

8443

No. _____

Supreme Court of Illinois

A. M. Fountain

vs.

Wm. C. Mussey et al

71641  7

2 widow of one George Cloud and Administratrix
of his estate filed in the Clerk's office of the
Circuit Court of Alexander County an affidavit
sworn to and subscribed by her setting forth
that your Orator was justly indebted to her said
husband George Cloud during his life time
and to his estate since his death deceased
in the sum of \$136.50 and that he was not
a resident of this State and that at or about
the same time she signed executed and filed
in said office an attachment bond in pursu-
ance of the Statute entitled that she said
Jimmie Cloud Administratrix of the
estate of George Cloud deceased should procure
her said writ with effect to whom the Clerk of
said Court on the 30th day of September October
1845 issued to the Sheriff of said County writ
of attachment commanding him to attach
so much of the property of your Orator as
would be sufficient to satisfy the demand
sworn to in said affidavit as due said Jim-
mie Cloud as Administratrix of George
Cloud deceased and said Sheriff attached
or levied on the following real estate as shown
by his return on said writ to wit claims five
hundred and thirty (530) survey five hundred
and twenty eight (528) containing four hundred
acres - also the west fractional half and
the south east fractional quarter sections
thirteen (13) Township sixteen ^{Sealers} 16 south of
range three (3) west containing about fifty
three acres on the 6th day of November 1845
and afterwards on or about the 19th day of
April 1846 one J. Freeman then a practicing

and duly authorized attorney at law prepared &
3. filed in said above cited Clerk's office as
Bill Declaration in assumpsit under and by virtue
continued of said Immoria Cloud holding the said in
substantive "Immoria Cloud administratrix
of the estate of George Cloud deceased against
your Oration and in the body and head of
said declaration declaring for and making said
Immoria Cloud the plaintiff as administratrix
of said George Cloud's estate and that said
Declaration was filed in said above attachment
said and that in said cause the Honorable
Circuit Court of said Alexander County entered
by the Honorable Judge of said Court in said
Judge's docket a Judgment for and in favor
of said Immoria Cloud as administratrix
of the estate of George Cloud deceased for one
hundred dollars costs of said ^{Case} against your
Oration at the September Term A.D. 1846. of
said Court for said County and that the Clerk
of said ^{Court} Court entered up his order in the order
Book of said Court for Judgment for Immoria
Cloud administratrix of the estate of George
Cloud deceased against your Oration for one
hundred dollars costs ^{of} as will more fully set
large appear by reference to the record and
Judgment on file and made part of
this bill and your Oration further shews unto your
honor that on or about the 3rd day of May A.D. 1847
the Clerk of said Circuit Court issued an execution
on said in said Judgment directed to the
Sheriff of said County in favor of Immoria
Cloud administratrix of George Cloud and
against the land of your Oration which was.

4. levied by said Sheriff on the following lands.

Bill
Anthem
Containing five hundred and thirty (530)
Survey five hundred and twenty eight (528),
Containing four hundred (400) acres and the
west fractional half, and south east fractional
quarter of Section thirteen (13), Township sixteen
(16) South of range three (3), west Containing
about fifty three (53) acres in all four hundred
and fifty three (453) acres but that said
execution was returned by said Sheriff levied
not sold for want of bidders and afterwards
on or about the 6th day of April A.D. 1848 a second
special execution was issued from the office
of said Circuit Clerk in favor of James
Clark Administrator of the estate of George
Clark deceased against the land of your Grace
Commencing said Sheriff to sell the real
estate levied on by virtue of said above alluded
to writ of attachment and that said Sheriff
did as his return on said execution shews on
or about the 5th day of June 1848 sell the above
described real estate being the equity of redemption
the same lands being then mortgaged to one Cyrus
Pope and Claims five hundred and thirty (530)
Survey five hundred and twenty eight (528)
Containing four hundred (400) acres and also
the west fractional half and the south east
fractional quarter Section (13), Township six
teen south of range three (3), west Containing
about fifty three (53) acres for the sum of
one hundred and thirty three ~~acres~~ dollars.
the amount of the said Judgment cts 10
and that the said James Clark bears the
Purchase thereof could only have

5
Bill
Continued

5 been regarded as the purchase of the equity of
redemption
and being three separate tracts of land
by Government surveys and that on or about the
seventh 7th day of April 1851. Corventy Cully
the then Sheriff of said Alexander County did
execute to the said Sumner and his heirs to
a deed as Sheriff to all of the above described
lands and that on or about the twelfth
day of April 1852. Sumner and executed &
delivered to Alexander W Anderson & Robert
E Ford a deed to all of said above described
lands to which said deed was filed for record
in the recorder's office of said Alexander County
on or about the 18th day of April 1852.

Now your Orator avers that all of the proceedings
in the above alluded to and superficially detailed
cause prior to her deed was carried on conducted
and prosecuted in the name of Sumner
and in her official or representative capacity
as administrator and not in her name
as Sumner and in her individual relations
and that the debt which said lands was
sold to pay was owing if any at all to George
and in his life time and to his estate or to his
heirs after his death and not to Sumner
and individually either as feme sole or feme
covert. Your Orator charges that said Sumner
and's purpose in accepting the said deed
executed to her by said Cully Sheriff of said Alexander
County to said above described lands was to
defraud the heirs and creditors of said George
and as she supposed and to swindle your
Orator out of his lands and your Orator avers that
said deed executed by said Cully as aforesaid

C. should have been executed if it was legal to execute it at all which your Orator here (totally denies) to Jemima Cloud as administratrix of the estate of George Cloud deceased whereby the said Jemima would have held said lands as trustee constructively for the benefit of the heirs & creditors of said estate and now therefore your Orator avers that said debt so executed by said Cully Sheriff as aforesaid to said Jemima Cloud by the only name of Jemima Cloud was and is illegal fraudulent of now effect and at least voidable if not void and should in right and equity justice & conscience be cancelled and given up in some proper mode and manner rendered totally ineffectual for the purpose of conveying or transferring in all questions of title in reference to said lands and your Orator further charges says that said George Cloud left at least two children heirs at law who are still alive and he is informed and believes that there were at the time of sale of said lands outstanding claims against said George's estate your Orator further represents to your Honor that the said attachment writ allowed to and returned heretofore in this Bill commanded the then said Sheriff of Alexander County to attach so much of the estate real or personal of your Orator to be found in said Alexander County as would be of value sufficient to satisfy the said debt ^{of \$10} and your Orator avers that the judgment & execution in favor of said Jemima Cloud administratrix as aforesaid against your Orator was including debt costs & only about one hundred and thirty three dollars in all and that the then said Sheriff of Alexander County flung away & willfully disobeyed

Bill
Continued

7. said writ so directed to him and palpably violating
the then and no existing Statute Law of this the State
of Illinois levied or executed on the day and year
before mentioned said attachments on two bodies of the
land of your said Grant viz one body of about 53
acres and another body of about 400 acres called &
known respectively as the west fractional half and
the south east fractional quarter section the less
township sixteen north range three³ west containing
about fifty three acres and claim five hundred
and thirty three dollars many five hundred and twenty eight
(\$28) containing about 400 acres all in said County of
Alexander and lying and being very nearly to the
Mississippi river about thirteen or fourteen miles
from its confluence with the Ohio river
now your Grant covers the said 453 acres of land
so levied on & was at the time of said levy
and is now worth in the high market of from \$300
to \$500 and that said Sheriff fraudulently and
illegally levied or executed the said mentioned writ
of attachment on four or five times as many acres of
your Grant land as was sufficient to satisfy said
mentioned debt. Costs &c and Charges and said levy
of said writ of attachment on said bodies of land
was illegal fraudulent null and void and ought in
right and justice to be set aside and disregarded &c
and your Grant further Charges represents to your
Honors that on the execution issued from said
County Court heretofore mentioned against your
Grant said lands &c the then said Sheriff of
said Alexander County sold said above described
two bodies of land that is the said 53 acres in
body in the aggregate or lump and the 400 acres
body in the aggregate or lump and not in parcels
with the lowest available legal subdivisions

8 on the said 5th of June 1848 for the Palty and
Bill grossly inadequate sum of amount of one hundred
and thirty three dollars now your orator avers
that said before described lands were at the time
said attachment was levied and said lands
sold by said Sheriff with at the lowest reasonable
estimation from \$3000 to \$5000 and that said
Sheriff well knew at the time he so levied and
sold said lands and that said lands so made
was illegal contrary to laws of Illinois & fraudulent
and that it was intended & calculated to and did
result in the wilful & wantonly and intolerable
public sacrifice of your orator's lands and that
said sale so made should in justice & law equity
be set aside disregarded and go for naught.

Your orator omitted to advise at the proper place
and takes occasion to do it now that the then said
Sheriff fraudulently feigned neglected and refused
to file a certificate with the recorder of said Alexander's
County as he was required by the laws of Illinois
to do stating the fact that he did levy said before
mentioned writ of attachment on certain the lands
of your orator Your orator further avers that no
notice was ever given for four weeks the full minutes
being sixty days before the first day of the term of
said Alexander's Circuit Court before which said writ
of attachment was returnable or for any other length
of time in any news paper published in said State
of Illinois giving notice of such attachment & as
was and is required by the laws of Illinois
Your orator further represents and shews to your
Honor that Alexander W. Anderson whom your
orator prays may be made a party defendant to this
Bill was the duly elected Commissioner qualified

9. and acting Sheriff of the County of Alexander at P
Bill and alluded to a writ of attachment and
Circuit and executed and filed by the said Immortal
Cloud whom your Prayers may be made a party defendant
to this Bill) and during and at the time when
said before mentioned writ of attachment was
issued and addressed from the said Circuit Clerk's
office of said County and during at the time
when said before mentioned writ of attachment of first
and second or in other words when the two said
executions were issued and addressed from said
Circuit Clerk's office of said County and that said
mentioned writ of attachment and executions were
arrested and delivered to said Alexander W.
Anderson as Sheriff of said County and
that he as Sheriff executed and served said attachment
and executions as aforesaid and that said Alexander
W Anderson was the person and the Sheriff as
aforesaid who sold the said lands heretofore
described under the last of the said executions
more or less the day and date aforesaid before
specified your Court further represents to your
Honor that the said Alexander W Anderson during
at or about before and after the time of the filing
approving issuing executing and executing the
various papers before mentioned in reference to
and connected with the sale of said lands
before described said he would and that it was
his intention to have papers and own said before
described lands and that at or about the same
time last designated said Anderson declared
he would and that it was understood he was to have
one half of said lands a half of what could be made
out of said lands in the event of said Immortal

10
Bill
Contd.

Cloud obtaining a reversing a conveyance to the
same Tax orator further represents that on
or about the year 1839, about one half before
mentioned Act and trust of land was (under the
Statute law of the State of Illinois then and
now in force) legally laid off and surveyed by the
then Surveyor of said Alexander County as and into
town lots that a plat of the same was made by said
Surveyor and regularly recorded in said County &
and that the said Alexander Wm Anderson well
knowing the same fact and notice thereof illegally
and fraudulently as such Sheriff as aforesaid levied
said attachment on said Act and trust of land
and under the said execution sold the same
in the aggregate or lumps and in and by town
lots as in law and right he ought to have done
Tax orator further avers that said Alexander W.
Anderson Sheriff as aforesaid pursued & followed
the fraudulent & illegal course as before described
for the purpose of carrying into effect his intention
"and determination of ~~his intention~~ of purchasing &
owning said lands for a nominal insufficient
fraudulent and grossly inadequate consideration
and that the said Anderson and Thomas A
Cloud confederated combined and conspired
together with each other and divers other persons
whose names are to your orator unknown and he
prays that whenever their names are discovered
they made party defendants to this Bill to recover
and own the before described lands for a palpably and
grossly inadequate consideration and to defend
your orator out of his said lands without any
lawful or equitable consideration being paid
him and your orator further avers that Robert

11. To Your Honor (whom your Orator also prays may be
Bill made a party defendant to this Bill) is the other
Cmt'd) Plaintiff with said Anderson of and unto said
lands and he and said Anderson with the persons
to whom said Timmins conveyed &
delivered said deed of conveyance before
mentioned to said lands heretofore described.
Now your Orator charges that said Timmins
Cloud did not pay with his own money or the
money of any body else independent and outside
of the money debts and effects of the said estate
of George Cloud deceased) either to the said
Thrupp said Anderson (who professed to sell
the lands at public vendue) to the estate credit's
creditors or heirs of said George Cloud dead
or to your Orator or for your Orator benefit or credit,
the amount she bid at said ^{public} sale for said lands
or any other amount and also that the said
Anderson & Gors did not pay to nor have paid
to Smithy promised to pay to said Timmins
Cloud two two hundred dollars in consideration
of his said deed of conveyance to said lands
and that at the time said Timmins so
conveyed to said Anderson & Gors said lands
were worth and of the value of from \$300
to \$500. Your Orator therefore prays that
the said Alexander W. Anderson Robert E.
Gors and Timmins Cloud may be respectively
to make true full direct and perfect answers
upon their respective knowledge information
and belief to all and singular the Comant's
statements charges and matters aforesaid
as fully in every respect as if the same were here
again repeated and that they be and particularly
interrogated and that your Honor will enter

12
Bill
included

a decree declaring that said levy of said Attach-
ment the said Sale under said execution and
the said purchase by said Immira and
said deed from said Cully Sheriff to said
Immira as also said deed from said
Immira and to said Anderson & Ford
Null and Void nugatory and of no effect and
that each and all of the same may be set aside
disregarded cancelled and go for naught
and that your Honor may grant such other &
further relief as the nature of the case may
require upon payment by this complainant of
the purchase money & interest if this Hon Court shall
direct which payment he here in Court is ready willing to make
and has often & now offers to pay & justly & lawfully being the purchase money
Will your Honor therefore grant the writ of Subpoena
to be directed to the Sheriff of Alexander County
commanding him to summon Alexander
W Anderson & Robert E. Ford two of the Defendants
in this suit and to the Sheriff of Pulaski County
commanding to summon Immira and
one of the Defendants in this suit by a certain day
and under a certain penalty therein to be inserted
to be and appear before your Honor at the Court
house in Huber in the said County of Alexander
at the September term of the Circuit Court thereof
for the year 1853 then and there to answer the
premises and abide the order and decree of
the Court.

Ans Intime
Raulings & Northard
Solicitors for Complainant

upon the filing the foregoing Bill in Chancery
the following Subpoenas in Chancery to wit
State of Illinois The People of the State of
Alexander County &c

13.
Subpoena
Chy
07.
Anderson
&
Goss.

Illinois to the Sheriff of Alexander County we
Command you that you summon Alexander
W Anderson and Robert E Goss if they are to be
found in your County that they do appear
before the Circuit Court of Alexander County in
the State of Illinois on the first day of the next
term thereof to be holden at the Court house
in Heber in said County on the fourth Monday
of September next then and there to answer to
the matters and things contained in & Complaind
Of by Alexander W Fontaine in his certain Bill
of Complaind filed in said ^{Circuit} Court on the Chancery
side thereof against Alexander W. Anderson Robert
E Goss & Emma Cloud and further to do & receive
whatsoever the said Circuit Court then and there
in Chancery sitting may order adjudge & decree
in the premises and have you then and
then this writ and make known to said Court
the manner in which you execute the same
Witness Alexander W Anderson Clerk of said
Court and the seal thereof affixed at Heber
the 9th day of September A.D. 1853

(D) A W Anderson Clerk
Executed this writ by delivering a copy of this Subpoena
to Alex W. Anderson and also to Robert E Goss
on the 12th day of September A.D. 1853.

Sheriff
returned

Sheriff's fee
Surviving returns of \$1.10
State of Illinois
Alexander County & ss
Wm C Massie Shp
Alex Co Ills

The People of the State of Illinois
to the Sheriff of Pulaski County Greeting we
Command you that summon Emma
Cloud if she is to be found in your County personally
to appear before the Circuit Court of Alexander County

14. on the first day of the next term thereof to be holden
 Subpoen at the Court house in Tiber in said County and
 Chanery State on the fourth Monday of September next then
 07 and thence to answer and plead to the matters &
 Imminia things set forth and Complain'd of. Alexander
 Clerk W. Fortaine in his Certain Bill of Complaint
 filed in the said Circuit Court on the Chanery
 side thereof against Alexander W. Anderson
 Robert C. Goss and Imminia Clerk and do
 further to do and receive whatever on said
 circuit Court then and there in Chanery sitting may
 advise adjudge and decree in the premises and
 have you then and there this writ and make
 thereof known to the said Court in what manner
 you execute the same

Seal

Witness Alexander W. Anderson
 Clerk of said Court and the Seal
 thereof affixed at Tiber this 9th
 day of September A.D. 1853.
 A. W. Anderson Clerk

Shuff
 return
 1853
 Accented the within summons by reading and copy
 to Imminia Clerk this 13th day of September
 1853. At W. August Shuff.

Shuff fees serving & returning	60.
Mileage & Miles	25
	<u>85</u>

1853
 Spt 27
 rule is p p
 for say
 costs
 at a Circuit Court continued and held for the
 Alexander Circuit in the State of Illinois
 on the 27 day of September 1853. Came the
 Defendants by Simons their Counsel and the
 affidavits of A. W. Anderson being read to the
 Court and filed in this cause it was ordered by
 the Court that the Complainant herein is ruled
 to file in this cause bond for costs by 9 o'clock
 to morrow morning or else show cause

15. The following is the affidavit referred to in the foregoing order

Alexander W Anderson
Robert E. Goss
17. Bill in Chancery

affidavit

Alexander W Fontaine
State of Illinois
County of Alexander

Alexander W Anderson one of the Defendants in the above styled cause being duly sworn deposes & says that Alexander W Fontaine Complainant therein is not good for cuts in said court as he believes and that the Defendants as well as the Officers of the Court will be in danger of losing their said cuts unless said Complainant is ruled to give security for cuts thereof and further saith that. A W Anderson sworn to & subscribed before me this 21 day of September 1853.

M. Mc Cully J.P.

1853.
Sept 24.
Remo
Sust'd &
leave to
amend

And at a Circuit Court continued and held for the Alexander Circuit Court at the Court house in the Town of Huber on the 24th day of September 1853. Came the parties Complainant vs. Anderson, by Rawlings & Southwick his solicitors, & also the Defendants by deans. Their counsel and the demurrer heretofore filed herein by the Defendants is argued and heard before the Court and is sustained by the Court as to the special cause assigned and leave to Complainant is given to amend the bill herein.

And at a Circuit Court continued and held for the Alexander Circuit at the Court house

16. in the Term of Thebes on the 24th day of
1854 May 1854 the following order was made
May 24 The Judge of the Circuit Court for the third
venue Judicial Circuit in the State of Illinois &
changed now presiding Judge of the Circuit Court
within and for the County of Alexander in
said Circuit and State being related to one
of the parties in this cause therefore it is
ordered by the Court herein that the venue be
changed to the County of Gallatin in said
State by agreement and that the Clerk of this
Court make up the record and certify the
same

1855
Oct 26 And at a Circuit Court continued and
held for the Gallatin Circuit Court in the
State of Illinois the following order was made
Partly on the 26 day of October 1855
App^o. On this day came the Solicitor Complainant
Guardian by his solicitor and on his Motion Milton
ad litem Partly is appointed Guardian ad Litem for
to Margaret Margaret & Anderson minor defendant herein
& Anderson her at law of William C. Massey decd
And at the same term of said Court on the 7th
day of said term the following order appears of
record

On this day came the Guardian ad litem &
filed his answer for the minor defendant
herein and this cause is set down for hearing
on the seventh day of the next term of this Court
on the seventh day of said term and this cause
is continued and the Guardian ad litem allowed
a fee of \$100 See answer Copied at page
of this record
At a term of the Circuit Court began and held

1856 Oct 19. a Sherriff's return in and for the County of Gallatin
and State of Illinois on the 20th day of October
20 cont'd A.D. 1856. the following order was made
Ordered that this cause be continued by agreement
= end

1857. May 25. At a term of the Circuit Court began and held
at Sherriff's return in and for the County of
Gallatin State of Illinois on the 25th day of
May 1857. And on this day came the parties by
Change of their attys and by agreement this cause is
changed to the County of Pulaski in this State
The following Remuner to the Original Bill
Demurr filed in the Alexander Circuit Court was
filed in this case

Alexander W Anderson & Co

Robert E. Goss & Amos A. Cook Respondents

ad.

Bill in Chancery.

Alexander W. Denton Compl't

And the said Respondents by Rogers & Simons
their solicitors by protestation do not confess
or waive any of the matters and things in
said Complainant's Bill of Complaint contained
and alleged to be true and cause of
Demurr Demurring says that the said Com-
plainant's Bill of Complaint and the matters
things therein contained as by said Compl't
pleaded and set forth are not sufficient in law
or equity to enable the said Complainant to
have or maintain his aforesaid action thereof
against them wherefore they pray to be heard
dismissed with their reasonable costs &c
And for special cause of Demurr the said
respondents by leave of the Court first had &
obtained and according to the form of the
statute in such case & made & provided

19. State of Illinois & June Term 1858 of the
Gallatin County & Gallatin Circuit Court.
Alexander W. Montaine Comptd.

or

Alexander W. Anderson & Mr Chaney
Robert E. Gort & Semminna & Pills to set aside
Cloud. Defts. & Sale

Robert E. Gort one of the Defendants in this
cause being duly sworn states that he is
informed that on the 30th day of the first
week of this term there was a default
entered in this cause against this affiant
and his co Defendant Semminna Cloud
for answers not being filed to Complainant's
Bill. This affiant states that it was not
by any neglect on his part or that of Semminna
Cloud that their answers were not filed
in file on or before the first day of this term
he states that he and his Co Defendants
reside in the Counties of Alexander and
Pulaski Counties some considerable distance
from this Court and that the facilities for
transmitting papers are very uncertain
between their residences and this place
and that he could not with certainty have
filed his answers without either coming or
sending here at a considerable expense but
affiant states that he would have been here
with his answers and also that of Semminna
Cloud on or before the first day of this term but
was prevented from doing so by the suggestion
and request of John Roberty Esq who was at
the solicitor of Complainant, affiant states
that he had a conversation some weeks before
this Court with Mr. Roberty in relation to this

20. and one other cause in this Court that Mr
Ashby in said Conversation said that it
would not be convenient for him to be at
Court here on or during the first week of
the present term but that he had other
business which required his attendance at
Court here the second week of this term
and that he would like for us to agree
first to let our cases stand until the second
week of said term. States that he told Mr Ashby
that ~~within~~ ^{within} the first or second week would
suit him provided there would not be any
advantage or default taken ^{for} for that the
above in substance what was said
affiant states that to accommodate Mr Ashby
and Complainant as he supposed he agreed
with Mr Ashby not to come here until the
second week of Court that this affair under-
stood to be the fair and positive agreement
that neither party was to appear or take any
steps in this cause nor to ask any default
or advantage by reason of answer not being
filed until the second week of this term
affiant further states in behalf of Ammina
Clou & his Co-Defendant that the reasons and
Circumstances above mentioned and set forth
prevented her answer not being filed over
before the first day of this term of Court.

Wherefore affiant prays that the default herein
be set aside and that he and his Co-Defendants
Ammina Clou be allowed to file their answer
to Complainant's Bill in order that Justice
may be done to
R E Hart

The separate answer of Robert E. Hart

Affiant
of
R E
Hart

Answer²¹
R E
Gard
of the Defendants to the Bill of Complaint of
Alexander W Fontaine Complainant and the
said respondent Robert E Gard a resident of
the County of Alexander and State of Illinois
now and at all times hereafter surviving and
surviving to him of all and all Manner of
benefit and advantage of exception which or may
be had or taken to the many fold errors, mistakes
imperfections in said Complainant's Bill
of Complaint contained for answer thereof or
unto so much and such parts thereof as he
is or are Material or necessary for him to make
answer unto answering says that he admits
that the said affidavit made by Sumner
Cloud Administrator for in a certain cause
against the Complainant commenced in the
Alexander Circuit Court was made out regularly
and fairly as charged in said Complainant's
Bill that the attachment bond and writ of
attachment were also regularly made out and
issued as therein charged that the declaration
was made out and filed and Judgment rendered
fairly and regularly as also therein charged
But avers that although all the preliminary steps
necessary to be taken to carry on a suit by attachment
were regularly and fairly ~~made out~~ taken by the
said Sumner Cloud Administrator yet he avers &
charges the truth to be that the said Complainant
by agreement with the said Sumner Cloud
Administrator entered his appearance in the said cause
and afterwards confessed Judgment in favor
of the said Plaintiff therein for the sum of
one hundred dollars or thereabouts debt besides
Costs of suit a copy of which said agreement

22^d and the record of said Judgment now in the
Clerk's office of the Circuit Court of said Alexander
County is here with filed as one exhibit in this
Cause marked exhibit (A) and prayed to be
taken as a part of this answer

And this respondent further answering says
that he admits on the third day of May in
the year of our Lord one thousand eight
hundred and forty seven a special fieri facias
was issued on said Judgment but denies
that said fieri was levied as charged which
writ was returned by the Sheriff of said County of
Alexander not sold to the full return on said
fieris will appear by reference to the certified
Copy thereof in file and made a part of this
answer he denies that the above mentioned
execution was levied on property as charged
in said Complainant's Bill and calls for the
proof and this respondent further answering
admits that a second special fieri was issued
on the sixth day of April A.D. 1848 as charged
in said Bill that it was done fully and
properly that it came to the hands of Alexan-
der W. Anderson as the Sheriff of said County &
that the lands mentioned and described in
Complainant's Bill were by said Sheriff duly adver-
tised for sale according to the provisions of
the statute to be further admits that after the
said lands were regularly advertised the length of
time required by the statute in such cases made
and provided and upon the day mentioned in
said Notice the lands were sold to the highest
bidder therefore that said Jammima Cloud in
his individual Capacity bid the sum of One

Answer²³ hundred and thirty three dollars, and the land
and was struck off, and sold to her at that price
and this respondent further answering admits
that County Cully the purchaser of her land
did on the 7th day of April A.D. 1851 make out
and execute a deed to the purchase of said
premises, that is to say to the said Jemmima
Cloud as is charged in said bill. He cannot
say what may have been the secret motives of
said Jemmima and calls for the proof.
This respondent further insists that the said
Jemmima had no right whatever either under
our Statute or otherwise to bid off the said
land as administratrix or hold them for the
use of the estate nor sell them for the payment
of debts allowed against the ^{said} estate. He still further
insists that even if the allegations were true in
reference to the motives of said Jemmima
that unless the Complainant should show
himself a creditor or heir at law of the estate
of George Cloud deceased, he has no right to
Complain even if the said land had not
passed into the hands of innocent purchasers.
(as it has.) He wholly denies that the said deed
from Cully Sheriff as aforesaid should have been
made to the said Jemmima as administratrix
as aforesaid or as trustee of said deceased, his
at law or as trustee for the creditors of said deceased,
and he further denies that said Complainant
has any right to Complain in this behalf
unless he has shown himself to be either a
creditor or heir at law of said George Cloud
deceased and this respondent further answering admits that
he is informed that the said George Cloud
left at his death his at law. He also admits

24. that there may have been Claims allowed against
the estate of said George and And this respondent
further answering says that he neither admits
nor denies the allegation in Complamant's Bill
that the Sheriff playantly and willfully violated
the Statute in levying said attachment upon five
times the value of said sufficient and calls
for the proofs and further answering denies
that said lands were sold in Massachusetts
as charged in Complamant's Bill agreeable to
his understanding of that allegation and the
situation and condition of said lands and avers that
the proceedings show that the lands to have
been sold in legal subdivisions He admits
that Claim No. five hundred and thirty survey
No five hundred and twenty eight contains
four four hundred and one acre and that the
said tract of four hundred and one acre was what is
known and called an occupied claim and
was surveyed and patented by the Government
of the United States with no other divisions
descriptive lines or boundaries than as Claim
No. 500 Survey No 528 containing four hundred
and one acre He further avers that said tract has always
in deeds of conveyance transfer assessment for
taxes been described as above and he further
avers that there never was to his knowledge any
legal subdivision known or recognized of said
tract and calls for the proofs He avers that if
there ever was a city or town laid off or blocks or lots
on said land that is now not showing it or at least
that this respondent has not been able to find
such record in the proper Office and calls for the
proofs He denies that there are streets, alleys open
or buildings erected or any other thing or evidence

25
Ans
Contd

upon said tracts of land to apprise any person
of the location of such city or town blocks, streets
or alleys and calls for the proofs, he denies
that blocks and lots upon said lands under the
circumstances constitute legal subdivisions &
calls for the proofs, and the respondent further
answering admits that the west fractional half
and the southeast fractional quarter of section
thirteen in township sixteen north range three
west being part of the lands described in the
Bill was sold as one tract or piece but he avers
the fact to both said fractions as appears by
the survey records at the time the public lands
in this part of the State were surveyed by the
Government) only contained about fifty acres,
and he further avers that he is informed and
so states the fact to be that the said fractions were
located immediately on the bank of the Mississippi
river and at a point on said river where the
bank has been for a number of years washing away
a falling in that by said washing off & falling in
of said river bank the most if not all of the
said west fractional half above described
which by the original survey only contained about
thirteen acres has fallen into the said river &
washed away. He further avers that he is informed
and so states the fact to be that a portion of the
said fractional south east quarter above described
had also washed away before the aforesaid sale
and he avers it as his belief from information that
more than one half of said fractional west half
and southeast fractional quarter have washed
away and are gone and fallen into the river
He denies that under the circumstances & facts in
the premises the said fractional tracts were

26. have brought any more or as much as if they had
annex been sold separate and calls for the proof
and he further avers that the said fractional
trads were patented together as one piece and
also conveyed assised and until recently taxed
as one trad denies that said fractional trads
were sacrificed by being sold together and calls
for the proofs. This respondent herein further
avers that the field notes or original government
survey do not show any division line between
the above mentioned fractions and that by said
Government Survey and notes and plats the said
fractions all in one piece and to contain
at the time of said survey fifty two acres in
support of which allegation he refers to the Govern-
ment Survey or the field notes & denies there
being three separate trads of the said land sold
divided by Government Survey as charged in Compl-
aments Bill agreeable to the field notes & (and
calls for the proofs. He neither denies or admits
that any of said lands sold for less than their
value under the circumstances and calls for
the proofs. He neither admits nor denies that the
Sheriff neglected to file certificate and give notice
as alleged in Complainants bill and calls for
the proofs, but he avers that the files & records
show that Complainant entered his appearance
and waived notice and confessed judgment
as will fully appear by reference to the records of the
proceedings in said cause in the Alexander
Circuit Court a certified copy of which is herewith
presented and prayed to be taken as a part of
this answer and this respondent further avers
says that he neither denies nor admits that the

ans 29. Said Sumner failed neglected or refused
contd to pay the amount she bid for said lands
as Charged in Complainant's Bill and calls for
the proofs, and further answering admits that
he and Mr. Anderson his Co-defendant did only pay
the said Sumner about two hundred and
ten or fifteen dollars and avers that to be the amount
of the Principal ^{with} interest of the money she
had paid for the said lands. He further admits
that the said lands (if they were clear of all
incumbrances) are now worth probably three
thousand dollars. And this Respondent further
answering states that he denies all Conspiracies
Conspiracy and fraud charged against him
in said Bill of Complaint without that that
any other matter or thing in said Bill of Complaint
contained and not hereby answered and avoided
separately answered and confessed and avoided
traversed or denied is true to the best of his
knowledge. [#] And this Respondent further answering
avens that since the date of the sale of the
lands mentioned in Complainant's Bill of Complaint
upon the said recitation herein also mentioned
he the said Complainant took on the 25th of April
in the year of Lord one thousand eight hundred
and forty nine a certain fee valuable consideration
(as therein expressed conveyed by his certain Warranty
deed in fee being the above date and acknowledged
the same before me Samuel P. Lisinbe a Justice
of the Peace of the County of Alexander aforesaid
and which said deed of record in said County
of Alexander aforesaid on the records thereof whereby
the said Complainant conveyed to James Pope
of the City of Louisville in the State of Kentucky
the same identical lands together with me other

Exhibit 29. *Jimmima* Clerk Administratrix of the estate of
George Clark deceased hath Complain'd on oath
to Siri S Lightner Clerk of the Circuit Court of
Alexander County that Alexander M Fortune
is justly indebted to the said estate to the amount
of one hundred and thirty six dollars and fifty
cents and oath having been also made that the
said Alexander M Fortune is NOT an inhabitant
of this State so that he cannot be personally
served with process having given bond and
Security according to the directions of the act in
such cases made & provided We therefore Com-
mand you that you attach so much of the personal
estate ~~estate~~ ^{or} real and personal of the said Alex-
ander M Fortune to be found in your County
as shall be of value sufficient to satisfy the said
debt and Costs according to the Complaint and
such estate so attached in your hands to remain
in so to provide that same may be liable to further
proceedings thereon according to law at a Circuit
Court to be holden at Heber for the County of Alexander
upon the fourth Monday in the month of April AD.
1846. so as to Compell the said Alexander M
Fortune to appear and answer the Complaint of
the said *Jimmima* Clerk Administratrix as
aforesaid when and where you shall make known
to the said Court how you have executed this writ
Witness Siri S Lightner Clerk of our
said Court and the Seal thereof
affixed at Heber this 30th day of October
AD. 1845. S S Lightner Clerk

endorsement on said writ of attachment made by the
Shriff Received 30th day of October 1845 at 12
o'clock M and by virtue of the within Command
I did on the 6th day of November 1845 attach the

A quarter section number ¹³ thirteen in Township number
Continued sixteen South range three west containing fifty two
acres & 98 hundredths of an acre also claim number
five hundred and thirty Survey No five hundred
and twenty eight containing four hundred & 9
acres. Situated in the County of Alexander as the
property of Alexander W Fontaine the Defendant in
this suit

A W Anderson
Shiriff A.C.

Copy of agreement filed in this cause
State of Illinois

Alexander County } S. Alexander Circuit Court
April Term A.D. 1846.

Jimmiea Cloud admin
of George Cloud decd

or
Alexander W Fontaine } Attachment

In the above entitled case I
agree to enter my appearance waiving notice of
the pendency of this suit this agreement to be made
a matter of record
A W Fontaine

July 29 1846. which is endorsed filed July 29 1846.
J S Lightner Clerk

April Term of the Alexander Circuit Court
A.D. 1846 on Wednesday of said Term the following
order was made to wit

Jimmiea Cloud admin of
George Cloud decd

or
Alexander W Fontaine } Attachment

Ordered that this cause be continued to
September Term A.D. 1846 of said Alexander Circuit
Court on Tuesday of said Term the following order to

tract, mentioned in his said Bill Complaint and this Respondent insists that said Complainer thereby parted with all the interest or right of redemption both at law and in equity and that he having parted with the fee has no interest nor in said lands and as such no right to complain of the said sale at least not until the said Complainer shall have some Complaint or removal of him upon his said Warranty in support of this allegation Respondent refers to the certified copy of said deed herewith presented as a part of this answer & information or relief all of which matters and things this ready defendant is ready to aver prove and maintain as this Honorable shall direct and having fully answered prays to be herein dismissed with his reasonable Costs and Charges in this behalf most wrongfully expended

P. E. Post

The deed referred to above was never filed in this case

Exhibit A The following is the exhibit A referred to and made part of the foregoing answer

Plas in the Alexander Circuit Court in the State of Illinois before the Honorable Walter P. Scates then presiding Judge of said Court in a certain Cause wherein J. M. M. and Administrators of the estate of George Clark deceased was Plaintiff and Alexander M. Postans was defendant by Attachment

State of Illinois }
Alexander County } do. The People of the State of Illinois to the Sheriff of said County greeting whereas.

Exhibit 31.
A
Continued

Judgment was rendered by the Court 1870
Summina Cloud admr of
George Cloud decd

or } attachment case
Alexander W Intaine
now on this day comes the parties by their attorneys &
by agreement Judgment is rendered for the Plaintiff
in the sum of one hundred dollars with stay of
execution for six months. It is therefore considered
by the Court that the Plaintiff recover against the
defendant the sum of one hundred dollars
with stay of execution for six months and costs to
be taxed and may have execution therefor
upon which Judgment the following execution was
issued and placed in the hands of the Sheriff of
Alexander County.

State of Illinois
Alexander County } To the People of the State of
Illinois to the Sheriff of said County greeting whereas
by our writ of attachment we lately Comanded
you to attach the goods and Chattels lands & tenem-
ents of Alexander W Intaine in your County at the
Syl of Summina Cloud Administratrix of
George Cloud decd and you having made return
on that writ that you had attached by virtue
thereof the following real estate of George Alexander
W Intaine in your County at the Syl of Summina
Cloud Administratrix of the estate of George
Cloud decd to wit the west fractional half and
the south east fractional quarter Section Number
thirteen in Township Number sixteen South three
West containing fifty two acres and ninety eight hundredths
of an acre also Claim Number five hundred
and thirty Survey Number five hundred and

32 Twenty eight Containing four hundred acres Situate
within the County of Alexander and State of Virginia
And whereas the said Sumner and Clerk Admin-
istrator as aforesaid in said Attachment lately
in the Circuit Court of said County rendered a
Judgment against the said Alexander Mc Fortune
for the Sum of one hundred Dollars for her
Damages in a certain Plea of Trespass on the
Case and also the Sum of ten Dollars and forty eight
cents Costs which were adjudged to her for her Costs in
that behalf expended against the said Alexander
Mc Fortune We therefore Command you that you
cause to be sold the said lands by you attached
in form aforesaid with interest from the 24th day
of September A.D. 1846 and have you three Months
before us at our Clerk's office in the City of Lynchburg
from the date hereof to render to the Sumner and Clerk
Administrator as aforesaid for her Damages & Costs
aforesaid hereof full and true and make return of the
Manner in which you have executed this writ
Witness my hand & Lighted Clerk of my said Court
and the Seal thereof affixed
at the City of Lynchburg this 3rd day of May A.D.
1847.

Enclosed upon said execution by the Sheriff as follows
to wit Received this writ 3rd day of May 1847. at 12
o'clock P.M. and in compliance with the within
Command I proceeded to advertise the time &
Place of the sale of the within tracts of lands
and in pursuance of law and agreeable to said
advertisements I did proceed to sell the same to the
highest and best bidder for cash at the Court house
door at the Court room in the City of Lynchburg on the 24th day of
May 1847 and John Bellman being the highest and
best bidder for cash the same was struck off and sold

33. to him as follows to wit ^{by} Sec 9 of Act 13 & 16 of R 3.

Exhibit
A
Continued

West for the sum of \$31 & dimes No 83 & survey No 828
for the sum of \$9150 total \$13150 and he became the
purchaser for that price failing to Comply with
the Conditions of the Sale by not paying over the
Money many paid thereof though he was requested so
to do. I therefore provided to advertise the lands &
the within described lands for sale on the 17th day
of January 1848 and in pursuance of said Advertisment
attended at the door of the Court room in Thibodaux
for the purpose of selling the same at the hour of
12 o'clock M and there being no bidders from & that
would bid for said lands I therefore readvertized
the said tracts of land for sale at the Courtroom
door of the Court room in Thibodaux on the 31st day
of March 1848 and accordingly I there and there
attended at 3 o'clock P.M and found no person that
would bid anything for said lands and therefore
they were not sold for the reasons aforesaid and I
therefore return this writ this March 25th 1848

A W Anderson Sheriff of C

Suand execution in this cause as follows:

State of Illinois
Alexander County } et.

The People of the State of Illinois
to the Sheriff of Alexander County greeting whereas you
were of attachment & lawfully Commaneded you to
attach the goods and Chattle lands & tenements
of Alexander W Fontaine in your County at the
suit of Jymima Clark Administratrix of the
estate of George Clark dec'd and you having made
return on that writ that you had attached by virtue
thereof the following real estate of the said Alexander W
Fontaine to wit the West fractional half and Southeast
fractional quarter Section Number 13 Thibodaux in Township

34 Number sixteen South Line West containing fifty
two acres and ninety eight hundredths of an acre
Exhibit also claim Number five hundred and thirty
A cent Survey Number five hundred and twenty eight
Containing four hundred acres Situate in the
County of Alexander and State of Illinois and
wherein the said Territorial Land Administration
as of and as said attachment lately in the
Circuit Court of said County received judgment
against the said Alexander W Fontaine for
the sum of one hundred dollars for his damages
in a certain plea of Trespass on the Case and
also the sum of eighteen dollars and eighty two and
four tenths which were adjudged to him for costs in that
behalf expended against the said Alexander W
Fontaine We therefore command you as we have before
done that you cause to sale the said lands by you
attached in form of and said with intent from the
24 day of September A.D. 1846 And have you
those moneys before us at our Clerk's Office in Shelby
County days from the date hereof to render to the
said Territorial Land Administration as of and
for his damages and costs of and said writ of full cost
and make return of the moneys in which you execute
this writ Witness Levi S Lightner Clerk of our said
County and the Seal thereof affixed at Shelby this
6th day of April A.D. 1848 Levi S Lightner Clerk

Endorsement and return upon the back of said
execution as follows to wit

Read April 6 1848 at 10 o'clock AM and on the same
day advertised the within described lands for sale
on the 8th day of June following and on the 8th
day of June 1848 I exposed the said West 1/2
and SE 1/4 gr. S 13 in T 16 S R 3 W for sale and

35 the sale was struck off and sold to Immune and
for the sum of forty dollars also I provided to execute
the decedent claim No 30 survey No 528 400 acres
for the sale and the same was struck off and sold
to Immune and for ninety three dollars. He being
the highest and best bidder for the same and
she became the purchaser for that price

A W Anderson

Shriff A.C.

State of Illinois
Alexander County } S.W.

I Alexander W. Anderson Clerk of
the Circuit Court within and for the County of Alexander
and State of Illinois do certify that the above and
foregoing is a true Copy full of the attachment
issued in the said Cause and Sheriff returns thereon
2^d of the order of Court and of said Cause at the
April term of said Court 1846. 3^d of the agreement
between Parties filed to said term 4th of the order and
Judgment of the Court made at the September term
A.D. 1846 4th of the Special fieri facias first issued in
the premises and Sheriff returns to the same and 5th
of the alias Special fieri facias last issued in the
premises and the Sheriff returns to the same as well
as each of the same appear on file and of record in this
Office in said Cause

Given under my hand and the
Seal of said Circuit Court at Springfield
this 3rd day of June A.D. 1854

A W Anderson Clerk

36. The separate answer of Immira Cloud one of
answer of Mrs
Cloud
the defendants to the Bill of Complaint of Alexander
Mc Fontaine complainant and the said respondent
Immira Cloud a resident of the County of Polaski
and State of Illinois now and at all times hereafter
serving & answering to her self all and all manner
of benefits and advantage of exception which now or may
be had or taken to the manifold errors uncertainties
imperfections & mistatements in said Complainant's
Bill of Complaint contained for answer therein
amounts so much and such parts thereof as she is
advised is or are material or necessary for her to make
answer unto answering says that she admits
that the said affidavit made by Immira Cloud
administratrix of the estate of George Cloud dead
in a certain case against the said Complainant
committed in the Alexander Circuit Court was
made out regularly and fairly as charged in said
Bill of Complaint that the attachment bond &
writ of attachment was also regularly made out
and issued as therein charged and that the return
thereon was made out filed and Judgment rendered
fairly and regularly as also therein charged.
But she avers that although the preliminary steps
necessary to be taken to carry on a such attachment
were regularly and fairly taken by her as administratrix
as aforesaid yet she avers and charges the fact to be
that the said Complainant by agreement with her
waived his appearance in the said Cause and
afterwards confessed Judgment in favor of her
as administratrix as aforesaid for the said sum
of one hundred dollars debt besides Costs of said
a copy of which said agreement and the copy
of the record of said Judgment now in the

37.

Answer
Contd
Clarks office of the Circuit Court of said Alexander
County is herewith filed as an exhibit in this cause
marked exhibit (A) and prayed to be taken as
a part of this answer. And this Respondent further
answering says that she is informed and admits
that on the third day of May in the year of our
Lord one thousand eight hundred and forty seven
a special fieri facias was issued on said Judgment
which writ was returned by AM Anderson who was
then acting Sheriff of the said County, but that the
lands were not sold she also admits that a second
special fieri facias was issued on the sixth day of
April AD. 1848 as charged in said Bill of Complaint
that it was done fairly and properly that it came
to the hands of the said Anderson Sheriff as aforesaid
and that the lands mentioned and described in
Complainants Bill were by him as such duly
advertized for sale she further admits that after
the said lands were regularly advertized the length of
time required in such cases and upon the day
mentioned in said Notice the said lands were sold
and that she became the purchaser having bid the
sum of one hundred and thirty three dollars in the
aggregate the said lands were struck off to her at
that price which bids she avers were the highest and
best made therefore she further avers that she should
not bid the amount she did at the time for said lands
if it had not been with the object of securing the debt
due the said estate and that her only object in bidding
of the said lands was to make said debt she only
bid the amount of said debt and costs and she
avers that she would not have given that much
under any other circumstances if she could have
collected the debt otherwise and that she believed at
the time that the same would certainly be redeemed.

within twelve months This Respondent further
 answering admits that after the expiration of the
 term of office of the said Anderson as such Sheriff
 of the County of Cully succeeded him and that as such
 Sheriff on the seventh day of April A.D. 1851.
 made out and executed to her a deed to the said
 premises as is charged in said Bill which she
 avers was more than fifteen months after the
 sale at which she purchased the said lands.
 She utterly denies that her purpose in accepting the
 said deed in her individual Capacity was to defraud
 creditors or heirs of the estate of George Cloud
 as is charged in said Bill of Complaint.
 She utterly denies that she ever had any intention
 or design to defraud or in any way or manner whatso-
 ever either the creditors or heirs of said estate and
 avers that she bid of the said lands in her individ-
 -ual Capacity with no other motive than to secure
 the debt for the benefit of the creditors and heirs of
 said estate. That she accepted the deed in her individ-
 -ual Capacity with no other motive or design than to
 make the amount she had paid therefor and under
 the belief that she had the right to accept the deed
 in such Capacity and that she ~~was~~ ^{at} all times was
 willing and anxious to sell the same at cost with
 interest and did sell the said land the first
 opportunity she had for cost and ten per cent
 interest. She further admits and avers that she
 as the administratrix of her husband George
 Cloud did commence the suit and received
 the Judgment that she received Judgment
 for the amount admitted by the said Compt-
 to be due that the said land was sold upon
 said Judgment for the full amount of

39. of debt and costs and that she bid the said
Amount in her individual Capacity and she
could further aver that she as administratrix
of said estate accounted for and paid the said
Amount as assets of said estate without wronging
or attempting to wrong Cheating or attempting to cheat
anyone In the truth of this averment she refers
to the probate records of Alexander County and
files in the proper Office This respondent further
insists that she has no right whatever either under
the Statute or otherwise to bid off the said lands
as administratrix nor could she have held them
for the use of the estate nor sold them for the
purpose of paying the debts allowed against
the estate It she still further insists that she had
the right to bid off said lands in her individual
Capacity and she avers that she did so in good
faith and under the belief that she was doing
what she might lawfully might and of right ought
to do for the purpose of paying to the estate the
Amount of said debt or judgement against the
Complainant and she still further insists that
the said Complainant has no right to Complain
for she avers that said Complainant was nor is
not either a creditor or heir at law of said George
Candell nor has he said Complainant any
claim against said estate within her knowledge
she wholly denies and utterly denies that the said
Audofon Cully Sheriff as aforesaid should have
been made to her as administratrix as aforesaid
was Trustee of said Decedent's heirs at law nor
Trustee for the Creditors of said Decedent &
denies that said Complainant has any right
to Complain and more especially that as
the lands have passed into the hands of

40 purchaser as she avers they have
and this Respondent further answering
admits that her husband the said George
Cloud died at his death left four heirs at law
his Children named as follows. Jemima
Jane Cloud Francis W Cloud Ann Eliza
Cloud and William A Cloud as charged in
said Complainants Bill but she avers that
since the death of her said husband to wit
the 1st or about the day of January 1842
the said Jemima Jane Cloud and that Francis
W Cloud in 1846 one of the said heirs also departed
this life she also admits that Claims were allowed
against the estate of said decedent (the said
George Cloud) but she avers that the same have
long since been fully settled. This Respondent further
answering denies that Alexander W Anderson
as such Sheriff as aforesaid flagrantly and
willfully violated the Statute of this State
in levying the Attachment of aforesaid mentioned
in Complainants Bill on lands more than
five times sufficient to pay the debt. Specified
in said writ on the contrary avers that he did
not levy upon any more than was sufficient
for she avers that she should not have given any
more than the amount of the said judgment
and costs and she further avers that she was not
said judgment & costs that she did not at the
time wish over the amount of said judgment &
costs and she could not find any person who was
willing to advance the money and give the amt
she bid for said lands. She further avers that
she would not have given the amount of
judgment & costs for any less quantity than the
whole of said lands and that she would

41. not have bid that much if it had not been to save
the said debt for the benefit of the estate of said
George deceased his creditors and heirs at law.
And she further avers that she would not have
bid the amount she did if she had not at the
time believed the said lands would be redeemed
within twelve months by the said Complainant
And this Respondent further avers and denies
that the said lands were sold on Masse or lump
as charged in Complainant's Bill, but avers
that the same were sold in the legal subdivisions.
She admits that Claim No five hundred and
thirty survey No five hundred and twenty eight
contains four hundred acres but she avers that
said tract is what is called an occupant claim
and she is informed and states the facts to
be that the same was surveyed and patented by the
Government of the United States with no other
descriptions, descriptions lines or boundaries than as
Claim ^{No} 530 Survey No 538 containing four hundred
acres that said tract has always been described
in deeds conveyances transfers assignments
and taxed as above described.

And further avers and admits that the West
fractional half and the South east fractional
quarter of section thirteen Township sixteen
South of range three west being a part of the
land described in Complainant's Bill was sold
as one piece or tract but she avers that said
tract all taken together was small and if
the said fractions had been sold separate she
would not have bid for them and she avers that
they brought more by being sold together in one
piece than they could have brought if they had
been sold separate. She denies that the said

42
Annua
Couté
Trads was sacrificed by being sold together
and call for the ~~land~~ proofs. She further
States that it was her understanding that said
fractional tracts were located immediately on the
Bank of the ~~river~~ Mississippi river and that
at the time of the aforesaid sale and of
her purchase it was represented and she states
to be her belief that a portion of said tract
at that time had washed away and fallen in
to the said river. She further States from her
own knowledge and from information derived
she then and still believes that the more if
not all of one of said tracts had before
the sale fallen into the river, and this respondent
further answering says that she neither denies or
admits that there ever was a city or town laid off
a block, or ~~streets~~ streets ~~or alleys~~ on said lands
and call for the proofs. She denies that there
are streets or alleys open or buildings erected or any
thing or evidence upon said lands to her knowledge
to apprise any person of the location of such
City or Town block, streets or alleys & call for
the proofs she neither admits nor denies that
there ever were any blocks lots or streets on said
lands and that the same were legal subdivisions
as charged in Complainant's Bill and call
for the proofs. And further answering she
neither admits nor denies that any of said lands
sold for less under the circumstances than their
value and call for the proofs. She neither admits
nor denies that the Sheriff neglected to file Certificate
and give notice as alleged in Complainant's bill
and call for the proofs but she avers the truth
to be that the said Complainant entered his appearance
in said cause and by agreement confessed

43. Judgment for the sum of one hundred dollars and
answer costs of suit as will more fully appear by reference
would to the Copy of record and files of the said Cause
herewith presented and prayed to be taken as
a part of this answer And this Respondent
further answering utterly denies that She failed
or neglected to pay for said lands as charged in
Complainant's Bill but avers that she paid the
full amount of her said bids for said lands.
And further answering admits that M Anderson
& R O Goshen Co Defendants only paid her the
sum of about two hundred and ten or fifteen
dollars and avers that to be the amount of principal
and interest she bid and paid for the said lands.
She further admits that said lands if they were
clear of all incumbrances are now probably worth
three thousand dollars. And this Respondent
further answering states that she denies all
Conspiracies Conspiracies and frauds charged against
her in said Bill of Complaint without that that
any other matter or thing in said bill of Complaint
contained and not hereby and herein well and
sufficiently answered unto Confessed & avoided
traversed or denied is true to the best of her knowledge
information or belief all of which matters and
things this Defendant is ready to answer and
maintain as this Honorable Court shall direct
and having fully answered prays to be heard
dismissed with her reasonable costs & charges
in this behalf wrongfully expended

J. M. M. Cloud

The Separate answer of William C. Massie
executor of Alexander W. Anderson dec'd
one of the Defendants to the Bill of Complaint

45
Answer
Massie
and
Judgment in favor of the said Plaintiff therein
for the sum of one hundred dollars debt.
besides Costs of suit a copy of which said agreement
and also copy of the record of the said Judgment
now in the Clerk's Office of the Alexander Circuit
Court of said Alexander County is herewith
filed as an exhibit and prayed to be taken
as a part of this answer. And this Respondent
further answering says that he denies that a
general execution issued on said Judgment
as mentioned in said Bill of Complaint but
he admits that on the third day of May in the
year of our Lord one thousand eight hundred
and forty seven a special fieri facias was
issued on said Judgment which writ was
returned by the Sheriff the property not sold
for want of bidder. And this Respondent
further answering admits that a second fieri
facias was issued on the 6th day of April
A D 1848 as charged in said Bill that it
was done fully and properly that it came
to the hands of the Sheriff (the said late Alexander
W. Anderson) who was at the time acting Sheriff
of said Alexander County; and that the
lands mentioned and described in Complainant's
Bill were by said Sheriff as this Respondent
is informed and believes duly advertised for
sale according to the provisions of the Statute
in such case made. He further admits that
after the said lands were regularly advertised
the length of time required by the Statute in
such cases made and provided and upon
the day mentioned in such notices the lands
were sold to the highest and best bidder
therefor that the said Judgment should

46. in her individual Capacity as this Respondent is informed and from his information states answer the fact to be having bid the sum of one of hundred and thirty three dollars the land was by the Sheriff of said State of Ohio sold at that price And this Respondent further answering admits that after the expiration of the term of office of the late Alexander W Anderson as such Sheriff of Cuyahoga County he succeeded him in the office and as the successor said office of Sheriff did on the seventh day of April A. D. 1851. made out and executed a deed to the purchaser of the said premises that is to say Sumner a Cloud as charged in said Bill He cannot say what may have been the secret motive of the said Sumner in her proceedings in the matter but from information derived from others and from his own knowledge & examination of the records that the charge in said Complaints Bill in relation thereto is utterly without foundation and untrue He avers and states the fact to be from information and from the records in the case (that the said Sumner as the administratrix of her husband George Cloud deceased commenced the suit and recovered the Judgment, that she recovered a Judgment for the full amount admitted to be due & owing by the said Complainer that the land was sold upon the Judgment for the full amount of the debt and costs that she individually bid that amount it being the highest

47. and best bid thereof and she supposes that she
paid over in the due course of administration
among the full amount of the said judgment with
of = out wronging or attempting to wrong Cheating or
Missie attempting to Cheat anyone. This Respondent
And further insists that she the said Annina
had no right whatever either under our statute
or otherwise to bid of the said lands as adminis-
trator nor could she have held them for the
use of the estate nor could she have ^{held} ~~held~~ them
for the purpose of paying the debts allowed
against it. He further insists that even if the
said Complainant's allegation was true in
reference to said Annina as Motives (the said
Complainant unless he were a creditor) and
this Respondent is informed that he was not
of said Decedent has no right to Complain even
if the said lands had not passed into the
hands of innocent purchasers as he is informed
it has, but still remained the property of
the said Annina, from information and
his belief he utterly denies that the said
deed from Cully Strip as aforesaid should
have been made to the said Annina as
administratrix as aforesaid or Trustee of
said Decedent's heirs at law or as Trustee of
the creditors of said Decedent he also denies
he also denies that said Complainant has
any right to Complain, And this Respondent
further unreservedly admits that the said
George Cloud left at the time of his death
three or four heirs at law named
Cloud Cloud Cloud
and that part of said heirs have since the death of
said George also departed this life He also

48 admits that there may have been Claims all
= mod against the estate of said Gage deceased
now He from his own knowledge & information denied
Masse utterly denies that the said Alexander M Anderson
and deceased as such Sheriff of Alexander County
flagrantly & willfully violated the Statutes
of this State by virtue of the attachment
then in his hands & mentioned in said
Complainants Bill in levying on lands more
than five times sufficient to pay the debt spe-
= cified in said writ on the contrary he avers
that the records & circumstances connected
with the case show that he did not levy upon
any more land than was sufficient to secure
the payment of said debt specified in said
writ of attachment, And this Respondent
further avers from his information denies
that the said lands were sold en Masse
blump as charged in Complainants Bill
but avers that the records and files show and
he believes that the fact to be that said lands
were sold in the legal subdivisions he admits
that Claim Number five and thirty Survey
Number five hundred and twenty eight
contains four hundred acres by Survey but
he avers that the said tract of four hundred
acres was an occupied Claim & was surveyed
and patented as such by the Government of the
United States with no other descriptions
lines or boundaries than as Claim Number
five hundred and thirty (530) Survey Number
five hundred and twenty eight (528) containing
four hundred ⁴⁰⁰ acres nor has any other course
or description been given to it (He further avers.

49. That said tract of land has always been known
known and described in all deeds of conveyance, transfers
of and the like and assessed and taxed as
messie above described and he further avers that
until this time was to his knowledge no part
was known or used of any legal subdivisions into
Sections quarter or quarter quarter Sections nor
has any been shown or recognized of the said
four hundred acres He denies that there was
any record or deed in the ^{said} County of Alameda
of this being a City or town laid off ^{into} blocks and
lots as charged in Complainant's Bill upon any of
the lands sold in said execution and calls for
the proofs. He avers that if there was a City or town
laid off in blocks or lots on said lands that there
was not at the date of the said sale nor is there
now any record in the said County showing said
City or town lots upon the said lands and if there
was any such City or town laid off upon said
lands the same had been abandoned long before
the date of said sale under said execution
He further distinctly avers that at the date of
said sale there was not upon the lands referred
described in said Complainant's Bill any
streets or alleys open or buildings erected or
any other thing or evidence there to apprise
any person of the location of such City or town
and he further utterly denies that there was a
City upon said lands and calls for the proof
denies that blocks and lots as charged in Compt
Bill under the circumstances constitute legal
subdivisions & calls for the proofs.
And this respondent further answering admits
that the west fractional half and the South

50
known
Missile
And

also fractional quarter of section thirteen in Township sixteen North range three West. Being part of the land described in Compt's Bill was sold by the said Alexander W. Anderson as such things as aforesaid as one piece or tract or together without being separate and sold in different or separate parcels or pieces but he avers the fact to be, the said above described tracts fractions (at the time the public lands in this part of the Country were surveyed by the Government only contained about fifty ^{tr} and 98 ^{ac} or more according to this said Survey and he further avers that the said fractions were located immediately on the bank of the Mississippi river and at a point on said river where the bank has been for a great number of years almost continually washing away or falling in by which washing of the said river bank over the half of the said fractional west half of section thirteen above described has washed away or fallen into the river and further the said last described fractional southeast quarter of said section thirteen has also partly washed away or fallen into the said river and he further represents that the said fractional tracts by a Certified Copy of the original field notes of Government contained only in the aggregate fifty ^{tr} and 98 ^{ac} or more, that the west fractional half and the south fractional quarter of said section thirteen were surveyed as one piece or tract and that the said field notes do not show the specific number of acres contained in either of said fractions but only shows that the ^{tr} said fractional tracts

answer^d. Continued fifty two 98/100 in the aggregate together
of He denies that the said fractional tracts were
Massie sacrificed by being sold together by reason thereof
And sold for less than they would have otherwise
done on the contrary avers that as his belief
that they sold for full as much together if not more
than they would have done if they had been sold
separately if they were susceptible of division
being divided or separated and calls for the
proofs, He also denies that any of said land
under the circumstances sold for less than
their value thereof and calls for the proofs.
He denies as his belief that the Sheriff neglected
to file certificate of the levy of the attachment
as alleged in Complainant's Bill but avers as
his belief and recollection that he once saw
the certificate of said Sheriff of said levy among
the files in the Clerk's office of the Alexander
Grand Court of said County of Alexander
He neither admits nor denies that the said
Sheriff neglected to give notice but avers the fact to
be as he is informed and as appears from the
records in said Cause that said Complainant
entered his appearance and waived the
notice and confessed Judgment all which will
more fully appear by reference to the certified
Copy of the record of said Cause heretofore
referred to and marked as exhibit (A) and made
a part of this answer He neither admits or denies
that the said Immira Cloud failed neglected
or refused to pay the amount she bid for said
lands as charged in Complainant's Bill & calls
for the proofs, And this Respondent further
aversing admits that the said Alexander W.
Deceased and his Co-defendant the said Robert C.

52
You only paid the said Summ^{ts} about the
Sum of two hundred and ten or fifteen dollars.
He further admits that the said lands in Compt^s
Bell mentioned (if they were clear of all incumbrances
of are now worth probably three thousand dollars.
And this Respondent further answering states
that he denies all Combination Conspiring &
fraud Charged against the said Alexander W
Anderson in the said Bill of Complaint with
that that any other matter or thing in said Bill
of Complaint contained and not hereby and
herin ~~expressly~~ well and sufficiently answered
unto Confessed and avoided traversed or denied
is true to the best of his knowledge information or
belief all of which matters and things this
Respondent is ready to aver prove & maintain
as this Honorable Court shall direct and
having fully answered prays to be heard dis-
missed with his reasonable Costs & Charges
most wrongfully expended

answer
of
Margaret
Anderson
The answer of William Parley as Guardian
ad litem of Margaret J Anderson Minor his
p^r He said guardian for answer in this
behalf says he knows nothing of the allegations
matters and things set forth and Charged in
Complainant's ^{3^d} Bill but utterly denies any
way charge and allegation set forth therein
and asks in mercy of the tender years of said
Minor that such proof be required as to said
charges and allegations and will ever pray
p^r
William Parley Guardian
ad litem

And the said Alexander W Fortune for
reply to the several answers of the said

33. Defendants in this Cause says that the
Replikation & statements and allegations and avowment in
the answer of the said Defendants are false
and untrue and that the allegations in Compl
aints bill filed herein are true as he is ready
to prove and maintain as this Honorable
Court shall direct and prays the relief as in
his bill filed herein

Doherty & Olney

The following answer of Mirinda Anderson
Widow of Alexander W Anderson deceased
was filed in this Cause to wit

The separate answer of Mirinda Anderson
Widow of the late Alexander W Anderson
deceased one of the Defendants to the Bill of
Complaint of Alexander W Fountain Esq
And this respondent Mirinda Anderson
a resident of the County of Alexander and
State of Illinois now and at all times hereafter
serving and returning to her self all and
all manner of benefit and at advantage of exception
which ever maybe had a claim to the manifold
manifest and obvious imperfections & mistakements
in said Compliments Bill continued for answer
therunto or so much and such parts thereof as she
is advised to be material or necessary for to make
answer unto answering says that she admits
that the said Affidavit made by Timmina Cloud
administratrix in a Certain Cause against
the Compliment Commenced in the Alexander
Ancient Court was made out fairly as charged
in Compliments Bill that the attachment
bonds to wit to be were regularly made out and
issued as therein charged that the declaration
was filed and Judgment rendered fairly

and regularly to as their charges, also
 which she is informed will fully appear
 herein by reference to the records and proceedings
 of the said Court And this respondent further
 demands answering Saids, that she neither denies
 nor admits that an execution issued on
 said judgment as charged in said Bill
 of Complaint, but calls for the proofs, she
 admits that the lands described in said
 Land and Bill were sold, that Jennina
 Cloud became the purchaser thereof, and
 that Cordey Cully Sheriff of the County
 of the execution of said deed made
 out and executed a deed to the said
 Jennina Cloud for the said lands,
 as charged in Complaint, Bill
 she cannot state what the secret mo-
 tive of Jennina Cloud may have
 been in the transaction, and neither
 denies nor admits the charge, against
 her, but calls for the proofs. She neither
 admits nor denies, that the said deed
 of Cully Sheriff as aforesaid, should
 have been made to the said Jennina
 as administratrix of the estate of George
 Cloud, or as trustee of said heirs or
 creditors, and calls for the proofs
 And this respondent further answer-
 ing admits, that the said George
 Cloud left at his death, as she is
 informed - heirs, at law and
 that a part of said heirs are now living
 She neither admits nor denies, that
 there were claims, alleged against
 the estate of said George Cloud and

but calls for the proofs, she neither
admits nor denies, that her Call
husband the said Alexander W
denies in deed, flagrantly and wilfully
violated the Statute, in bringing up the
attainment mentioned in Compla
inants Bell Ann calls for the proofs,

she neither admits nor denies, that the
said lands were sold on map or lan
p, as charged in Complainants Bell
Ann calls for the proofs - she neither
admits nor denies, that there ever
was a city or town laid off, or blocks,
and lots, streets, alleys in said land
as charged in Complainants Bell
Ann calls for the proofs

she neither admits nor denies,
that any of said land sold for
less than their value, or at a sac
rifice Ann calls for the proofs,
neither admits nor denies, that the
sheriff neglected to file certified
calls for the proofs - she neither
admits nor denies, that the said
Jennison failed neglected or refused
to pay the said lands bid off as
charged in Complainants Bell, and
calls for the proofs

And in this response further ans
wering admits that her Call husband
and the said Alexander W and
also and Robert York her Co-Defen
dants did purchase the said lands
from the said Jennison and
did not pay her about the said

of two hundred and ten or fifteen
dollars

She neither admits nor denies that
said lands are now worth two to five
thousand dollars and calls for the
proof. And this respondent further
answering states, that she denies all the
outrage of combination conspiracy
and fraud as charged in said Bill
of Complaint. And having fully answered
and confessed and avoided, traversed
and denied all the allegations in
said bill receiving for her to make
answer unto, prays to be hence
dismissed with her reasonable
and charges in this behalf most
unsuccessfully expended

(Signed) Marinda Anderson

An authenticated copy of the last
will and testament of Alexander
W Anderson deceased, was filed
in this cause and is as follows
viz

Will I Alexander W Anderson of the County
of Des Moines in the State of Iowa, being
of sound mind and memory, do make and pub-
lish this my last will and testa-
ment, in manner of form following
that is to say

1st I give and bequeath to my beloved
son wife Marinda, all my house
hold and kitchen furniture, my
gold silver watch, and five hundred

Will
and

dollars in ready money
2nd It is my will and with that
of the first number that come to
the hands of the Executor of this will
from collection of notes and ac-
counts due me. to pay to my Creditors
as follows

One note to Robert Campbell of St
Louis Mo

One note to Martin Atherton
of this County

One note to Mrs Cloud of Adams
County, Ill - and on account
of debts bequeathed to Dr
Jayne and all other claims
if there be any. See by usual
course of probate -

3rd I give and bequeath to my beloved
and daughter Margaret Permelia
Anderson, these certain lots of
pieces of land lying and being
in the County of Alexander and
State of Missouri, and known and
designated as Lots No Three (3), and
Six (6), in Section Center Township
Center South of Range Two West
of the Third Principal Meridian
also the North East quarter of
the North East quarter of Section
One (1), in Township No Center
South Range Three West, contain-
ing forty acres each, to her own
use and behoof forever

4th It is my will that the Executor
of my will and testament sell

Summers 2nd

Deponent

Q Are you acquainted with
 the law in respect to lot, claim
 530 Survey 528. And the West fraction
 at half and a sixth east fractional
 quarter of section thirteen in township
 sixteen South of range three west
 in Alexander County State of Illinois,
 And if so, how long have you known
 it and what distance do you reside
 from it

A Answer - I am acquainted with
 it - and have been acquainted with
 it about twenty four or five
 years. I have resided since 1839, at
 one 2 miles and $\frac{3}{4}$ from it and 3 or
 4 years of that time I lived in a
 place a mile or

distance of 3⁰ - Please state if
 you know on what land the
 plaintiff has resided for the last
 ten years

A Answer - It has been on claim
 530 Survey 528 for
 about ten years

Q Please state what
 in your opinion
 said claim 530 Survey 528. of
 four hundred acres on the 11th
 day of June 1848 was worth

A I suppose it was worth
 Answer - at least ten dollars
 per acre

Interoptatog 5 ~ Please State whether
 in your opinion
 Deposition
 of
 whether
 can
 Said tract of land was susceptible
 of being sold in small divisions
 than the whole tract, and if so
 whether or not. Such divisions
 and sales would not have great
 advantages to the defendants
 in the execution by satisfying the
 same with a less quantity than
 the whole amount of said land

My opinion is that it can
 be sold more advantageously
 in less quantities than the whole
 tract in divisions of one hundred
 acres, and my opinion is that
 these divisions would have been
 of advantage to the defendants in
 the sale of the same

Interoptatog 6 ~ Please State whether
 the tract of land
 was under the title
 of fractional grants of Section 13.
 Township sixteen Range 3 West was
 on the first of June 1848 susceptible
 of sale in legal ^{sales} divisions by less
 quantities than the whole - and if so
 State the value of the said land
 at that time

My opinion is that
 it can and I think
 the fractions were then
 worth at least ten dollars

Interrogatory 7 - Please state your
 means of knowledge
 of the value of the same at or about the
 date of the same or at any time
 before the 5th of June 1848

Answer } Mine & fractions above 1843
 was sold by James Chapin
 for one thousand dollars
 at a run 12 months credit as I under
 stood from Fountain and Chapin

Interrogatory 8 } Please state what number
 of acres was in those
 places mentioned
 of land on the 5th day of June 1848

Answer } I should suppose there was
 at least forty acres, there
 might not have been quite
 forty and might have been over

Interrogatory 9 } What proportion
 of that is in timber
 on of Fountain, in your opinion
 I suppose twenty acres
 Answer } cleared

Interrogatory 10 } State the quantity
 of the land in the
 claims and fractions
 on whether the same is good
 farming land also the quantity
 and value of the timber thereon

Answer } The land upon the above
 is good farming
 land the fractions is ap-
 proximately as good with the exception of
 being lower - the timber on the same

Deposition as sent from - consisting of Poplar
 white oak, and ash and other tim-
 ber I think that a man could
 pay five thousand dollars for
 the timber and saw it up and
 make a profit on it.

} What was the course
 Interrogatory 11) of this timber in your
 opinion on the 5 day
 of June 1848

} I think that the timber
 answer (at that time would have
 yielded the same profit
 that it would at this time sawed
 up into lumber

} Do you know what
 Interrogatory 12) the timber would
 actually have been
 worth per acre before that time - if so
 state fully

} I never heard anything
 answer } offered for the timber
 on this tract. I did hear
 an offer made for a tract three
 miles above that was not so good
 timber which eight dollars per acre
 for the timber - which was refused
 about the year 1843.

} Please state how the
 Interrogatory 13) were fractional and
 Subpart fractional
 quarters of $\$13$. $\$16$ Range 3 W. 10
 on the Mississippi River of S. 0
 and describe its land entry points
 for steam boats and the quality of

Deposition
of
depositions
can

Swim landings of any sort thereon
(My opinion is it fronts on
the River more than half a mile
The Steam boat landing all
along the front is good for any sized boat
There is no as good landing as that
above here nearer than Clear Creek
Some fifteen miles nor below for
some ten miles.

14) State whether you
are acquainted with
the lumber business
and are engaged in the same.

I am, and have been
engaged in for three
or at least 25 years

15) Did or not sell under
de Sautain over

other lands on the 1st day of
June 1848 than claim 530 Survey
528 and said tract fractional
and said fractional grants
of Section 13 Township 10 South
Range 10 West in Adams
County in the State of Missouri, and
of so - state where the grants
and value of said other lands

He did at that time
I own two other tracts
- same are tracts
making 800 hundred acres
the four hundred acre tract
lay above on Mississippi River
adjoining the Homestead and the
other lay below the Homestead in

Alexander County and at that time
 to as with Sea does persons
 at that time on an average
 about 10 } Does he get over
 them -

Answer } He does -

Cross interrogatories by Defendants
 interrogatory 17 } Please state if you
 know who was the
 Acting Sheriff of Alexander County
 on the first day of June 1848
 I think it was Alexander
 Insurer } W. Anderson.

State whether
 interrogatory 18 } was the same person
 or who was signed
 any one of the names to this return
 defendant -

Answer } He was -

Cross Interrogatories upon
 part of defendants

interrogatory 1st } Are you or your
 } interested in
 other lands lying
 in the vicinity of those already
 described by you as well as other
 lands and were you in June 1848
 Answer } Some of the lands I am
 } particularly those lands
 } above there on the river

Deposition
of
Wethers
can

as far than back of them I have
been occupationally through them but
not as to all acquainted with those
lands as with the others

Interrogatory 2 } were then not lands
lying contiguous or near
to the three claims and
fractures already mentioned by you
vacant and subject to entry at
One Dollar and 25 Cents per
acre in June 1848 and since
that time

My opinion is that the
Survey was lands lying
back off the river that
was vacant and subject to entry
at one dollar and 25 cents per
acre

Interrogatory 3 } were then not vacant
lands lying near
the foot or south
end of their claims
and lying upon the same ridge
or bench which was vacant in
1848 and continued so vacant
until June 1850 when they were
entered by Mr. Maper

I do not know where
Survey } regard to those lands
that lay at the south
and my opinion is, there was
occupationally vacant lands
most all through the bottom

Interrogatory 4 } did I understand
you to state or

Depend your direct examination to say
 of that small parcels of land would
 not have been sold in 1848 to a better adv-
 antage than large ones
 Answer

I stated in my first
 examination that if the
 four hundred acre tracts
 had have been divided into the
 hundred acre tracts it would
 have sold to a better advantage

Do you think that
 in 1848 that tracts
 of 40, 80 and 160 ac-
 res would have sold to better adv-
 antage than large ones

In some instances, I
 think it would depend
 a good deal on the location and
 the means to purchase with

Please answer the
 last interrogatory
 definitely with regard
 to land lying in the neighborhood
 of New Orleans and fractions
 and also upon the same kind
 or bench

I can give no other answer

When you cannot
 state of fact with
 regard to the case
 say

I can state with regard
 to all lands situated upon

Deposition
of
Dr. Hester
Can
Cross

the bank of the river It is my opinion
they would sell to a better advantage
if subdivided in less than 400 and
trails

Interrogatory 8) } How can you a man
with small means and
buy a large tract of
land away from the
river any easier than upon the river

Answer } The reason would be that
lands upon the river are
estimated to be worth more
money than lands lying off the river
of the same quality of soil and timber

Interrogatory 9) } If the man had
plenty of money
lands would sell
as advantageously in large tracts
as small ones

Answer } Men had plenty of
money they could
buy large tracts of land on the
river as well as off the river

Interrogatory 10) } In your opinion
would small tracts
of land lying near
to and adjoining the river would
sell for more than large ones

Answer } I think they would
sell more advantageously
I think they would sell
more readily

Interrogatory 11) } Do you mean by
that they would

Slip
of
dePhtin
Ansurer
Ans
Cross

Sell for more money
I think they would
Sell for more money
and sell more readily

Interrogatory 12 } Please state your ex-
termined of the value of
lands - is it the market
value what it will bring at public
Sale or forced Sale, or is it the value
which you would put upon it with
time to effect your arrangements,
or is it the price which you would
put upon it having some years
to effect your arrangements, and
the increase which would prob-
ably attach to it

Answer } My opinion is the
proper valuation
would be what it
would fetch in Cash

Interrogatory 13 } Do you mean
of Sold at forced
Sale

Answer } My opinion is there
is no difference betw-
een a forced Sale and Cash Sale

Interrogatory 14 } What is the price
in you put upon
these lands in
your direct examination

Answer } It was

Interrogatory 15 } Can you tell me
where the North West

quarter of Section Number one. in
S 16 T 14 R 5 W is situated with regard to
the Jefferson Mountains Lands.

Interrogatory 16 } I cannot
} answer } How small in your
} opinion ought the
} tracts to have been
} made of claim 526
} Surrey 528 to have been sold advantageously
} in 1848

Interrogatory 17 } I think it would have been sold
} better in fifty acre tracts
} what would have been
} the shape of the tracts
} if so sold

Interrogatory 18 } What is owing to the way
} answer } it would have been divided
} I could not say which
} would have been the most advanta-
} geous way to have suited purchasers

Interrogatory 18 } If Survey already
} mentioned 528, claim
} 530. had been divided
} into tracts of fifty acres each, re-
} maining through the Survey as near
} square as they could have been
} how much front would they have
} had upon the river

Interrogatory 18 } I think the tracts are
} answer } a mile long. Some of
} them are I know be-
} cause I helped to measure them, of
} that one or the same length it w-
} ould give a half greater of a mile.

See
is
with
own

Interrogatory 19) What would be the
difference in the width of Front of one
of those pits and the
bars already mentioned by you

(Supposing the trail to be
Answer) a 1/2 mile, it would be less
than one fourth of the length
of the 2 fractions

Interrogatory 20) Please state whether
or not these fractions
do not lie between
the Survey and the Mississippi river
in whole or in part

(I think only a pair, I think
Answer) a pair of the Survey front
on the river

Interrogatory 21) What distance does
said Survey front
on the river

(I do not know what
Answer) distance it fronts on the
river

Interrogatory 22) Please state how much
it fronts on the river
to the bed of your opinion

(It does appear from
Answer) the map, about 28 rods,
when first laid off
fronted on the river

Interrogatory 23) Who owns the lands
between this Survey
and the river or
Mississippi river, as far from the boundary
before mentioned by you so far as you know

72
Deposition
of
McPherson
Continued
Cross

Answer } I think Deatus & Shurtin
} did you know of any
Interrogatory 24 } lands being sold at
} public auction was
the month of June 1848, or in the year 1848
in that vicinity or did you know of
any being sold at forced sale in that
vicinity during that time. I mean
any lands situated in this vicinity
not sold in that vicinity but at the
Court house door, or any other place
in the County

Answer } I do not recollect
} of any lands sold
} situated there, except
the claim spoke of if sold at all
Interrogatory 25 } was you present
} at the time of the
} sale of that claim
and the fractions when sold
by the Court as administrator
in the year 1848

Answer } I was not
} did you know
Interrogatory 26 } of any lands
} situated in
} the neighborhood
of claim 530 Survey 528. or the
fractions being sold at public
auction or at forced sale in Alexan-
der County or elsewhere during
the year 1847 - if so please state, where
they were situated

Answer } I do not recollect of any
being sold in 1847 as
forced sale

Interrogatory 27) Do you recollect
of any being sold
in the years 1849
or 1850

Answer } I do not recollect of
hearing of any being
so sold at that time

Interrogatory 28) Do you recollect
of any lands situ-
ated in that neigh-
borhood being sold for cash at
sale in 1848 - if so - State when
and in regard to that (Sale) Survey
and the price it sold for

Answer } I do not know of
any being sold in
that vicinity

Interrogatory 29) Do you know of
any being sold
during the years
1847, 1849, or 1850 - if so - State in
what year, when situated with
regard to that Survey and for what
price

Answer } I do not know of any
lands being sold situated
in that vicinity in
1847, 1849, or 1850

Interrogatory 30) Are you certain
that you heard Jos
Mayer say that he
sold those tractions to Mr Fountain

⁷⁴
deposition of any body else for one thousand
of dollars in the year 1843, or at any
other time as before stated

Cross
Answer } I am certain that also
he sold Mr Lintain the
fracture for one thousand dollars
and the tax title that he had
upon the claim or claims, under
any claim 1530 for five hundred
dollars

Interrogatory 31 } I understood you to
say that Mr James
Mayer sold you
this, Am I right?

Answer } You are.
Interrogatory 32 } Did Mr Lintain
live in Alexander
County on this piece
ever to June 1848. And at the time
of the sale of Mr Cloud and has
he continued to reside there ever
since

Answer } My opinion is that he
moved there about
that time, perhaps
a little before and has lived
there ever since

Re Examined by Plaintiff

Interrogatory 1st } Please state if James
Mayer is now living

And if not where did he depart
this life or near, as you remember

Answer) He is not now living
He departed this life
about the year 1849
(Signed, James C McPheters

Deposition of Henry Mayo

Depon
of
Henry Mayo

Interrogatory 1st) Are you acquainted
with the parties, Plain
tiff and defendants, in the Caption
of the interrogatories, in this Suit now
pending and if so - How long have
you known them respectively

Answer) I am acquainted with Foster
12 or 13 years, I have some
acquaintance with John S. Myers
I have been acquainted with Maper
some 17 years, I have been acqun-
tance with Mr. 19 Maper some 6 or
7 years and with Margaret P An-
derson from her birth and was
acquainted with A. W. Anderson
from the year 1840 to his death. The
others I am not acquainted with

Interrogatory 2) Are you now and
were you in the
year 1848 and 1849
with the following described land
to wit claim number 530 Survey 528
and the West Quarter 8 1/2 and South

fractional quarters of Section 13. Lewis
 of der County in the State of Illinois
 Mayo and of so. State your means of know-
 ing them

{ In 1848 and 1849. I was not
 Answer) about them - but before and
 since that time I have
 known them I do not remember
 that I ever heard the numbers of
 them. I lived on the bank of the
 river in 1850 on the lands I suppose
 now mentioned. On which land
 I remained from April until the
 winter following and went there
 by agreement with Mr Fountain

{ Please look on the
 Interrogatory 3) Map accompany-
 ing this deposition
 and taking the red cot. as the
 residence of Fountain on claim No
 530 and survey 528 and describe the
 direction and distance you so
 resided from his said house

{ Something like a gro
 Answer) ad of a mile and
 down the river

Interrogatory 4th) What was the use
 of these lands during
 the years 1848 and 1849 as near
 as you can state

{ The two tractions were
 Answer) worth more than the claim
 I became acquainted with them

September 1840 I suppose these small
of fractions would have been worth
Chicago twenty five dollars per acre and the
sum less dollars per acre

and

Interrogatory 5th } State whether or not
the Survey of 400 acres
if sold in divisions
of a quarter each would not have
been more advantageous for the
defendant in execution contained
than by the whole amount of the
land being sold off at once and
if so - state your reasons for so
believing

Answer } I should think it would
have been more advantageous
to have it sold
in divisions and my reason
for so believing is that buyers
would come in, that otherwise would
be excluded for want of cash

Interrogatory 6th } Please look on the map
and state whether the
two fractions on the river
as there designated would or not
if sold separately been advantageous
to the defendant rather than the
two together being sold in a lump

Answer } I cannot say that it
would - it might and
it might not

Interrogatory 7th } State whether both
fractions and the Survey
of 400 acres, were susceptible of advan-
talous division and sale in

Separate and distinct parts

Deposition
of
Mayo

Of course, that is my opinion
Answer it would have been a great
deal better to have sold
it in distinct parts

Continued

Interrogatory 8 } State who now resides
on this land and
has occupied the
same for the last few years if you
know.

Answer } Mr Fountain the defendant
has lived on this land
for the last few years and
now does -

Interrogatory 9 } State whether A W Fountain
has had other lands
than these in the year
1848 and 1849 and if so how much
land besides them.

Answer } My understanding was
that A W Fountain owned
some 600 or 700 acres of land
besides these, in Stander's Camp
near these lands.

Interrogatory 10 } Was A W Fountain
or not Please state
what you know about the place
of his residence being on those
lands from 1847 to the present
time

Answer } It was on those lands
ever since and is at the
present time

Deposition
Mary
Crop

Crop Interrogatories by Defendants

Interrogatory 1st Will you please state what improvements there were on these lands, fractions being the Northeast and Southeast fractional quarter of Section 13 Township 10 South Range 3 West in the years 1848 and 1849.

Answer I cannot precisely say there was some improvement down below Fontaine and some above. Suppose some I say upon the land

Interrogatory 2nd If I understood you right - you place the value of these fractions upon the ground of their being improved - you will please state what the improvements were worth.

Answer I cannot state what they were worth in 1848 and 1849.

Interrogatory 3rd Has or not a portion of the field referred to been thrown out and uncultivated the most of the time since 1849.

Answer I think not;

Interrogatory 4th Has or not any portion of that improvement been uncultivated and grown up with wild growth since 1849

Crop
Mary
Deposition

80
Depositor
of
Mayo
Car
Crop

Answer } There might be some
little corners of it grown
up since 1849. but very little
were you present
at the Sale of the Lanes
as are described by
Mr Anderson Shupp. in question of
aunt Sontain

I was not.
Answer } Then you cannot tell
from your own knowledge
Interrogatory } whether or not the Lanes
sold would have brought
more money if they had been offer-
ed in less quantities, at that particular
car sale

I do not know as to that
Answer } Sale. My opinion is it
could have sold better in less quan-
tities

If you were not present
Interrogatory } at the Sale and knew
nothing of it personally how
do you arrive at the conclusion
and opinion expressed in the
last interrogatory

I speak that from
Answer } My acquaintance
of all sales that I have been
acquainted with heretofore
unless there was a speculation in
the County the way this land
lies, it would always sell better
in my opinion divided into quantities

deponer Interrogatory 8) Did you or not know
of any sales of land
of for cash in the vicinity of these lands
in the year 1848 or 1849.

deponer Answer) Not that I recollect

deponer Interrogatory 9) How then do you arrive
at the conclusion and
of opinion of the Cash value
of these particular lands in 1848 and
1849.

I do it from the looks of them
Answer) and situation

Interrogatory 10) Do you or not own
lands near or adjoin-
ing the particular
lands you have described - if so
how much and how near to them.

Answer) I own land about I suppose
150 yards of the 400 acre tract
64 acres and 8 or 10 hundred
I suppose in that piece

Interrogatory 11) When did you buy the
tract of land and what
price did you pay per acre

Answer) I entered it about three
years ago at the Rockwell
Land Office - at one dollar and
25 cents per acre

Interrogatory 12) Do you speak of the Cash
value of the land or
what that particular land would
have brought at forced sale for cash
or do you speak of the prospective
value of the land now

Deputation Answer } It might not have brought
 of at a forced sale but in the
 Mayo year 1848 I think it was worth 25
 New dollars per acre namely the fractions.

Cross } Please state whether or
 Interrogatory 1 } not the improvement
 you spoke of in the fractions were situ-
 ated immediately on the bank of the river

Answer } Yes Sir. Situated immediate-
 ly 1/2 mile in front. I think

Re direct on the part of the Plaintiff
 on part of Interrogatory 1 } How many acres are
 or P & P now - as near as you can recollect

I would suppose there is
 Answer } about 35 acres of the lands
 but I do not really know how much
 (Signed, A Mayo)

Deputation of Wm W. P. Putter,
 on part of the Plaintiff

Deputation Interrogatory 1 } Are you acquainted
 of with the names
 Wm W. P. Putter } of Plaintiff and Defendants either
 of them - or either of them - and if so
 how long you have known
 them respectively

Answer } I have been acquainted
 with Mr Sutherland since
 the year 1844. I have been acquainted
 with R & G for about one year
 I am not acquainted with Lemuel
 Cloud. I became acquainted with

Mr. Mapes about the year 1849
 I also became acquainted with
 Mr. Anderson about the year 1849
 and with Mr. Mapes about 1 year
 with Margaret P. Anderson I am not
 acquainted

Were you acquainted
 Interrogatory 2) with the claim 580
 Survey 28 and the west fraction
 $\frac{1}{2}$ and a south west fraction quarter
 of section 13. Town No. Range there
 were in Wyandot County, Missouri,
 in the year 1849 - and if so state their
 value per acre at that time

I have seen what they
 answer said to be the lands
 but I did not know them to be
 the lands at that time but
 know the number, now to be
 the same but I do not know the
 value of the lands but suppose
 it to be worth at least 10 dollars
 per acre at that time for the
 fact I was talking about trading
 for a piece of land about $\frac{3}{4}$ mile
 from that mentioned and could
 not purchase at less than 10 dollars
 per acre, and this land is more
 valuable meaning I imagined
 was more valuable than that
 from the fact that it had landing
 on it.

Please state whether the
 Interrogatory 3) land is so situated
 as to be liable to be sold advantageously

Deposition
of
Wm. W. Phelps
Cno

in the quantities, than the whole
arriving together and of so clear
the facts fully

well, I should think their
Answer were. It might have been
divided in small pieces, or divisions
giving every man a landing on
the river, I should suppose that
the citizens, would have given more
for a small tract not being able
to purchase a large one

Please state whether
Interrogatory 4 } the land that is now
in cultivation is not well timbered
and of so - what is the timber, and
worth in your estimation

The land is well timbered
Answer } generally and I should
think the timber would be worth
a dollar per acre, it would be so.

Please state of what
Interrogatory 5 } quality the land
is for cultivation

The land is best, for
Answer } cultivation, & is a good
soil

How much of the
Interrogatory 6 } land was in Cultiva-
tion in 1849

I do not know but
Answer } suppose some 40 or 50 acres

Please who now
Interrogatory 7 } resides upon the land and has
resided since 1849.

W^m W^m H^o Answer 5 Mr Lintain resides on
Sepulchre the land and has since 1849.

Ques. What was the
Interrogatory 8 & value of the improvements
in 1849.

A. I do not know what it
Answer 3 was worth then.

Cross Interrogatories on the part
of the Defendant,

Ques. Were you in the County
Interrogatory 1 of Delaware, in the
year 1848 or had you any personal
knowledge of such, the value of the
lands at that time in said County.

A. I was not in the County in
Answer 1848 and had no knowledge
of the value of lands in the County
at that time.

Ques. Did you purchase
Interrogatory 2 from Strader the
lands you spoke of he offering you
at 10 dollars per acre.

A. I did not.
Answer

Ques. For what did you regard
Interrogatory 3 the Lintain lands valuable
was it for the timber - or on account of
the improvements upon them.

A. It was for the timber, the fine
Answer land, the improvements, and
advantages of landing.

Ques. Can you or not state of
Interrogatory 4 your own knowledge
whether the lands sold by Anderson

Answer } I have no interest
in the lands, but have an inter-
est in the timber and a third
of one half in the Mills and
two third of the Engines to the other

As direct Ammunition outted
part of the Plaintiff

Interrogatory } Please state whether
are merely temporary place
used for the purpose of saving
the timber and to be removed
after the timber is saved or soon
or if desired

Answer } Yes Sir. That is the purpose
for which they were placed
there (Signed)

Wm W. Phelps

Dep
of
Lenses

Deposition of Samuel B. Lescuyer
in behalf of Plaintiff

Interrogatory } Are you acquainted
with the parties plain-
tiff and defendant other Swis-
s, if so - state, how long you have
known them respectively

Answer } I have known A. W. Fortin
since about 1837, or 1838, 12
years about 4 or 5 years, Jerome and
I have known about 15 or 20 years,
Wm. Clapier. I became acquainted
with about the year 1835, 1836 or
1837 A. W. Anderson I have known
14 or 15 years, Maranda Anderson

⁸⁸
Dep of Secy of War
now known as 'Mapes' I have known
some 4 or 5 years, the little girls, men
seen nearly from her birth

Present

Can

Are you acquainted
Interrogatory 2) with the lands in contro-
versy, that is claim 530 Survey 528 and
the west fractional half and the
south east fractional quarter of Section
13 Township 16. Range 3 East - and if so
how long have you known them

I am acquainted with them
Answer by passing through them
I never saw them Surveyed and have
been acquainted with them for the
last ten years

Who, if any person
Interrogatory 3) has resided on them
during that time and had them
in possession

I suppose that General
Answer) has lived on them longer
than any person I know of, and
I suppose 8 or nine years, and
might have been more

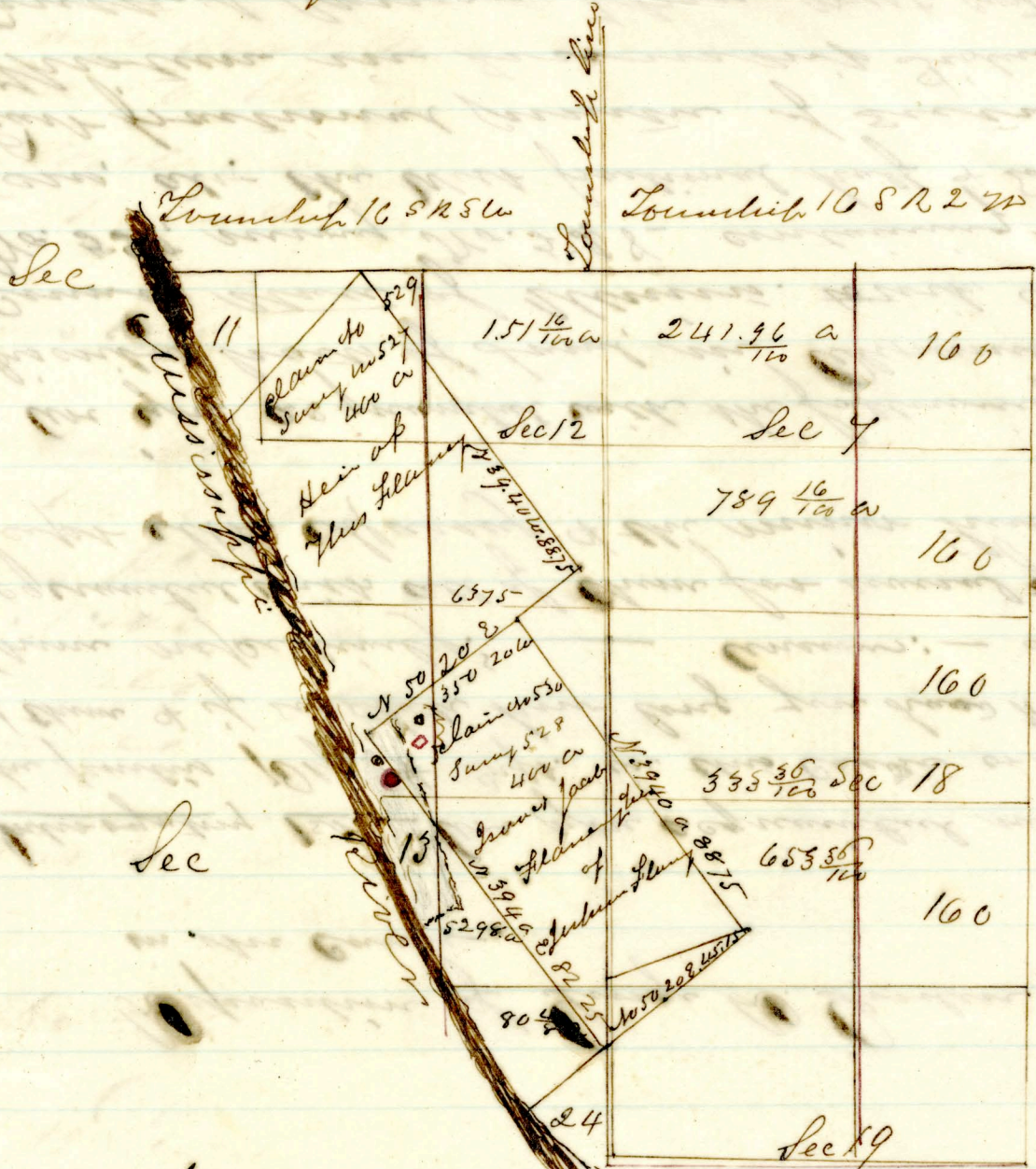
Please state the value
Interrogatory 4) of the lands, per
acre, during the year 1848

I think about 6 dollars
Answer) per acre

Do you know of
Interrogatory 5) Fortaine having
other lands besides these and
during the year 1848

Answer) I do not Sir

Dequa L. B. Lisenber



State of Illinois ss I Green P Garner, do
 of Adams County, hereby certify the above plat
 of claim to 530. Survey to 528 400 acres to Isaac of and
 Slaney of John Slaney and the west fractional half
 and the south east fractional quarter of Section 12
 located in Township 10 South of Range No 3. There
 need no true and correct copy of the Surveys of
 said Township and claim or correct and the same
 is a true plat from my plat & field notes books
 duly authenticated at the Surveyor General's office
 in the City of St Louis, Missouri the above being
 the Surveyor General's office for Illinois, attests
 over and that the acre of acres on the face of
 each tract is also correct and that the marks

in blue paint on said claim of fractions describes the field on said premises and the red dot is about where A. W. Fontaine's former residence was on said land and that the yellow dot represents his new house and residence. Said farm contains about 25 acres of cleared land on the premises above described given under my hand and seal this 30th day of May A.D. 1856

J. P. Garner
of County, State of Ill.
for Alexander, Compt. Ill.

Deposition of George W. Gordon, filed
in the Cause.

Gordon's
deposition

Interrogatory 1st. — Are you acquainted with the parties Plaintiff & Defendant in this Cause or either of them & if so state how long you have known them respectively? — Answer: — I am acquainted with all of them for several years except Mrs. Massey & the minor heirs

2^d Are you acquainted with the following described tracts of land in Alexander County State of Illinois. to wit, Claim No. 530, survey No. 528 — containing 400 acres, also the West fractional half & South East fractional portion of Section Thirteen in Township Tenth South of Range Thirteenth, containing

fifty two acres, being the Homestead of plan
of residence of A M Fontaine - and if so please
state the value of said lands per acre in the
year 1848, as also how long you have
known said lands?

Answer I do not know the lands by the numbers
but am acquainted with the lands for a
long time, and having seen them, having
frequently rode through them. I think
those lands were worth at that time
from eight to ten dollars per acre, partic-
ularly as they fronted on the River, as they
were not improved by the high water of
1844.

3d ~~Do or is not said lands so circumstan-~~
~~ced as to admit of being sold advantageously~~

State from your knowledge of said
lands whether or not at a forced sale
of the said lands in the year 1848, would
or would not have sold to greater advantage
to Fontaine - if sold in smaller quantities
than the whole tract at one time without
subdivision?

Answer I think they would have sold for
more, as persons would more likely to
purchase a smaller tract than a
larger one.

4th Do or is not said lands so circumstan-
ced as to admit of being sold advantageously
in subdivisions less than the whole?

Answer I think they are situated so they might
be advantageously divided - having a long
front on the River, & a good Steam boat
landing.

5th

Please state what is the value of soil and timber.

Answer

I consider the land very good - good as any land in the Mississippi bottom - and the timber very good - what I have run of it.

5th

What is the value of the improvements of soil lands?

Answer

The improvements, I suppose, were worth between two and three hundred dollars.

Cross interruption on the part of the respondents.

Interruption

1st

Were you in business in Cleburne County in the year 1848, and had you been previous, and had you been since?

Ans.

I have been in business in Cleburne County since 1831, and was in 1848.

2d.

What was the time in 1848 in regard to money matters? Were they hard or otherwise? or was money hard to get or not?

Ans.

I think the times were muddling tight, but not so tight as in 1857.

3d.

Was or not money very scarce and hard to get from 1838 to 1848 in the

County away from Clair?

Ans. I think it was rather tough times.

4th Was there, or for as you know, much or little dealing in Real Estate in Adams County, in 1848, or about that time?

Ans. I do not know any thing about that, for I was rather away of Clair about that time.

5th Do you know of the value of the Clinton Lumber in 1848 - do you know by the price which you have paid upon it what it would have sold for in cash at that time, or what it was worth to hold on to, and take the chances of a future sale?

Ans. If the lumber had been sold in 1848, unless I had been involved, I would not have sold for less than Eight or Ten dollars per acre.

6th Do you think many or could have been found in Adams County who would have paid that price for those lands in cash in 1848?

Ans. I think it doubtful whether it could have been sold at that price at private sale.

7th Do you not know or have you not heard that there was other lands lying contiguous to those lands in 1848 that were subject to be entered at government price?

Ans. I do not know how near Government

lands now to those lands. I know that there was government land in this County.

8th

Were you present at the sale of these lands to Mrs. Cloud by Sheriff Anderson in 1848?

Ans

I was not - did not know any thing about it.

9th

Did you attend any Sheriff's or other public sale of lands at auction in Alexander County about that time (1848)?

Ans.

I did not but I recollect of.

10th

Were there any corals on those lands in 1848, or was there any particular value attached to the timber on those lands at that time.

Ans.

I do not know of any except at Santa Fe - some Corals from Fontaine. There was no particular value attached to the timber except for steamboat purposes.

11th

Do you or not know anything of your own knowledge about the lines of the lands above described?

Ans

I do not. They were well designated to me -

George J. Gordon.

Deposition of Adenism Deavers
filed in this court on 12th of the
February,

Adenism Deavers

1st

Are you acquainted with the parties plaintiffs and defendants in this cause, or any or either of them, and if so, state how long you have known them respectively.

Ans. I am acquainted with the pty - & with all the defts except Gost. I have known them for some fifteen years or longer.

2 Are you acquainted with the following described tracts of land in Cass County, Illinois - to wit, Claim No. 530, Survey No. 528, containing 400 acres, less the West fractional half & South East fractional quarter of section Thirteen, in Township Sixteen South, of Range Three West - fifty two acres - being the homestead or place of residence of G. M. Fountain? Now, if so please state the value of said land per acre in the year 1848. & also how long you have known said lands

Ans. I am acquainted with the lands described and have known them for fifteen years or more. In 1848 the land was worth about seven dollars an acre.

3 State from your knowledge of said laws whether or not as a general rule the said lands in the year 1848 would or not have sold to greater advantage to Fountain if sold in smaller divisions than the whole tract at one time, without subdivision.

Ans. I think or rather know that they would have sold to greater

Advantage if disposed of in such manner would.

Q. Is, or not, said lands so circumstanced as to admit of being sold advantageously only in subdivisions less than the whole?

Ans. Yes.

Q. Is there any other matter or thing within your knowledge material to the said ptg., which you have not already answered in your former answers—please state the same as fully as if there to fully interrogated.

Ans. The buildings which existed upon the portions referred to in 1848, were worth some \$400 at that time. Some 20 acres were cleared in the land referred to in these interrogations. The clearing was worth about Ten acres or more. In front of the small portion was the only Steam Boat Landing which existed for about 5 miles above & below it. In high water, however, a landing might be effected by steam boats in nearly any part of the river. The Steam boat landing referred to was on the bank next to the improvements, & greatly enhanced the value of the land then fronting on the River.

Cross Interrogatory.

1. When do you now reside, and when did you reside in June 1848?

Ans. I reside in New Orleans, where I also resided at the time referred to. But at that time I was on a visit to the portion of the Country described in the direct interrogatory.

2d. If you understand that you are acquainted with the lands described in the second direct interrogatory, will you please state particularly how the several tracts are situated with respect to each other and to the Mississippi River? How far from the River is Claim No. 530, & how far are the fractions from the river?

Ans. The fractions front immediately on the River, & the body of the 400 acre tract is in the rear of the fractions. Whether any portion of the 200 acre front on the River or not I cannot positively state.

3d. What is the position of the two tracts - are the fractions above or below the claim on the River?

Ans. I cannot give more certain information on these points than that which is contained in my previous answers.

4th. Did you ever see the lines surveyed - and do you of your own knowledge know any thing about where this particular land is situated?

Ans. I never saw the lines surveyed - but all which I have stated directly and positively is derived from my personal knowledge of the lands themselves as seen by me.

5th Do you know whether the lands described as claim No. 530, survey No. 528, + West fl. half + S. E. fl. q. Sec. 13, T. 16 S. 3 West - are the lands upon which Fontaine now resides? State fully.

Ans. I do not know. His residence at this date is unknown to me.

6th How much land does Fontaine own to claim 530 the upper or lower tract of Fontaine's lands?

Ans. How much land he owns now, or whether he has any or not, I cannot tell. The position of claim 530 I cannot give more particularly than I have already done.

7th Did you know of any forced sales of land in Albamar County for cash in 1848? If so, what did land sell for at such sale or sales?

Ans. I know of no such sales.

8th In what way or manner would you divide claim 530? How few and how much in each parcel so as to sell advantageously state particularly.

Ans. I should divide the tracts into 4-100 acre lots, with side lines ~~parallel~~ perpendicular to the river, + parallel to the sides of the original claim or tract.

9th Are there any legal subdivisions known of claim No. 530? If so - what are they? State your recollection.

Ans. I know of none

Ans. I know it for the reason given in my
 reply to the 10th Cross-interrogatory.
 My means of knowledge are three —
 I am conversant with the people
 living around in the country
 near the lands in question, &
 I know they have not the means
 generally to enable them to
 speculate in lands or to buy or
 cultivate large tracts. Being generally
 acquainted with that portion of
 country & having sold some lands
 there, I know that tracts with
 front on the river are much
 more valuable than the same
 quantity of lands would be if cut
 off from the river & navigation by intervening
 proprietors.

13th What is the relationship between you
 and A. M. Fountain? Are you blood relatives
 or only connected by marriage? Sincerely

Ans. No marital lister. This is our only
 relationship.

A. Seavers.

Depositions filed in this case on the part of the party defendant.

Green Massey's deposition filed in this case.

Interrogatory

1st. Are you acquainted with the parties in the above entitled case, and how long have you known them?

Ans. I am acquainted with the parties, and have been acquainted with them for more fifteen years, in apt Robert E. Post, and with him I have been acquainted for or five years.

2d. Are you or not acquainted with the tract of land usually known in this County as the survey for Bennett and Family of 1870, also five hundred and thirty, and one and a half sections, and the North East fractional quarter of section No. Thirteen Township No. Sixteen, north of the base line survey above West of the Third Principal Meridian, and also known as the middle claim of the Fortaine land? If so, state how long you have been acquainted with it, to the best of your recollection.

Ans. I am acquainted with them, and have been about twenty years.

Please state whether or not you

have been the Sheriff and Collector of this County during many of the twenty years last mentioned by you, and if so when were you elected and when did your office expire?

Ans. I was Sheriff and Collector within the last twenty years, and I think I was elected in August 1844, and my office expired in the Fall of 1850, to the best of my knowledge.

Qth Please state your best recollection as to description usually given of those lands upon the Assessors and Collectors books of this County. Also in survey when conveyed.

Ans. The survey was rounded and curve mentioned also. The fractions were described as other lands are which are sectionized.

Qth Please state whether or not the said lands were ever otherwise described on said books or in conveyances to your knowledge. If so, how were they described?

Ans. I am not aware of any other description.

Cross Interrogatory by Plff.

1st Please state the nature of those separate tracts of land referred to;

Ans. I think the survey is north from

value or estimated by claims - also state what you may know either from Gentry's declarations or Cassan Paper or otherwise, in regard to their being encumbered by mortgages or otherwise.

Ans The claim to the survey was litigated to some extent, during the life of James Mason until claim was bought out by Gentry - since that time the title to the several claims, including the one mentioned was claimed to some extent - and I have understood from Gentry that some of his numerous mortgages to Pope

Qd State what is your opinion is the relative value of lands sold or executed, and lands acquired at private sale - the latter having time and opportunity to select the purchaser - and fix the terms - and what was their relative value in 1848?

Ans I believe that no species of property sells so well under execution as they do at private sale - and I think property would bring more now than it would in 1848, were more attention.

Qd In fixing the value of the specific lands in favor of plaintiff's mortgagee, and you give its present value or its value in 1848?

Ans. I had no opinion as to the value of the land at the present time.

2th Considering the time in 1848, the difficulty in surveying corners and the condition of the title to the adjacent lands - what was the value of such an acre then for cash at that time.

Ans. I could not set any value on them then at that time.

6th How many acres of land did I contain an or claim in that neighborhood including the said survey and fractions, so far as you know?

Ans. There four hundred and twenty, or I ~~surveyed~~ several surveys containing about four hundred acres each - the fractions about fifty acres in all.

7th If in the year one thousand eight hundred and forty eight, three lands had been jointly encumbered, by mortgage to the extent of five or six thousand dollars, what was the middle claim and fractions thereon worth, if sold under execution for cash at that time?

Ans. I would not like to have given a price and for them at that time under the circumstances.

8th What, in your opinion would the survey and the fractions had been sold in eight hundred and forty eight, for cash, if encumbered as aforesaid, with a knowledge of the circumstances?

Q^{ns} I do not know whether it would have been sold at all.

4th State whether or not in Eighteen hundred and forty eight there was any evidence of a Town on the middle survey, and the one particularly inquired about by defendants and Complainants so far as your knowledge extends.

9th Ans. I do not recollect distinctly whether there was or not, I do not recollect whether the Town of Altamira extended down on the middle survey or not, nor do I recollect whether there was any evidence or not.

Cross Interrogatory by P^{lff}.

1st What was the intrinsic value of these lands in 1848?

Ans I suppose they were worth from a few acres per acre.

2d How many acres were there?

Ans There was about four hundred and fifty acres.

3d State if you know who and for what sum your father sold these lands to Fortson.

Ans I think probably in the year 1840-1841 a Egyptian purchased and forty two and I think he sold them for fifteen hundred dollars.

4th State whether there was any clouds on the title to these fractions.

Q^{no}

I think not up to father's time of purchase.

5th

State all you know and what you know in relation to a cloud to the title of Fountain to the survey.

Ans

Of my own knowledge I do not know anything of Mr. Fontaine's title, and I had reference to mortgages and the general reputation of the title when I spoke of the clouds on the title.

Qth

What was the title your father sold to when he sold him the survey?

Ans.

I think it was a Tax title.

7th

Was there a cloud on that?

Ans

It was regarded as insecure when there was other titles butting against it.

8th

Why was it regarded as insecure at that time?

Fountain had an opposing title was the reason why it was regarded insecure.

9

You have stated that Fountain told you about a mortgage: state what he told you and for what sum given.

Ans.

I do not recollect for what sum he told me it was mortgaged.

10th

How do you know did he say he had mortgaged his land?

Ans

I think he told me it was mortgaged to Pope.

11th

Are you acquainted with Crossin Pope, one of the plaintiffs: state where he now resides and when he has visited you since you have known him.

Ans

Report says he lives in Louisville, Kentucky.

and has visited them ever since
I know him.

12th How long have you known him?

Ans I am a fine year.

13th You state that Fountain had three of
four hundred acres each + 2 fractions;
how do you know that he claimed
them?

By hearing him and also seeing
his claim in a common report.

Cross interrogatory on the part of the
defendants,

1st Did you ever hear of the Flannery
claim, or of the claim of the Fla-
nnery heirs to the survey, or either of
them already mentioned by your claim-
ant by Fountain?

Ans I have heard of the Flannery
claim spoken of in connection with
some of them claims - but whether
mentioned in connection - all or
not I do not know.

2d Was that or most one of your reasons
for saying there was a cloud upon the
title?

Ans It had some influence.

Cross interrogatories on the part of the
part of plaintiffs.

1st In making your deduction of value
from leases by reason of the cloud
on the title, - what proportion of
its value do you state by reason

of the Flammy claim?

Ans.

I would not know how to make any deduction.

2d

Do you say there is no abatement of the value of said lands by reason of the existence of the Flammy Claim?

Ans

In my own mind there would be some abatement.

3d

Then state to what extent that abatement should be made.

Ans

I cannot satisfy myself to make a deduction.

4th

Is it one half less value by reason of said claim?

Ans.

I think not.

~~5th~~

~~Is it one eighth less value by reason of said claim?~~

~~Ans~~

~~It may be.~~

5th

Is it one fourth less value by reason of said claim?

Ans

I think not.

6th

Is it one eighth less value by reason of said claim?

Ans

It may be.

7th

What is the Flammy claim? Where did it originate and who are the claimants?

Ans.

I think it is the claims of the original occupants. I do not know when it originated. I do not know who were the claimants, unless it is the Flammys.

8

Which one of the claims if any spoke of by you had the Flammy a claim on?

Ans

From my own knowledge I do not - any

any thing of the Flannery Claim.

Qth State whether Flannery's original was assigned or adverse to the Flannery title.

Ans I cannot state.

Green Macey

Green P. Carnes deposition filed on the part of the depts in this Cause.

1st Are you acquainted with the parties to this suit - Complainants and defendants - or either - and which of them - and how long have you known them, or either, and which of them respectively?

Ans I am well acquainted with all the parties except Pope and Thurston, and have some acquaintance with them. In Eighteen hundred and fifty I think it was, I became acquainted with Pope and Thurston. I have known the other parties longer than Pope or Thurston except Robert Galt, and I became acquainted with him in Eighteen hundred and fifty one.

2^d. State whether or not you acted as the agent or attorney in fact of Cassan Pope or Alfred Thurston, and if so, when did you commence so acting and how long did you so act?

Ans I was the agent of Cassan Pope, or attorney in fact, and received the appointment on the fourteenth day of

from one thousand eight hundred and fifty one. The Power has never to my knowledge been revoked. The first thing the Power embraced was to dismiss a suit in the Alabama Circuit Court, instituted by A. M. Fountain and against said Pope, at the cost of said Fountain and sign said Circuit Papers named to any agreement to dismiss said suit - to release the said lands belonging to me in Alabama County from taxes, and to purchase the same from Jimmie Cloud, provided the same are executed - or execution against A. M. Fountain, provided the same can be purchased for at least one hundred and fifty dollars, providing also the appraisement and consent of said A. M. Fountain shall be obtained in favor of said purchase.

Qd. Was the ~~written~~ Power in writing and acknowledged, or was it by parole?

Ans. The Power of Attorney was in writing and acknowledged before Samuel B. Ligon a justice of the peace.

Q In specifying of lands in the Power of Attorney - what lands did Mr. Pope refer to?

Ans. It was survey number 529 - claim five hundred and thirty one confirmed as four hundred acres survey number 527 - claim number 529 four hundred acres survey 528 claim 530, four hundred acres and the West fractional

half, and the north East fractional
 quarter, Section thirteenth Township sixteen
 Range Three west, containing fifty two acres
 and Ninety eight hundredths.

5th Have you the County surveyor of Alexander
 County, and if so, how long?

Ans. I was the County surveyor of Alexander
 County and continued so for five or six
 years.

6th How much of any of those fractions are
 "now to be seen yet remain, and what
 portion if any has been washed away
 by the Mississippi?

Ans. The bank has fallen in some
 but I cannot tell how much,
 I made an effort to survey it at
 one time but was prevented
 by the water.

7th Have you seen Cassin Pope with
 and are you acquainted with his
 writing - or from what you
 know of his writing would
 you recognize it in your opinion
 if you should see it?

Ans. I saw him write at one time,
 I saw him write the name of
 Attorney that I know, I could not say
 that I was familiar with his hand
 writing, but I think probably that
 I would know it.

8th State whether you have or
 not received letters from Cassin Pope
 in his hand writing, and which
 set your interest in the above

"aliquid to be his?"

Ans. I received letters from him, I suppose. In
note then I thought they were
in his hand writing, I don't know that
he wrote them.

9th Please state whether or not in your
personal interview with Mr. Pope he
said anything about having wrote to
you.

Ans. I think he wrote to me concern-
ing some business, and I answered
him and he came immediately on
I will not be positive whether that
was the way or not

10th Please examine exhibits or
letters purporting to be written
by Cassan Pope - numbered from
1 to 12 inclusive, and state
in what hand writing they
are to the best of your knowledge.

Ans. I think they are in Cassan
Pope's hand writing - I think
he signed them all at least

11th Please state whether or not in
your opinion the letters you examined
numbered from one to Twelve inclusive
but for number one, purporting
to have been written by Cassan
Pope are in the same hand writing of
the Firm of Attorney which you saw
him write and sign as well as the
same hand writing of the letters
purporting to have been written
by Cassan Pope to you.

Ans. The Firm of Attorney and the letters

Other exhibits have a great number
and particularly the signatures, and
in my opinion they are the same
hand writing.

12/13

Please state whether or not, in
your present interview with
Cassius Pope he mentioned the
fact of having written to you after
having received the letters purporting
purporting to have been written by
him?

Ans

I do not know that he did.

Cross interrogatories on the part of the
defendants, filed in the case.

1st

Please state whether in your
opinion said claim, (5-30)
nowy (5-28) is susceptible of being sold
in separate parcels, and was so
in the year 1848, and if so state
your reasons for so stating?

Ans.

In my opinion that claim might have
been sold as other legal subdivisions.

2d

State whether or not as the case to
previous claim there was any
furn or said claim - and if so,
on what part of the claim?

Ans

From 1845 up to the present time
Mr. Swain's witness and portion
of my farm broken in the farm
said claim.

3

Please state in what particular tract
a tract of land the bulk of
the land is situated on?

Ans In my opinion the balance of the farm is situated on the north portion half and South East fractional quarter of section Thirtieth, Township Sixteen South Range Three west.

4th Do you know whether at the time of the sale made by Anderson, Sheriff of Clearwater County, whether A. M. Montain had other claims, and if so what claims had he besides the above named tract?

Ans I do not know

5th State whether or not in your opinion if said claim number (530) Survey (528) had been sold in legal subdivisions of one hundred acres or less whether the same would not have been advantageously to the Applicant, A. M. Montain?

Ans I think that if it had been divided that ~~that~~ one hundred acres would have brought one hundred dollars or more.

6th State whether, if the land had been subdivided into four equal divisions the homestead would have been on all or a part or which of one?

Ans If it had been divided across North 50 degrees and 20 minutes East, then the most Southern division or one fourth would not have included any part of the ~~house~~ homestead or improvement, in my opinion said survey was originally S. 50 degrees and 20 minutes East.

Cross Examination by Defendants.

1st

Alow how many acres was there in the farm of Mr. Houtain of which you have spoke on said survey at the time of the call by Mr. Cloud?

Ans.

A long narrow field on the River, some 20 or 25 acres in the field and I think more than half of the Cloud land was in fractional section (13).

2d

State how long, so far as you know was said survey laid out and surveyed before the surrounding lands were surveyed and sectionized if done at all?

Ans

The survey was all located in 1800, and in 1801. The Township lines were run in 1807, and the sections in 1808 and 1809.

3d

Was this survey located and established by legal authority as near the surrounding section, so far as you know?

Ans

The Surveyor Generals office at Saint Louis for Illinois and Missouri recognized it as such.

4th

Was this survey ever sectionized or laid out into sections and quarter-sections like the surrounding lands, so far as you know?

Ans

I should very much hesitate, it never was.

5th

Is the lines of the survey parallel to the section lines?

Ans It is not.

6th Please prepare a map of this survey with the surrounding sections with the River as shown by the map of the survey and let the same accompany interrogatory.

7th How has this survey heretofore been described in conveyances and upon the Tax Books so far as you know?

Ans I do not recollect particularly, but I think it has been described as Claim 5-30 Survey 528.

8th Would it have required the review of a Surveyor in laying it off into one hundred acres or about that size, or could it have been sold as part or parts of a section?

Ans It could have been more accurately done by a survey, but might have been done without it. It not being a section, could not have been described as such, but would have been described as part of a claim.

9th Were you present at the time of the sale to Mr. Cloud?

Ans It was not.

10th Will you please state whether or not at the time of the sale it was hard times or difficult to raise money, and also whether or not there were many persons who were able to invest money in the purchase of claims, so far as you know.

Ans I do not know.

Cross examination on the part of the Complainant

1st Please state whether the West fractional half and South East fractional quarter of section

Thirteen Township District South of Range
three West in the case for purchase
Claim was a most susceptible of
Advantageous division in the rule thereof
in your opinion:

Ques The land could have been divided and sold
as the West fractional half and the South
East fractional quarter of Section Thirteen
Township District South of Range 3 West.

Ed Please make out a plan of claim
5-30 survey 5-28 and the West fractional
half and South East fractional quarter
of Section Thirteen in Township District
South of Range 3 West, as shown on
the public survey also the river to
front as shown above, also show
"your house on the house wherein
A. M. Jentura resided from 1845 to the
present time - the old and new
dwelling houses - the homestead
farm of said Jentura on the same
with necessary sections as part
of the answer to this interrogatory
and also show or more mark
"A" and to be taken and made a part
of this deposition and an answer to the
inquiry. Here is the soil premises
situated.

Cross Examination on the part of
Defendant.

1st How are the fractions of which you
have already spoken merged and
sold as one body of land?

Ans The land the West fractional half and South East fractional quarter were returned as one body of land and sold as such, containing fifty two acres ninety eight hundredths.

Qd. Do you think that that tract of land at the time it was sold by Mr. Cloud as Administrator, would have sold more advantageously if each fraction had been sold separately than in one body?

Ans It might have been divided and sold in two pieces, but I do not know whether it would have been sold for more or not.

Qd Can you state from the proceedings of the facts showing the number as various persons attending the same, whether the money ultimately spoken of would have sold for more had it been divided and offered in one parcel and than if offered by the whole money.

Ans I was not at the sale and do not know any thing about it.

Cross interrogatories in the case of the Administrators

1st. How far within the West fractional half and South East fractional quarter in section 13, T. 16 Range 3 West lies the Mississippi River?

and if in the last length of front
from the river on said River and
whether the same have been
may be conveniently made
in the whole or a part of said
front;

Any such fractional front on the Miss
issippi River and a half mile then
beats as land on that front

G. P. Carter



State of Illinois }
 Alexander County } S.S.

I, G. P. Cannon do hereby certify the above plat of Claim No. 530, Survey No. 528 - 400. Arden + Jacob Hummer heirs of Jackson Hummer, and the West fractional half and the South East fractional quarter of section No. Thirteen in Township 16 South of Range No. Three East - is a true and correct copy of the survey of said Township + Claim is correct and the same is a true plat from my plats + field notes + Books duly authenticated at the Surveyor General's Office in the City of St. Louis, Missouri, the above being the Surveyor General's Office for Illinois and Missouri, and that the Nos. of Acre on the face of each tract is also correct.

Given under my hand and seal this 2nd day of May A.D. 1856.

G. P. Cannon, X County
 Surveyor for Alexander Co.,
 Ill.

Swi L. Lightner's Deposition filed
 in this Cause for Defendants

192 Q. Are you acquainted with the parties
 to this suit, complainant and respon-
 dent, and how long have you known
 them respectively?

Ans. I know all the parties to this suit,
 I have known Frontier some 10
 or 12 years. Robert C. Goss I have known

some four or five years, I have known
 Emma Child some eight years. I have
 known Mrs. C. Macey something like the same
 length of time. Mrs. Macey I have known
 some four or five years. Margaret P. Anderson
 I have known some six or seven years.

Q Are you acquainted with the lands
 being Claim 530, more or 528, con-
 taining four hundred acres
 west the west fractional half
 and the south east fractional
 quarter of section 13, T. 16 S. R. 3
 West was seen two other claims
 claimed by Mrs. Fontaine, situated
 from her to these soils below
 Santa Fe on the Mississippi River
 either by reputation or otherwise
 the said fractions lying between
 Claim 530 versus 528 and the
 Mississippi River?

Ans I was by reputation only, I have
 been on the lands that I understood
 the same,

Q Was the person on which Mrs.
 Fontaine lived in 1848 and when
 he lived the last time you personally
 knew any thing about it upon
 the said lands above mentioned
 as you understood?

Ans Mr. Fontaine lived there in 1848
 and was visible on the same, and
 the farm is one of the many of
 fractions as I have mentioned.

Ans Are you clerk of the Circuit Court and

recorder about the year in 1848
and need also know every before
and how long since have you
held such office in this under
County?

Ans I was Clerk of the County Court
at the time but not Recorder,
about the year 1845 I was pr-
incipally all the recording from
about Decemr 1849, I held the
office four years and have held
it from May 1855,

Qth While acting as recorder in 1845-
is about that time did you
place upon the records of said
County any mortgages executed by
Alexander M. Dentaine, and if so
please state how many and
to whom?

Ans I placed on execution by A. M.
Dentaine to Alfred Thurston
and Cassius Pope, filed for record
the 23rd day of June 1845 and
one from A. M. Dentaine and
wife to Cassius Pope filed Novemr
20th 1845, for record.

Qth Please attach authentic copies
of said mortgages as they appear
of record in your office as exhibits
marked "y" and "z" and let them
accompany your answer to the
last two interrogatories.

Qth Please state whether or not there
was any act of embezzlement
to have been committed by A. M. Dentaine

for the lands in Alabama County
already mentioned to my person
or persons and if so please state from
the records and when they were filed
for that purpose?

Ans

There appears to be a deed or recon-
veyance from A. M. Fontaine to Cassin
Pope for claim 531 Survey 529, filed
for record December 18th 1848. I believe
it was a part of the same claim
by Fontaine. There is also another
deed from Alexander M. Fontaine
& Cassin Pope for the west fractional
half and south east fractional
quarter of section 13, Town 16 S, Range
3 N. and claim 530 survey 528
and claim 529 Survey 527 filed for
record 25th day of April 1849.

8th

Please attach certified copies
of the foregoing deeds as exhibits to
their petitions, and send them
as exhibits "A" and "X."

9th

Please state whether or not any
actions of ejectment have been
commenced by any parties in the
Alabama Circuit Court against Alex M.
Fontaine for the lands mentioned in
the records or any part of them
after the date when the plaintiffs
were in the defendants as appears
from the files?

Ans

It appears from the files a
deed in ejectment was filed
in the Alabama Circuit Court

May 20d 1855, wherein Lydia Mack
 is plaintiff against Alexander
 M. Fontaine for claim Number
 5-30 and survey number 5-28
 containing four hundred acres
 and claim Number 5-31 Survey
 5-29 from purchase ass. There
 also appears to be another case
 in judgment - Daniel H. Lunnery
 plaintiff against A. M. Fontaine
 defendant for the same undivided
 seventh of four hundred acres of land
 Claim Number 5-30, Survey 5-28, also
 the undivided seventh of four
 hundred acres claim 5-31 Survey
 5-29.

10th

Are you acquainted with the
 reputation of the title of the land
 already mentioned to any degree?
 If so please state how long and what
 whether clear and good or whether
 doubtful as to its validity, how long
 it passed, also please state whether
 or not you have heard that
 the whole or any interest in the
 lands aforesaid was claimed by
 the heirs of Felumony or any other
 person or persons, you are not asked
 what the title may actually be
 but merely its reputation?

Ans

I am somewhat so, I have
 had acquaintance from the times
 that I was in power some ten
 or eleven years, the title to these
 lands has been considered to be

written up, and somewhat doubtful,
 that has been an interest claimed
 in a part of them lands by two
 of the heirs of Flannery - a proprietary
 to the heirs of Flannery, I know
 nothing about them for which
 suit has been commenced in the
 Circuit Court.

10th

Please state whether or not
 you heard of the claiming of
 two Flannery heirs prior to the
 commencement of the suit -
 whether or not R. S. Nelson Esq, attorney
 at law, examined the records and
 files of Court with a view as appears
 by himself of ascertaining their interests
 and also please state whether you
 have heard of other heirs of Flannery
 claiming other interests in their
 lands.

Ans

I frequently heard of the Flannery
 heirs claiming claims to their lands
 as a part of them before the Commis-
 sionment of Cyprianus suit by the
 Flannery heirs. Mr Nelson examined
 the records with respect to the Flannery
 heirs interest in their lands as a part
 of them. I have understood that
 the Flannery heirs claimed two of the
 tracts of them above mentioned
 lands.

12th

Please state your best recollection
 in regard to the times in June
 1848 - or about that time whether or

127 not there was a plenty or scarcity of money, and the effect that plenty or scarcity had upon the rate of Real Estate.

Ans. So far as my recollection serves me I think money was very scarce about that time, and Real Estate low, or sold at low prices.

131th Considering the scarcity of money about in your opinion was the cash value of Claim 5-30, Survey 528, and the fractions before mentioned in June 1848, would the title have been for and clear, and also provided he had been compelled to sell on short notice?

Ans. I think it was probable that under a forced sale for cash about that time that the lands would have probably not brought over Two dollars per acre.

142 Considering the claims upon the title of the aforesaid lands, and the mortgages to which you have already referred through you, what is your opinion now as to cash value of those in 1848 or about that time.

Ans. I should not have been willing to have given anything for the land with the encumbrances upon it.

15 Do you think that any one could have been found in the County who would have been willing at that

125 time to have paid off that money
"down, and better the land?"

Ans. I don't think they could.

16th If turning Cloud bid one hundred
and thirty three dollars for
claim 5-30 survey 5-28 and the
affirming fractions subject to the
mortgage already referred to about
month of June 1848, what in your
opinion was the character of that
bid touching the value of the
land at that time?

Ans. There was no other purchaser
offered at the time it was sold and
Mrs Cloud was advised by her friends
to bid it off as being the only way of
securing her debt against Mr. Fontaine,
and I think that was the value of the
land under the circumstances.

17th State whether or not Mrs. Cloud con-
sulted you about her business about that
time, and whether you was in any
degree acquainted with it?

Ans. Mrs. Cloud spoke to me several times with
reference to the purchase of those lands.
She stated that she wanted the money
very much, and was anxious to dispose
of her claim. She became accountable
for the hats Cost, amounting to about
thirty dollars, and was anxious to
pay the officers their fee, but had no
other way of raising it, only by a
disposition of this claim.

1846.

Please state whether or not you learned from him or any other person that any contract, arrangement or understanding existed between Mr. Cloud and Anderson at that time, and if so should he be off the funds for Anderson or for his use or be subsequently coming to him? If so please state all about it.

Ans. I did not.

19th. From your knowledge of our business and the circumstances of the case do you or not think any contract, arrangement, or understanding existed?

Ans. I don't believe there was not at that time, and for some considerable time after, and at the time of the sale to Anderson and just a part of the fur coming from Mrs. Cloud or, in fact, all was due to Mr. Anderson and myself. Mr. Anderson frequently consulted with me how we should get our fur, and proposed to me to take the claim of Mrs. Cloud to secure our fur in the case - she proposed to sell to us, and could have sold to any person for the amount of the bid.

20th. Please state whether or not you were present at the time of the sale of the said furs upon the execution by Anderson Sheriff in favor of Mrs. Cloud.

Ans. I was present at both sales of

the same, at the first sale it was
bid off by John Bullman and he
went buying complete with the
conditions of the sale, it was
afterwards resold and bid off by
Mr. Cloud.

Q. 1st. Please state whether or not the said
rules was executed legally, honestly
and in good faith, so far as you know.
Ans. They were so far as I know of.
J. L. Lightner,

Deposition of John Bullman, filed
in this cause on the part of
defendants.

1st. Are you acquainted with the
parties to this suit plaintiffs
and defendants, and how long have
you known them respectively?

Ans. I have been acquainted with Mr. Fontaine
some 10 or 12 years - R. E. Yost I have known
from about 1857 or 1852, I have known
Miriam Cloud from the year 1837, I have
known Wm. C. Macey some 10 years at
least, I have known Mrs. Macey some
5 or 6 years. I have known the child
ever since it was born.

2d. Were you present at the time of the
sale of Alvin 5-30, Sunday 5-28,
and the West front view half
and with East front view quarter
of section Thirteen. I was not six

131 Q. How long have you been, sometimes
in the month of June, 1848, or
about that time, upon an
execution in favor of James Cloud
Administrator, Plaintiff and Adm.,
M. Jentzen, Deft., at the case of
the Court Room in Adams
County or elsewhere, as you now
recall?

Ans. I was present at the sale and think
it was the same tract of land
above mentioned.

Q. Please state who bid off the land
at the time of the sale. Was it bid off by
the plaintiff in execution, or some
other person - or was it bid off by
some person as agent for the Plaintiff?
Please state how, when, and for
whom the land was bid off as
fully and minutely as you now
remember.

Ans. I bid it off at the first sale, I think
it was in June, 1848, and did not
pay for it, and it fell back and was
sold again - but when the second
sale was, I am not positive I was
present at the second sale. I think
Captain Fremont was employed by
Mr. Cloud as his atty. and bid it off for
him for debt and cost.

Q. Was Mr. Cloud present at either of
the sales? If so, which one?

Ans. He was not present at the Court

Yours, and I rather think she was out in town.

5th. Please state as near as you can recollect what the amount for which you bid the land off at the first sale.

Ans. I think it was \$1000000 and twenty five cents.

6th. Please state if other persons besides yourself and the Sheriff who sold the land were present at the time of the first sale?

Ans. There were some few persons besides us - but I do not know who they were - there were but very few there.

7th. How long since the Sheriff says any other man - either from your lot or him?

Ans. He said would be got tired - and dismissed it off at the first and second sale, as to the time I could not say - perhaps a half hour - perhaps an hour.

8th. Can the other party finally connected with you or your name? If so please state all about it.

Ans. As far as I know it was. He said had enough and lay away.

9th. Please state whether or not at the first sale there was any correspondence or understanding between you and the Sheriff that you should bid off the

trust in your name for his
me - was whether or not there
was any agreement between
you and the Sheriff. Now you
should therefore convey the
land to him.

Ans. There was no such agreement
made. Counselor said to me there
was a check to be made - meaning
that I could make it if I should
bid it off. That was our claim
against the estate of Cloud
and I could buy them up and
pay them off.

10. Was it definite or found to
be in money in the summer of
1848 - or in other words, was it
to be in money? Please state your
present recollection of the condition
of the terms in all circumstances
at that time in a financial
point of view?

Ans. As far as I recollect, it was very
uncertain - a general promise.

11th. Can you agree with the
provision whereby a portion of
being divided 530, money 528 but
fractional half and with East fractional
quarter of section 13 Township 16 S. R. 1st
but? and if so how many have you
been agreed with it.

Ans. I am agreed with the land,
the quantity of the land, which

124 and location, was it ever
seen for or near you,

12 Do you ever see it at the
time or about that time?

Ans. I think I was in 1845, 1846, 1847
and 8,

13 What was your money made in
you list of at the time before
stolen and how many
in the case of the former list
of as the agent of Mr. Cloud, at the sale
of Mrs. Cloud as administrators?

Ans. There was from four hundred acres in
the claim and I think 5-2 acres in
the fractions,

14 Please state what is your opinion
of the value of the land here sold
for in June 1848 at public sale or at
private sale to the best of your knowledge.

Ans. It was true I don't think it could
have been sold there for more than
3 or 4 dollars per acre, and I think it
would have been a high land very
interesting or little or nothing
and was not in demand
and necessary then.

15 Do you think it could have
been sold at public auction
for cash in June or at a
private sale for cash in June
in June 1848 at that price in
your opinion.

Ans. I don't think it could.

16. Please state if in your opinion the plaintiff's execution has not ~~been~~ been present by itself or your witness the land would have sold for as much as Army did

Ans. In my opinion the land would have sold for as much as Army did

17. Please state whether or not you have been able to find such purchasers for said land in 1848,

Ans. I think not as much

18. Please state whether or not in your opinion at the time said land was bid off by Capt. Sherman for Mrs Cloud the claim would have sold to better advantage or for more money if it had been sold in parcels of a hundred or fifty acres each than if sold in one body.

Ans. I think it would have sold better than the land was to be sold in lots, I think it would have sold better than that.

19. Do you think it would have brought any more money than that which was received?

Ans. I think not, I see not all the same.

20. Do you think that the land would have been more or less

When recorded lists had it not
been for the agent of the plaintiff
being present at the time of the
last sale?

Ans. It might have been that some
body might have been for it.

21. Did you know at the time of the
first sale what the names
of the persons who had been
investing in the territory to Cass
Pope and Alfred Thaxter or
either of them?

Ans. I think there was a mortgage
after the day of attachment and
I think it was before the sale, but
was not in any way or
name of Captain Grimes.

22. If a mortgage on Cass
Pope and Alfred Thaxter that
was a mortgage which
was in force upon the land prior
to the day of the attachment,

Ans. No, I did not know for
I think there was no incumbrance
upon the land prior to the day.

23. If there was a mortgage given
by Alexander M. Denton to
Alfred Thaxter and Cass Pope
a very long time before had
been executed and recorded
prior to the attachment, and
which was in force before
said day for about 529

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surely 5-2 of Clavin 5-30 surely
5-28, Clavin 5-31 surely 5-29 the
more the judgement for but
the sum Twenty eight hundred
dollars with interest from
the 20th day of June 1845 which
sum was well and payable
at the time, would you have
had of the business at the time
you did?

Ans. I would not.

Q. How then would you
in your opinion have been
before mentioned, could have
been sold in Alabama county
for each amount the sum
of 1848 for more than the money due
on that mortgage.

Ans. I think not.

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Concomitance is the part of
the plaintiff.

Q. How many lots were conveyed
the lands when you bought it?

Ans. I do not recollect very but
very well.

Q. Did you own the property at the
time you did?

Ans. I think if I was not mistaken
I did not and that is your bid.

Q. How many acres of land were
but more for the land
by the title of success for Mrs. Cloud?

158
Q. I think not. Just the same,
A. Was the same rule struck off for one
bill at each time?

Ans. As far as I recollect it was after a
long time saying.

Q. What was the sum for which the bills
were so sold at each time as near
as you now recollect.

Ans. I think it was for one hundred
and twenty six dollars debt and
Cost, and I think when Capt. Freeman
bought it was about the sum of 133
dollars.

Q. Were there two sales some time apart
and if so in what state as near as you
can be so to say a part, and which
of the two was first?

Ans. The first sales was some
time before mine was the
first and Capt. Freeman for
Jameson's Estate last.

Q. Was each sale for the full amount
of the judgments and execution at
the time it was made?

Ans. I think it was the whole in delivery
of the debt and Cost.

Q. Were there two sales made to satisfy
the same judgment and Cost?

Ans. It was.

Q. Was the return made by
the sheriff of the same
sum as the first sale?
If not how much?

138
Ans. A. W. Anderson,

10. Was he ever married
when was originally one of the life
"partners with R.C. just and others
in his life time?

Ans. He was.

11. Did he ever tell you about a
man to give permission to
for other persons was of "them
when he was?

Ans. I do not know for sure.

12. Did permission to give you
you about the was to get for
other persons?

Ans. I do not know.

13. Did you ever see in what way
was the fund or to be used
by others?

Ans. The sum of two hundred dollars
was given by A. W. Anderson in
different installments. He gave
his note for it in return.

14. Was the final payment of any part
of this sum to be deferred on the
"day of the transfer of him?

Ans. It was not.

15. When was this contract made as far
as you now recollect?

Ans. I think it was about the year 1850.

16. Did you ever see how was
the sum used or how was it
it used?

Ans. I do not know for sure in Shelby.

Huber.

17. At what hour and to how long
the Commission will remain here
after Congress adjourns
from Cleveland?

Ans. At the Court House in Columbus.

18. Will you be sure to go here
with the permission of the
"Times"?

Ans. I think it was.

19. Will you say anything public to
the Sheriff at the time of the
sale to him?

Ans. I don't know.

20. Do you not know from conversation
with Messrs. [?] that [?] [?]
was paid until the sale to him
by his of other [?] [?] of [?]
you?

Ans. I never had any conversation with
him.

21. Please state what in your opinion
the lands before mentioned by
the Commission could
have been sold for in cash in
June 1848, provided he had chosen
to sell them for cash in hand.

Ans. I do not believe that you could
have [?] [?] [?]
[?] Congress [?]

2. In speaking of the [?] [?]
[?] [?] [?]

141 you refer to the sum and
which you had in Carmel
& have been made by Don, Cloud
& Anderson 2 got?

Ans. I am not sure on that and I
know some lessons it was to
Anderson and Cyren.

3 Upon your Cross Commission
you thought the rule was
made in 1830 - is there any
circumstances under which
you can see any reason why
it will make you to cover
accounts fit the same?

Ans. I think from circumstances
which I am not sure being
the death of my wife and the
high price of 1831, that in full the
after this I had a conversation with
Mr Cloud respecting the rule
to Anderson and it was some
time after this which would
have made it the last of
'51 or the first of 1852 that the rule
was made.

John Dutton.

Deposition of James L. Brown, filed
in this cause for defendants

1st. Interrogatory? Are you acquainted with the parties to this suit, plaintiff and defendants? If so have you known you know them respectively?

Ans. I know them from all except Messrs Don, Court, and have known them from 4 or 5 years.

2. Are you acquainted with the lands, survey number 328, claim number 330, and the first fractional half and the South East fractional quarter of Section 11 in Township 5 North 10 West, being the corner which said section meets in Adams County and of so how long have you known them to be?

Ans. I am acquainted with the lands and number for some time or thereabouts years.

3rd. Are you a resident of the County of Adams since ~~the~~ the year 1848, 1849 and 1850?

Ans. I have been there in 1849 and 1850.

4. If you recollect, please state what you do remember to have seen or heard of for and from two years.

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Ques. If I recollect right, Wagon
assessent at \$3.50 cuts for an as
well as other lands in that high
"lowland."

S. What in your opinion were the
lands worth about the year 1848
and '49 in cash?

Ans. I would express in cash
they might have been worth
the assessent price.

Qb. What in your opinion or recollection
was the state of money matters and
value of land in this county at that
time?

Ans. It was rather hard. The only sale
of land that I have any recollection
of about that time was a sale of my
own which was very low - I think
considerably less than the value
I have placed on the other lands.

Q. Please state whether or not
the valuation placed on
the above assessed lands
you considered them the
value of said lands, clear of all
encumbrances?

Ans. It was for years very uncertain
that I placed the value upon
them
James S. Brown.

Deposition of Matthew H. Cullen,
filed in this cause for Defts.

Interrogatories

1st } On you acquainted with the
parties to this suit, plaintiff &
Defendants, and if so how long have
you known them respectively?

Ans. I am acquainted with
all the parties, and have
known for some 4 or 5
years.

2. Are you acquainted with the
survey number 528. Section number
530 and also West fractional half
and the South East fractional qua-
rter of section Thirteen, Township
Sixteen South Range 3 West being the
lands on which a certain now
resides in Adams County,
west of where long have you
known them to be?

Ans. I have been acquainted with
them from visiting over them,
and have been for the last two years.

3. How long have you
known them in Adams
County and how acquainted
with the value of said lands
in said County.

Ans. I have resided in Adams
County for some 3 years and
have been acquainted with
the value of land in said County
about the same length of time

A. From that time until the
time in 1848, or about that
time for raising property
within many towns
were held ~~to~~ in this section
of country but not effort
to put them in the form of
of valuation.

Ans. That was very hard and
it was very difficult to raise
money and real estate was
at a very low price.

Q. About your opinion was
that when you were in from 1848
or about that time of the land
valuation in the same interrogatory,
and about your opinion
would they have sold for
cash in 1848 at that time.

Ans. At that time land was
low and very little that
land I think would not
have brought even \$1000
a lot or more for acre.

Q. If the land had been
divided into forty acre lots what
would it have sold for at that
time for cash at that time.

Ans. I do not think it would have
sold for more than
one.

Q. If you had any of the price of that
land is your opinion particular

on the presumption that they
were clear of all encumbrances.
Ans. It was so presumed.

Cross Examination 9c.

1st $\frac{1}{2}$ Anthon year 1848, '49 and
1850, how many more years
were so taken down?

Ans. Down 8 or 9 years.

2. Do you never recollect the
names of any of the (last three
it was not?)

Ans. It was not known.

W. M. Culler.

And was at this time, I think,
with a carrier carrier began
and for the country of Rock Hill
at South Carolina, on Monday
the first day of September A.D.
and commenced in the month
and fifty years 1857. The following
were the names and names
of several of the persons who were

Order to wit } On motion defendants leave
printing leave } was granted to open
to open deposition } deposition

And at another day, to wit
on January 4th 1880, the
following other proceedings were
had and were a matter of
record in said Circuit Court.

Exceptions by Comptroller	}	Alexander M. Fontaine
		Robt C. Zott
		James Cloud
		William C. Massey exceptor of
		Alexander M. Fontaine exceptor of
		J. Anderson, minor heirs.
		But in Chambers to set
		aside same
		Conveyance by Staff.

And on said exceptions
were read & as to the usual
depositions and points thereof
being read in evidence on the
trial of this cause taken by the
defendant, on their behalf as
prescribed specified.

The deposition of William
C. Massey and any part thereof
is excepted to by Comptroller and
the same is being objected to
by the defendant as one of the defendants
in this suit.

Alexander M. Fontaine being
asked under oath and under
oath that William C. Massey
whose deposition is taken

in this case is not a the
deposition in this case
and mostly pecuniary in
"interest in the result of the
case.

Given to and subscribed
before me this 10th Sept 1857

Geo. M. Burdette, Clerk
(Signed) Alexander M. Hamilton

Exception }
file to }
exceptions }
& exception to }
the following
part

Even exception - viz.

A M Hamilton

R. E. Galt and others.

Exception of the depositions
to the deposition of James
C. Hamilton McPherson and
Wm. W. McPherson and every
part thereof and it is held to
be depositions because they
are in no way interested in
the result of this suit.

Robert E. Galt one of the
depositions being duly sworn
depos and dep, then James
C. McPherson and Wm. W. McPherson
on the same the persons
who were the witnesses near to
the business in dispute that on

the following other errors and
prejudicing more records and duly
interest as of sum in said case, viz
Abner M. Fountain

Ret. C. Gust. et al

Bill in Chancery

to us herein and

On this day error the
petition written by Biss, De Witt's
&c. having been submitted to the
Court upon commission thereof
and the Court being sufficiently
advised, when that Biss to
dismiss, Abner M. Fountain
cannot pray an appeal which is
allowed in filing bond within
thirty days in the present case
of four hundred dollars
with Geo. P. Cassner, Amos May
and Henry S. Wallace as sureties
of them as security conditional
with the said court, and it is noted
that the defendants never
agreed to the commissions and
their costs and charges by
them about their defence in
that behalf is present, and
may have been (and
thereupon James D. De P. Peters
was agreed as a substitute
security) this substitute was
not upon minutes made.

by the Court, but does in the case
made by Clerk.

And ~~thereafter~~ ^{thereafterwards}
the complainant, Alexander
M. Harrison filed with the Clerk
his appeal bond that is to say
on the 11th day of April 1858,
which said bond is in the follo-
wing words and figures, viz -

Appeal } Remission by the
Bond } presents the Alexander
M Harrison, James C. McPherson
and Henry A. Williams of Pulaski
County and State of Illinois, as
defendant formerly bound unto
Robert E. Gort and to William
C. Murray, executors of A. M. Mulvan
deceased in the sum of \$1000
of from the said estate for
the payment of bond, will
assurely to be made and
performed, in time and
in due season, administration
and assign, justly and lawfully
by the presents. Witness our
hands and this 11th day of April 1858.

The condition of the above
obligation is such that should
on the fifth day of April
1858, is not upon the Court
and of Pulaski County

affirmed in the case the
said Abraham M. Fontaine
vs Robert E. Zort, William
C. Murray, executors of A. W.
Anderson

and "Bill in Chancery, the
not assize nor" at law of
certain real estate the judgment
and decree of the Court pronounced
against Abraham Fontaine for cost
of suit and bill dismissed and
whereas the above Counsel has
prayed an appeal from said
judgment and decree of the
said Circuit Court to the Supreme
Court of the State of Illinois,
and if the said Abraham M.
Fontaine shall pay whatever
judgment shall be rendered
by the Supreme Court, with such
costs interest and charges as
shall be assessed by said
Supreme Court in case of the
affirmance of the judgment &
decree of the Circuit Court aforesaid
and shall only present his
appeal, then the above bill be
void, therein to remain in full
force and effect.

Attors } of Abraham M. Fontaine
Gen. A. D. Wright } H. S. Wallbridge Esq
C. W. } J. C. McPheters Esq

State of Illinois }
 Pulaski County } I do hereby certify
 that the foregoing is a true copy of the
 deposition filed in the above styled
 Cause.

Witness James H. Duvick
 Clerk of the Circuit Court of
 the County aforesaid, and
 the seal of said Court affixed
 here to at St. Louis in this
 1st day of November A.D. 1838

James H. Duvick, Clerk
 J. W. McKim D.C.

This certificate was forwarded to me with a
request to attach it to this Record

which I have done this 16 November 1858

W. W. Thomas

State of Illinois 55.

In Supreme Court of said State

First Grand Division

November Term 1858

Alexander Mc Fontaine Appellant
against Appellee

William C. Massey Executor from Decree
Alexander W. Anderson, Marinda of Pulaski
Massey late Marinda Anderson, Circuit
and Margaret Anderson his only Court.
said A. W. Anderson, Robert E

Wright & Sumner & Co. Appellees.

And the said Alexander Mc Fontaine by
Joseph B. Thomas his Attorney, comes and
files the Record of the said Circuit Court
and says, that in the Decree, and
proceedings of the said Circuit Court
Manifest Errors have intervened
to his prejudice, because of which the
Decree aforesaid should be Reversed,
and he here sets out the following
First; The said Court Error in dismissing
the bill of said complainant,
Second; The said Court Error in not
entering a decree in favor of
the said complainant according
to the prayer of the bill, Wherefore,
the prayer is, that said Decree
be Reversed, set aside and

Joseph B. &

W. Thomas for

Appellant,

1858-187

4. ~~NO 27~~

A. M. Fontaine
William G. Mepiey Jr.
Robert C. East and

Filed Nov. 10. 1858.

A. Johnston Clerk

Paid by Jay Thomas

\$5.00

No 4.

Nov. Term 1860

Fountain

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Massey & Co

8443

Dismissed for want
of prosecution -

Cont'd on page 425

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