in keeping the property insured so far as necessary and the residue apply to the payment of Interest on the amount, due complainant

Wm Thomas.

Subscribed and Sworn to before me this 7th Oct. 1851.
John C. Hall clerk.

Process of Galleation

And at the September term 1851, aforesaid the Court made the following order,

First,

On this day came again the complainants and shows to the Court, that upon the filing of the bill herein an affidavit was filed with the clerk of this Court, showing the nonresidence of defendants William Fellows, Caroline Fellows Benjamin J Adams, Horatio D. Newcomb Warren Newcomb, and William J. Gatewood and also Exhibit and filed a certificate and affidavit, showing that ~~affid~~ notice of the pendency of this suit was published in the Southern Illinois Democrat, a public newspaper published at Shawneetown Illinois, four weeks in succession, before the last term of this Court, and the said defendants failing to appear and answer herein, it is ordered that the said Bill in

respect to and against the said non residents be and the same is hereby taken as confessed.

Second

Ebenezer Z Ryan survivor of Albert G Caldwell & Ebenezer Z Ryan assignee of the President Directors & co of the Bank of Illinois

against

Elizabeth Gatewood & others

James Dunlap

against

Elizabeth Gatewood & others

William C Fillans & co.

against

Elizabeth Gatewood & others

The complainants in each of the foregoing causes, submitted motions on a former day of the present term of the Court, for the appointment of a receiver to take charge of the Mortgaged premises, and receive the rents and profits thereof until the said cases are finally disposed of, upon the hearing of which motions William Thomas trustee of the Bank of Illinois presented an affidavit which is filed and made part of the Record, and the said motion having been argued by the Solicitors of said complainants and defendants, Elizabeth Gatewood, and the Court, being sufficiently

advised therein, it is hereby Ordered that John C. Hall be and he is hereby appointed receiver upon the motion aforesaid who is hereby authorized and required to take possession of the following parts or parcels of the said Mortgaged premises viz: in lots No 1111. & 1112. in Shawnetown. The East part in lot No 871. fronting 35 feet on first North Street and running back north with the line of Mrs Marshalls (No. 872) the entire depth of said lot say 104 feet in lot No. 1124. also lot numbered 24 in New Haven. and that he require the tenants in possession of said premises severally to allow and pay the rents, thereof to him that he rent the premises unoccupied as well as those to which the terms of the Tenants have or may insue to the highest bidder per month for the same terms not exceeding ~~twelve months~~ one year from the date of this order requiring the payment of rent at the end of every three months, and security for such payment, and also stipulations for surrendering possession to him at the Expiration of the terms and for keeping the property in tenantable repairs. It is further Ordered that the receiver, and the first money received for rent in paying for necessary repairs so as to prevent decay and keep the premises in tenantable repairs, and in paying taxes assessed upon said premises ——

Recorded of Gallatin

[28536-43]

47. It is further Ordered that said Receiver in renting said property, or any part thereof may Stipulate with Tenants, making repairs and paying taxes in Satisfaction of rents, the money received for rents after making the appropriations herein Specified to be Kept, Subject to the further orders of the Court. It is further ordered by the Court, that defendant Elizabeth Gatewood be permitted to retain possession of the following parcels of Said Mortgaged premises until the further Order of the Court, on consideration that she will Keep the said Building with the appurtenances thereof in good tenantable repair, and pay the taxes thereon, to wit, the North part of in lot number 1834, Shownetown on which E. H. Gatewood Erected a Brick ~~Dwelling~~ house, the part consisting of 38 feet front and running Back the length of the lot, that She be not required to Expend for the purposes of said more than the rent of said property is Reasonably worth and in case she refuse to make such Expenditure, then the receiver will report that fact together with a Statement of the conditions of said property to the Special term of this Court, to be held in February next. the Court further Orders that said receiver report his action under this Order at Each term of the Court

October 14th 1851 Demurrer filed by James Dunlap

State of Illinois Gallatin Circuit Court September
Term A.D. 1850.

Recorder of Gallatin

The Demurrer of James Dunlap one of the Defendants to the Bill of complainants of E. Z. Ryan surviving assignee of the Bank of Illinois complainant. This defendant by protestation not confessing or acknowledging all or any of the matters and things in said complainants Bill contained to be true in such manner & form as the same are herein & hereby set forth & alledged doth demur in law to the said Bill and for cause of demurrer saith that it appears by the said complainants own showing by his said Bill of complaint that said Complainants is not entitled to the discovery and relief prayed by his said bill against this defendants first — Because the said Bill is Exhibited against this and the other defendants thereto for several distinct matters & causes in money, whereof it appears this defendant is not in any manner interested or concerned.

Second — Because by joining distinct matters together which do not depend on each other the pleadings ~~in~~ orders and proceedings will in the progress of the suit be intricate & prolix and this defendant put to unnecessary Expence although several parts of said bill in no way relate to or concern him.

[8-500-44]

48. third— Because the said John Choates Stickney and Abby Ann, his wife, are not made parties to said Bill, although it appears thereby that the said John and Abby Ann, Executed their mortgage, to the said Bank of Illinois, on said lots No. 1111, & 1112, in Shawneetown, and although the said complainant by his said Bill prays a foreclosure of said Mortgage as a prior and subsisting lien on said lots, & the sale of the same for the benefit of said complainants as such assignee as aforesaid,

Fourth— Because it appears by said Bill that the said complainants— prays foreclosure of the said Stickneys Mortgage, and the sale of the said Mortgaged property, for the benefit of said complainants as such assignee aforesaid although it is admitted in said bill that said Mortgage after being fully Satisfied was released and Extinguished by the Cashier of said Bank with the consent and by the authority of said Bank,

Fifth— Because, the said Bill is multifarious contradictory, uncertain and double in this, that although it is admitted therein that Stickneys Mortgage was Satisfied & released as aforesaid and although it is admitted that the said Mortgage Executed by the said E. H. Gatewood & Elizabeth his wife on said lots No. 1111, & 1112, was received by said Bank in lieu of the said

Stickney Mortgage, yet the foreclosure of both of said Mortgages & and the sale of said Mortgaged property, is prayed in said Bill, and because it is prayed in said Bill, that said release of the said Stickneys Mortgage be set aside on the ground of unalledged inadvertance or mistake on the part of said Bank as the legal Effect of said release. Wherefore and for divers other & good & sufficient causes of Demurrer to said bill, this defendant doth demur to the same & to all the matters & things therein contained, and prays the judgment of this Hon. Court whether he should be compelled to make any further or other answer to said bill and he prays to be hence dismissed with his honorable costs on this behalf sustained

James Dunlap Defr

By

McClernand his Solicitor

Recovery of Gallantin

To which demurrer the complainant replies as follows.

[6530-487]

49.

Ebenezer Z. Ryan survivor of
Albert G. Caldwell assignee
of the Bank of Illinois
against
Elizabeth Gatewood

In Chancery

And the said complainants for answer
to demurrer filed having on the 14th October 1851.
by defendant, James Dunlap. Says. that the
matters and things stated and charged in the
Bill aforesaid are sufficient to entitle him
to have and mention bill and suit aforesaid
and this & whereupon he prays for a decree as
in the Bill &c.

Wm Shemos.
Solicitor for complaint.

on the 21st October 1851. the defendants Horatio
Newcomb, Warren Newcomb, William Fellows
Cornelius Fellows and Benjamin F Adams.
filed their demurrer herein as follows,

In Chancery. State of Illinois Galletin Circuit
Court. September term 1851.
The Demurrer of Horatio Newcomb. Warren
Newcomb. William Fellows. Cornelius Fellows
& Benjamin F Adams. defendants. to the Bill
of Complaint of E Z Ryan. & A. G. Caldwell
assignee of the Bank of Illinois Complainants herein

The defts. by protestation not confessing or acknowledging, all or any of the matters & things in the said complainants Bill contained to be true in such manner and form as therein set forth, doth demur & for cause show that it appears by said complainants own showing in said Bill that said complainants are not entitled to the discovery & Relief prayed by his said bill against the defendant

Record of Collection

First – Because said Bill is Exhibited against these defendants, & the other defendants thereto for sevral distinct matters & causes as may whereof it appears this defendant is not in any manner concerned or interested, 2nd because by joining distinct matters together which do not depend on each other the pleadings orders & proceedings will in the progress of said suit come to be intricate & prolix & these defendants put to unnecessary Expence, although sevral parts of said Bill no way relates to or concerns them.

3rd Because said Bill is not sworn to being in the nature of a bill of discovery and should be

4th, Because the said John Charles Stickney & Abby ann his wife are not made parties to the Bill, although it appears by said bill they are parties thereto, 5th Because the complainant pray a foreclosure of Stickneys Mortgage for Benefit~~ing~~ of Complainants although it is admitted that said Mortgage was release

50. and Satisfied. 6th Because Said Bill is multifarious, contradictory, uncertain and double in this that altho. it is admitted therein that the Stickney Mortgage was Satisfied & released and discharged as aforesaid, and altho. it is admitted that Sd. Mortgage Executed by Sd. E. H. Gatewood & wife on lot No. 1111. & 1112. was Rec. by Said Bank in lieu of Said Stickneys Mortgage, yet the foreclosure of Both of Sd. Mortgages & Sale, of Sd. mortgaged property, is prayed in Said Bill, and because it is prayed in said Bill that said release of Said Stickneys mortgage be set aside on the ~~ground~~ ground of an alledged madventure or mistake on part of Said Bank as the legal effect of Said release, whereupon and for divers other good and Sufficient causes of Demurrer appearing on face of Said Bill. the defendant doth Demur & to all matters &c,

Posey for Deft,

To which demurrer the complainants replied as follows,

State of Illinois Gallatin County
In the Circuit Court of said County

Ebenezer Z Ryan surviving
assignee of Bk. of Illinois
against
Elizabeth Gatewood

In Chancery.

And the said complainants for answer to the Demurrer filed herein on the 21st October 1851, by the defendants, Horatio Newcomb Warren Newcomb William Fellows, Cornelius Fellows, Benjamin F. Adams, says that the matters and things contained and set forth in the Bill aforesaid are sufficient to entitle the complainants to have and maintain his Bill and Suit aforesaid and of this he prays Judgment, of the Court whereof &c

Wm Thomas Solicitor &c

Record of Execution.

And afterwards at the March Term 1852, of said Court, this Cause was continued,

In Gallatin County Circuit court,

Ebenezer Z. Ryan survivor &c.
assignee of Bank of Illinois
against
E. H. Gatewood

Chancery.

On the 27th July 1852, the said complainants filed an amended bill as follows,

[853847]

51

State of Illinois Gallatin County.

In the Circuit Court of said County.

Albert G. Caldwell & Ebenezer Z. Ryan
assignees of ~~the~~ Bank of Illinois
against
E. H. Gatewood

In chancery.

The complainants, Ebenezer Z Ryan survivor of &c, by leave of the Court, State that Abner Flanders, public administrator, of Gallatin County was duly constituted administrator of the Estate of said Ephraim H Gatewood deceased, and the said complainants prays that said Flanders be made defendant, in this cause and be required to answer the Bill herein, and upon a hearing of the cause that such decree be entered against said Flanders as such administrator as the facts in the cause may justify and complainant as in duty bound will ever pray &c,

Wm Thomas
solicitors for complainants

To which amended bill the said Flanders answered as follows

State of Illinois, Gallatin County } ss.
In the Circuit Court of said County

Ebenezer Z. Ryan, surviving assignee
of the Bank of Illinois
against
Elizabeth Gatewood & others

In Chancery.

Receiver of Collection

The defendant Abner Flanders, for answer to said Bill or so much thereof as he is advised is material for him to answer unto says that as public administrator of Gallatin County he took upon himself the administration of the Estate of Ephraim H. Gatewood deceased that upon entering upon his duties he possessed the personal property of said Gatewood in possession of the widow, and the Sheriff of Gallatin County, both claiming the right she insisting, that said personal estate should be set off to her as her seperate Estate & the Sheriff insisting that he was entitled to the same ~~of~~ by virtue of lien of Execution the widows special dower was set off, to her and there was about $20, worth of property left which was turned over to the Sheriff he therefore has Warrants with which to pay the debts & claims set out in the Bill. the defendant, further answering says that he knows nothing of the facts connected with the indebtedness and Execution of Mortgages, stated in the Except,

[4530-48]

what appears from said Bill, and the records of the County and having fully answered prays to be dismissed with his costs.

Abner Flanders.

And afterwards at the said July Term 1852 the following Orders and decrees were entered in said Cause,

William Fellows & Co. & James Dunlap having filed several Demurrers to the Bill herein which were joined by the complainant, and the question of law arising upon said demurrers as having been argued it is the opinion of the Court that the said bill so far as it relates to James Dunlap, William Fellows, Cornelius Fellows & Benjamin J Adams, Horatio D. Newcomb, & Warren Newcomb is multifarious and the demurrers aforesaid are submitted, to said Bill, so far as it seeks any remedy or relief as against the said last named defendants or the property covered by the mortgages alleged to have been Executed to them by the said Ephraim H. Gatewood, in his life time the Court does therefore Order that so much of said Bill as seeks remedy against the said last named defendants and a decree for the sale, of the property mortgaged to them be dismissed without prejudice in respect to the rights of the complainant as against the other parties.

Record of Collection

The Court having upon the decision of the question arising upon the demurrer to the Bill in this Court, dismissed the said Bill in Respect to all the parties Except the defendant Elizabeth Gatewood William J. Gatewood & Theodore Gatewood, &——

[5530-49]

Abner Flanders, Administrator &c and the Cause coming on for hearing as between said complainants and said defendants Elizabeth Gatewood, upon her demurer to said Bill joined by said Complainants. It is Ordered that the said demurer be overruled and said Elizabeth not further answering in the premises, It is ordered that the bill as to her be taken as confessed the cause was then heard upon the Bill answer of said defendants, Abner Flanders Administrator of E. H. Gatewood deceased, & William J. Gatewood & Theodore Gatewood by their Guardian Ad litem replication and Exhibits, and the Court having fully advised thereof. doth find, order and decree as follows, First, that there is due to the said complainants on the debt secured by the Mortgage Executed by John C. Stickney & wife to the President Directors & Company of the Bank of Illinois dated the 19th February 1840, & for the payment of which the note of Ephraim H. Gatewood was substituted in that of said Stickney the sum of $2295.66 to secure the payment of which there was conveyed by the Mortgage executed by said Stickney as aforesaid the lots no 1111 & 1112, in Shawneetown also the following described

Real Estate conveyed by the mortgage Executed by said Ephraim H. Gatewood and Elizabeth Gatewood his wife, dated 19th August 1843, and recorded by the recorder of Gallatin County, on the 7th day of September 1843, to wit a certain tract of land situate in Gallatin County, Known and Bounded as follows commencing at the NE. corner of the SE qr. of Section 36, Township 8. S Range 10. E. running from thence due West 51 poles, with the half section line to a Stake thence due South 158. poles to a Stake, thence due East 51 poles to a Stake upon the range line, thence due north with the Range line to the place of Beginning, containing 50 acres & 58 poles more or less, also part in lot in Shawneetown in said County numbered upon the plot as in lot 871, being the East part, of said lot following, 35 feet, on first north Street and running back North along the line of Mrs. Marshall's lot No 872, the entire depth of said lot, say 104. feet, and 30 feet in width the whole distance back, being the same conveyed to said Ephraim H. Gatewood by John Campbell by deed bearing date 28th May 1840, and thereafter mortgaged by said Gatewood, to the said Bank of Illinois also a part of in lot No 834, in Shawneetown

Recorded 7 September

[8530-50]

being the North part of said lot, running 38 feet in front, and the whole distance back, purchased by the said E. H. Gatewood of the Estate of Samuel Marshall, being the same ground whereon the said Gatewood Erected a Brick dwelling, and the same Mortgaged by said Gatewood to the said Bank of Illinois, also in lot no. 1108, + 842, previously Mortgaged by the said Ephraim H. Gatewood to the said Bank of Illinois, Second that there is due to said complainants on the Mortgage Executed by the said Ephraim H Gatewood, to the President Directors + co of the Bank of Illinois, dated 20th August 1840, the sum of $946,20 to secure the payment of which there was conveyed by said Mortgage in lot No 1108, Third - That there is due to said complainants on the Mortgage Executed by the said Ephraim H. Gatewood and Elizabeth Gatewood to the President and Directors + co of the Bank of Illinois, dated 19th February 1840 and recorded by the recorder of Gallatin County on the 14th day of March 1840, $2437,22, and that there was conveyed by said Mortgage to secure the payment of said sum of Money the following Real Estate to wit out Lots in Shawneetown numbered, numbered on the map or plat of said Town by numbers,

157, 158, 159, 190, 192, 193, 194, 227, & 228, containing six acres each in lots in said Town numbered as aforesaid, by numbers 84 27, 124 the former purchased from D. W. Lathrop, and the latter from Thomas C. Brown also the following Lands Situated in the County of Gallatin viz, the undivided fourth part, of the S½, N E¼ and the S E¼, of Section 22, of the E½, of Section 27, of the N E¼, Section 29, the S E¼, S E¼ Sect 20, and the E½, N W¼, Sect 27, all in Township 8. S. Range 6. East, the S E¼, N E¼ Sect 29, T. 7. S R 10 E, W½, N E¼ Sect 29, T. 7. S R 10. E, N E¼, N E¼, Sect, 29, T. 7. S R 10. E, N W¼, S E¼, Sect 30, T. 7. S R 10. E, S W¼, S E¼ Sect 20 T. 7. S R. 10. E, S W fraction Sect 7, T 8. S R 11. E, 58 75/100 acres N E¼, S W¼, Sect. 13, T. 7. S R 9. E, N W¼, S W¼, Sect 13, T. 7. S R 9. E, in white County, Illinois N½ N W¼, Sect 30, T. 7. S R. 10 E, in Gallatin County, S W¼ S E¼, Sect 33, T. 7. S R 9 E, E½ N W¼, Sect 13 T. 7 S R. 9 E, N W¼ S W¼ Sect. 11, T. 7. S R 8. E, in White County, N E¼, S W½ Sect 28, T. 7. S R. 10 E, 20 Acres, in Gallatin County, Sect. 34, in Shawneetown the undivided 1/3 part S E¼ Sect 17, T. 7. S R. 10 E, part of N E¼, Sect 20, T. 7. S R 10 E Embracing the Town plot of New Haven, S W¼ Sect 17, T. 7. S R 10 E, N W¼, Sect 20, T. 7. S R 10 E, & E½ S E¼, Sect 19, T. 7. S R 10. E, Excepting lots in New Haven 1, 2, 3, 4, 9, 10, 32, 33, 34, 35, 36, 37, 38, 51, 56 57, 58, 59, 60, 76 & 77, which have been previously disposed of, by Robinson the former owner

Record of Gallatin

[8530-51]

thereof, and Excepting also all such lots in the said Town of New Haven as had been bargained, sold or contracted away by Gatewood, Rawlings and Kirkpatrick former proprietors of the premises previous to the 19th February 1840, also N½ Sect 6. T. 16. S R 5 East 275 68/100 acres in Pope County, and E½ frac Sect 32. T. 15. S R 1 E. 184 48/100 acres, N½ S E¼ Sect. 17. T. 15. S R 1 E. & W½ N E¼. Sect. 5. T. 15. S R 1 E. in Alexander County

Fourth, that there is due to said complainants upon the Mortgage Executed by the said Ephraim H Gatewood and Elizabeth Gatewood his wife bearing date 3rd March 1841, filed for Record by the Recorder of Gallatin County on the 16th March 1841, and recorded on the 23rd of April 1841, the sum of 1494.93, and that there was conveyed by said Mortgage to secure the payment of said sum of Money, that certain tract or parcel of land situate in Shawneetown, and known and designated on the plot in, in lot No 542, which said sums are ascertained to be due by the production of the notes, of said Gatewood, filed in the papers of the Cause whereupon the Court does further order and decree, that the said defendants on or before the first Monday in September next do pay to the said complainants, or to John E. Hall master in Chancery of Gallatin County

For the use of said Complainants the several sums of Money found and decreed to be due as aforesaid in the notes or certificates of the Bank of Illinois, and the costs of this suit, in Current money otherwise that they stand and be foreclosed of and from all Equity of Redemption in and to the several town lots and tracts of land conveyed by the Mortgage aforesaid, and that the said lots and lands, Except in lots No 1111 & 1112 in Shawneetown, be Severally Sold, to satisfy the Several amounts to Secure, which they were mortgaged as aforesaid, it is further Ordered and decreed, by the Court, that the said Sale be made at the Gatewood House in Shawneetown at public Vendue to the highest bidder for notes or certificates of the Bank of Illinois, and Sufficient current money to pay costs, of this suit. It is further Ordered that notice of the time place & terms of said Sale be published in the Shawneetown Argus four weeks before the day of said Sale, and John E. Hall Master in Chancery of Gallatin County, is hereby appointed, and ordered to Execute this decree who is vested with power to make the sale aforesaid, and to convey to purchasers all the rights, and title of the parties to this suit

Record of Gallatin

[8520-52]

56. in and to the premises, which he may sell under this decree, It is further Ordered that said Master make a report of his proceedings herein to this Court, and the Court further orders that possession of the said lots and lands be surrendered to the purchasers on completion of the purchase,

And afterwards at a term of said Court continued and held on the 23rd December 1852, the said John E. Hall appointed commissioner to make the sale required by the decree herein, made the following Report.

State of Illinois Gallatin County } ss
In the Circuit Court of said County

Ebenezer Z Ryan surviving assignee
of the Bank of Illinois
against
Elizabeth Gatewood & others

In Chancery

Record of Execution

In obedience to the Decree entered in this Court at the July Term 1852, of this Court and in the Execution thereof, the parties having failed to making any payment, I published a notice in the Shawneetown Argus, a public News paper published weekly in Shawneetown Illinois, on the Third day of September 1852 the publication of which was continued four weeks in succession thereafter stating that I would attend at the Gatewood house in Shawneetown on the 19th day of October 1852, between the hours of ten O'clock A.M. and five O'clock P.M. and offer for Sale at public Vendue to the highest bidder for cash the Lands and Lots required to be sold, describing the same as in the decree,

And at the time and place aforesaid I attended and offered the Said Lands and Lots, for Sale in the manner, and upon the terms stated in the notice, and the Same was Sold to the highest bidder as follows,

To William Thomas Trustee of the Bank of

[8536-53]

57. Illinois, the North half of the North West quarter of Section thirty in Township Seven South of Range ten East, at Two hundred and one dollars and Eighty five cents. The East half of the South East quarter of Section nineteen in Town Seven, South of Range ten East at one hundred and twelve dollars, the North West quarter of the South West quarter of Section Eleven, in township Seven South of Range Eight East, at Fifty dollars, The undivided third part of the following lots of land on parts of which the Town of New Haven is located, The South East quarter of Section seventeen, containing 53 33/100 acres, the North East quarter of Section of Section Twenty 150, acres, the South West quarter of Section seventeen 160, acres, and the North West quarter of Section thirty 160, all in Township Seven South of Range ten East, Excepting lots in New Haven numbered 1, 2, 3, 4, 9, 10, 32, 33, 34, 35, 36, 37, 38, 51, 56, 57, 58, 59, 60, 76, 77, and Excepting all such Lots in said town as have been bargained, Sold or contracted away by Gatewood, Rawlings and Kirkpatrick former proprietors of the premises, previous to the 19th day of February 1840, At Three ~~hundred and~~ Thousand Seven hundred and fifty dollars,

The undivided third of the East half of the South East quarter of Section nineteen in township and Range aforesaid, at thirty seven dollars and thirty four cents, to James Dunlap, the tract of land situated in Gallatin County, bounded as follows, commencing at the North East corner, of the South East quarter of Section thirty Six in township Eight South of Range Ten East running thence due West fifty one poles, with the one half Section line to a stake, thence due South, one hundred and fifty eight poles, to a Stake, thence due East fifty one poles to a Stake, upon the range line, thence due North to the place of begining containing fifty acres, fifty eight poles, more or less, at five hundred Eight dollars, Sixty Six cents, to William Thomas Trustee of Bank of Illinois, Lot numbered thirty four in New Haven at Three hundred dollars, The North West quarter, of the South West quarter of Section Eleven in Township Seven South of Range Eight East, at fifty dollars, The Undivided Fourth part, of the following Lots of land, to wit, The South half of the North East quarter of Section Twenty two, The South East quarter of Section Twenty two, the East half of Section twenty seven The East half of the North West quarter of

Record of Location

Section Twenty Seven, The North East quarter of ~~the South East quarter~~ Section twenty nine The South East quarter of the South East quarter of Section twenty, all in Township Eight South of Range Six East, of the Third principal meridian, at Three hundred and forty Eight dollars and Sixty two cents. To Eli Sanders, the South West quarter of the South East quarter of Section thirty three, in Township Seven South of Range Nine East, at Sixty Eight dollars, to Stephen R. Rowan The South West fractional quarter of Section Seven in Township Eight South of Range Eleven East containing 157 78/100 acres, at Six Hundred Eighty one Dollars, Sixty one cents To Thomas J. Hicks, part the North East quarter of the South West quarter of Section 28 in township Seven South of Range Ten East, twenty acres, at twenty dollars, To Orvil Pool, Out Lot 157, in Shawneetown at Sixty dollars also out Lots 158, 159, 190, 191, 192, 193, 194, 227, and 228, at Sixty dollars seventy three cents each, To John T. Jones, in lot in Shawneetown Eight hundred and forty two at Seventeen Hundred and fifty dollars, The North East quarter of the South West quarter, and the North West quarter of the

South West quarter of Section Thirteen in Township Seven South of Range nine East at Four hundred dollars, The East half of Fractional section, thirty two in Township fifteen South of Range one East at seven hundred Thirty nine dollars, Seventy Seven cents. To James Dunlap, In Lot Eleven hundred twenty four in Shawneetown at Fifteen Hundred dollars, The North half of Section Six in Township Sixteen South of Range five East, 275.68/100. acres, at Twenty three hundred fifty Seven dollars, Six cents, The North half of the South East quarter of Section Seventeen in Township fifteen South of Range one East, at Three hundred and Twenty dollars, The West half of the North East quarter of Section Five in township fifteen South of Range one East, at Three hundred ~~dollars~~, twenty six dollars forty cents. The Said Sales amount in the aggregate to Fourteen Thousand one hundred and Sixty five dollars Seventy nine cents, The Said Rowen, Hicks, Pool, Jones and Dunlap, paid purchase money, To William Thomas Trustee of the Bank of Illinois, I was directed by William Thomas trustee of the Bank of Illinois, not to sell the following lots of land To wit,

Recovery Collection

[8530-55]

59. The South East quarter of the North East quarter of Section twenty nine, The West half of the North East quarter of ~~Section~~ Section twenty nine, The North East quarter of the North East quarter of Section twenty nine, The North West quarter of the South East quarter of Section Twenty, and the South West quarter of the South East quarter of Section Twenty, all in Township Seven South of Range Ten East. Because as stated by said Thomas. said Lands were Released from the operation of the Mortgage on the fifth of April 1843. and before the assignment of said Mortgage to the assignees of the Bank I was also directed not to sell in Lots Eleven hundred and Eight, in Shawneetown because as stated by said Thomas, the debt secured by the Mortgage on said Lot, dated 20th August, 1840. was paid to the Bank By John S. Campbell, before the assignment aforesaid, and said Gatewood ~~had~~ never had any title to said Lot. The costs, of this suit chargable upon the proceeds of Sale are as follows,

Costs taxed by the Clerk	$ 23,95
Costs of Sale	
Printers fee for Advertising Sale	10,00
Masters fee for making Sale 1 pr cent	141,65
Masters fee for making report	5,00

Same for Executing 8 deeds $2. each 16.00

$1.96.60

Which Sums being deducted from the Sales Ballance due Complainant of all which is Respectfully Submitted 11th Sept 1852.

Return of Collection

J. E. Hall
Master in chancery

State of Illinois. Gallatin County ss.
In the Circuit Court of said County.

Ebenezer Z. Ryan Survivor of Albert G. Caldwell & Ebenezer Z. Ryan assignee of the President Directors and Company of the Bank of Illinois
against
Elizabeth Gatewood & others

In chancery Decree July 1852.

It appears from the Books of the Bank of Illinois, that the debts, secured by the mortgage dated, 20th August, 1840, on In Lot Eleven Hundred and Eight in Shawneetown was paid to the Bank, by John S Campbell before the assignment to the assignees and it also appears by the records of the County, that said Ephraim H. Gatewood never had any title to said Lot. It also appears that on the 5th of April 1843, the following Lots of land were released from the operation of the—

[8530-05]

60. Mortgage dated 19th February 1840, to wit. The South East quarter of the North East quarter of Section Twenty nine, The West half of the North East quarter of Section Twenty nine The North East quarter of the North East quarter of Section twenty nine, The North West quarter of the South East quarter of Section Twenty, and the South West quarter of the South East quarter of Section Twenty, all in Township Seven South of Range Ten East. The Master in Chancery is therefore directed not to sell the said Lots, and lands or any part thereof

Shawneetown
19th October 1852.

Wm. Thomas, Trustee
of the Bank of Illinois

State of Illinois Gallatin County } S.S.
In the Circuit Court of said County

Ebenezer Z Ryan surviving assignee of the Bank of Illinois
against
Elizabeth Gatewood & others } In Chancery.

In Obedience to the decree Entered in this cause at the July Term 1852, of said Court, I will attend at the Gatewood House in Shawneetown on the 19th day of October 1852, between the hours of Ten Oclock A.M. and five Oclock P.M. and offer for Sale at public vendue to the highest bidder for cash or notes or certificates of the Bank of Illinois, the following Real Estate to wit, In Gallatin County

Bureau of Galleries

Descript. —	Section —	Town —	Range —	acres
SE. NE.	29.	7. S.	10. E.	40
W½ NE	29	7. S	10. E.	80
NE NE	29	7. S.	10. E.	40
NW. SE	20	7. S	10 E	40
SW SE	20	7. S	10. E.	40
SW qr fract	7	8. S.	11. E.	157 $\frac{78}{100}$
N½ NW.	30	7. S.	10 E	80 $\frac{74}{100}$
SW. SE.	33	7. S.	9. E.	40
E½ NW	13	7. S.	10 E	20
The undivided one-third part of				
SE qr	17	7. S.	10. E.	53 $\frac{53}{100}$
pt NE qr	20	7. S.	10 E.	150

[L 530-57]

61.

SW qr	17.	7. S.	10 E.	160
NW qr	20	7. S.	10 E	160
E½ SE. qr	19	7 S	10 E.	80

with the Exception of lots in the Town of New Heaven Nos 1. 2. 3. 4. 5. 9. 10. 32. 33. 34. 34. 36. 37. 38. 51. 56. 57. 58. 59. 60. 76. 77. also a certain tract of land situate in Gallatin County and bounded as follows, commencing at the NE. corner of the SE qr of Section No 36. Town 8. S. R. 10. E. running thence due West 51 poles with the one half section line to a Stake, Thence South 158. poles to a Stake. Thence due East 51 poles to a Stake upon the range line, Thence due North to the place of beginning, containing 50 acres and 58 poles more or less, out lots in Shawneetown Nos 157. 158. 189. 190. 191. 192. 193. 194. 227. 228. containing (6) six acres Each. In Lots in Shawneetown Nos 842. and 1124. East part of lot No 871. fronting 35 feet on first north street running back 104. feet. North part of Lot No 834. 38 feet front by 104 feet Back — also Lot No. 34. in New Heaven.

In White County.

Discript	Section	Town	Range
E½ NE.	22.	8 S.	6. E
SE.	22.	8. S.	6. E.
E½	27.	8 S	6. E

NE	29.	8. S.	6. E.
SE. SE	20	8. S.	6. E
E½ NW	27	8. S.	6. E.

containing 210. acres the one fourth part

In Alexander County

Record of Gallatin

The following described real Estate, to wit.

Discpt.	Section	Town	Range	acres
E½ frac.	32.	15	1	184 $\frac{48}{100}$
E½ SE	17	15	1	80
W½ NE	5.	15	1	80

In Pope County

The following described Real Estate, to wit.

Discpt.	Section	Town	Range	acres
N½	6	16S.	5 E	275 $\frac{65}{100}$

The said Estate will be sold in parcels as above described; the order of sale will be as directed to the decree, Purchasers will Receive deeds on payment of the purchase money and will be entitled to the possession of the premises not occupied by tenants and possession of those so occupied upon the Expiration of leases, and to the rents from the date of the purchases.

John E. Hall
Master in Chancery
Gallatin County

Shawneetown Sept 1st 1852.

62.

State of Illinois }
Gallatin County } The undersigned publisher of the "Shawneetown Argus" a public News paper publeshed Weekly in Shawneetown Illinois, certify that the annexed notice of Sale in the Case of Ebenezer & Ryan surviving assignee of the Bank of Illinois, against Elizabeth Gatewood & others was published in said paper, four Successive weeks the first publication was made on the third day of September 1852, and the last on the 22nd day of October 1852

Hutchinson & Wilson

publication fee $10,
paid By W. Thomas
J. G. Hutchinson

Record of Galesburg

Ebenezer Z Ryan. Surviving assignee
of Bank of Illinois
against
Elizabeth Gatewood & others

In Chancery.

The Matter in Chancery this day Submitted the foregoing Report of Sale made under the decree in this cause, to wit, which being examined is approved and the sale made are ratified and confirmed

James Davenport clk.

State of Illinois }
Gallatin County } I James Davenport Clerk of the Circuit Court, of said County do hereby certify that the foregoing (107) one hundred & seven pages contain a full and complete transcript and copy of the record and proceedings, had in said Court, in the case therein stated, to wit. Albert G. Caldwell and E. Z Ryan assignees of the Bank of Illinois, and said Ryan as survivor in said cause, against Elizabeth Gatewood and others,

In Testimony Whereof, I have hereto sign my name and affixed the seal of said Court, this 17th day of June A.D. 1859.

L.S.

James Davenport Clk

64.

Copy of Deed made an Exhibit in the foregoing bill

This deed of conveyance Executed this nineteenth day of October A.D. One Thousand Eight hundred and fifty two, between John E. Hall, Master in Chancery of the County of Gallatin of the first part, and James Dunlap of Jacksonville Illinois, of the Second part. Witnesseth, That Whereas, at the July Term A.D. one thousand Eight hundred and fifty two, of the Circuit Court, of Gallatin County, Illinois the said Court, sitting and acting as a Court of Chancery, made and entered a Decree, in a cause therein pending between Ebenezer Z Ryan Survivor of Albert G Coleman and E. Z. Ryan Assignees of the President ~~and~~ Directors, and company of the Bank of Illinois Complainants and Elizabeth Gatewood and others, heirs and representatives of Ephraim H. Gatewood dec^d defendants, Upon a Bill filed, to foreclose Several mortgages executed by said Ephraim H. Gatewood and Elizabeth his wife, requiring the payment, of the aggregate, Sum of Forty nine thousand Seven hundred, Sixty nine dollars Seventy one cents, of the notes or certificates of the Bank of Illinois to the said Master in chancery, for the use of said complainants on or before the first monday of September A.D. one thousand Eight hundred and fifty two, and the costs of

Copy of deed Master in chy to complts for land in controversy.

[8590-61]

said Suit, or in the Case of the failure to make such payment, that the said defendants should be foreclosed of and from all Equity of redemption, in and to the lands and tenements, conveyed by said Mortgages, Executed by said Ephraim H. and Elizabeth Gatewood to the Bank of Illinois, of the date 19th February 1840, – 20 August, 1840, – 3rd March 1841, – 24th September – 1840, and 19th August 1843, and that said Lands and tenements, should be sold at public auction to the highest and best bidder for cash, or the notes or certificates of the Bank of Illinois, to satisfy the amount, required to be paid as aforesaid; and also authorizing and requiring the said Master in chancery to advertise and sell the property aforesaid, and convey the same to the purchaser or purchasers thereof, And whereas, the said Master in chancery in the execution of the Decree aforesaid, advertised said property for sale at public auction to the highest bidder for cash or notes or certificates as aforesaid by publishing a notice thereof, in the Shawneetown Argus, public News paper published weekly in Shawneetown Illinois, on the third day of September 1852, the publication which was continued four weeks successively before the day of Sale,

Stating therein, that he would attend at the Gatewood House in Shawnetown Illinois on the Nineteenth day of October A D one thousand Eight hundred and fifty two, between the hours of Ten Oclock A. M. and five (5) Oclock P. M. and offer at public auction to the highest bidder for cash, or notes or Certificates of the Bank of Illinois, at par, The said Lands and Tenements, describing the same, as described in the Decree, And Whereas, at the time and place stated in said notice, the said Master in Chancery attended, and offered the said Estate for Sale, in the manner, and upon the terms stated as aforesaid, and the said James Dunlap party of the second part, being the highest bidder purchased the following Lots of Land required to be sold, by said Decree, to wit, The North half, of the South East quarter of Section Seventeen, in Township number fifteen South of Range Number One East, of the third principal meridian at three hundred and twenty dollars, The West half of the North East quarter of Section five, in the township and Range aforesaid, at Three hundred and twenty six dollars forty cents, said lots being described, as being in Alexander County, Also the North half of Section Six in Township Number Sixteen South of Range number

copy Hence

1853-62

Five Cent containing Two hundred ~~and~~ Seventy five acres. Sixty Eight hundredths, and at Twenty three hundred Sixty Seven dollars Sixty cents, described as being in Pope County which Several Sums it appears the said James Dunlap has paid to William Thomas Trustee of the Bank of Illinois.

Wherefore, In Consideration of the premises and by virtue of the power vested in him by the Decree, aforesaid, the said John E. Hall Master in Chancery as aforesaid, does hereby Grant, Bargain, Sell, and convey unto the said party of the Second part, the real Estate herein described, sold as aforesaid together with the appurtenances thereof. To have and to hold the Same to him his heirs and assigns forever.

In Witness Whereof, the said Master in Chancery hereto signs his name and affixes his Seal, the date first herein written.

J. E. Hall (L.S.)
Master in Chancery.

Copy deed continued

State of Illinois. Gallatin County } S.S.
I Samuel S. Marshall, Judge of the Circuit Court, within and for said County do certify that John E. Hall, whose name is subscribed to the foregoing deed, and by whom the same appears to be Executed as Master in Chancery of Gallatin County, and who is ~~to me~~ known to me, to be the same person whose name is so subscribed, this day appeared before me and acknowledged the Execution thereof, to be his act and deed,

Given under my hand, this 14th day of December 1852,

Samuel S. Marshall

~~And afterwards, to wit, the following proceedings were had and orders made in said Cause in our said Union County Circuit Court, to wit, at the May Term AD 1862~~

State of Illinois } The people of the State of Illinois
Massac County } ct. To the Sheriff of said County.

Greetings

Summons Issued on Bill.

We command you that you summon Levin J. Wilson and William L Coleman, if they shall be found in your County, that they appear before the Circuit Court in said County on the first day of the next Term thereof, to be holden at the Court House in Metropolis City Ills, on the ~~th~~ fourth Monday of the month of April next, then and there to answer James Dunlap of his certain Bill of complaint filed in said Court, against them on the chancery side of the docket thereof - and further to answer and abide the order of the Court, in the premises, and hereof make due return as the law directs,

Witness James Elliott Clerk of our said Court and the Judicial Seal thereof this 17th day of February A D 1860,

Seal

James Elliott Clk

[853044]

State of Illinois } In the Circuit Court
Massac County } To the April Term A D, 1860.

James Dunlap compl^t.
vs
Levin J Wilson, &
W. F. Coleman, defts.

} Bill in chancery to cancel Deed

Notice to defendants for publication

Affidavit having been made and filed in my office in the above entitled cause, setting forth that the defendants, therein are nonresidents of this State, Public notice is therefore hereby given to the said defendants that the said complainant has filed in said Court, on the chancery side of the docket thereof, against you in a certain bill of complaint, the peoples writ of subpoena in chancery, has been issued therein returnable to the next term of said Court, on the first day thereof, and that you appear before said Court, on the first day of the next term thereof, commencing on the fourth monday in the month of April next, and then and there plead, answer, or demur to said Bill the same will be taken for confessed, as to as to you, and a decree be pronounced according to the prayer in the same contained

James Elliott clerk M. C. C.

Green & Smith Sol^s for compl^t.

Vol. 2 No 33, 45.

[8030-45]

Printers Certificate of Notice

State of Illinois }
Massac County } ss. I Edward McMahon
Publisher of the "Metropolis Weekly Sentinel" a Weekly newspaper published at Metropolis City County of Massac and State of Illinois, do hereby certify that the foregoing Notice wherein James Dunlop is compt. and L. J. Wilson et al is Deft. was published in said paper for the space of four consecutive weeks, commencing in Vol 2nd No 33, and ending in No 37.

In Witness Whereof I have hereunto set my hand, this 23rd day of April A.D. 1860.

Edward McMahon

James Dunlap
vs
Levin J. Wilson
William J. Coleman

Massac Circuit Court
Sept. Term 1860

Affidavit to set aside default Massac.

John Dougherty being first duly sworn deposes that he is the Solicitor for Levin J. Wilson one of the above defendants that he learned that a rule to plead by the first day of this term of this Court, was entered against said Wilson at the last Term of this Court, He states that the answer herewith presented marked A. & prayed to be made part of this affidavit (for reference only) was prepared and forwarded to this affiant as the Solicitor of said deft. at Jonesboro in the month of July last, but owing to what he supposed a defect in the attestation, he caused the same to be returned to his said client in the State of Alabama to be perfected & to be forwarded by mail to this Court, that his said client caused the attestation to be perfected as per request and instead of directing the same to the Clerk of this Court to be filed, he caused the same to be directed to the Hon.t Judge of this Court at Massac County Illinois, and informed this affiant of this fact on last Saturday this affiant requested the Hon.t W. Sloan to

[8330-66]

70. call at the Post Office, and come the same to be filed in time, which he understood his Honor Judge Sloan to say he would do that that this affiant arrived in Metropolis on Tuesday the 11th September about one o'clock P.M. of that day and went immediately to Judge Sloan for the purpose of learning whether said answer had been filed, and was then informed that it had not been so filed, but that it had been forgotten, and upon obtaining permission of his Honor this affiant went immediately to the post office in Metropolis and got the same, out of the Office, when he was informed that the same had lain some 8 or 10 days in the post office at metropolis city Massac County Illinois, that he then found that a default have been taken against said Wilson for not having answered in time, which affiant prays may be set aside and the said answer herewith presented & marked A. be filed in this cause that affiant believes the same a full answer on the merits to the several allegations necessary for him Respondent Wilson to answer in complt Bill. & further he saith not &c

Sworn to and subscribed before me this the day of Sept 1860. } J Dougherty

James Elliott Clk.

James Dunlap
vs
Wilson &
Coleman

April Term 1861
No 19.
Bill in chancery.

Agreement to continue April 1861 Mopac.

It is agreed that this cause be set for trial, at the next term of this Court, This April 22nd 1861.

J. Dougherty atty for Deft

The Depositions in this case not having come to hand we agree to the above

Green & Smith
for compl.

[8530-67]

State of Illinois } Circuit Court Pleas at the
Massac County } April term 1860. of said Court.

James Dunlap

vs

Levin J. Wilson and
William Z Coleman

Answer of defendant Coleman

One of the above defendants, the said William Z. Coleman, saving and reserving now and at all times hereafter, all and all manner of benefit, and advantage of exception to the insufficiencies, and defects of said Bill for answer thereto; or so much thereof as this defendant is advised is necessary to answer, does answer and say; that it is true as stated in said Bill; that the said Levin J. Wilson is the uncle of this defendant, and in consideration of the Blood relation existing between the parties, and the good feelings of the said Wilson towards his nephew, the said Wilson, and for many years before the deed hereafter to be mentioned was Executed, to wit, for many years decided to convey the said tract of land set forth in said Bill to this defendant, and accordingly advised this defendant, by letters and otherwise, that he would convey by deed said land to this defendant, and the said William Z Coleman considering himself the owner of said land, for several years

{8580-LE}

72. Before said deed conveying said land to the said defendant was Executed, took possession of said land, by appointing an agent to take care of the timber on said land & to prevent trespassing on it, to pay the taxes on said land, and the said defendant in this manner exercised ownership and occupancy on and over said land, for Seven or Eight years, as he states the fact from memory to be before the commencement, of this suit by said complainant, and the said Wilson on the 15th December 1856, made and Executed a deed of conveyance of said land, & vested in said Defendant, the N½ Sec. 6, T. 16, S R. 5. E. containing 275 68/100 acres, by virtue of said deed, and the donation aforesaid, And this defendant relies on and insists on the Statute of limitations for a bar of this suit; as this defendant considers, he and the said Wilson did occupy and possess said land a positive title of Record for more than Seven years last before the commencement of this suit But independent of this legal defence of said suit, this defendant always understood from said Wilson and others, that said Wilson had at the time he Executed said deed to said defendant, a good and sufficient title to said land and that said Wilson had no knowledge

or notice of the pretended Mortgage made by Gatewood to the Bank of Illinois, or the purchase said to be made by said Dunlap of said land. This defendant understood and was informed, that the said Gatewood was indebted to the said Wilson, and made and Executed for the payment of said debt a deed of conveyance to the said Wilson, dated the 4th October 1843, and recorded the 16th January 1844, vesting in said Wilson the fee simple Estate of said land, and the whole transaction of sale, and consideration paid between said Gatewood, and Wilson were fair and honest so far as he Believes, and that said Wilson had no notice or Knowledge of the existence of any lien or Mortgage deed on said land at any time before the above deed from Gatewood to Wilson was made, or for some time thereafter the deed of Mortgage from Gatewood to the Bank of Illinois was not recorded in said Massac County until the 8th March 1845, which was long after the first above deed from Gatewood to said Wilson was recorded, but this defendant positively denies having any notice or Knowledge, of the aforesaid pretended Mortgage, or any part of the transaction Between said Wilson and Gatewood, only by hearsay as above stated, and did not by hearsay or otherwise hear or know anything of

Answer of Defendant Coleman

[8530-69]

73. said Mortgage, at the time said deed was made to him by said Wilson or before the condition of said land was made and for some time thereafter, altho said Mortgage was recorded as above stated, and this defendant denies any fraud or combination with said Wilson to defraud and cheat said Dunlap out of said land; All which matters and things stated in this answer, this defendant is ready to verify and prove as this Hon. Court shall direct and award and therefore he prays that he may be dismissed from said Court with costs of suit.

William F. Coleman

Subscribed and Sworn to before me the Clerk of the Circuit Court within and for the County of St Louis, State of Missouri this 29th day of March 1860. In Testimony whereof I have unto set my hand and affix the seal of said Court at office in the City of St. Louis the day and year above written

L. S.

Stephen Rice Clk.

This Indenture made and Entered into this fifteenth day of December A D Eighteen hundred and fifty six between Levin J Wilson and Elizabeth his wife, of the County of Washington and State of Alabama of the first part, and William Z. Coleman of the County of St. Clair and State of Illinois, of the second part, Witnesseth That the said parties of the first part, for and in consideration of the sum of one hundred Dollars, the receipt of which is hereby acknowledged, have granted bargained and sold and by these presents do grant, bargain and sell, convey and confirm unto the said party of the second part, his heirs and assigns forever, all that Lot, tract or parcel of land lying and being in the County of Massac and State of Illinois, and described as follows, The North half of Section No Six (6) in Township sixteen South in Range five East, of the third principal meridian containing two hundred and Seventy five & $\frac{68}{100}$ acres, with the exception of Fifty (50) acres, of said half section to be taken from the East end of the said tract which was reserved by E. H. Gatewood and Elizabeth his wife, in their deed to the said parties of the first part, bearing date October 4th A D 1843. To have and to hold the above described premises together with all the

Deed Wilson To Coleman refered to in Answer of Coleman.

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Privileges, and appurtenances thereunto belonging, unto the said party of the second part, and his heirs and assigns forever.

In Testimony Whereof, the said parties of the first part, hereunto set their names and seals, the day and year first above written

Levin J. Wilson (seal)
Elizabeth Wilson (seal)

State of Alabama
Washington County } I James G. Hawkins Judge of the Probate Court, of the state and County aforesaid, do hereby certify that Levin J. Wilson and his wife Elizabeth M. Wilson whose names are signed to the foregoing conveyance and who are known to me acknowledged before me this day, that being informed of the contents of the conveyance they executed the same Voluntarily on the day the same bears date, I further certify that the said acknowledgement is in due accordance with the laws of the state of Alabama.

Given under my hand and seal official, this 26th day of January one thousand Eight hundred and fifty seven. Jos G. Hawkins Judge of Probate W. C. Ala.

L. S.

State of Illinois, Massac County ss.
I James Elliott Clerk of the Circuit Court and Ex officio Recorder in and for said County, do hereby certify, that this deed of conveyance is duly Recorded in my office in Deed Record F at Page 707

Certificate of Recording Showing date,

Witness my hand and the seal of said Court this 16th day of March AD 1858

(seal)

James Elliott clk M. C. C.

State of Illinois Massac County ss.
I John B. Hicks clerk of the Circuit Court of said County, do ~~hereby~~ certify that the foregoing two pages contain a true copy of the Recorded deed from Lewis J. Wilson and Elizabeth his wife, to William J. Coleman deed and certificate of acknowledgement thereon which was filed for Record on the 16th day of March 1858, deed Recorded on the same day, as the same now appears on the records of my office. Witness my hand and the seal of the Court, this 6th day of June 1862,

Jno B. Hicks clk M. C. C. Ills
& Ex officio Recorder

To The Hon. Wesley Sloan.

The seperate answer of L. G. Wilson to the Bill of complainant of James Dunlap Now pending in the Circuit Court. Massac Co. Illinois.

Answer of L. G. Wilson

This defendant comes and demurs to said Bill. first. Because there is no Equity therein, Second. Because the Bill shows on its face that the claim is barred by the Statute of limitations, and Third. because the Bill shows that before the Bill was filed against the representatives of said Gatewood to foreclose the mortgage to said Bank, the said Gatewood had sold his entire Equity of redemption to this defendant, who was then made a party to that Bill, therefore the ~~said~~ decree in that case did not reach the title to the land, there being no title in any of the defendants, therefore the proceeding was of no effect, and the sale to this complaint is simply void. 3 Sec. 20. Wendell 26 N.Y.

And for answer to said bill this defendant says, He admits that the said Gatewood had title to said Land, but when the title vested in him this defendant does not know, defendant admits title in said Gatewood at the time of conveyance

[8530-72]

to defendant, but whether he had any title as Early as the supposed Mortgage to the said Bank deft. does not know, and asks for the proof.

This defendant says that he bought said Land from said Gatewood as stated that the said Gatewood was indebted to this defendant in the sum of one thousand dollars, for which defendant held his note, endorsed by a third person that said Gatewood proposed to convey said Land to defendant, in payment thereof his proposition was accepted and a conveyance made and delivered a copy of which is hereto annexed marked Exhibit "A" which was immediately recorded according to the requirements of the law of Illinois, in the County where the land lay, which will appear from the endorsement thereon written

That before making said trade defendant Employed said Eddy to examine the title, and to inform defendant, whether the title of Gatewood was good, and whether there was any Mortgage or lien on the land, and defendant was informed by said Eddy that title was good, &

unincumbered that said Eddy was not the agent of this defendant, for any purpose except to examine the title as aforesaid

Answer of L. J. Wilson

The defendant positively affirms that he had no notice whatever, of the existence of said Bank mortgage, or any other lien on said land or he would not have purchased it for the note given up, was for a claim cash due to defendant & was good, that he never heard of any claim on said ~~note~~ land adverse to his own until the filing of this complainant's bill. This defendant says that he did convey said Land to Wm. Z. Coleman his nephew, without other consideration than love and affection for his said nephew, and the conveyance was intended to advance him in the world, without any knowledge, that the land was claimed by complainant or any one else.

This defendant, says, also, that his deed is bonifide took effect from its date, has been of public record from the 20th day of January 1844, the day of record in the County where the land lies, that defendant, has annually paid the taxes on the land and it has continually under the controll and management of

77. an agent from the date of his deed claiming the same publicly and notoriously, and and he pleads the Statute of limitation of Illinois, against the claims of said plaintiff

This defendant says he knows nothing about deed & conveyance from Gatewood to said Bank, nothing of an assignment by said Bank nor the bill in the foreclosure sale, and purchase by complainant as he charges, defendant is not a resident of Illinois, and is not acquainted with the laws of that State, and if it shall appear that such conveyance were made as alleged, he does not know whether there is such a Bank legally chartered as alleged whether it had power to hold lands, or to make such assignment, and whether all such things have in this case been done according to law, nor does he know whether said alleged indebtedness of Gatewood to the said Bank was genuine or feigned, or whether said debts were paid all which defendant prays may be proved, by the plaintiff, that 20 years has elapsed since the making of said Mortgage and defendant claims all legal references to be drawn from such delay, defendant is also cognizant of the value and all the other lands,

Sold out in said Mortgage and he claims that the Mortgage debt be proved, and stated and all of said land accounted for and appropriated to said Indebtedness, before coming upon the lands of this defendant. Defendant claims that he is not bound by the proceedings in said foreclosure suit, as he was not a party thereto, and that the indebtedness set out in the Mortgage is barred by the Statute of limitations, defendant also says that he is informed and believes & to charge that complainants Mortgage as charged was not acknowledged or recorded as required by the law of Illinois, and he pleads this in his defence, as to this particular piece of land, defendant denies being present at the Execution of any of the deeds or Mortgage under which plaintiff claims, denies all frauds with which he is charged, and having fully answered prays to be discharged with his costs in this behalf expended

Answer of L. J. Wilson

L. J. Wilson

Sworn and subscribed to before me by the aforesaid L. J. Wilson on this Twenty third day of June A D 1860, in the City of Mobile as Witness my hand and seal notarial

Sidney L Douglas notary Pub

[8530-74]

Filed

Authentication of Answer of Wilson

State of Alabama
City and County of Mobile } Be it Remembered
That on the 23rd day of June, in the year one
thousand Eight hundred and sixty, before
me the Undersigned Sidney L. Douglas a
Commissioner, resident in the City of Mob=
ile duly commissioned and qualified by
the Executive authority, and under the laws
of the State of Illinois, to take the acknowl=
edgement of deeds &c, to be used or recorded
therein, and duly authorized to act as such
by virtue of My commission and oath of
Office do hereby certify that L. J. Wilson to
me personally known, appeared before me
on this day and being by me duly sworn
according to law, deposes and says that
the annexed answer made subscribed and
sworn to by him on true as stated and
there derived from the information of
others he believes to be true.

In Testimony Whereof I hereunto
set my hand and affixed my Official
Seal } Seal } as such Commissioner the
day and year first above written

Sidney L. Douglas
Commissioner for the State of Illinois
in the State of Alabama

State of Alabama }
Mobile County } Before me William Brooks a Justice of the Peace in and for the State of Alabama & County of Mobile personally appeared Levin J. Wilson the respondent in the foregoing answer & who is known to me to be the respondent, & who being by me first duly sworn, deposes and says that the allegations & statements made in the foregoing answer as therein set forth are true. Sworn to & subscribed this the 16th day of August 1860.

Authentication of Answer of L. J. Wilson

William Brooks } L. J. Wilson
Justice Peace M. Co.

State of Alabama }
Mobile County } I John A. Hitchcock Judge of the Court of Probate, in and for said County, the same being a court of Record and State, do hereby certify that William Brooks whose name appears to the annexed certificate, was at the time of attesting the same, a Justice of the peace, in and for said County, duly commissioned and qualified, and that as such his acts and doings are entitled to full faith and credit and that his signature is genuine

In Testimony Whereof I have

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L S

hereunto set my hand and affixed
the seal of said Court, at Office
this 17th day of Augt. A.D. 1860.

Jno A Hitchcock
Judge

This Indenture Made this fourth day of October in the year of our Lord Eighteen hundred and forty three, Ephraim Hubard Gatewood and Elizabeth his wife of Gallatin county, Illinois of the first part, and Lewin J Wilson of the City of New Orleans La. of the Second part, Witnesseth that the said parties of the first part, for and in consideration of the sum of one thousand Dollars, lawful money of the United States, to them in hand paid, by the said party of the Second part, the Receipt, of which is hereby acknowledged, have, granted Bargained & sold and by these presents, do Grant, Bargain, alien, sell and convey, unto the said party of the Second part, his heirs and assigns all that certain tract ~~of~~ and parcel of land Situated in the County of Massac and known & described as follows (to wit) Being the North half, of Section Six in Township Sixteen South in Range five East, containing two hundred and Seventy, five acres and 68/100, with the exception of Fifty acres of the said half Section to be taken off from the East ~~side~~ end of the said tract, which the said parties of the first part reserve for their own use, thus making two hundred and twenty five acres & 68/100, hereby conveyed, To have and to hold the said premises with all and Singular the appertinences thereof unto him the said party, of the second part, his

Deed
E. H. Gatewood
to
L. J. Wilson
Recorded in
Index. —

Heirs and assigns forever, as a good and indefeasible Estate of in fee simple and the said Ephraim H. Gatewood party of the first part for himself & his heirs, covenants and agrees and with the said party of the second part, his heirs and assigns, That he is well seized of the said premises, and each and every parcel thereof, that the same are unincumbered either in law or equity, by any act, by him Done or Suffered, and that he will forever Warrant and defend the same, and the sufficiency of his title thereto against the claims of all persons whatsoever,

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

E. H. Gatewood (Seal)
Elizabeth Gatewood (Seal)

State of Illinois }
County of Gallatin } Before me the undersigned an acting Notary Public, in and for said County, this day appeared ~~before~~ Ephraim H. Gatewood, and Elizabeth his wife, both personally known to me to be the real persons who have subscribed the foregoing deed and severally acknowledged the same, to be their free and voluntary act for the purposes

therein mentioned, And the said Elizabeth wife of the said E. H. Gatewood, being made acquainted with the contents of said deed and Examined by me seperate and apart from her said husband, according to law, declares on ~~Oath~~ said Examination that she has Executed the same and relinquished ~~her~~ all her right ~~to~~ the same freely and ~~without~~ without compulsion of her said husband

Given under my hand & seal this 4th day of October 1843.

James Dorsh Notary Public

State of Illinois Massac County } S.S.
In the Circuit Court of said County.
James Dunlap complainant
against In chancery
Levin G. Wilson
William F. Coleman Defendants.

Replication to Wilsons Answer.

And the said complainant for Replication to the answer of said Levin G Wilson, says he ought not to be bound of his right of action herein because of any thing contained in said answer because he says the matters and things contained in his Bill are true certain and sufficient, and that the matters and things contained in said answer so far as inconsistent with the statements in the Bill are untrue, uncertain and insufficient, and this &c. wherefore he prays for a decree, &c.

Green & Smith.

Replication to Colemans Answer.

And the said Complainant for Replication to the answer of the said William F Coleman says that the matters and things contained in the Bill, are true, certain, and sufficient and that the matters and things contained in ~~the~~ said answer, so far are inconsistent with the allegations in the bill, are untrue uncertain and insufficient and this &c wherefore &c.

Green & Smith
for compl't.

{8530-78}

May Term AD 1862.

Union Circuit Court May 1862

And afterwards the following proceedings were had and orders made in said Cause in our said Union County Circuit Court to wit at the May Term AD 1862 thereof

James Dunlop
vs
Levin J. Coleman &
William J. Coleman

Bill to cancel Deed

Terminal Court, May 1862 Continuance

On Motion of the Complainant and for reasons stated, to the Court, this cause is continued until the next term of this Court, and leave given to the complainant to withdraw the record ~~of~~ certified by the Clerk of the Circuit Court of Massac County, and have the same perfected by the said Clerk, and again returned to the Clerk of this Court.

February Special Term 1863

February Term 1863

And afterwards at the term first aforesaid ~~the~~ the following decree was entered in said cause – to wit:

[8530-29]

James Dunlap
vs
Levin J. Wilson &
William F. Coleman

In chancery

February Term 1863 Decree.

This day came the parties by their Solicitors, and this cause ~~came~~ being heard upon the bill, answers, replication, exhibits and testimony, and the Court, being sufficiently advised thereon, does order and decree that the bill be dismissed, and that the complainant pay the costs, and that Execution issue therefor, as upon judgments at law. The complainant thereupon presented a bill of Exceptions which was signed and sealed and ordered to be made part of the record,

Bill of Exceptions filed in this cause

In the Union County Circuit Court
February Special Term 1863

James Dunlap
against — In Chancery
Levin J Wilson &
William H Coleman

Bill of Exceptions Feby 1863.

Be it Remembered that on the hearing of this cause, after the reading of the Bill, Answers, Replications, Depositions of Alexander Kirkpatrick and the Exhibits referred to in the pleadings which are in the words following (here copy) the Complainant produced as evidence the original mortgage executed by Ephraim H Gatewood & wife to the bank of Illinois dated 19 February 1840 with the certificates of acknowledgment and Recording thereon — the said Mortgage and certificate of acknowledgment being proven to be in the hand writing of Henry Eddy formerly a resident and Attorney at Law of Shawneetown Illinois, but now deceased which said Mortgage and endorsements are in the words following (here copy).

The Complainant also read as

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evidence the original deed from the Master in Chancery of Gallatin County to him with the endorsements thereon, which is in the words following (here copy it)

The said Complainant also produced a notice to defendants in the words following (here copy) which was served on John Dougherty their attorney on the 4th June 1862 the said Dougherty stated that he had never had the original deed referred to in said notice in his possession and had never seen it and the same was not produced –

The foregoing being all the evidence in the cause, the Court on the said hearing dismissed the bill, to which Complainant excepts & prays that his bill of exceptions may be filed and made part of the record which is accordingly done.

A. M. Jonkins Judge (Seal)
of the Illinois County
Circuit Court

The original mortgage &c referred in the foregoing bill of exceptions is in the words following, to wit,

This Indenture made this 19th day of February A.D. 1840, between Ephraim H Gatewood and Elizabeth his wife, of Gallatin County Illinois, of the first part, and the President Directors, and company of the Bank of Illinois at Shawneetown, of the second part, Witnesseth, That the said parties of the first part for and in consideration of the sum of Twelve Thousand Five hundred dollars lawfull money of the United States, to the said Ephraim in hand paid, the receipt of which is hereby acknowledged, Have Granted, Bargained and Sold, and by these presents, do grant, bargain alien, sell and convey unto the said parties of the second part, their Successors, and assigns, forever, all those certain tracts, parcel and lots of land, situate in the Counties hereinafter mentioned, and known and described as follows to wit, In the County of Gallatin;- out lots in Shawneetown, numbered on the map or plot of said Town, by the numbers, 157, 158, 189, 190, 191, 192, 193, 194, 227, and 228, containing Six acres each, In Lots, in said Town, numbered, as aforesaid by the numbers 842, and 1124, The former purchased from D. N. Lathrop & the latter from Th. C. Browne, also the following lands, situate in said County, the undivided fourth part, of the S½ of the N.E. qr. and the S.E. qr. of Sec 22, the E½ of Sec 27, of the N.E. qr. of Sec.

Original Mortgage Referred to in Bill of Exceptions

[8530-82]

29. of the S.E.¼. of the S.E. qr. of Sec 20. of the E½. of the N.W. qr. of Sec 27. all in Township 8. S. in range 6. E. which undivided fourth part. contains 210. acres and was purchased from one Edward K. Gibbon The S.E.¼. of the N.E. qr. of Sec 29. in township 7. S. in Range 10. E. containing 40. acres, purchased from one Ebenezer Stewart, The W½. of N.E. qr. of Same Section, Township and Range, containing 80. acres, and purchased from one Augustus Stewart The N.E.¼. of the N.E. qr. of the Same Section, township and range, containing 40. acres, and purchased from the United States, The N.W.¼. of the S.E. qr. of ~~the~~ Section 20. in the Same township and Range containing 40. acres, purchased from the United States. The S.W. qr. of fractional Section 7. in Township 8. S in Range 11. E. containing 157 $\frac{78}{}$ acres and purchased from the United States, also the N.E.¼. of the S.W. qr. and the N.W.¼ of the S.W. qr. of Sec 13. in township 7. S. in Range 9. E. containing 80. acres, and purchased from one George Bennett. of white County, where said land is Situate, The North ½. of the N.W. qr. of Sec 30. in township 7. S in Range 10. E. containing 80. $\frac{74}{}$. acres, and purchased from Wiley A Shackleford, and Athea his wife, (Situate in Gallatin County) The S.W.¼ of the S.E. qr of Sec 33. in township 7. S. in Range 9 E. containing 40

acres, and purchased from one John Foster. The E½ of the N.W. qr. of Sec 13. in the same township and range, containing 40. acres, and purchased from one John Wood. The N.W¼. of the S.W qr. of Sec. 11. in township 7. S. in Range 8. E. containing 40 acres, and purchased of one William Harget. (Situate in White County) The N.E¼. of the S.W. qr. of Sec 28. in township 7. S in Range 10 E. containing 20 acres, and purchased from one Joshua B. Gofs (Situate in Gallatin County) also lot No. 34. in the Town of New Haven, in said County of Gallatin purchased from one Daniel North. Guardian &c. by Deed bearing date the 26th April 1836. also the undivided third part of the S.E. qr of Sec 17. in township 7. S. in Range 10 E. containing in all 160 acres, Part of the N.E. qr. Sec 20. in the same township and Range, containing 150. acres, Embracing the town plat of New Haven, The S.W. qr. of Sec. 17. in the same township & Range, containing 160. acres, The N.W. qr. of Sec 20. in the same town Ship and Range containing 160. acres, and the E½ of the S.E. qr. of Sec 17. in the same township and Range, containing 80. acres, and which were purchased by the said Ephraim Moses, M. Rowlings and Alexander Kirkpatrick, from one Darius North, guardian for the minor heirs of William P. Robinson decd, with the Exception of lots in the Town of New Haven, numbered—

Origin of mortgage

[8-530-83]

87. 1. 2. 3. 4. 9. 10. 32. 33. 34. 35. 36. 37. 38. 51. 56. 57. 58. 59. 60. 76 & 77. which had been previously disposed of by said Robinson in his life time; and Excepting also, from this conveyance all such lots in said Town of New Haven as have been bargained and sold, or contracted away, since the said Gatewood, Rawlings and Kilpatrick became the proprietors of said premises, and the said Ephraim H. Gatewood, party of the first part, reserves the right to enter into a contract of division and to make a partition of the said premises, between himself and his said Co-proprietors of said premises, which when made, this conveyance is to attach and cover the Estate and interest which may by such partition, fall to his share, in severalty, as fully and to all intents and purposes as if such partition were now made, and the seperate interest and Estate of the said Ephraim therein, herein particularly described, also the following tract of land, situate in the County of Pope, Illinois, the N½ of Sec 6. in township 16. S. in Range 5. E. containing 275 ^{68} acres and purchased from the United States,

also the following tracts of land situate in the County of Alexander - Illinois, the E½ of fractional section 32. in township 15. S in Range 1. E containing 184 ^{48}, acres purchased from the United States, The N½ of the S E qr. Sec 17. in the same township

and Range, containing 80. acres, and also purchased from the United States, and the W½. of the N.E.qr. of Sec 5. in the same township and range, containing 80. acres, and also purchased from the United States,

To have and to hold, all and singular the before described premises, with the appurtenances thereof, unto them the said parties of the second part, their Successors and assigns forever, as a good and indefeasible Estate in fee simple Nevertheless, and this Conveyance is made upon this Express condition, That Whereas, the said Ephraim H. Gatewood party of the first part stands indebted to the said Bank of Illinois in the just and full sum of Twelve Thousand five hundred dollars, for which he has this day executed to the said Bank his promissory Note, payable Seven Months after the date thereof, with interest thereon at the rate of Eight per cent per annum from due till paid, Now if the said Ephraim shall well and truly pay and Satisfy said note, to the Bank according to the terms thereof, and in the Event of his being allowed by the Board of Directors of said Bank to renew said note for said debt, or any part thereof, shall well and truly Satisfy and pay such renewed note, according to the terms thereof, and so on as often as he shall be allowed to renew,

Original Mortgage

[3530-84]

88. The same, shall pay and satisfy such renewed notes respectively, according to the terms thereof then this conveyance to be void, but otherwise to be and remain in full force and absolute at law. and the said Ephraim party of the first part, reserves the right to retain possession of the said premises, and each and every parcel thereof, until default shall happen in the fore-going condition during all which time he covenants, and agrees that he will pay all taxes and other legal assessments, upon the same, and it is further agreed and understood by and between the parties, to these presents, that the said party of the first part shall be at liberty to sell and convey any part, or the whole of said premises, whenever he may find it convenient to do so, at a fair price, he paying over the proceeds of such sale, to the said Bank, till the same shall be satisfied for its said debt, and whenever any such sale shall be made, and the money so paid over to the said Bank, the premises so sold, shall be released, in due form of law, from the lien of this Mortgage, In Witness whereof the said parties, of the first part, have hereunto set their hands and seals the day and year first above written,

E. H. Gatewood (Seal)

Elizabeth Gatewood (Seal)

State of Illinois } Sct.
Gallatin County } Before me the undersigned a Notary Public, in and for said County, duly commissioned and sworn, residing in Shawneetown in said County, this day appeared Ephraim H. Gatewood and Elizabeth his wife, both personally known to me to be the real persons, who have subscribed the foregoing deed and severally acknowledged the same to be their free and voluntary act, for the purposes therein mentioned, and the said Elizabeth, wife of the said Ephraim, being made acquainted with the contents of said Deed, and examined by me seperate and apart from her said husband, according to law, she declared that she had executed the said deed & relinquished her dower in the premises thereby conveyed freely and voluntarily and without compulsion of her said husband, all of which I do hereby certify.

Certificate of Acknowledgment of Original mortgage

In Testimony whereof I the said Notary public have hereunto set my hand and affixed my ~~seal~~ Notarial seal at office in Shawneetown in said County, this 29th day of February A D 1840.

Seal

James Dorah
Notary Public

{8530-88}

Record of Original Mortgage in Gallatin

State of Illinois }
Gallatin County } I Leonard White recorder in and for said County, do hereby certify that I have duly recorded the foregoing deed in my office in Book K. page 340.

In testimony whereof I have hereunto set my hand and the seal of my said office at Equality this 11th day of month A D 1840.

Seal

Leo^d White

Massac

State of Illinois }
Massac County } I John W. Carmichael Recorder for said County and State, do hereby certify that this Mortgage is duly Recorded in my office In Testimony Whereof I hereunto set my hand and official Seal at my office this 8th day of March 1845. John W Carmichael R. M. C.

Seal

State of Illinois }
County of Pulaski } Recorders office N. Caledonia March the 11th day of Nov 1845. I do certify that the within Mortgage is duly Recorded in Book A. at Page. 115 & 116. 117 & 118. Witness my hand & private Seal, no Seal of said office

Pulaski

Seal

Barton Able Recorder

Recorders office Cairo January 16th 1846.

This is to certify that the annexed and foregoing Deed of Mortgage from Ephraim H. Gatewood and wife to the Bank of Illinois at Shawneetown was Received on the 16th day of January A D 1846. and the same is now duly recorded in my office in Record Book G. page 212. 213 & 214. Given under my hand at Cairo and private seal (no Seal of office in the city and date above written.

Seal

Isaac Michell Rec W. C.

The original Deed from the Master in Chancery to the Complainant referred to in the foregoing bill of Exceptions is in the words and figures following, to wit,

This Deed of Conveyance Executed this nineteenth day of October, A.D. One thousand Eight hundred and fifty two, between John E. Hall, Master in Chancery in and for the County of Gallatin of the First part, and James Dunlap of Jacksonville Illinois, of the Second part, Witnesseth, That Whereas at the July Term A.D. One thousand Eight hundred and fifty two, of the Circuit Court, of Gallatin County, Illinois, the Said Court, Sitting and acting as a Court of Chancery made and entered a Decree in a cause therein pending, between Ebenezer F. Ryan Survivor of Albert G Caldwell and E. F. Ryan, assignees of the President Directors and Company of the Bank of Illinois, Complainants and Elizabeth Gatewood, and others heirs and Representatives of Ephraim H. Gatewood dec'd, Defendants, upon a bill filed to foreclose several Mortgages Executed by the Said Ephraim H. Gatewood, Elizabeth, his wife, Requiring payment of the aggregate sum of Forty nine thousand Dollars Seven Hundred and Sixty nine dollars, Seventy one cents, cents. of the notes or certificates of the Bank of Illinois, to the Said Master in Chancery for the use of Said Complainants, on or before the first ~~day~~ Monday of September A.D. One Thousand Eight hundred and fifty two, and the Costs of Said Suit, or in the Case of the failure to make such payment, that the Said

Original Decree. Master in Ch. To J. Dunlap Pltff in Error. referred to in Bill of Exceptions

[8530-87]

91. Defendants, should be foreclosed of and from all rights of Redemption, in and to the lands and tenements, conveyed by said Mortgages Executed, by said Ephraim H. Gatewood, and Elizabeth Gatewood, to the Bank of Illinois, of the date 19th February 1840, 20th August 1840, 3rd March 1841, 24th September 1840, and 19th August 1843, and that said lands and Tenements should be sold at public auction to the highest and best bidder for cash, on the notes or certificates of the Bank of Illinois, to satisfy the amount required to be paid as aforesaid and also authorizing and requiring the said master in chancery to advertize and sell the property aforesaid, and convey the same to the purchaser or purchasers thereof. And whereas the said Master in chancery in the Execution of the Decree aforesaid advertized the said property for sale at public auction to the highest bidder for cash or notes or certificates as aforesaid by publishing a notice thereof in the Shawneetown Argus public News paper published weekly in Shawneetown Illinois, on the ~~3rd~~ third day of September 1852, the publication of which was continued four weeks successively before the day of sale, stating therein that he would attend at the Gatewood House in Shawneetown Illinois on the

19th day of October AD one thousand eight hundred and fifty two, between the hours of ten Oclock A.M. and five (5) Oclock P.M. and Offer for Sale at public auction to the highest bidder for cash or the notes or certificates of the Bank of Illinois at par the said lands and tenements describing the same as described in the decree, And Whereas, at the time and place stated in said notice the said Master in Chancery attended and offered the said Estate for sale, in the manner and upon the terms stated as aforesaid, and the said James Dunlap, party of the second part, being the highest bidder purchased the following lots of land required to be sold, by said Decree, to wit: the North half of the South East quarter of Section Seventeen in Township number fifteen South of Range number one East, of the third principal Meridian at three hundred and Seventy Dollars, The West half of the North East quarter of Section five in the Township and range aforesaid, at Three hundred and twenty six dollars, forty cents, said Lots being described as being in Alexander County, also the North half of Section six in Township number fifteen South of Range number five East, containing two hundred

Masters deed to Dunlap.

Seventy five and Sixty Eight hundredths, acres, at Twenty three hundred and Sixty Seven dollars Sixty cents, described as being in Pope County, which several sums it appears the said James Dunlap has paid to William Thomas Trustee of the Bank of Illinois, Wherefore in Consideration of the premises, and by virtue of the power ~~in~~ ~~the~~ vested in him by the Decree aforesaid the said John E. Hall Master in chancery as aforesaid does hereby Grant, Bargain Sell, and convey unto the said party of the second part, the Real Estate herein described sold as aforesaid, together with the appurtenances thereof. To have and to hold the same to him his heirs and assigns forever In Witness whereof, the said Master in Chancery hereto signs his name and affixes his seal the date herein written

J. E. Hall L.S.
Master in Chancery.

Acknowledgment. State of Illinois }
Gallatin County } I Samuel S. Marshall Judge of the Circuit Court within and for said County, do Certify that John E Hall whose name ~~appears~~ is subscribed to the foregoing Deed and by whom the

Same appears to be Executed as master in Chancery of Gallatin County, and who is known to me to be the same person whose name is so subscribed, this day appeared before me and acknowledged the Execution thereof to be his act and deed,

Given under my hand, this 14th day of December 1852,

Samuel S. Marshall

State of Illinois }
Massac County } Ss. I John B. Hicks Clerk of the Massac Circuit Court, and Ex officio Recorder for said County, Do hereby certify that the preceding pages contain a true and complete copy of the Deed from John E. Hall Master in chancery in & for the County of Gallatin at the date of said Deed as therein stated, to James Dunlap, further certify that said deed from said John E. Hall to James Dunlap was filed for Record January 10th 1853. in the office of the Recorder of Massac County, Ill, and Recorded 9th February 1853.

Recording &c

Witness my hand and seal of the Massac Circuit Court, this 6th day of June 1862

(Seal)

John B. Hicks Clk &
Ex officio Recorder, M.C.

[9530-89]

The Notice referred to in the foregoing bill of Exceptions is in the words following, to wit,

State of Illinois Union County } ss.

In the Circuit Court of said County,

James Dunlap
against
Levin J. Wilson &
William J. Coleman

In Chancery

Notice to produce and Reply to in Evidence

The said defendants are hereby notified to produce on the trial of this cause, to be read as evidence the original deed Executed by E. H. Gatewood to Defendant, Levin J. Wilson conveying the land in controversy, a copy of which deed is filed with the answer of said Wilson, and referred to as part of the same,

Jonesboro
4th June 1862

James Dunlap
By W. H. Green Atty

[3530-90]

Depositions of Kirkpatrick read as evidence

James Dunlap
vs
Levin J. Wilson et al
John Dougherty Esq.
atty for Levin J. Wilson Et al;

Bill in Chancery

Please take notice that on Saturday, October 27th 1860, in Shawneetown, Ills, at the office of the County Clerk of Gallatin County, between the hours of 9 Oclock A.M. & 6 Oclock P.M. I will appear in person or by attorney & proceed to take the depositions, of Alexander Kirkpatrick & Others, to be read in evidence in the above styled cause, in my behalf.

Notice to take Deps.

Sept. 24th 1860.

James Dunlap
by Green & Smith
his attorneys.

Depositions of A. Kirkpatrick

State of Illinois, Gallatin County } ss.
The depositions of Alexander Kirkpatrick of Shawneetown Illinois, taken at the Office of the County Clerk of Gallatin County Illinois, on this twenty seventh day of October Eighteen hundred and Sixty, between the hours of nine Oclock A.M. and Six Oclock P.M. to be read as evidence in a suit in chancery pending in the Circuit Court of

[8530-91]

Massac County Illinois, in which James Dunlap is complainant and Levin J. Wilson and Others are defendants, the said Witness being of lawful age, and first sworn deposes in answer to questions as follows,

First - by complainant, State whether or not you are or ever was, acquainted with Ephraim H Gatewood, Henry Eddy and Levin J. Wilson, and if so, State where they resided, and what business they followed during the time of your acquaintance, and also whether or not, either of them are still living,

Answer - I was well acquainted with Ephraim H. Gatewood, and Henry Eddy for many years, both of them resided in Shawneetown Illinois, said Gatewood most of the time was a merchant, said Eddy was an attorney at law, said Gatewood died in the year 1848, and said Eddy in the year 1849, I was also acquainted with said Levin J Wilson, who resides in New Orleans he visited Shawneetown after the year 1840 the date I cannot recollect, having charge of some claims from New Orleans for collection, one against me, and one against said ~~Gatewood~~ Ephraim H. Gatewood, I believe

He was regarded in the business of Commission Merchant. at New Orleans, I understand he now resides in the State of Alabama

Second - State Whether or not, said Wilson had, or transacted any business with said Ephraim H Gatewood, and if so what;

Answer, I have before stated that said Wilson had charge of a claim against said Gatewood, and a claim against me, in conversing with me about the settlement of the claim against me, he informed me that he had a claim against said Gatewood, from the same house, which he wanted to collect, or secure, I told him the chance was bad, that Gatewood had failed in business, and was unable to pay his debts that he had Mortgaged all his Lands to the Bank, for more than their Value but possibly he might obtain something, At my suggestion I believe said Wilson Employed the said Henry Eddy as an attorney to assist in collecting or securing the claim, he remained in Shawneetown ten days or two weeks, I saw him and Mr Eddy together frequently during that time, before he left. he told me that he had settled with Gatewood, and ~~had~~ obtained from him a Black mare and

Direct questions & exposition

[8530-92]

had taken some land, near Fort Massac on the Ohio River, in payment, or as security I do not recollect which. I traded with him for the more, and told him I would not give him much for the land, as it was mortgaged to the Bank,

Third. State whether or not said Henry Eddy knew that the land conveyed or Mortgaged to Wilson had before that time been Mortgaged to the Bank of Illinois.

Answer. Mr Eddy was then, I Believe a Director of the Bank, I know he was, and he had been for years before the Attorney for the Bank he knew of Gatewoods indebtedness to the Bank, and that Gatewood had Executed Mortgages to secure that indebtedness, some if not all of said Mortgages were written by said Eddy.

Alex Kirkpatrick

State of Illinois Gallatin County. S.S. I Joseph B Borger Clerk of the County Court, of said County do certify that the foregoing depositions of Alexander Kirkpatrick was taken before me at the time and place specified in the caption, that said deposition after being written out was signed by the said Kirkpatrick in my presence, and sworn to before me in due form of law

Witness my hand and the Seal of said Court at my office in Shawneetown this 27th day of October AD 1860.

J. B. Borger Clk to Court
Gallatin County Illinois

Authentication of Record.

State of Illinois Union County ss

I Thomas Heilman Clerk of the Circuit Court of said County do certify that the foregoing 96 Pages contain a full and perfect copy and transcript of the Record and proceedings of said Court in the case therein stated:— that is James Dunlap Complainant against Levin J Wilson and William Z Coleman defendants.—

Given under my hand and the seal of said Court this 6th day of August 1863.

Thomas Heilman Clk

Fees for copying the foregoing Record. Certificate &c $34.75

(9530-93)

State of Illinois S.S.

In Supreme court of said State

First Grand Division

November Term 1863.

James Randolph Plaintiff

against Writ of Error from Macoupin

Levin S Wilson and County Circuit Court.

Errors Assigned William F Coleman Defendants.

And the said James Randolph by W Thomas his Attorney comes and says, that in the proceedings and decree of the Circuit court, Manifest Errors have intervened to his prejudice, for which the decree aforesaid should be reversed, and he has set down the following

First, The circuit court Erred in Entering a decree dismissing the bill of said plaintiff

Second; The said court Erred in not Entering a decree in favor of said plaintiff.—

Third; The said court Erred in deciding the cause in favor of the defendants and in not deciding it in favor of the plaintiff in Error,— Wherefore the said plaintiff prays that the decree aforesaid be Reversed, set aside, and for nothing held and as inoperative.

W. W. Thomas

[8530-94]

And the said Lucius T. Wilson & William J. Leahman by Dayton their atty comes & says that in the record & proceedings of this Herein Circuit Court there is not any error and this they are ready to verify &c

Deff likewise

Green & Thomas

I Dayton for Defts in error

State of Illinois S.S.

In Supreme Court of said State

First Grand Division

James Dunlap Plaintiff

against

Levin I Wilson and William Z Coleman

Upon Writ of Error from Clerk of Union Court, Circuit Court.

Affidavit of Nonresidence of Wilson

William Thomas being sworn states that he is informed and believes, that the above named defendant Levin I Wilson does not reside in the State of Illinois but his residence was formerly in the State of Alabama, where deponent supposes he still resides.

W W Thomas

Subscribed and sworn to before me August 7th 1863.

Noah Schuster Clk

State of Illinois. S.S.

In the Supreme Court of said State

First Grand Division

November Term 1863.

James Hamlaps Plaintiff

Praecipe — against — Writ of Error from Union Circuit Court

Levin I Wilson and William Z Coleman Defendants.

Upon the Record and affidavit filed the clerk will issue Writ of Error, and issue Summons to Union County against Defendants, — also publish a notice as against defendant Wilson

W. D. Thomas
Atty for plff

12

James Dunlap -
Pltff in Error

vs.

Lewis I Wilson &
Wm J Coleman -
Defts in Error.

Error from Union.

Transcript - Affdt as
to nonresidence of
Wilson & Precipe.

Filed Aug. 10. 1863 -
N. Schnetzer Clk

Paid by judge Thomas
Aug. 13. 63 — $14.50

State of Illinois, SS.

In the Supreme Court of said State,

First Grand Division.

James Dunlap -
Plaintiff in Error -
vs.
Levin J Wilson and
William J Coleman -
Defendants in Error

Writ of error from
Decree of Union
Circuit Court.

The said defendant, Levin J Wilson is hereby notified that the said plaintiff in error has filed in the Clerk's office of this Court a transcript of the Record of the Circuit Court in this Cause, and sued out his writ of error therein, returnable on the first day of the November term, 1863, of this Court that a Scire facias has been issued against said defendants, directed to the Sheriff of Union County, returnable on the first day of the next term of this Court, to be holden at the Court house in Mount-Vernon, on the first Tuesday after the Second Monday in November 1863; and an affidavit having been filed, showing satisfactorily that the said defendant Levin J Wilson, does not reside in the State Illinois, he is required to appear before this Court on the return day of the

Scire facias aforesaid, and join in the errors herein; otherwise judgment will be entered by default. Witness, Noah Johnston, Clerk of said Court, this 10th day of August A.D. 1863.

Noah Johnston, Clerk.
Supreme Court, 1st Grand Division of Illinois.

Judge Wm. Thomas.
Atty for Pltff in Error

12 #

James Dunlap
vs
Lewis F. Wilson &
Wm. F. Coleman

Notice for Publication

STATE OF ILLINOIS, SS.,
IN THE SUPREME COURT OF SIAD STATE, FIRST GRAND DIVISION.

James Dunlap, Pl'tff. in Error.
VS.
Levin J. Wilson and William Z. Coleman Defendants in Error
Writ of Error from Decree of Union Circuit Court.

The said Defendant, Levin J. Wilson, is hereby notified that the said Plaintiff in Error has filed in the clerk's office of this court a Transcript of the Record of the circuit court in this cause, and sued out his Writ of Error therein, returnable on the first day of the November Term, 1863, of this court, that a Scirefacias has been issued against said Defendants, directed to the Sheriff of Union county, returnable on the first day of the next Term of this court to be holden at the court house, in Mt. Vernon, on the first Tuesday after the second Monday in November, 1863; and an Affidavit having been filed, showing satisfactorily that the said Defendant, Levin J Wilson, does not reside in the State of Illinois, he is required to appear before this court, on the return day of the Scirefacias aforesaid and join in the Errors herein, otherwise judgment will be entered by default, Witness, Noah Johnston, clerk of said court, this 10th day of August, 1863.

NOAH JOHNSTON, clerk Supreme court, First Grand Division, Ills.

Judge WM. THOMAS, Att'y for Plff. in Error.

State of Illinois }
Jefferson County } S.S.

We, Satterfield Brothers Editors and Publishers of the "Mountvernon Star" a Newspaper published weekly in Mountvernon, Jefferson County, Illinois, do hereby certify that the annexed Notice was published weekly in said paper, for ten weeks in succession; the first insertion having been on the 18th day of August A.D. 1863, and the last insertion on the 31st day of October A.D. 1863.

Given under our hands and seals this 4th day of November A.D. 1863.

Satterfield Bros.
Editors and Publishers of the "Mountvernon Star"

$3.00

Printers fee $3 – Received pay of Noah Shuster – November 4 – 1863 –

Satterfield Bros

[8530-78]

12

Dunlap

vs

Wilson et al –

Copy of Notice – Painter's
Certificate & Receipt

Filed Nov. 4 – 1863 –
N. Johnston Clk

State of Illinois,
SUPREME COURT,
First Grand Division. } SS

The People of the State of Illinois,

To the Sheriff of Union County.

Because, In the record and proceedings, and also in the rendition of the judgment of a plea which was in the Circuit Court of Union county, before the Judge thereof between

James Dunlap plaintiff and Irwin J Wilson and William F Coleman defendants it is said that manifest error hath intervened to the injury of said James Dunlap as we are informed by his complaint, the record and proceedings of which said judgment, we have caused to be brought into our Supreme Court of the State of Illinois, at Mount Vernon, before the justices thereof; to correct the errors in the same, in due form and manner, according to law; therefore we command you, that by good and lawful men of your county, you give notice to the said

Irwin J Wilson and William F Coleman

that they be and appear before the justices of our said Supreme Court; at the next term of said Court, to be holden at **Mount Vernon**, in said State, on the first Tuesday after the second Monday in November next, to hear the records and proceedings aforesaid, and the errors assigned, if they shall think fit; and further to do and receive what the said Court shall order in this behalf; and have you then there the names of those by whom you shall give the said Wilson and Coleman notice together with this writ.

WITNESS, the Hon. John D Caton Chief Justice of the Supreme Court and the seal thereof, at MOUNT VERNON, this twelfth day of August in the year of our Lord one thousand eight hundred and Sixty-three

Noah Johnston

Clerk of the Supreme Court.

[8530-99]

12

SUPREME COURT.

First Grand Division.

James Dunlap

Plaintiff in Error,

vs.

Levin J. Wilson and
Wm. G. Coleman

Defendant in Error.

SCIRE FACIAS.

FILED.

Return this writ with the matter therein mentioned to Levin J. Wilson and William G. Coleman and their sureties at Court.

Dated October 26th 1843

William Dillon Clerk

Lawrence County Illinois

State of Illinois,
SUPREME COURT,
First Grand Division. } ss

The People of the State of Illinois,

To the Clerk of the Circuit Court for the County of Union Greeting:

Because, *In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of* Union *county, before the Judge thereof between*

James Dunlap *plaintiff and* Levin J Wilson and William E Coleman

defendants it is said manifest error hath intervened to the injury of the aforesaid James Dunlap *as we are informed by his complaint, and we being willing that error, if any there be, should be corrected in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly without delay send to our Justices of our Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at* **Mount Vernon,** *in the County of Jefferson, on the* 1st Tuesday after the 2nd Monday of November *next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law.*

WITNESS, *the Hon.* John D. Caton *Chief Justice of the Supreme Court and the seal thereof, at* MOUNT VERNON, *this* tenth *day of* August *in the year of our Lord one thousand eight hundred and* Sixty three.

Noah Johnston
Clerk of the Supreme Court.

[9530-100]

17

SUPREME COURT.

First Grand Division.

James Dunlap

Plaintiff in Error,

vs.

Levin J. Wilson and
Wm. J. Coleman

Defendants in Error.

WRIT OF ERROR.

Issued & FILED August
10th 1863.
N. Johnston Clk

James Dunlap
vs
Lewis J Wilson
Wm J Coalman

In the Supreme Court
New Term 1843
Error to Vermon

Dunlap Complainant filed his bill in Massac Circuit Court to cancel sells deeds & by consent venue changed to Vermon Decree dismissing bill in that court.

The plaintiff claims title as follows

19th July 1850 Galewood & wife executed a Mortgage to the Bank of Illinois

8th March 1845 This Mortgage was recorded in Massac Co where the lands lie

4 Oct 1843 Galewood & wife sold & deeded the land in fee to Lewis J Wilson defendant

20th Jany 1844 Wilsons deed was recorded in Massac County where the lands lie and more than nine months before the Bank Mortgage was so recorded

1846 Wilson Conveyed by deed the land to Coalman & deed recorded same year in Massac

1846

1850 Ryan & Caldwell agents of the Bank Commenced suit in Equity against the representatives of Galewood without making Wilson & Coalman or either of them defendants or mentioning them in the bill, & proceedings thereon decree & sale to Dunlap 19th Oct 1852

Dunlap Charges Wilson with notice
Charge of Mortgage to the Bank & that Eddy whom he calls attorny of Wilson with notice
Denial Wilson denies all the material accusations of Bill on oath denies notice a query if Eddy sets up Statute of Limitations &c
proof Kirkpatrick the only witness as to the fact of notice deposes that he had a conversation with Wilson & told him Galwood was in failing circumstances & had mortgaged all his lands &c. he Wilson must get something from him &c But 2 witnesses are required. 1 Gill 207-2d Story 1528. 7 Cranch 160

He also states that he believes Wilson on his recommendation employed Eddy. That Eddy had been Atty for the Bank & was then a director of the Bank &c But does not bring home to the knowledge of Eddy the fact of this Mortgages existence at the time See 1 Story § 408 To bind the principal the knowledge must be in the particular transaction at the time See latter part of § 408. 1 Story refused to show

But the whole proceedings, Sale of Ryan & Coldwell decree & sale under it to Dunlap is void as against Wilson & Coleman Defts

All that was obtained by that proceeding was the Equity of redemption held at the time of the decree by Galwoods representatives and this was in fact nothing
See 20th Wendell 260-3 do 603 & 7th Johnson 278.

Dunlap
vs
Wilson et al

Depos on trial
Bonp

State of Illinois, ss: In Supreme Court.

First Grand Division.

NOVEMBER TERM 1863.

References to Record.—

JAMES DUNLAP,
against
LEVINA J. WILSON, and
WILLIAM Z. COLEMAN.

Error from Union.

Statement of facts.

Facts stated in Bill see pa 8.
Record of Gallatin 14 to 64
Record of Gallatin 52
Report of Sale 56
Sale Confirmed 62
Masters Deed 64.

On the 19th of February 1840 Ephraim H. Gotewood and wife executed a Mortgage to the Bank of Illinois, conveying real estate situated in Gallatin, White, Pope, and Pulaski counties to secure the payment of $12,500.

The mortgage was executed and acknowledged in Shawnetown—Recorded in Gallatin county on the 11th of March 1840. In Massac 8th March 1845. In Pulaski 11th March 1845, and in White on the 16th of January 1846.

In 1848 Gatewood died intestate, not having paid the debt secured by the mortgage.

In September 1850 the Assignees of the Bank file their bill inChancery in the Gallatin Circuit court against the Administrator and heirs of Gatewood praying a foreclosure of the mortgage and sale of the property &c, and at the July term 1852 of said court attained a decree for sale.

On the 19th of October 1852 the Mortgaged premises were sold under the decree aforesaid, and James Dunlap the Complainant purchashed the land in controversy at $2357,03,and on the same day received a deed from the Master in Chancery.

56. At the December term of said Court, Masters Report of the sale was approved and the sale ratified, this deed was filed for record in Massac county on the 10th of January 1853, and Recorded 9th of February 1853,

Gatewood To Wilson 79.

On the 4th of October 1843 the defendant Levina J. Wilson then a resident of New Orleans visited Shawnetown to make collections of debtors residing at that place, and having a claim against E. H. Gatewood obtained a deed for the land in controversy in payment of the claim, this deed was recorded in Massac county on the 20th of January 1844.

Wilson To Coleman 73.

On the 15th of December 1856 Levina J. Wilson executed a deed conveying to defendant Coleman, for the nominal consideration of $100--but in fact as a gift or donation,--no money being paid, this deed was Recorded 16th of March ~~1853~~. 1853.

Dunlap claims the land under his purchase, and Coleman claims under his deed from Wilson.

p. 8.

This bill was filled 10th February 1860, down to which time, the land had been vacant, and unoccupied, no part of it had ever been enclosed or cultivated, or taken posses-ion of.

10.

The complainant alledges that he purchased and paid for the land, without any knowledge in fact of the title or claim of Wilson. He also charges that Wilson purchased of Gatewood with knowledge of the existance of the Mortgage to the Bank. He carges that Henry Eddy Esq., Attorney at Law of Shawnetown, was the Attorney for Wilson in obtaining the deed from Gatewood and wrote the deed that said Eddy knew of the existence of the mortgoge to the Bank, and that said mortgage was written by him.

75.

Wison's, answer was filed 12th September 1860, Coleman's answer filed 14th June 1860.

Replications filed 25th of April 1861.

Gatewood to Wilson 79.

Wilson to Coleman 73.

Wilson denies notice of the Mortgage to the Bank, he says "that before making said trade, defendant employed said Eddy to examine the title, and to inform defendant whether the title of G tewood was good and whether there was any mortgages or liens on the land, and defendant was informed by said Eddy that the title was good and unincumbered, that said Eddy was not the agent of this defendant for any purpose except to examine the title as aforesaid."

"His deed conveying said land to William Z. Coleman his nephew, without other consideration, than love and affection for his said nephew, and the conveyance was intended to advance him in the world, without any knowledge that the land was claimed by complainants or any one else."

73.

Coleman answers—"It is true as stated in said Bill, that the said Levin J. Wilson is uncle of this defendant, and in consideration of the blood relations, existing between the parties, and the good feelings of said Wilson towards his nephew the said Wilson for many years, before the deed hereafter to be mentioned was executed, to-wit: for many years, decided to convey the said tract of land, set forth in said bill to the defendant, advised this defendant by letters, and otherwise that he would convey by deed said land to this defeudant."

Coleman denies notice of complainants claims, &c, and insists on his title, &c.

Record of Gallatin 14 to 64.

This suit was commenced in Massaic county and the venue changed by consent of parties to the county of Union.

On the hearing of the cause, the complainant read as evidence, 1st., the Record of the Decree of the Circuit Court of Gallatin County proving the decree

[8530-104]

Report of sale 56
Original Deed 90
Original Mortgage 85.

the sale by the Master in Chancery, his report and its approval by the Court. 2nd. The original deed executed by the Master in Chancery to complainants. 3d. The original mortgage executed by Gatewood to the Bank, dated 19th February, 1840, which, with the certificate of acknowledgement thereon, was proven to be in the hand writing of Henry Eddy, now deceased, but for many years a resident and Attorney at law of Shawneetown, Illinois. 4th. The deposition of Alexander Kirkpatrick.

Kirkpatrick proves, that he was well acquainted with Henry Eddy and E. H. Gatewood, both of them resided at Shawneetown, Illinois, for many years. Eddy was an Attorney at law; Gatewood was a merchant; Eddy died in 1849; Gatewood in the year 1848; he was also acquainted with defendant, Levin Wilson who was formerly a resident and Commission Merchant, of the City of New Orleans, that in the year 184 said Wilson visited Shawnetown for the purpose of collecting some debts or accounts due him, or the House in which he was doing business, he had a claim against said E. H. Gatewood--he enquired of witness about the situation of Gatewood and the prospects of collecting from him,—witness told him the chance was bad, that Gatewood had failed and was entirely broken up,—that he had mortgaged all his lands to the Bank for more than they were worth, but possibly might obtain something. At the suggestion of witness Wilson employed said Henry Eddy to assist him, in collecting or securing the claim, Wilson remained in Shawnetown 10 days or 2 Weeks.

during which time witness saw him and Eddy together frequently. Before Wilson left Shawnetown he informed witness that he had settled with Gatewood and obtained 200 acres of Land near Fort Massac and a Black mare for his claim, witness told him he would not give much for the land as it was mortgaged to the Bank, witness traded for the Black mare, witness states, that Mr. Eddy was then, and had been for several years the Attorney for the Bank, and knew of Gatewood's indebtedness to the Bank and of his executed mortgaged to the Bank some, if not all of which, were written by said Eddy—he also knew of Gatewood's failure in business.

It being charged in the bill that said Henry Eddy wrote the deed from Gatewood to Wilson, and this charge not being denied in the answer, complainant ~~procured~~ moved a notice served on defendants Attorney to produce the original ~~deed~~ to be read as evidence on the trial, to which notice the Attorney stated that he had never had said original deed in his prosession, nor never saw it, and could not therefore produce it.

Notice referred to 93.

73.79.

The defendants read in evidence certified copies of the deeds from Gatewood to Wilson and Wilson to Coleman--upon the evidence the court dismissed the bill and the complainant brings the case here by writ of error.

Decree complained of p. 83.

The complainant in the court below, having ~~procured~~ produced the original mortgage from Gatewood to the Bank and proved it, with the certificate of acknowledgement thereon, to be in the hand writing of Henry Eddy, and also the original, ~~deed~~ from the Master in Chancery to him, and having ~~procured~~ produced the notice to defandants to produce on trial as evidence, the original deed from Gatewood to Wilson, and desiring to incorporate these facts into the record for this court, proposed to state in the form of a bill of exceptions, the evidence introduced in the cause consisting of exhibits, stating what they proved.

So as to avoid the necessity of copying them at length in the Record,—but the defendants solicitor objected, and insisted that exhibits and all papers used on the hearing should be copied at length and this objection being sustained by the court, the complainants solicitor had no ~~alteration~~ alternative, but to incorporate in the statement of evidence or bill of exceptions all the exhibits in such form as required the whole to be copied at length, or loose the benefit of the testimony taken before the court, this explanation is deemed necessary to account for the many pages of the record, consisting of a ~~bond~~ Record from Gallatin county, and deeds ~~to~~ which the solicitor believes will be of no use to either party, and which should not have been required to be copied.

The errors assignee are, that the court erred in dismissing the bill, and in not rendering decree for complainants.

BRIEF.

The only question to be decided upon this long record is, "Had Wilson notice of the existence of the mortgage from Gatewood to the Bank at or before the time he obtained his deed from Gatewood?" If he had such notice, or if he is chargeable with notice, then the decree should be reversed. [Cox vs. Milner, 23 Ills. Reports, 477; Morrison vs. Kelley, 22 Ills. R., 624; Ogden vs. Havan, 24 Ills. R. 57; Repurt vs. Marks, 15 do., 540.

2 Story 1528. 9 Cranch 160. Greenleaf on Evidence 4. Lemon vs Lemon 1 Vesey Sr 66 + 95 18 Pk. 346

Coleman does not occupy the position of an innocent purchaser, and can claim nothing on that ground; the mortgage from Gatewood to the Bank was recorded before Wilson conveyed to him; besides he paid nothing for the land.

The Bill charges, that Wilson had notice of the mortgage, before, and at the time of obtaining the deed from Gatewood, which charge, though denied, is proved by the testimony of Kirkpatrick.

The Bill also charges that Eddy, Wilson's Attorney, had notice, which is not denied by the answer. Kirkpatrick proves that Eddy was employed, at his suggestion, to assist in collecting, or securing the debt. Wilson admits, "That before making said trade he employed Eddy to examine the title and to inform him whether the title of Gatewood was good, and whether there was any mortgages or leins on the land, and that Eddy informed him, that the title was good and unincumbered; that Eddy was not his agent for any purpose except to examine the title as aforesaid."

That Eddy had knowledge of the mortgage to the Bank is proved by the fact, he wrote the mortgage and cirtificate of acknowledgement.

The mortgage was executed in February 1840, recorded in Gallatin county 11th March, 1840. It was intended to secure, what was, at that day, and in that part of the State, considered a very large debt—$12,500, and covered lands situated in four counties. The deed to Wilson was executed in Shawneetown, convenient to the records of Gallatin county, and it can hardly be believed that Mr. Eddy, the Attorney for the bank, had forgotten the circumstance of such a mortgage, even supposing that he failed to examine the records of that county. [Williams vs. Tatnall, 29 Ills. 564.

WILLIAM THOMAS.

The charge in the Bill, that Eddy had notice of the mortgage to the Bank is not denied.

No 12.

Envelope
of
Wilson & Coleman
papers
Abstract & Brief

Filed Nov. 13 – 1869.
W. Johnston Clk

James Dunlap
vs
Isaac T Wilson
(now by Coleman

In the Supreme Court
Nov Term 1863
Error to Union

Dunlap

Complainant filed his bill in Massac Circuit Court, & by consent cause changed to Union decree dismissing the bill in that Court.

The pltff claims title ~~through Galwood & wife~~ as follows

19th July 1830. Galwood & wife executed a Mortgage to the Bank of Illinois

8 March 1845 This Mortgage was recorded in Massac Co where the lands lie

4 Oct 1843 Galwood & wife sold and deeded the land in fee to Wilson Deft.

20th Jany 1844 Wilsons deed recorded in Massac County, more than nine months before the recording of Bank Mortgage was

1846 Wilson conveyed to Coleman

1850 Ryan & Coldwell agents &c Commissioners in Gallatin Co to foreclose Galwoods Mortgage against the representatives of Galwood without making Wilson & Coleman parties

1852 decree of foreclosure sale & deed to Dunlap 19th Oct. 1852

Charge

Dunlap charges Wilson with notice to himself and notice to Eddy whom he calls his attorney

[5530-105]

Denial

Wilson put in his answer under oath and denied notice and agency of Eddy.

proof

Kirkpatrick the only witness who the said disposed to certain conversations he had with Wilson of notice ~~being denied an oath~~ Two witnesses are required to enable plff to recover

1 Gel 207 2 Story § 1528 7 Cranch 140

Kirkpatrick same witness also states that he believes Wilson on his recommendation employed Eddy &c And also states that Eddy had been Atto for the Bank & was then one of the Directors of the Bank & But does not bring home to the knowledge of Eddy the fact of this Mortgages existence at the time See 1 Story § 408 To bind the principal the knowledge must be in the particular transaction and at the time. See latter part of § 408.

But the whole proceedings suit — decree, sale & deed to Lerslop under it upon which complainants relies for title & recd as against Wilson & Coleman Defts

All that was or could be obtained by them was the Equity of redemption of Galloway's Representatives had at the time of the decree and this was nothing Complainants Comes here just as Galloway and in a suit or proceeding in aliene and could he recover?

See 20th Wendell 260 & do 603. 7th Johnson 278.

In the Supreme Court, State of Illinois,

FIRST GRAND DIVISION, AT MT. VERNON.

NOVEMBER TERM, A. D. 1863.

JAMES DUNLAP,
vs.
LEWIS J. WILSON, WM. Z. COLEMAN } Error, to Union.

Dunlap, comp't., filed his bill to cancel def'ts. deeds in Massac Circuit Court, and by consent venue changed to Union, decree dismissing the bill in that Court. The pl'ff. claims title as follows:

19th Feb'ry, 1850, Gatewood and wife executed a mortgage to the Bank of Illinois.

8th March, 1845. This mortgage was recorded in Massac Co. where the lands lie.

4th October, 1843. Gatewood sold and deeded the land in fee, to Lewis J. Wilson, def't.

20th January, 1844. Wilson's deed was recorded in Massac county, being more than nine months before the Bank mortgage was recorded. 1846, Wilson conveyed by deed the land to Coleman.

1850, Ryan & Caldwell, assigners of the Bank, commenced suit in Equity against the representatives of Gatewood, to foreclose this mortgage without making Wilson & Coleman, or either of them, defendants, and preceedings there had decree and sale to Dunlap—19th Oct. 1852. Dunlap charges Wilson with notice of mortgage to the Bank, and that Eddy, whom he says was attorney for Wilson, with notice Wilson denies all the material averments of Bill, on oath denies notice agency of Eddy—sets up statute of limitation, &c.

Wilson answers on oath and denies all the materal facts, &c.

PROOF—Kirkpatrick, the only witness, deposes to same facts in relation to notice, but two witnesses are required to enable pl'ff to recover.—1 Gil. 207. 2 Story, s. 1528. 7 Crouch 160.

Kirkpatrick states his belief that Wilson employed Eddy, and also state that Eddy had been attorney for the Bank, and was then Director of the Bank. But does not bring home to the knowledge of Eddy the fact of this mortgage's existence at the time.—1st Storey, sec. 408. To bind the principal, the knowledge must be in the particular transaction and at the time.

LAW—Brief—The whole proceeding, suit, decree, sale and deed to Dunlap under it, is void as against def'ts. All that was obtained by this proceeding was the Equity of redemption in the land which Gatewood's representatives had at the time of the decree, and this was nothing. Comp't comes here just as Gatewood would in a similar proceeding if alive, and could he recover?—See 20th Wendell 260-5 Wend. 603, 7 Johnson 278.

J. DOUGHERTY, for Def't.

12

Dunlap

vs

Wilson et al

Defts Brf

Filed Nov. 13, 1869

N. Johnston Cl

State of Illinois, ss: In Supreme Court.

First Grand Division.

NOVEMBER TERM 1863.

JAMES DUNLAP,
against
LEVINA J. WILSON, and
WILLIAM Z. COLEMAN.

Error from Union.

Statement of facts.

Reference to Record. Facts stated in Brief, See page 8. Record of Gallatin 14 to 64. Decree of Gallatin 52. Report of Sale 56 Sale Confirmed 62 Mortgage Deed 64.

On the 19th of February 1840 Ephraim H. Gotewood and wife executed a Mortgage to the Bank of Illinois, conveying real estate situated in Gallatin, White, Pope, and Pulaski counties to secure the payment of $12,500.

The mortgage was executed and acknowledged in Shawnetown—Recorded in Gallatin county on the 11th of March 1840. In Massac 8th March 1845. In Pulaski 11th March 1845, and in White on the 16th of January 1846.

In 1848 Gatewood died intestate, not having paid the debt secured by the mortgage.

In September 1850 the Assignees of the Bank file their bill inChancery in the Gallatin Circuit court against the Administrator and heirs of Gatewood praying a foreclosure of the mortgage and sale of the property &c, and at the July term 1852 of said court attained a decree for sale.

On the 19th of October 1852 the Mortgaged premises were sold under the decree aforesaid, and James Dunlap the Complainant purchashed the land in controversy at $2357,06,and on the same day received a deed from the Master in Chancery.

At the December term of said Court, Masters Report of the sale was approved and the sale ratified, this deed was filed for record in Massac county on the 10th of January 1853, and Recorded 9th of February 1853,

Gatewood to Wilson 79.

On the 4th of October 1843 the defendant Levina J. Wilson then a resident of New Orleans visited Shawnetown to make collections of debtors residing at that place, and having a claim against E. H. Gatewood obtained a deed for the land in controversy in payment of the claim, this deed was recorded in Massac county on the 20th of January 1844.

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On the 15th of December 1856 Levina J. Wilson executed a deed conveying to defendant Coleman, for the nominal consideration of $100--but in fact as a gift or donation,--no money being paid, this deed was Recorded 16th of March ~~1853.~~ 1853.

Dunlap claims the land under his purchase, and Coleman claims under his deed from Wilson.

[p530-110]

p. 8. This bill was filled 10th February 1860, down to which time, the land had been vacant, and unoccupied, no part of it had ever been enclosed or cultivated, or taken possession of.

10. The complainant alledges that he purchased and paid for the land, without any knowledge in fact of the title or claim of Wilson. He also charges that Wilson purchased of Gatewood with knowledge of the existance of the Mortgage to the Bank. He carges that Herry Eddy Esq., Attorney at Law of Shawnetown, was the Attorney for Wilson in obtaining the deed from Gatewood and wrote the deed that said Eddy knew of the existence of the mortgoge to the Bank, and that said mortgage was written by him.

75. Wison's, answer was filed 12th September 1860, Coleman's answer filed 14th June 1860.

Replications filed 25th of April 1861.

Wilson denies notice of the Mortgage to the Bank, he says "that before making said trade, defendant employed said Eddy to examine the title, and to inform defendant whether the title of G tewood was good and whether there was any mortgages or liens on the land, and defendant was informed by said Eddy that the title was good and unincumbered, that said Eddy was not the agent of this defendant for any purpose except to examine the title as aforesaid."

Gatewood to Wilson 79.
Wilson to Coleman 73

"His deed conveying said land to William Z. Coleman his nephew, without other consideration, than love and affection for his said nephew, and the conveyance was intended to advance him in the world, without any knowledge that the land was claimed by complainants or any one else."

73. Coleman answers—"It is true as stated in said Bill, that the said Levina J. Wilson is uncle of this defendant, and in consideration of the blood relations, existing between the parties, and the good feelings of said Wilson towards his nephew the said Wilson for many years, before the deed hereafter to be mentioned was executed, to-wit: for many years, decided to convey the said tract of land, set forth in said bill to the defendant, advised this defendant by letters, and otherwise that he would convey by deed said land to this defeudant."

Coleman denies notice of complainants claims, &c, and insists on his title, &c.

This suit was commenced in Massaic county and the venue changed by consent of parties to the county of Union.

On the hearing of the cause, the complainant read as evidence, 1st., the Record of the Decree of the Circuit Court of Gallatin County proving the decree

Record of Gallatin 14 to 64.

[8530-111]

Report of Sale 56.
Original deed 90.
Original Mortgage 85.

the sale by the Master in Chancery, his report and its approval by the Court. 2nd. The original deed executed by the Master in Chancery to complainants. 3d, The original mortgage executed by Gatewood to the Bank, dated 19th February, 1840, which, with the certificate of acknowledgement thereon, was proven to be in the hand writing of Henry Eddy, now deceased, but for many years a resident and Attorney at law of Shawneetown, Illinois, 4th, The deposition of Alexander Kirkpatrick.

Kirkpatrick's Deposition 94.

Kirkpatrick proves, that he was well acquainted with Henry Eddy and E. H. Gatewood, both of them resided at Shawneetown, Illinois, for many years. Eddy was an Attorney at law; Gatewood was a merchant: Eddy died in 1849; Gatewood in the year 1848; he was also acquainted with defendant, Levina Wilson who was formerly a resident and Commission Merchant, of the City of New Orleans, that in the year 184 said Wilson visited Shawnetown for the purpose of collecting some debts or accounts due him, or the House in which he was doing business, he had a claim against said E. H. Gatewood--he enquired of witness about the situation of Gatewood and the prospects of collecting from him,—witness told him the chance was bad, that Gatewood had failed and was entirely broken up,—that he had mortgaged all his lands to the Bank for more than they were worth, but possibly might obtain something. At the suggestion of witness Wilson employed said Henry Eddy to assist him, in collecting or securing the claim, Wilson remained in Shawnetown 10 days or 2 Weeks.

during which time witness saw him and Eddy together frequently. Before Wilson left Shawnetown he informed witness that he had settled with Gatewood and obtained 200 acres of Land near Fort Massac and a Black mare for his claim, witness told him he would not give much for the land as it was mortgagee to the Bank, witness traded for the Black mare, witness states, that Mr. Eddy was then, and had been for several years the Attorney for the Bank, and knew of Gatewood's indebtedness to the Bank and of his having executed mortgages to the Bank some, if not all of which, were written by said Eddy—he also knew of Gatewood's failure in business.

Notice Referred to 93.

It being charged in the bill that said Henry Eddy wrote the deed from Gatewood to Wilson, and this charge not being denied in the answer, complainant produced ~~procured~~ a notice served on defendants Attorney to produce the original deed to be read as evidence on the trial, to which notice the Attorney stated that he had never had said original deed in his prosession, nor never saw it, and could not therefore produce it.

73. 79.

Decree complained of 83.

The defendants read in evidence certified copies of the deeds from Gatewood to Wilson and Wilson to Coleman--upon the evidence the court dismissed the bill and the complainant brings the case here by writ of error.

The complainant in the court below, having produced ~~procured~~ the original mortgage from Gatewood to the Bank and proved it, with the certificate of acknowledgement thereon, to be in the hand writing of Henry Eddy, and also the original, deed from the Master in Chancery to him, and having produced ~~procured~~ the notice to defandants to produce on trial as evidence, the original deed from Gatewood to Wilson, and desiring to incorporate these facts into the record for this court, proposed to state in the form of a bill of exceptions, the evidence introduced in the cause consisting of exhibits, stating what they proved.

So as to avoid the necessity of copying them at length in the Record,—but the defendants solicitor objected, and insisted that exhibits and all papers used on the hearing should be copied at length and this objection being sustained by the court, the complainants solicitor had no alternation ~~alteration~~, but to incorporate in the statement of evidence or bill of exceptions, all the exhibits in such form as required the whole to be copied at length, or loose the benefit of the testimony taken before the court, this explanation is deemed necessary, to account for the many pages of the record, consisting of a Record ~~Bond~~ from Gallatin county, and deeds, ~~to~~ which the solicitor believes will be of no use to either party, and which should not have been required to be copied.

The errors assignee are, that the court erred in dismissing the bill, and in not rendering decree for complainants.

BRIEF.

The only question to be decided upon this long record is, "Had Wilson notice of the existence of the mortgage from Gatewood to the Bank at or before the time he obtained his deed from Gatewood?" If he had such notice, or if he is chargeable with notice, then the decree should be reversed. [Cox vs. Milner, 23 Ills. Reports, 477; Morrison vs. Kelley, 22 Ills. R., 624; Ogden vs. Havan, 24 Ills. R. 57; Repurt vs. Marks, 15 do., 540.

2 Story 1528. 9 Cranch 160. Greenleaf on Evidence 4. Lemon v Lemon 1 Vezey Sr 66

Coleman does not occupy the position of an innocent purchaser, and can claim nothing on that ground; the mortgage from Gatewood to the Bank was recorded before Wilson conveyed to him; besides he paid nothing for the land.

The Bill charges, that Wilson had notice of the mortgage, before, and at the time of obtaining the deed from Gatewood. which charge, though denied, is proved by the testimony of Kirkpatrick.

The Bill also charges that Eddy, Wilson's Attorney, had notice, which is not denied by the answer. Kirkpatrick proves that Eddy was employed, at his suggestion, to assist in collecting, or securing the debt. Wilson admits, "That before making said trade he employed Eddy to examine the title and to inform him whether the title of Gatewood was good, and whether there was any mortgages or leins on the land, and that Eddy informed him, that the title was good and unincumbered; that Eddy was not his agent for any purpose except to examine the title as aforesaid."

That Eddy had knowledge of the mortgage to the Bank is proved by the fact, he wrote the mortgage and cirtificate of acknowledgement.

The mortgage was executed in February 1840, recorded in Gallatin county 11th March, 1840. It was intended to secure, what was, at that day, and in that part of the State, considered a very large debt—$12,500, and covered lands situated in four counties. The deed to Wilson was executed in Shawneetown, convenient to the records of Gallatin county, and it can hardly be believed that Mr. Eddy, the Attorney for the bank, had forgotten the circumstance of such a mortgage, even supposing that he failed to examine the records of that county. [Williams vs. Tatnall, 29 Ills. 564.

WILLIAM THOMAS.

The charge in the bill that Eddy had notice of the mortgage to the Bank is not denied.

No 12.

Dunlap
v
Wilson & Coleman
pefts
Abstract & Brief

Offer

Filed Nov. 13 – 1863
N. Johnston Clk

174
6
1044
174
12.18

12
20
32

November Term - Supreme Court 1863 -

	James Dunlap - Deft in error	Error to Union
12.	vs	
	Levin J. Wilson & William J. Coleman - Defts in error	
1863.	To filing Transcript 20 - Docketing Cause 12	32.
	" Writ of Error - with Stamp	1.25
	" Sci fa	1-00
	" Searching & filing Cert	18.
	" filing Papers	50.
	" Abstracts (1200 words each)	16-80.
	" Entering order	75
	" " Opinion of Court -	2.40
	" Printers fee - Paid by Clerk	3-00.
	" Docket fee Do Do	6-00.
	" Docket & entering Cause	37
	" Postage	12
		32.69

Cr. Prepaid by Judge Thomas - $14-50
" Abstracts furnished 2 40
16 90 — 16-90
15.79

Defts Costs - filing Briefs — 43
Docket & entering Cause — 37
~~1.60~~ 2
16.59

May 3 - 64 - Writ Judge Thomas - that balance due Mr Dunlap on Error of Dunlap vs Wilson et al
Amounts to ~~$16.59~~ Say $15.00

[8530-115]

Costbill

Entered on page
581 — 1863

In the Supreme Court, State of Illinois,

FIRST GRAND DIVISION, AT MT. VERNON.

NOVEMBER TERM, A. D. 1863.

JAMES DUNLAP, } Error, to Union.
vs.
LEWIS J. WILSON, WM. Z. COLEMAN }

Dunlap, comp't., filed his bill to cancel ~~def~~ts. ~~debts~~ deeds in Massac Circuit Court, and by consent venue changed to Union, decree dismissing the bill in that Court. The pl'ff. claims title as follows:

19th Feb'ry, 1850, Gatewood and wife executed a mortgage to the Bank of Illinois.

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4th October, 1843. Gatewood sold and deeded the land in fee, to Lewis J. Wilson, def't.

20th January, 1844. Wilson's deed was recorded in Massac county, being more than nine months before the Bank mortgage was recorded. 1846, Wilson conveyed by deed the land to Coleman.

1850, Ryan & Caldwell, assigners of the Bank, commenced suit in Equity against the representatives of Gatewood, to foreclose this mortgage without making Wilson & Coleman, or either of them, defendants, and preceedings there had decree and sale to Dunlap—19th Oct. 1852. Dunlap charges Wilson with notice of mortgage to the Bank, and that Eddy, whom he says was attorney for Wilson, with notice Wilson denies all the material ~~accounts~~ averments of Bill, on oath denies notice agency of Eddy—sets up statute of limitation, &c.

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PROOF—Kirkpatrick, the only witness, deposes to same facts in relation to notice, but two witnesses are required to enable pl'ff to recover.—1 Gil. 207. 2 Story, s. 1528. 7 Crouch 160.

Kirkpatrick states his belief that Wilson employed Eddy, and also state that Eddy had been attorney for the Bank, and was then Director of the Bank. But does not bring home to the knowledge of Eddy the fact of this mortgage's existence at the time.—1st Storey, sec. 408. To bind the principal, the knowledge must be in the particular transaction and at the time.

LAW—Brief—The whole proceeding, suit, decree, sale and deed to Dunlap under it, is void as against def'ts. All that was obtained by this proceeding was the Equity of redemption in the land which Gatewood's representations had at the time of the decree, and this was nothing. Comp't comes here just as Gatewood would in a similar proceeding if alive, and could he recover?—See 20th Wendell 260-5 Wend. 603, 7 Johnson 278.

J. DOUGHERTY, for Def't.

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Dunlap

vs

Wilson et al

Defts Brief

Filed Nov. 13 – 1843

A. Johnston Cl

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Dunlap
vs
Wilson et al

Error to Winn

Affirmed

Reported
32 Ills

1863

8530

Dunlap
vs
Wilson et al

Defts
Brief

$408
1 Stamp Esq. fees =
judgment on
notice to agent