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O. McKim's & wife

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Wm McKim

filed 24th Dec. 1875

8th Circuit

X Wm McKim

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Plas held at the Courthouse in Pulaski at a Chancery Court then held in and for the North Chancery District of the Middle Division of the State of Tennessee on the 12th day of September A D 1845 before the Honorable Jerry M Cahal Chancellor of said Middle Division in a Cause then pending in said Court between Orville W McKimach and Eleanor W McKimach his wife Complainants and William McKimach Defendant

Be it remembered that heretofore to wit on the 23^d day of June 1842 the Complainants Orville W McKimach and Eleanor W his wife filed in the Clerk's office of said Chancery Court their Original Bill of Complaint in Equity against the above named Defendant William McKimach in the Words and figures following to wit.

Bill filed 23 June 1842. To the Honorable Sanford M Branchett Chancellor of the Middle division of the State of Tennessee — The bill of complaint of Orville W McKimach & Eleanor W his wife vs. William McKimach the former of the County of Giles and the latter of the County of Maury both in said State of Tennessee — Humbly Complaining your Orator and Oratrix the said Orville W and Eleanor W would respectfully represent and show unto your honor that they intermarried in the County of Lawrence and State of Alabama on the 15th day of October 1833 that said Eleanor is the daughter of William McKimach by his mother Rebecca McKimach long since deceased and who was the daughter of Charles Sallard of Person County and State of North Carolina — your Orator and Oratrix further represent that about the day of 1814 and shortly after the marriage with said William McKimach and the said Rebecca the said Charles Sallard placed in the possession of said William McKimach by way of loan and without any Written Conveyance the following negro Slaves for life to wit, Murphy Anna and Patsy upon the condition and with the understanding, that said Negroes together with their increase should belong to your Oratrix the said Eleanor W upon her coming of age or marriage, the said Eleanor being at that time an infant of very tender years — your Orator and Oratrix represent that said Sallard never did give or design to give said Slaves to said William McKimach nor did he ever part with his title thereto except in trust for the benefit of said Eleanor W as aforesaid — your Orator and Oratrix further show that about the day of 1815 said Rebecca departed this life and at that time said William McKimach promised said Sallard that said Negroes should go to your Oratrix the said Eleanor W according to said Original agreement — your Orator and Oratrix represent, that this intermarriage took place, while the said Eleanor W was a minor and before her arrival at the age of twenty one year and that said William McKimach has all along since refused & still refuses to surrender ^{up said negroes & their increase} to your Orator and Oratrix according to said agreement but now holds the same claiming as his own — your Orator and Oratrix represent that said Sallard on the 23^d day of September 1841. Executed a deed or bill of sale to your Orator and Oratrix conveying to them all his right title and interest in and to said Negroes, Murphy, Anna & Patsy and the increase of Anna and Patsy, to wit Mary, Elmina, Malinda, William, Ross, Madeline, Richard, Caroline, Maria, Margaret, Mary, Milton, Calvin and Amos the increase of Anna, and Sarah, Abby, Eliza, Frederick, Emeline and two infants names not known the increase of Patsy, and ~~any and all the increase of said Negroes~~ a copy of which said deed or bill of sale is herewith filed ~~and~~ ^{and} ~~prayed to be taken as a part of this bill,~~ ^{and} by virtue of which said deed your Orator and Oratrix have now a complete title to all of said Negroes and their increase, they represent that all of said Negroes are now in the possession of said William McKimach in said County of Maury — your Orator and Oratrix further Charge that said William McKimach always and up to the time of the marriage of your Orator and Oratrix admitted that the title to said Negroes was not in him but that he held them under said agreement with said Sallard for the

benefit of said Eleanor M. and never pretended to have any claim thereto, until the time of said marriage as aforesaid. Your Orator and Oratrix would further represent that said William M. McKimick intermarried with said Rebecca, the Mother of said Eleanor M. in the said County of Person and State of North Carolina and that said Negroes were placed in his possession in said State of North Carolina, where he remained and continued to reside until the fall of 1832, when he removed to Tennessee taking with him said Negroes and his daughter the said Eleanor who was then a free girl and that said William M. McKimick never during all this period held said Negroes as his own but under said agreement for said Eleanor M. — Your Orator and Oratrix represent that said William M. McKimick has had the use and benefit of said Negroes ever since they were placed in his possession by said Sallard as aforesaid and has never accounted for hire for the same. In consideration of the premises your Orator and Oratrix pray your honor for the states most gracious writ of Subpoena and that said William M. McKimick may be made defendant to this bill and required to be and appear at the next term of the Chancery Court at Pulaski Tennessee and then and there upon his corporal oath true and perfect answer make to all the Charges and allegations in this bill and that he answer the same as specially & particularly as though they were here again severally repeated and he specially interrogated thereto and that your honor upon final hearing decree to your Orator and Oratrix a complete and perfect title in and to said Negroes and also a decree for hire, and for such other and further relief as to your honor shall seem just and proper your Orator & Oratrix will ever pray &c.

Shields, & Brown Solicitors.

pro bond.

The following is a copy of the bond filed in this cause in words and figures to wit:
State of Tennessee. Know all men by these presents that we Neil S. Brown and George I. Shields are held and firmly bound to William M. McKimick in the sum of two hundred and fifty dollars to which payment well and truly to be made, we do hereby bind ourselves, our heirs, Executors and administrators, jointly and severally firmly by these presents sealed with our seals and dated this 22nd day of June 1842. — The condition of the above obligation is such that whereas Orville M. McKimick now Sheriff of the have lately filed in the office of the Clerk and Master of the Chancery Court at Pulaski a bill of Complaint in equity against the above named William M. McKimick now therefore if the said complainant shall prosecute the said bill with effect, or in case he fail therein shall satisfy and pay all costs and damages that may accrue in consequence of such failure, and also shall stand to, abide by and perform all orders and decrees that the Court may render against him in said cause, then the above obligations to be void otherwise to remain in full force. N. S. Brown Seal G. I. Shields Seal

Exhibit
A.

The following is Exhibit A made a part of Complainant's aforesaid bill in words and figures following to wit:

Know all Men by these presents that I Charles Sallard of the County of Person and State of North Carolina for and in consideration of the ^{noted} love and Natural Affection which I have to my grand daughter Eleanor M. McKimick wife of Orville M. McKimick of Giles County in the State of Tennessee have given and granted and by these presents do give and grant unto the said Orville M. McKimick and his wife Eleanor aforesaid the following Negroes Slaves now in the possession (as I am informed) of William M. McKimick of the County of Maury in the State of Tennessee, namely Murphy, Anna, Patey and the children of the two latter to wit Mary, Elmina, Melinda, William, Row, Madison, Richard, Caroline, Harriett, Margaret, Henry, Milton, Calvin and Elmore who are the children of the said Anna and Sarah Ann, Ellen, Abella, Emeline and an infant name not known, who are the children of the said Patey, and also any and all others the increase of the said above named Negroes who may have been born since I have last from them or who may be in being at this time — Do have and to hold all and singular the right title and interest of said Charles Sallard in and to the said Negroes to the said O. M. McKimick and his wife Eleanor, their Administrators Executors and Assigns forever and it is expressly understood by all parties and Committed by the said Charles Sallard that he the

the said Sallard does not warrant the title to the negroes herein named and referred to but that he merely gives and transfers to the said Q W M Kinach & Wife whatever interest he the said Sallard may have in the said negroes without incurring as aforesaid any responsibility to make good the title to the said Negroes to the said Q W M Kinach and wife - the said Sallard having years ago placed the said negroes Murphy, Anne and Patsy (the ancestors of the rest of the Negroes herein named and referred to) in the possession of William M Kinach now of Maury County Tennessee for the use and benefit of the said Eleanor wife of the said Orville W. M Kinach, In testimony whereof the said Charles Sallard has hereunto set his hand and affixed his seal this the 23rd day of September 1841. Charles Sallard (Seal)

Witness G H Jordan, B J Morris.

State of North Carolina Court of pleas and Quarter Sessions September Term 1841. Be it remembered that Charles Sallard whose name is signed to the within deed of gift to Orville W M Kinach and his wife Eleanor, came into open court and acknowledged the said deed of gift to be his act and deed for the purposes therein expressed and at the same time the execution thereof was duly proved by G H Jordan One of the subscribing witnesses thereto In witness whereof I Charles Mason Clerk of the Court of pleas and Quarter Sessions of the County of Person in the State aforesaid have hereunto set my hand and affixed my seal of office

Charles Mason Clerk

State of North Carolina I Thomas Webb Chairman of the Court of pleas and Quarter Sessions of the Person County. County of Person State of North Carolina do hereby certify that Charles Mason whose name appears to the foregoing certificate is Clerk of the Court of pleas and Quarter Sessions of Person County aforesaid and was Clerk at the time the said acknowledgment was taken and that his said Certificate is in due form of law Given under ^{hand} ~~seal~~ this 24th day of September 1841. Thomas Webb Chairman

State of North Carolina I Charles Mason Clerk of Person County Court of pleas and Quarter Person County. Sessions hereby certify that Thomas Webb whose name appears to the foregoing certificate is Chairman of the Court of pleas and Quarter Sessions of Person County aforesaid and was Chairman at the time of signing the above certificate and that his said certificate is in due form of law, In testimony whereof I have hereunto affixed my seal of Office and subscribed my name at Office in Roxboro September 24th 1841. Charles Mason Clk

Defendants And afterwards moved on 21st day of July 1842, the defendant William M Kinach filed in the Office of the Clerk and Master his Answer to the foregoing bill of Complaint in the words and figures following that is to say.

The Answer of William M Kinach to the bill of Complaint of Orville W & Eleanor W M Kinach filed against him in the Chancery Court at Raleigh. This defendant saving and reserving & for answer unto so much and such parts of said Bill as he is advised it is material for him to answer, Answering says he admits the intermarriage of Complamant as stated in said bill that said Eleanor is his daughter by a former wife of respondent who was the daughter of Charles Sallard of the County of Person and State of North Carolina and that she has been long since dead, This respondent further answering states that shortly after his marriage with the daughter of said Sallard, said Sallard gave this respondent absolutely without any reservations, qualifications or conditions by deed, said Negroes, Murphy, Anna and Patsy, since which gift & whilst they have been in possession of respondent said Negroes have had no claim toward the other Negroes mentioned in the bill, This respondent expressly and positively denies the allegation in said bill that said Sallard placed said Negroes Murphy Anna and Patsy in the possession of this respondent as a loan or by way of loan and upon the condition and with the understanding that said Negroes together with their increase should belong to Complamant Eleanor W upon her coming of age or marriage, Upon the contrary thereof this respondent respects and states that said Negroes were given him as above stated before the birth of said Eleanor W without any use or trust for her benefit, for the sole and separate use of

respondent, and that said respondent has continued to hold and keep possession of said Negroes claiming them as his own adversely to said Sallard and said Complainants and every other person or persons whatsoever from the time of the gift of said Negroes as aforesaid and the births respectively of their issue as aforesaid, that said Claiming & adverse holding was known to said Sallard and said Complainants, and particularly & specially that said Sallard and said Complainants had full and perfect knowledge and notice of said claim and adverse holding from and after the 6th day of September 1836 up to and until the filing of this bill and this respondent duly relies upon the various Statutes of Limitations of the State of Tennessee as fully and completely as though the same were specially set up as a matter of defence by way of plea, This respondent admits the death of his wife the mother of Complainant Eleanor as stated in the bill, but denies expressly that at that time or any time, he promised said Sallard that said Negroes should go to said Eleanor, either according to any agreement or otherwise and he did not then ~~and~~^{nor} does not now consider that said Eleanor has or ever had any claim or title to said Negroes, either legal or equitable unless he might choose to give them to her of his own mere pleasure. — This respondent admits that the intercourse of said Eleanor and Orville W. Cook place while the said Eleanor was a minor and before her arrival at the age of 21 years and further admits the allegations that he has all along since refused and still refuses to surrender up said Negroes and their issue to Complainants and that he now holds the same claiming them as his own that he held the possession of said Negroes in the State of North Carolina adversely to said Sallard and said Eleanor and Orville W. and every other person from the time of the gift to him by said Sallard as aforesaid of said Negroes in the year 1814 until his removal to the State of Tennessee in the year 1832 long enough to acquire a title to the same under and by virtue of the Statute of Limitations of said State of North Carolina and he hereby relies upon said grounds of defence as fully and particularly as though the same were set up by way of plea, and he has held and kept possession of said Negroes in the State of Tennessee from the time of his removal as aforesaid to the present time holding and claiming them adversely to all the world. — This respondent further states that on the 24th day of May 1836, said Complainants filed their bill of Complaint in the Chancery Court at Columbia Tennessee against this defendant and before the exhibiting of this bill in this cause for the same matter and to the same effect and for the like relief and purpose as against this defendant as they now by their present bill set forth to which said first bill this respondent did put in his answer and said Complainants therein replied and after various proceedings in said first cause had in the said Chancery Court at Columbia by the consent of parties the same was removed to the Chancery Court at Pulaski in said State and after testimony was taken in said cause and other proceedings had the same was regularly set for hearing at the September term of the said Chancery Court at Pulaski 1838. and at said term said cause came on for hearing and was heard before the honorable Sanford M. Beaufort then and then presiding in said Court upon the merits of said cause and upon all the matter and things set forth and contained in the pleadings and testimony in said cause and then and there a decree was rendered in said cause in favour of Complainants for all of the Negroes in said first bill of Complaint mentioned and also all the Negroes in this bill of Complaint mentioned who were then in being and together with a Negro boy now not now embraced in this bill together with the hire of all of said Negroes from the commencement of said suit, from which decree this respondent then prayed and obtained an appeal to the then next Supreme Court of said State at Nashville and afterwards at the September term of said Supreme Court 1838, said cause came on for hearing before said Court and was heard upon the record of said cause filed in said Court and the merits of said cause as aforesaid and the said Supreme Court reversed the said decree of the said Chancery Court as to all of said Negroes and other things decreed in said Chancery Court and dismissed said bill of Complaint except as to said Negro boy

same and his hire and then and there decreed that said Negro boy Sam to be the property
 of said Eleanor W and that the clerk and Master of said Supreme Court should take and
 state an account of the hire of said Negro boy Sam from the time of the intermarriage
 of complainants aforesaid, and until he should be delivered up by this respondent and that
 at a subsequent term of said Supreme Court which has long since ended and past said
 clerk and Master did make and report an account of the hire of said Negro Sam as a-
 forswaid whereupon a final decree was made and entered up in said cause as to this
 respondent all of which will more fully and at large appear by reference to a certified trans-
 script of the proceedings in said cause which is herewith filed marked Exhibit A. and prayed
 to be taken as a part of this answer which said decree was made and entered as aforesaid
 about the very same identical property and upon a like title with that now set up in Com-
 -plainants present bill of Complaint Except only as is specially hereinafter shown and which
 said decree and adjudications so as aforesaid by said Supreme Court made the defendant avers
 to be final and conclusive between the parties to this bill, the same not being in any man-
 -ner set aside reversed or reheard, but in full force and the respondent craves the same
 benefit in his bill of Complaints present bill of said decree and adjudications as though the
 same were specially pleaded, and prays that complainants said bill of Complaint may
 be dismissed, this respondent further saith that the only New Matter set forth in Com-
 -plainants present bill is a pretended deed from the said Charles Sallard to complainants on
 the 23rd day of September 1841 of the Negroes in controversy of which said deed this res-
 -pondent is entirely ignorant and requires the strict proof of the same and of its proper
 probate and authentication, This respondent further states that if said deed was made and
 executed by said Sallard that this respondent was at the time and before and after the time of
 the making and execution of said pretended deed in the actual adverse possession and en-
 -joyment said Negroes in the State of Tennessee in said deed embraced and pretended to be
 conveyed and that said deed is void and of no effect the same being made in violation of
 the laws of said States of North Carolina & Tennessee made to suppress, maintain and
 Champerty the said Sallard and said Complainants having full notice of the adverse possession and
 claim of said Negroes by this respondent at time of the said pretended conveyance as aforesaid,
 this respondent further avers that at the time of said pretended sale of said Negroes by
 said Sallard to complainants said Sallard had no title to said Negroes, this respondent hav-
 -ing previously thereto acquired a title to the same under and by virtue of the Statute of Limitations
 of said States of North Carolina and Tennessee and by the possession of said Negroes adverse
 to said Sallard and uninterrupted by said Sallard or any person claiming by through or
 under him for a space of twenty seven or eight years which of itself was and is sufficient
 to vest in this respondent a full and complete title to said Negroes and this respondent
 still has the possession of said Negroes in the County of Maury & Giles in said State of Ten-
 -nessee holding them as his own, this respondent positively denies the allegations in said bill
 that he always and up to the time of the Marriage of complainants admitted that the title
 to said Negroes was not in him but that he held them under an agreement with said
 Sallard for the benefit of said Eleanor and never pretended to have any claim thereto until
 the time of said Marriage as aforesaid and on the contrary states that he never at
 any time admitted that said Eleanor had any title or claim to said Negroes or that he
 held them for her either under an agreement with said Sallard or otherwise - This res-
 -pondent avers that he intermarried with Rebecca the Mother of said Eleanor in the said
 County of Person and State of North Carolina, that he got possession as aforesaid of said
 Negroes in said State of North Carolina where he remained and continued to reside
 until the fall of 1832 when he removed to the State of Tennessee taking with him said
 Negroes and his daughter the said Eleanor who was then a spinster during all which
 time he had the use, possession and enjoyment of said Negroes, this Rebecca & his

and having fully answered, this respondent prays to be hence dismissed with his reasonable costs and charges in the behalf most wrongfully sustained. *Wright & Good* Solicitors
 State of Tennessee, Chancery Court at Pulaski, Personally appeared before me *Samuel L. Bell* County Clerk and Master of the Chancery Court at Pulaski *William McKinnach* and made oath that the matters and things stated in the foregoing answers as of his own knowledge are true and those stated as upon the information of others he believes to be true.
Wm McKinnach

Subscribed and sworn to before me at office this 21st day of July 1842. *W. L. Morrison* Clerk
 Exhibit A. in

Exhibit State of Tennessee

A. in Orrville W McKinnach Plaintiff
 Vs. William McKinnach Defendant

Be it remembered that a record in said cause was filed in the Clerk's office of the Supreme Court at Nashville on the 14th of January 1839 in the words and figures following to wit: "Plaintiff at a Chancery Court holden at the Courtroom in Pulaski in the County of Giles and State of Tennessee in and for the 9th Chancery District of the Middle Division of said State composed of the Counties of Giles and Lawrence at the September Term thereof in the year 1838 before the Honorable Sumner M Bramlette Chancellor of the Middle division of Tennessee in a certain suit in Chancery then pending, Be it remembered that heretofore to wit on the day of the Complaints filed in the Office of the Clerk and Master of the Chancery Court at Columbia in the Middle Division of said State of Tennessee, This bill of Complaint in equity against the said defendants in the words and figures following to wit:
 State of Tennessee - To the Chancellor of the Middle Division - Your Orator Orrville W McKinnach and Eleanor his wife late Eleanor McKinnach daughter of William McKinnach by his wife who was the daughter of Charles Sallard and who is now deceased, Humbly Complaining state and show to your Honor that sometime about 18 or 19 years ago the mother of the said Eleanor who was then the wife of William McKinnach departed this life, that shortly after the death of the said mother the father of the said Eleanor William McKinnach and his grandfather by her mother's side Charles Sallard agreed that the said William McKinnach the father of the said Eleanor should take into his possession certain Negroes Slaves who then belonged to the said Sallard the grandfather as aforesaid and that said William should hold and keep said Negroes in his possession and use until the said Eleanor arrived at the age of 21 years or at her marriage, she was to have said Negroes and their increase - They state the said Eleanor and Orrville W intermarried with each other about ^{the} years in the County of Giles Tennessee before the said Eleanor arrived at the age of twenty one and before the commencement of this suit, the names of said Negroes and their increase at this time so far as their names are known to your Orator are Murphy, Ann, Elvira, Malinda, William, Kate, Madis or Caroline Richard, Mary, Henry, Patsy, Ann, Sarah, Silencia, Abella and two small children of Mary name not known and one small child of Patsy name not known all of which Negroes now are in the possession of William McKinnach the father of the said Eleanor and who refuses to surrender or give them up to your Orator according to the right and contract above stated between the said Charles and William they state that they your Orators are now residents of Lauderdale County in the State of Alabama and the said William McKinnach is a citizen of Maury County Tennessee, They also charge and state that one Negro boy named Samuel was given to the said Eleanor when she was a child by her said Grandfather Sallard that said Negro Samuel was then placed in the possession of the said William and has remained in his possession and use, and that he also refuses to deliver to your Orators the last mentioned Negro or to account to them for his hire &c - They also state that other property of a personal nature to the value of between four and five thousand dollars was put in the possession of the said William by the said Charles Expressly for the use of said Eleanor all of which the said William refuses

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To account for, Ihe therefore pray that the said William M. Herrick be made defendant to this bill and that he make full and fair answer to all the statements charged & herein contained - That the states most gracious writ of subpoena issue, directed to Commanding &c. To the intent that the said Defendant appear at the next Chancery Court to be held at Columbia in said County of Maury and that your Honor decree to your Orator the said Negroes mentioned and described in the bill together with all such here &c. to which they may be entitled also the other property so sent in to his possession by the said grandfather for the use of the said Eleanor, the proceeds thereof and also such interest as may be due thereon, and such other and further relief as to Equity and justice may seem right.

James M. Combs

State of Tennessee Giles County 19th May 1836 - This day personally appears before me Lewisford M. Bramlett Chancellor of the Middle Division of said State James M. Combs Solicitor for the Complainants in the foregoing bill of Complaint and made oath that he is informed and believes that Charles Sallard of Person County in the State of North Carolina is a very Material Witness for the Complainants on the case of said bill and that said Witness is quite old and infirm in bodily health and that there is some danger of losing the benefit of his testimony unless the same can be taken before the case is at issue and before a commission could regularly issue for the purpose by the rules and practice of said Court in Ordinary cases - He further prays that a commission be awarded to take the depositions of the said Witness in order to perpetuate his testimony and secure the same to the Complainants against such contingency as in the ordinary course of nature may deprive them of the same.

James M. Combs.

Sworn and Subscribed to before me this 19th May 1836. L. M. Bramlett
State of Tennessee - Do the Clerk and Master of the Chancery Court at Columbia in Maury County in the Middle Division, Let a Commission issue to take the depositions of Charles Sallard of Person County North Carolina to be read on the trial of the within bill on the part of the Complainants Upon this giving to the defendants thirty days notice of the time and place of taking the same. Given under my hand &c.

L. M. Bramlett Chancellor &c.

I acknowledge myself held and firmly bound unto William M. Herrick the defendant in the foregoing bill in the sum of two hundred and fifty dollars to be void on condition that the Complainants in said bill prosecute the same with effect or in case they fail therein they pay and satisfy all such costs and damages as may be adjudged against them for wrongfully suing out the same May 24th 1836.

Answer } The answer of William M. Herrick deft. to the bill of Complaint of Orville W. Herrick and Eleanor his wife in the Chancery Court at Columbia, This defendant now and at all times hereafter saving and reserving to himself all manner of benefit and advantages of exceptions to the many errors and insufficiencies in the Complainants said bill of Complaint contained for answer thereto or unto so much thereof as the defendant is advised and believes is material for him to make answer unto, answers and says that he admits that he married the daughter of one Charles Sallard and that she died somewhere about the time stated in said bill, after having given birth to the said Eleanor but denies that he received any Negroes after the death of his wife the daughter of the said Sallard from the said Sallard, He admits that shortly after his marriage with the daughter of the said Sallard the said Sallard gave him three Negroes named Murphy Anna and Patry and in some two or three months afterwards a Negro boy named Sam but denies that there was any agreement between the said Sallard and this defendant that the defendant was to hold and keep said Negroes in his possession and use until the said Eleanor should arrive at the age of twenty one years or marry and on her arriving at the age of twenty one or marrying that said Eleanor was to have said Negroes and their increase, and furthermore expressly denies that there was any

Contract or agreement between said Ballard and this defendant touching any disposition of said Negroes in favor of said Eleanor as she was not then in existence and was not born until sometime after the gift of the said Negroes by the said Ballard to the deft. was unconditional and this defendant has always believed that he has a good and valid title to said Negroes free from the claims of all and every person whatsoever and that he has had the right ever since the time of said gift to dispose of said Negroes by gift or sale or otherwise. This deft admits that said Eleanor is intermarried with the said Corlie W as stated in said bill - this deft further admits that he has now in his possession the four Negroes above mentioned as received from said Ballard (to wit) Murphy, Ann, Patsy & Sam, & Elmina, Melinda, William, Roan, Madison, Caroline, Richard & Harriet & Mary the minors of Anna, and Sarah, Ann, Alexander, Arabella and Emilina the minors of Patsy and a small boy named Henry the minor of Mary and states there to be all of the Negroes received by this deft from said Ballard and all of the increase of these Negroes, this respondent denies that the Negro boy named Sam mentioned in said bill of Complaint as being in the possession of this deft was given by said Ballard to said Eleanor but states that he was given by said Ballard to this deft. before the birth of the said Eleanor, this respondent admits that he has had continued possession of the first four Negroes above stated from the time of the said gift & that he has been in possession of the rest of the Negroes above mentioned ever since the time of their respective births and that he is unwilling to part with the possession of them without receiving a valuable consideration, this defendant admits that some time shortly after he married the daughter of the said Ballard the said Ballard gave him some property of a personal nature to wit One horse worth about seventy five or eighty dollars One colt worth about fifty or sixty dollars, One gig worth about fifty dollars One bed and bed clothes worth about twenty five dollars and One or two cows worth about ten or fifteen dollars being all the property ever received from said Ballard by this deft according to the best of his present recollection with the exceptions of the Negroes aforesaid but this defendant denies that said property or any part of it was given to him for the use of said Eleanor. Said deft admits the residence of the parties as stated in said bill all which matters and things this deft is ready to aver maintain and prove as this honorable Court shall direct and humbly prays to be him compensated with his costs and charges in this behalf most wrongfully sustained John W Goode Solr for Deft.

State of Tennessee County of Davidson personally appeared in open Court William McKinnick and made oath that the matters and things stated in the foregoing answer of his own knowledge are true, and such parts as are stated on the information of others he believes to be true
Sworn to Sept 19th 1836 J M Martin Clk & W McKinnick.

Original bill to wit And the Complainants for replications to the answers of the deft in this case denying the truth and sufficiency of the said answers and insists upon the truth and sufficiency of the said bill and therefore prays the Court for all the relief sought in and by said bill every thing in the defendants answers notwithstanding J W Combs Solr for Compts.

Filed October 7th 1836.

In pursuance of the enclosed Commission to me directed from the Court of Chancery for the 11th district at Columbia in the State of Tennessee, I have caused to come before me Charles Ballard at the house of Charles Ballard in the County of Person and State of North Carolina on the 12th day of July 1837 Charles Ballard aged about 72 years a witness in a certain matter of controversy now depending in said Court of Chancery between Brville W McKinnick and Eleanor his wife Complainants and Wm McKinnick defendant. - Who being first sworn on the Holy Evangelist of Almighty God depone and testify as follows -
Questions for Complainant; Were you ever the owner of the following named Negroes, Murphy Ann, Sam and Patsy, Elmina, Melinda, William, Roan, Madison, Caroline, Richard, Mary, Henry, Patsy, Sarah, Alexander and Arabella - Answer I was the owner of Murphy

Ann, Patsy and Sam, the others I know nothing about, — Question 2nd for same, Did you put those Negroes or any part of them into the possession of William McKim the defendant Answer, I put Murphy, Ann, Patsy and Sam into the possession — Question for same — Where what Condition did you put them into his possession — I put Murphy, Ann and Patsy into his possession without any Condition at the time, the boy Sam I gave to his daughter Eleanor McKim, — Question 4th for the same, When you put the said Negroes into the possession of the said W^m McKim did you give him any title to them? Answer I did not in Writing, Question 5th by same, Was there any bargain or agreement between you and said William McKim about said Negroes after you put them into his possession, Answer There was, I had a Conversation with said W^m McKim between two and three years after his Marriage to my daughter Rebecca and shortly after his death concerning said Negroes, I told him I wanted all his daughter Eleanor to have the Negroes I put in his possession and if she should die without an heir I wanted him the said William McKim to have them back again, the said William McKim assured me that he was perfectly willing to have it so and sometime after — words, told me I need not give myself any uneasiness for Eleanor should have the Negroes and heard no more Complaint from said William McKim about the agreement between us about said Negroes until since Eleanor intermarried with her present husband Orrin McKim when he appeared to be dissatisfied and unwilling for her to have them, the first understanding I had with the said William McKim after the Marriage of his daughter Eleanor he promised me that as soon as Eleanor and her husband Orrin McKim went to home keeping he would give to them the Negro man Sam, the Negro woman Patsy and her children, about a year after this I had a second Conversation with him and ascertained from him that he had not given up said Negroes he then proposed to enter into another agreement with me He proposed that if I would him a bill of Sale for a portion of said Negroes he would give up the balance to me and some days afterwards offered Maj^r St Edwards an instrument of writing for me to make him my agent to manage said Negroes for me for the benefit of Eleanor McKim, and at first I thought I would do it but when he presented the instrument of writing on reflection I refused to sign it because of the agreement between us I had given all of my interest to Eleanor McKim considered I had no right to them and therefore I would not sign any instrument of writing, He also proposed to buy the Negro man Sam at \$750. I told him I had no right to the Negro, If he wanted to purchase him of Eleanor McKim I told him I could sell him and give Eleanor the Money, I refused to do it. Question 6th for same, What interest in said Negroes did you mean to convey to Eleanor McKim Answer I did not mean to convey No more than I had myself in them — Question 7th for same, Do you remember When said Negroes were put in the possession of W^m McKim Answer I cannot distinctly remember dates but I think said William McKim married my daughter in the year 1814 I put Ann into his possession the day of his marriage, I put Murphy and Patsy into possession a few months after and I put Sam into his possession some months after. Question 8th for same Do you know any thing about the origin of said Negroes, Answer I have seen Mary and Elmina and several Children whose names I have known and was told they were Anny's Children, but do not know of my own knowledge. Question 9th for same, Did you ever give said W^m McKim a fine blooded Colt for the use of the said Eleanor? Answer I did give said McKim a horn Colt which he was to sell and apply the proceeds to the schooling of Eleanor. Question 10th for same, Do you know what disposition he made of said Colt? Answer I was informed by the said William McKim that he swapped said Colt to my son Simpson Ballard for another horse and received the sum of two hundred dollars for it. Question 11th by Defendants Attorney Did you give to Orrin McKim or his wife Eleanor any title in Writing to the Negroes in controversy? Answer I did not, Question 12th by same Did you ever receive any valuable Consideration for the Negroes in controversy from either of the parties in controversy, Answer No the best of my knowledge I have not. Question 13th by same, Did W^m McKim have possession of said Negroes and minors from the time you put them in his possession up to the time of leaving this State? Answer I believe he did, Question 14th by same

What time did W^m M^r Skirach leave the State? Answer, I do not know. Question 5th Same did you and W^m M^r Skirach reside in North Carolina at the time your daughter Rebecca was married and at the said Negro was put in the possession of said W^m M^r Skirach? Answer, yes we did. Question 5th Same did you ever give or dispose of the said Negro in any other State or place? Answer, no. and further this deponent saith not. Charles Sallard sworn to and subscribed at the dwelling house of Charles Sallard in the County of Person and State of North Carolina on the 12th day of July 1837 Written down in my own proper hand Writing present Ed G. Allen and James W. Williamson attorneys for plaintiff J. S. Palmer atty for Defendant J. W. Williamson (Sd)

Dep^y Calvin Jones The Deposition of Calvin Jones and Thomas M. Jones in the case of Corvillo W. M^r Skirach & Wife vs W^m M^r Skirach in Chancery taken by consent, the parties by their counsel being present. Calvin Jones Th. M. Jones being first sworn on the Holy Evangelists of Almighty God depose and saith that some time in the fall of 1835 I think in the month of October or latter part of September I went with W^m M^r Skirach in the County of Person and State of North Carolina and a few days afterwards I was requested by Mayor Edwards to copy some conveyance or instrument of writing which he says Edwards informed me were to be signed by Charles Sallard & W^m M^r Skirach, at Mayor Edwards request I copied those instruments of writing and introduced some changes which named the instruments from literal copies. One of the instruments to the best of my knowledge was a deed of gift of a number of Negroes, those that I understand which are now in dispute between W^m M^r Skirach and Corvillo W. M^r Skirach from Charles Sallard to W^m M^r Skirach, the second instrument was a recovery and of a part of the Negroes to Charles Sallard by W^m M^r Skirach and the third instrument was a deed of trust from Charles Sallard to W^m M^r Skirach of some six or eight Negroes or perhaps more for the benefit of Eleanor M^r Skirach one of the Complainers and the heir of her body I do not now distinctly recollect, recollect whether Corvillo M^r Skirach was included in the benefit of the trust, after those instruments were drawn and before they were seen by W^m M^r Skirach I met him again in Roxboro and in substance observed to him that I was gratified to hear that there was a probability of his becoming reconciled to his daughter and probably mentioned something about the conveyance to which W^m M^r Skirach made no other reply than this that he felt anxious to do something for his daughter, or to give his daughter something or used some words of such or similar import and immediately changed the subject of conversation, I attributed his change of conversation to an unwillingness to talk to any one about his daughter, I do not recollect at any time to have heard William M^r Skirach speak of the manner in which he became possessed of the Negroes which he acquired from Charles Sallard. On this subject I have heard Capt. Charles Sallard say one word, Mayor Edwards informed me that he had been requested to draw the instruments above alluded to and it was at his request that I executed the writing as above stated, I was further informed by Mayor Edwards that W^m M^r Skirach and himself were to meet at Capt. Sallard's on some day not far distant when the instruments were to be signed by the parties. After W^m M^r Skirach departed for home I was informed that Charles Sallard refused to sign the instrument intended for him and that W^m M^r Skirach after signing the instruments intended for him and ascertained that Charles Sallard would not sign those intended for him he resumed his seat in the stage and continued his journey home, that he Mayor Edwards retaining those instruments until Charles Sallard would comply with his promise on the terms to which he had agreed to accede, the Mayor Edwards spoken of above was John Edwards Esq. of New Castle Person County North Carolina, Mayor Edwards suggested that he believed or understood the reason why Charles Sallard would not sign the instruments was because he had received a letter from some one a Lawyer in Tennessee whom this deponent understood to be James W. Henry and that something contained in said letter had influenced to the course he had taken, I heard either from John Edwards or some other person that Charles Sallard assigned another reason for his refusing, it was that he was old and did not wish to do any thing to involve himself or children W^m M^r Skirach was never present with John Edwards and myself when the conversation between John Edwards and myself was held and further this deponent saith not Calvin Jones

The deposition of Thomas M Jones was taken before me at the State of Tennessee Giles County June 20th 1837. I Alexander Black one of the Justices of the peace in and for said County do hereby certify that the above deposition of Calvin Jones was taken before me at the office of Goode & Jones in the town of Pulaski in said County, the counsel for both the parties being present and consenting to the same, that the same is in the hand writing of the Witness himself and duly subscribed and sworn to by him. Alexander Black JP

Dep. State of Tennessee Maury County. Chancery Court June 15th 1837. By Virtue of the power J. A. Wing - a Justice in Me ex Clerk and Master I have caused to come before me at my office in Columbia on this 15th day of June 1837 George A. Wing a Witness for the Complamants who in the presence of the parties having been first duly sworn on the Holy Evangelists of Almighty God deposth and saith (said). Question 1st Are you acquainted with the parties to this suit and also with Charles Sallard and the defendant? Answer I am acquainted with the parties to this suit and also with Charles Sallard since the year 1825. Question 2nd Are you acquainted with the Negroes sued for or any of them, were they or not formerly owned by Charles Sallard? Answer I expect I know all of them. I do not know that Charles Sallard ever owned any of them they being in the possession of Col W^m McKinnach when I first knew them. Question 3rd Have you or have you not heard the defendant say they formerly belonged to Charles Sallard, Have you or not also heard him say he held them under an agreement with Sallard for Complamants use? Answer I have heard him say that Ann, and her children and a Negro man by the name of Sam and I think also a Negro man named Murphy formerly belonged to Charles Sallard but never heard Col McKinnach say that he held said Negroes under any agreement with Capt Sallard for the Complamants wife and further this deponent saith not. G. A. Wing

Sworn to and subscribed before me this 15th June 1837. George M. Martin C. & M.

Dep. State of Tennessee Maury County. Chancery Court June 15th 1837. By Virtue of the power J. A. Wing - a Justice in Me ex Clerk and Master I have caused to come before me at my office in Columbia on this 15th day of June 1837 William McKinnach also being sworn deposth and saith (said). Question 1st Are you acquainted with Eleanor McKinnach one of the Complamants if so state what is her age and at what time she was born? Answer I have known Eleanor McKinnach from her infancy and I think she will be this full twenty two years of age. Question 2nd What time was she married to Orrille McKinnach her present husband? Answer I think it was in October 1833. Question 3rd Are you acquainted with the boy Sam now in the possession of the depts. formerly the property of Charles Sallard if so state the time he first went or was sent to W^m McKinnach and when it was and how long after William McKinnach acquired possession of the other Negroes sued for? Answer I know the boy Sam but I do not know when he went into the possession of W^m McKinnach and do not believe I saw him in his possession until some time after he had acquired possession of the other Negroes - When was it that the Negroes went into the possession of McKinnach? Answer It was in North Carolina that they came into the possession of William McKinnach and further this deponent saith not. William McKinnach

Sworn to and subscribed before me this 15th day of June 1837. Geo. M. Martin C. & M.

Dep. State of Tennessee Maury County. Chancery Court June 15th 1837. By Virtue of the power J. A. Wing - a Justice in Me ex Clerk and Master I have caused to come before me at the Edmondson House of Wherry Edmondson in County of Montgomery and State of Tennessee on the 24th day of May 1837 Matthew E. Edmondson aged about forty three years a witness in a certain matter of controversy now depending in the said Court of Chancery between Orrille McKinnach & wife Complamants & W^m McKinnach depts. who being first duly sworn upon the Holy Evangelists of Almighty God deposth and saith (said). Question for Complamants. Were you acquainted with Capt Charles Sallard of Person County North Carolina about the time and after his daughter intermarried with William McKinnach? Answer I was. Question for Complamants. Do you or do you not recollect of hearing a conversation between said William McKinnach and Charles Sallard about a certain parcel of Negroes, and respecting the disposition of said Negroes, if so what were the conditions? Answer I heard a conversation between said Charles Sallard & W^m McKinnach about the Negroes mentioned and said Charles Sallard desired W^m McKinnach to give the said Negroes to Eleanor McKinnach daughter of

said Wm McKim and grand daughter of said Charles Ballard, Question by Complainant
 During the above mentioned conversation did you wife or judge from what they said that they had
 any previous agreement between themselves about giving dist the said Negro? Answer I calculated
 they had, Wm McKim said he would give them to his daughter Eleanor, Question for Compt
 Do you know the description or names of said Negroes, if so mention them and describe them
 and mention their names? Answer Names are Murphy a young Negro man, Ann a young
 Negro woman, Putney a Negro girl and Sam a Negro boy, Question by Complainant
 At what time did the marriage between Wm McKim & Rebecca Ballard take place and also
 how long after the marriage did the conversation about giving up the Negroes take place
 Answer, I do not recollect what year they were married but the conversation took place some
 years after their marriage and some time after the death of his wife, Question by Defendant
 you will please state what Negroes Capt Ballard gave me and my wife Rebecca after my
 marriage with his daughter Rebecca Ballard? Answer He gave you and your wife
 Rebecca the four Negroes that have been already mentioned, Question by Deft You will
 please to state whether I ever gave to my daughter Eleanor the forementioned Negroes or any
 part of them? Answer I never knew that you gave them or any part of them to your daugh-
 ter, Question by Deft You will please to state how many Negroes and what other property
 your father gave you and your husband Thomas Edmonson at or after your marriage and
 whether he ever afterwards set up any claim to said Negroes and property or attempted to
 take them back? Answer my father Capt Ballard gave us four Negroes & a tract of land but never
 took or attempted to take them back any part of the property which he gave us, Question by Deft did
 Captain Ballard at the time of the above conversation admit about giving up the Negroes proposed to set
 up any claim to the Negroes which he gave me and my wife? Answer He did not pretend to
 set up any claim to the Negroes but desired you to give them to your daughter Eleanor
 Question by Complainant State whether your father Capt Ballard ever gave to one of your daugh-
 ters a Negro or Negroes or my father desired Mr. Edmonson to give one of the Negroes which
 he gave us to my daughter Rebecca but he never has done so, Question by defendant you
 will please to state if you ever heard Capt Ballard say that he had not given me and
 my wife Rebecca as much property as he had given to his other children and what his conversa-
 tion was on that subject? Answer I heard him say he had not given you and your wife
 Rebecca as much property as he had given his other children but that he intended to give to all
 his children as nearly equal portions as he could, Question by Compt. Please state the age
 of Eleanor McKim daughter of William McKim and wife of Orrille W McKim
 Answer She is about 21 years of age, Question by Compt How old was Eleanor McKim
 at the death of her mother wife of said William McKim and how had Wm McKim been
 married before the death of his wife? Answer She was about 12 months old at the death of
 her mother & William McKim had been married not more than two years of that when his
 wife died and further this deponent saith not.

State of Tennessee Montgomery County, I, Alexander M. Rogers one of the acting Justices of the
 Peace for said County hereby certify that the above deposition of Martha G. Edmonson was taken
 before me (both parties being present) at the time and place mentioned in the caption and that
 the same was reduced to writing by myself and by me sealed up without alterations and
 delivered to Orrille W McKim, Witness my hand and seal this 24th day of May A.D. 1837
 A. M. Rogers JP

Insham Edwards. In pursuance of the enclosed Commission to me directed from the Court of Chancery for the 11th
 Court at Columbia in the State of Tennessee I have caused to come before me in person within
 Court house for the County of Person and State of North Carolina on the 16th day of July 1837
 Insham Edwards aged about 66 years a witness in a certain matter of controversy now depending
 in said Court of Chancery between Orrille McKim and wife Jffs & William McKim & wife
 who being first duly sworn on the Holy Evangelist of Almighty God, Deposed and saith

Questions by Compts Council Do you know whether Charles Sallard gave a Negro man Sam in controversy between Coville McKimich & Eleanor McKimich to Eleanor McKimich.

Answer by W^m McKimich Some time in October 1834 in which Sallard said he did not give the Negro Man Sam to him but that he gave her to his grand daughter Eleanor McKimich. W^m McKimich said that he thought Negro Sam was given to him as the other, but if he said he did not give him to him it should be as he desired, and that he would give him up to Eleanor at Christmas. By the same Do you know any thing about the agreement between Sallard & W^m McKimich with regard to the other Negro in controversy, Answer I do not recollect what I heard between Charles Sallard and W^m McKimich in a conversation in October 1834.

Questions by Same, Did you ever hear him W^m McKimich say that he would run those Negroes in controversy to Texas? Answer I never heard him say that he would run them to Texas. I heard him say he could do so. Questions by Same, In what year was it you heard W^m McKimich say he could run those Negroes off to Texas? Answer I think it was in the fall of 1835.

Questions by Same, W^m McKimich married to Charles Sallard's daughter in North Carolina since the year 1806. Answer He was and I think about the year 1814. By same, How long did W^m McKimich reside in North Carolina after his marriage to Charles Sallard's daughter? Answer I think it was about Eighteen years. By same, Did you at any time when the matter in relation to the Negroes in controversy was talked of between W^m McKimich and Charles Sallard hear either of them say that there was any bill of sale or deed of gift or any other instrument of writing creating a trust or otherwise of the said Negroes.

This question objected to by Compts Council and ordered overruled. Answer I did not. By same, Did Charles Sallard ever request you to see William McKimich in relation to the Negroes in controversy and want you to make any proposition in relation to them. If so, at what time, What did Charles Sallard on that occasion say to you or request you to propose to W^m McKimich, detail the whole conversation as it occurred (objected to by Compts Council) objection overruled.

Answer by self, He did, I think it was in October 1834, Mr. Sallard requested me to say to William McKimich that he wanted him to give the Negroes he had given him & his wife to his daughter Eleanor. By same, In a conversation which you had between W^m McKimich and Charles Sallard during the last time said McKimich visited North Carolina in the year 1834 or 1835 did you or not hear Charles Sallard say that he had given W^m McKimich as good a title to said Negroes as he had given to his other children of any property he had given to them and relate all that conversation particularly and specially (this question objected to by Compts Council & overruled).

Answer I did not hear Mr. Sallard say as to other property but I heard him say that he had given McKimich and wife as good a title to said Negroes as he had given to the rest of his children. By same, Did you ever hear Charles Sallard say that he would never disturb W^m McKimich in the possession of them? Answer I did (objected to by Compts Council) & By Compts Council, Did you ever hear any conversation between Charles Sallard and W^m McKimich about said Negroes except in October 1834 if so did any of them relate to the original agreement between Charles Sallard and W^m McKimich about said Negroes.

Answer I do not think I ever did. By same, in your answer to fifth fourth question whether you heard either Sallard or McKimich say there was any instrument of writing between them with regard to said Negroes you answered that you did not, do you know that there was no instrument of writing between them? Answer I do not. By same, Is a question of the fifth you answered that you heard Sallard say that he had given him as good a title to said Negroes as he had given to any of his children to Negroes.

Do you know that he ever gave any of his children a title to Negroes? Answer I do not know that he ever did. By same, you state that you heard Sallard say that he had no title to the said Negroes & that he should never disturb McKimich in the possession of them, Did you ever hear Sallard say that Coville McKimich and Eleanor his wife had no title to said Negroes? Answer I never did.

By same. You stated in one of your answers that Sallard said he had given the Negroes to W^m McKim & his wife, did you ever hear him say that he had given Sam to them if not what Negro did he mean he had given them - Answer by same I never heard him say that he had given them Sam - As to the others I do not recollect their names except one who is named Murphy, Question by same, do you know whether the Negroes you have been speaking of were the following to wit Patry, Ann & three more or whether there were some other Negroes Answer, I do not and further the deponent saith not, sworn to and subscribed before me the day and date first above written the agents of both parties being present and taken down in my own hand Writing
J. M. McKim, D.

In pursuance to the indorse Commission to me directed from the Court of Chancery from the 11th district at Columbia in the State of Georgia, I have caused to come before me at the dwelling house of Charles Sallard in Person County State of North Carolina on the 23rd day of July 1837 Charles Sallard aged about 73 years a witness in a certain matter of controversy now depending in the said Chancery Court between Orville McKim & Wife Complainants and W^m McKim Charles Sallard } depts. who being first duly sworn upon the holy Evangelist of Almighty God depone and saith
Question 1st by depts. counsel, I wish you to state Mr. Sallard whether or not in putting the Negroes Murphy Patry and Ann into the possession of W^m McKim you did not convey and give and intend to convey and give him as good a title to said Negroes as you gave any of your children upon the Marriage, and have you or not since that time said that you had given to W^m McKim as good a title to all the Negroes you put into his possession (including Sam) as you gave to any of your children? Answer, as to the first part of the question the deponent Answer No He says he gave to some of his children deeds of gift and he gave none to W^m McKim - The deponent answers to the second part of the question, he has no knowledge of making use of such remedy, Question 2nd did you or not give the Negro Sam to W^m McKim before the death of his wife and birth of his daughter Eleanor, and also the other Negroes, Ann, Patry and Murphy before the birth of Eleanor, - The boy Sam I gave Eleanor when she was a sucking child and not long before the death of her mother, Question 3rd by same, did W^m McKim or any other person ever pay or agree to pay you any money property or other thing of value for said Negroes or any of them or have you ever received any money or property for them or any of them - Answer No - W^m McKim in 1835 proposed to purchase Sam but no bargain was made Question 4th by same were said Negroes a sale or gift which - Answer you can call it what you please, I put said Negroes in the possession of W^m McKim - each, without any bargain or whatso at the time with the exception of Sam, whom I gave to my grand daughter Eleanor, Question 5th at the time you placed said Negroes in the possession of W^m McKim and at the time you parted with all your right thereto - did you receive any money property or other thing of value for them or any of them or was there any agreement that you were to receive any valuable consideration for them? Answer by deponent I never gave W^m McKim title to said Negroes neither have I ever received any money or property for them neither is there any agreement that I am to receive any valuable consideration for them Question 6th in your deposition taken by the Complainants you speak of a bargain or agreement between you and W^m McKim in relation to said Negroes, I wish you now to state whether or not, when you parted with your title to said Negroes, the conveyance was not a gift and not a bargain or sale was there any writing evidencing said gift or whatever species of conveyance - the same was either to W^m McKim absolutely or to said Eleanor or William McKim for her use? Answer by deponent, As to the first part of the question I have answered in questions the 4th as to the latter part of the question my answer is there was no instrument of writing between W^m McKim and myself concerning said Negroes - Question 7th By same did you not purchase the Negroes Murphy or Sam and take a receipt of the seller for the purchase money and hand me upon putting said Negroes into my possession said receipt and tell me that that receipt was a sufficient bill of sale

- for said Negroes? Answer I purchased Murphy and took a bill of Sale or receipt for the purchase money, the boy Sam was born my property, W^m M^r Skirach and myself were looking over some of my papers some considerable time after I put Murphy into his possession and came across the bill of Sale or receipt which I had for Murphy, M^r Skirach put said bill of Sale or receipt into his pocket without any remark from either of us as well as I recollect nor did I tell him that it should be a bill of Sale for Murphy. Question 8th Did you or not in the year 1834 or 1835. in a conversation with William M^r Skirach in relation to said Negroes say that you had given said Negroes to him absolutely and that you would not interfere with them in any way. Answer I did not say to the best of my recollection that I had given them absolutely to him but I may have said that I would not interfere with them in any way. Question 9th did you give W^m M^r Skirach as much property as you gave your other children? What did you give them and when? Answer I gave some of my children more property than I gave W^m M^r Skirach and some of them left that is into his possession, I gave him stock, Pork, One fine gig and other things not rec-
-ollected. Question 10th Did you or not sometime after the marriage of William M^r Skirach with your daughter Rebecca and before her death offer to get an attorney to draw an absolute deed of conveyance to said M^r Skirach and his wife Rebecca of the whole of your estate, real and personal reserving only a life estate to yourself? Answer I have no knowledge of any such offer. Question 11th Was any one present when you say in your deposition W^m M^r Skirach offered to buy Sam as you refused (as you say) or when he told you that you might sell Sam and give the money to Eleanor? Answer There was no person present as I recollect except my wife who I believe was in the adjoining room. Question 12th by same, did W^m M^r Skirach have possession of said Negroes if there increase from the time you put them into his possession up to this time, how long did W^m M^r Skirach live in the State of North Carolina after said Negroes were put into his possession? When did he remove to the State of Tennessee, How long has he had possession of said Negroes in the State of Tennessee, How long have said Negroes or any of them been in the State of Tennessee, did you or not propose to buy the Negro Murphy from W^m M^r Skirach some time or 12 years ago, when W^m M^r Skirach was about to send him to Tennessee and offer \$1000. for him or other sum, Answer To the last part of this question (the other I avoid) W^m M^r Skirach about the time he sent said Murphy to Tennessee proposed selling him to me, I may have offered \$1000. but I had no idea of purchasing said Negro from him without binding him in writing to give the proceeds of said Negro to Eleanor when she became of age or married. Question 13th by same, did you reside in the State of North Carolina at the time W^m M^r Skirach married your daughter Rebecca also reside there and have you resided in North Carolina ever since and how long did W^m M^r Skirach reside in North Carolina after his marriage with your daughter, were the said Negroes put into the possession of W^m M^r Skirach in the State of North Carolina and were they given or conveyed by you in the State of North Carolina and did you ever give or dispose of said Negroes in any other State or place than in the State of North Carolina (the foregoing questions waived except the last) Answer to the last clause, Question 14th by same, would you will please state what conversations passed from you to Mrs Rebecca Williams after the death of your daughter, wife of W^m M^r Skirach with regard to the Negroes which you had given them? Answer I have no recollection of the conversations alluded to. Question 15th did you not say that you had given the Negroes to W^m M^r Skirach and if his wife and daughter both had died, you would not have taken them from him. Answer I may have said that I had given them to him but my meaning may that I had given them into his possession, I have frequently said that if Eleanor died without an heir I should not take the Negroes from said M^r Skirach. Question 16th by same, In putting the Negroes Murphy Sam and Patsy into the possession of William M^r Skirach after marriage with your daughter did you not intend it as an advancement to him? Answer I put them into the possession

of the said McKim for the benefit of my daughter and her issue, I certify 17th Novr
many Children have you that are married and to how many of them have you given and of gift
for Slaves? Answer I have given Children that were married I do not recollect that I ever made
a deed of gift to more than two of them and further then defendant says not Chas Sallard
Sworn to and subscribed before me at the time and place mentioned in the Caption, the agent
of both Parties being present. W^m Lusk J^r

I do hereby Certify that the foregoing deposition was written by a clerk by the Consent and request
of the agents of both Parties and that the Answer to the foregoing questions were all written in
-mediately in my presence and read over by me to the defendant who signed and was equal-
-ified as to the truth of the same W^m Lusk J^r

agreed Set for hearing by defendants counsel, March 20th 1837 - March 22nd 1837 By Con-
-currence of the Parties this Cause is Continued until the Next term of this Court and it is to remain
open for proof on both sides. And it is further agreed by the parties that the Complaint

amended - amounts may Amend this Bill by avowing that the facts charged in the bill occurred in the
Bill State of North Carolina and the defendant permitted to amend his answer by admitting or de-
-nying the amendments of Complainants bill and this agreement is not to effect the proof alrea-
-dy taken in this cause or delay trial. The Amended bill of Complaint of Orville
McKim and his wife Eleanor against William McKim filed in the Chancery Court at Columbia
by leave of the Court being first had &c. Upon Oath and Oath further Charge that the agree-
-ment and understanding aforesaid and charged in the Original bill to have been made and ex-
-ecuted between the said grand father of your Oath & the said W^m McKim in relation to the
Negroes aforesaid and whose Names are particularly set forth in the Original bill was made &
took place in the State of North Carolina and that subsequent thereto and the reception of the
Negroes the said defendant brought the Negroes to Sumner County & Pollers Sol^r &c.

Answer The Answer of W^m McKim to the Amended bill of Complaint of Orville McKim & his
to amended wife Eleanor filed against him in the Chancery Court at Columbia. This defendant denying and re-
Bill -serving to himself &c. for Answer to said Amended bill says that he again denies positively as
he has heretofore done in his answer to the original bill in this cause that there ever was at any
time any agreement, understanding, contract, sale or gift or other conveyance or assurance
Whation either in the State of North Carolina or elsewhere between the grand father of Com-
-plainant Eleanor & defendant in relation to the Negroes, whose Names are particularly set out
in the Original bill in this cause by which defendant was to hold the said Negroes
for the use of said Eleanor as set out in the Original bill, But on the contrary
thereof defendant states that the said Charles Sallard gave said Negroes as set out in his
Answer to the Original bill to which he now refers, the defendant admitted that the gift of
said Negroes & other property specified in the Original bill in this cause did take
place and was effected in the State of North Carolina at the time and in the manner set
out in his Answer to said Original bill and in no other way and that after said
gifts to him of said Negroes and other property as aforesaid he brought the same with
him to the State of Sumner, where he has resided with said property for more than
three years before the filing of the Original bill in this cause And having fully an-
-swered he prays as in and by his Answer to the Original bill he has already prayed

W^m Goode & A Wright Sol^r &c.

State of Sumner Personally appeared before me Geo M Martin Clerk and Master of the Chancery
County - Chancery Court at Columbia W^m McKim and made oath that the
matter and things stated in the foregoing amended Answer of his own knowledge are true
and then stated on the information of others he believed to be true W^m McKim
Sworn to before me this 13th day of May 1837. Geo M Martin C & M.

Exceptions, Complainants by this Counsel Except to the Amended Answer of defendant filed in
this cause And file the following Causes of Exceptions herewith.

1st Because said Amended Answer is filed without any order or rule of the court authorizing same. 2nd The order of Court authorizing Complainers to amend their Bill by alleging that the facts charged in the Original bill occurred in North Carolina, allowed defendant to amend his Answer admitting or denying Complainers Amended bill and defendant has inserted in his amended Answer much new matter and new allegations not in reply to said amended bill Combs & Pellors vs. Filed May 13th 1837. Having examined the Exceptions filed by Complainers Combs to the Amended Answer of def^t filed to the same Plaintiff's amended bill and having duly considered the same, I have overruled the first Exception and sustained the second Exception and hereby report that all that part of said Amended Answer which is not in Answer to the Charge, that the understanding and agreement charged in the Original bill took place in North Carolina was not authorized by the order of the Court allowing the amendment and is unnecessary. Geo. M. Martin C & M. September 18th 1837. On motion of the Complainers by their Counsel. It is ordered by this Court that the cause be remanded to the rules with leave to take proof on both sides for five months.

Bill of costs aggregate amount \$22.32^{1/2}

State of Tennessee & George M. Martin Clerk and Master of the Chancery Court at Columbia County. I certify that the foregoing is a true and complete record of the proceedings had in the case wherein Orrille McKinnach & wife are Complainers, Wm. McKinnach is def^t as fully as appears of record in my office, Witness my hand and private seal having no seal of office at office in Columbia this 18th day of January 1838. Geo. M. Martin C & M.

agreement. It is agreed that the above case which is now in the Chancery Court at Columbia Tennessee shall be transferred to the Chancery Court at Pulaski for trial, that the said transfer shall be made as soon as possible, a copy of all the papers in the case can be made out and transmitted to the Clerk and Master at Columbia at Pulaski, that no steps whatever are to be taken in the case whilst at Columbia until the trial at Pulaski and then to be dismissed and the costs to be settled according to the decision at Pulaski. That the case shall be in the same situation and subject to the same rules in the court at Pulaski that it is now at Columbia and that the dispositions of Judge Grant and Archibald Grant are to be reported with the Clerk and Master at Pulaski and affirmed by him and are to be read as evidence upon the trial and that the case shall remain open for testimony for five months from this time. Done under our hands and seals 16th Sept 1837. Geo. W. Goodie (Seal) A Wright (Seal) Solicitors for defendant and Jas W. Combs (Seal) Sol for Complainers State of Mississippi.

Dep. Meadwin County. I Samuel Hamblin an acting justice of the peace in and for said County John Douglas who being duly commissioned and sworn as such and in obedience to a commission from a court of Chancery of the 11th district at Columbia in the State of Tennessee, I have caused to come before me at my office in Camden in said County of Meadwin and State of Mississippi on the 3rd day of Feb^y 1838 John Douglas aged about 53. a witness in a certain matter of controversy now depending in said Court of Chancery between Orrille McKinnach & wife Comps and Wm. McKinnach defendant who after being duly sworn on the Holy Evangelist of Almighty God the truth to speak solemnly and truth, Question 1st by Complainant: State all you know respecting the title of certain Negroes Wm McKinnach received from Charles Sallard by his marriage with said Sallard's daughter who lived a few years, then died and left one child by the name of Eleanor - say if there was not a conveyance from said Sallard to his grand daughter Eleanor, also whether or not Charles Sallard said how those Negroes were to be disposed of and who the title was in, also what was the general understanding about the title of those Negroes in Roxboro North Carolina and you will state all the circumstances leading to the conclusion that Eleanor was to have the Negroes as soon as she became of age or married of any part of them and whether Charles Sallard did not give one boy by the name of Sam directly to Eleanor when she was a child and whether that boy Sam was put in the possession of Wm McKinnach after or at the time the other Negroes were put into the possession of said Wm McKinnach &c. Answer. I will remember that

Wm M Skene married a daughter of Capt Charles Sallard after which she died and left one child which is now the wife of Orville M Skene and that William M Skene received several Negroes from Charles Sallard some time after he married or at the time of his marriage with said Sallard's daughter - I am not prepared to say who the title of said Negroes was in whether in Wm M Skene or his daughter Eleanor some time in the year 1834 or 1835 Orville M Skene married the daughter of Wm M Skene who then lived in the State of Tennessee, - shortly after came to North Carolina to inquire into the title of said Negroes and inasmuch as Wm M Skene did not approve the marriage of his daughter Eleanor with and to Orville M Skene he refused to give her a portion &c. - I left North Carolina in the month of September 1835 and some few months or weeks before I left, I visited Capt Sallard who made some inquiry about Orville & ^{Eleanor} of me, If I heard from them &c. - He then stated to me Wm M Skene would give them four or five Negroes and if he made a proper use of them and managed well he would get the whole for said he I never gave the Negroes to Wm M Skene, The general opinion in Person County North Carolina was that Capt Sallard gave Eleanor a title to the Negroes and placed it in the hands of her father Wm M Skene to keep for her - I heard James Gill state repeatedly he was called only Capt Sallard who went with him to the home of Wm M Skene when a title was executed by said Sallard in his presence and that he had witnessed the same & that it was left in the possession of said Wm M Skene by Capt Sallard and further the deponent swears not -

John Douglass.

Sworn and subscribed to before me this 3^d day of July 1838 Saml. M. Hamlin Comr.

Dep. C. H. Jordan at Palatka in the County of Giles and State of Tennessee I have caused to come before me at Person Court house in the State of North Carolina on the 25th day of July 1838 Doctor C. H. Jordan aged about thirty three years a witness for the Complainers in a certain matter of controversy now depending in the Chancery Court in Palatka between Orville M Skene & wife Complainers and William M Skene deft. who being first duly sworn upon the Holy Scriptures of almighty god deposes and swears - Question 1st by Complainant, Are you acquainted with the Character of Capt Charles Sallard if so how long have you been acquainted with him and what is his Character and Standing in Society? Answer by Deponent. I am, I have been acquainted with him about nine years as far as I know or believe his Character is irreproachable as a man of Veracity - Question 2^d by same, Do you know any thing of your own knowledge about a gift of several Negroes, Slaves, town, Land, Anna and others which are now in controversy between Complainant and defendant from Capt Charles Sallard to Eleanor M Skene, if so state what you know - Answer I do not - Question 3^d by same Have you ever heard Capt Charles Sallard or Wm M Skene say any thing relative to said gift of said Slaves if so state the whole of what was said as you now remember it? Answer I have never heard Wm M Skene say any thing about the Negroes which Capt Sallard gave his first wife in any way whatever but I have frequently heard Capt Charles Sallard mention the matter as far back as four or five years ago and as recently as three or four weeks past - his statement in relation to the matter have been uniformly in substance as follows He said shortly after the death of his daughter William M Skene's first wife he was frequently asked by persons and particularly by Mrs Williams if he did not intend to take the Negroes back which he Capt Sallard had given to Mrs M Skene, He said as soon after the death of his daughter Mrs M Skene as he could conveniently do it, he had a conversation with Wm M Skene about the Negroes and told Mr M Skene that He did not want to take the Negroes back but that he wanted his grand daughter to have them the present Eleanor M Skene, He said Wm M Skene promised him she should have them, He then mentioned several other things such as a yoke of Oxen a sow and pigs and several other articles which he Capt Sallard had given him Wm M Skene to consummate

Housekeeping on, and that he told William McKim he wanted him to give similar articles to Eleanor when she commenced house keeping all of which William McKim promised to do and that he rested satisfied there, that he William McKim would comply with his promise as he had then never deceived him, perhaps I ought to have said in my answer to the same question that I have heard Capt Sallard say that some were given from the first to Eleanor when she was a child by him without reference to W^m McKim at all in other words that W^m McKim never had the slightest claim to him and in proof of that he said the last time McKim was in this country he offered him \$800. for Sam. which he refused to take saying that he had disposed of him once and would not do it again Capt Sallard in all his conversations to me on this subject stated that after the above detailed conversation with W^m McKim shortly after the death of Mr McKim Capt Sallard's daughter that he uniformly told William McKim that if Eleanor died without and him he never would take the Negroes from him, But would make him a bill of sale or deed of gift of them at any time after such event, this is the substance of various conversations and in many instances the words Capt Sallard has had with me on this subject - Question 4th by same Is there any thing else within your knowledge which would be beneficial to the Compliments in this matter of so state it? Answer nothing that I know of and further the deponent saith not C H Jordan

State of North Carolina I hereby certify that the foregoing deposition was sworn and
Person County Subscribed before me the day and place above mentioned, that
the same is taken down in my own hand writing and have not been out of my possession
since taken J L Linton JP

Run from post office postage 75 cents paid by complainers 11th Aug 1838 R L Morrison
State of Virginia

Sept Mary County I In pursuance of the enclosed Commission to me directed from the Court
Eliz. Jordan of Chancery for the 11th District at Columbus in the State afo^r I have come to come be-
fore me at the house of James Jordan in the County and State above written on the 5th
day of February Elizabeth Jordan aged about 45 years a widow in a certain matter of
controversy now depending in the said Court of Chancery between W^m McKim and Eleanor his wife
Complainers and William McKim deft. Who being first duly sworn upon the Holy Evangelist of
almighty god depose and saith in the presence of James M McKim attorney on behalf of pl^{ts}
Question 1st by J M McKim afo^r are you acquainted with W^m McKim and Eleanor his
wife Pl and W^m McKim deft? Answer I am acquainted with them, Question 2^d Is Eleanor
McKim a lawful wife of said W^m McKim the daughter of W^m McKim the deft and
a grand daughter of your father Capt Charles Sallard? Ans^r She is - Question 3^d Upon
the Marriage of W^m McKim with your sister Rebecca Sallard did not Capt Sallard give
father place in the possession of said W^m McKim a certain lot of negroes, and if so state
what were their names and the Conditions upon which they were placed in his possession, Answer
Yes he did, their names were Anna, Patsy and Murphy - my understanding of the Condition to
- was a loan - Question 4th Upon the death of your sister Rebecca the wife of
W^m McKim the deft did not your father Capt Chas Sallard give the aforesaid negroes
to E W McKim the infant daughter of the said William McKim by his said wife
Rebecca? Answer he did, Question 5th was it not an agreement between W^m McKim
and Capt Sallard that he the said W^m McKim should keep the said Negroes in
trust for his daughter Eleanor W^m McKim until she became of age or married and the
said W^m McKim was to have the use of said Negroes until the time ^{aforesaid} upon Condition
that he would sustain and educate the said Eleanor W^m McKim but was
- to give the said Negroes with their increase up to the said Eleanor so soon as she mar-
-ried? Answer Yes there was such an agreement between my father Charles Sallard & W^m
McKim, Question 6th Did you not often hear your father & the said W^m McKim

- when in company with each other speak of the aforesaid agreement and did you not understand from the tenor of their conversation that it was a mutual understanding between them that the said Negroes together with their increase were the lawful property of the said Eleanor W. McKimach and the said W. McKimach was to act as her trustee until she married when he was to give up to her the persons of said Negroes,
- Answer I often heard them speak together on the subject and such appeared to be the mutual understanding and agreement between them - Question 7th Was it not a general understanding with the neighborhood in the vicinity of your father Capt Charles Sallard and W. McKimach's residences, that the said Negroes were the lawful property of Eleanor W. McKimach who intended them as a gift from her grandfather Capt Charles Sallard and that William McKimach her father held and kept them in possession as a trustee for the use of his daughter Eleanor W. McKimach and was to give them up to her as soon as she married - Answer Yes, such appeared to be the understanding of the neighborhood, Question 8th Have you not often known in conversation with William McKimach after the birth of the said Eleanor and the death of your sister Rebecca wife of W. McKimach heard him say that said Negroes above specified belonged to his daughter Eleanor McKimach and that she should have them when she married? Answer Yes, I have often heard him make such statements, Question 9th Have you or not repeatedly heard your father Charles Sallard say that the Negroes were given by him to said Eleanor W. McKimach and that W. McKimach was acting as her trustee and he believed him to be a gentleman and would act right about the matter and give her up the Negroes when she married? Answer Yes. I have often heard my father make such observations; Question 10th Just before W. McKimach removed from No Carolina did he not take your father Capt Charles Sallard to his Negro quarters and show him the said Negroes with their increase, which he Capt Sallard has given to Eleanor W. McKimach, and told him the said Sallard that Eleanor W. McKimach should have every one of them when she married if the said Sallard would let him the said McKimach carry the said Negroes with him to Tennessee? Answer My father told me that said McKimach showed him all the Negroes aforesaid and made him such a promise upon the said condition just before he removed from No Carolina to Tennessee, Question 11th After the marriage of the said Eleanor W. McKimach, with W. McKimach what were the reasons which W. McKimach assigned to your father Capt Charles Sallard for not giving up the said Negroes according to promise and his agreement with your father Capt Charles Sallard? Answer, the reason he assigned to my father Capt Charles Sallard, that she had married a trifling fellow and a spendthrift who would waste her property if he gave it up to them and that he wanted him the said Sallard to make over to him the said McKimach, the said Negroes that he might keep them in his possession for the use of Eleanor McKimach, Question 12th When your father Capt Charles Sallard refused to make over to him the said W. McKimach the said Negroes, did not he the said McKimach propose to him the said Sallard that he would lend the said Negroes from him and that he the said Sallard might do what he pleased with the money, if the said W. McKimach made such a proposition what was the reply of your father Capt Charles Sallard? Answer My father the said Capt Charles Sallard did refuse to make over to him the said Negroes when he the said W. McKimach proposed buying of them from my father Capt Charles Sallard who told him that he had given the Negroes to Eleanor W. McKimach, that the Negroes belonged to her and consequently he could not make him any right to them, Question 13th Did not W. McKimach likewise propose to your father Capt Charles Sallard that he would give Eleanor McKimach four of his own Negroes and furnish them with provisions for one year if the said Capt Charles Sallard would make him the said W. McKimach a right to the said Negroes with their interest above specified in the preceding part of the above definitions if so again what was the reply of your father Capt Charles Sallard? Answer Yes, W. McKimach did make such a proposition to my father

who replies, I shall do no such thing, as the Negroes belong to Eleanor W. McKimick. Question 14th, did not your father at a subsequent time and after the death of your sister Rebecca the wife of W^m McKimick give another Negro boy named Sam directly to Eleanor W. McKimick? Answer. Yes he did. Question 15th Did you not hear your father Captain Charles Sallard say that he had given to W^m McKimick for the use of Eleanor McKimick, a Yoke of Oxen - a fine blood Colt - a lot of furniture and other stock which the said McKimick was to use and return the same or its worth to Eleanor W. McKimick, when she married? Answer. Yes, I heard him say it. Question 16th Do you know who now has in possession the said Negro, and if so state whom? Answer to the best of my knowledge W^m McKimick has and further the deponent doth not. Elizabeth ^{his} Jordan I hereby certify that the foregoing deposition is in my own hand writing, that I am in no wise related to either of the parties, that the same was taken before me on 5th day of July 1838 in the presence of the parties set forth in the Caption and that it has not been out of my possession, or any way altered, added to or changed since it was signed by the said deponent - and the 5th day of February 1838. John W. Sumat J.P. for Fayette County

Subscribed for & sworn to by J.P.'s attorney.

State of Tennessee. I James Monroe Clerk of the County Court of said County do certify Fayette County that Geo. W. Sumat whose signature appears to the foregoing is and was at the signing of the same an acting justice of the peace for said County & all his official acts are entitled to full faith and credit as such, Witness my hand and seal of office at Office this 9th day of July 1838. James Monroe by W. H. Mitchell Deputy Clerk. State of Tennessee. I W^m W. Wilkerson Chairman and presiding Justice of the County Court Fayette County of said County, certify that James Monroe whose name appears to the foregoing Certificate signed by his deputy W^m H. Mitchell is and was the acting Clerk of said County at the time of signing the same that his attestation is in due form of law and that full faith & credit is due to all his official acts given under my hand and seal the 9th day of February 1838. W^m W. Wilkerson Seal Chairman

Dep. James Jordan in the County of Giles and State of Tennessee, I have caused to come before me at the house of Mr. James Jordan in the County of Fayette and State of Tennessee on the 8th day of August 1838 aged about 50 years a witness for the plaintiff in a certain matter of controversy now depending in the Chancery Court at Pulaski between Orrville McKimick & Wife Compt. and W^m McKimick def^t. Who being first duly sworn upon the Holy Evangelists of Almighty God dep^o and saith - Question by Attorney for Complainant, Question 1st, Are you acquainted with Capt. Charles Sallard of Person County North Carolina and W^m McKimick the defendant now resident in Murray County Tennessee and if so state whether W^m McKimick the def^t married a daughter of Capt. Charles Sallard and to the best of your recollection at what time did the Marriage take place? Answer, Yes I am acquainted with the Gentlemen afo^r and know that W^m McKimick the def^t did marry a daughter of Capt. Charles Sallard, I think it was in the year 1814 or 1815 I do not recollect which. Question 2nd State what length of time the wife of the aforesaid W^m McKimick the def^t died after the said Marriage and whether at her death she did not leave a surviving daughter Eleanor W. McKimick, who is now the wife of Orrville McKimick the Complainant? Answer. She lived nearly two years after the said Marriage and at her death did leave a surviving infant daughter Eleanor W. McKimick now the wife of Orrville McKimick the Complainant. Question, 3rd Say, it not your understanding that of the neighbors that Capt. Charles Sallard had given upon the death of his daughter the wife of W^m McKimick & after the birth of Eleanor W. McKimick his grand daughter & the wife of Orrville W. McKimick afo^r a certain lot of Negroes to said infant daughter to wit Murphy, Sam, Anna and Patsy together with three mares, and likewise was it not your understanding and that of the neighborhood that W^m McKimick the def^t was to hold the afo^r lot of Negroes in trust for the use of Eleanor W. McKimick,

and was to give them up to her and then increase and then property upon her marriage or coming of age? Answer, Yes that was my understanding and that of the neighbors.

Question 4th Did you not marry a daughter of Capt Charles Sallard and live in the neighborhood at the time of said gift and frequent associations with his family had you not an opportunity of ascertaining the most of Capt Sallard's family arrangements, as regards the distribution of his estate to his children? Answer, I married a daughter of Capt Sallard and live in the neighborhood at the time of said gift. Yes I know his arrangements as regards the distribution of his estate among his children.

Question 5th State whether you did or did not hear W^m McKim say after the said gift and death of his wife the daughter of Capt Charles Sallard in the presence of said Sallard when conversing about Eleanor W^m McKim and the said lot of Negroes that they the said Negroes belonged to said Eleanor and that she should have any one of them.

Answer, Yes I recollect of ^{hearing} W^m McKim make use of such conversation.

Question 6th Was not the negro boy Sam at a subsequent time from the original gift given to Eleanor W^m McKim directly and unqualifiedly by her grand father Capt Charles Sallard? Answer Yes he was.

Question 7th Have you not frequently seen since the afo^{re} gift the said Negroes about specified in the possession of the said W^m McKim the deft and has it not been uniformly your opinion that he was keeping them in trust for the use of Eleanor W^m McKim & would give them up to her upon her marriage or coming of age. Answer I have & was of that opinion.

Question 8th Do you know that Eleanor W^m McKim is of age and married to Orville M^c Kimb the plff? Answer, yes I do.

Question 9th Who do you believe has now the said lot of Negroes in possession? Answer W^m McKim the deft.

Question 10th Have you ever heard of or believe that the said William McKim the defendant has given the said Eleanor W^m McKim since her marriage to O^r McKim any of her trust property or any of his own real or personal property whatever? Answer, No I have never heard of nor believe he has.

Question 11th Was it likewise your understanding that the said Capt Sallard has given W^m McKim for ~~the~~ in trust for the use of Eleanor W^m McKim a fine blooded colt worth two hundred dollars and a certain yoke of oxen worth fifty dollars and some fine stock &c? Answer, yes he did.

Question 12th How long has Eleanor W^m McKim been married to Orville M^c Kimb? Answer, Better than four years and one further this defendant saith not.

State of Tennessee. I hereby certify that the above deposition was sworn to & subscribed Fayette County before me and subscribed the day and place above mentioned.

J W Parrott JP

State of Tennessee Fayette County. I Jerram Korne Clerk of the County Court for said County do certify that John W Parrott whose signature appears to the foregoing deposition is an acting Justice of the peace for said County and was at the time of signing the same and that his official acts are entitled to full faith and credit without my hand and seal of office at office this 11th August 1838. Jerram Korne by W^m Mitchell Clk.

State of Tennessee. I William W^m McKim and presiding judge of the County Court of said Fayette County do hereby certify that J Korne whose name appears to the Official Certificate is and was clerk of said Court at the time of signing the same and that full faith is to be given to them without my hand and seal this 11th day of August 1838 W^m W^m McKim Chmn. of

Dep^t The deposition of Archibald Grant and Judy Grant taken by Court of justices on 13th day of September 1837. at the dwelling house of said Archibald Grant in Giles County to be read in evidence in a suit now pending in the County Court at Columbia wherein O^r McKim and Eleanor or his wife are Complainants and W^m McKim is defend^t of behalf of deft^s the Court of both parties being present and waiving the necessity of a commission - the said Judy Grant being first duly sworn dep^os and says Question 1st by deft^s State all you heard Charles Sallard say relative to the disposition he had made of the Negroes Murphy, ~~Chas~~, Putney & Anna in dispute or any other Negroes, and did or did not Charles Sallard at the same time say, that he had given W^m McKim four or five young Negroes, whom he had given him his wife form of

these Negroes now named, Murphy, Sam, Patsy and Anna and that W^m McKim had taken such good care of them that he Sallard intended to give him a Negro Woman such & her Children, this I heard him say in the year 1824 or 1825. I do not recollect that Sallard named the Negroes which he said he had given but I know that the first four above named came to W^m McKim from Sallard and I have always supposed that the four first above named were the Negroes named by Sallard when he said he had given four young Negroes to William McKim; William McKim married Sallard's daughter 22 or 23 years ago, I recollect when W^m McKim my married and my husband and myself moved into the same neighborhood in which Charles Sallard and W^m McKim lived in 1824 or 1825 as well as I recollect and my husband became an owner for Charles Sallard at the time, I frequently heard Charles Sallard make use of the same expressions mentioned above as to the Negroes given to him to W^m McKim I never heard him in any of those conversations mention the name of Commodore Eleanor in connection with the gift of the Negroes or in any other manner, In 1824 or 1825 was the first time I saw the four above named Negroes in W^m McKim's possession as that was the first time I had any opportunity of seeing them as I did not live in the neighborhood previous to that time, the following Negroes, Murphy, Sam, Anna and Patsy with their mistress have been in this State, I suppose, for six years, In the conversation above referred to which I had with Charles Sallard he appeared pleased with the course W^m McKim had taken with the Negroes and the reason why he was so well pleased was because his other son in law had sold the Negroes he had given them, Question by Compt. Are you acquainted with the general Character of Charles Sallard about whom you are speaking? Answer I was well acquainted with him in the neighborhood in which he lived up to the latter part of the year 1829, and I never heard any thing suggested by any person against his general Character, I would believe him upon his oath as soon as I would any man and further the deponent doth not.

Archibald Grant being first sworn deponeeth and saith, Question 1st by Compt. did you ever hear Charles Sallard say that he had given four Negroes to W^m McKim, if you did state this manner and the time and place of this conversation? Answer I heard him Sallard frequently say that he had given to W^m McKim and his wife upon marriage with the daughter of the said Sallard four Negroes, two boys and two girls, Murphy, Anna, Patsy & Sam, He also said to me that W^m McKim should give to his daughter Eleanor the Compt. the said four Negroes, The above conversation took place at the house of Charles Sallard in 1824.5.6.7 &c. whilst I was owner for said Sallard in 1829 I heard Charles Sallard say when I was about moving from the State of Maryland, that he wished me to take charge of a Negro woman such and her Children being 9 or 10 and bring them out to this State and put them upon W^m McKim's farm, I frequently heard him say that he intended such and her Children for William McKim and at the time he wanted me to bring them out to this State William McKim was present and Sallard told McKim he wanted him to take them, all the conversations above named took place many years after the death of W^m McKim's wife who was a daughter of Sallard, the four Negroes, Murphy, Sam, Patsy and Anna and their mistress will have been in this State six years by next Christmas or about that time, Question by Compt. are you acquainted with the general Character of Charles Sallard? Answer I am, and his Character stood and so far as I know or believe still stands fair as that of any man & I would believe him on oath as soon as any man being. & further the deponent doth not.

Archibald Grant.

Sworn to and Subscribed before me this 13th day of September 1837 A. Black J.P. (S)

We agree that the above depositions may be read as Evidence upon the trial of the case of C. McKim & Wife against W^m McKim in Chancery

Giles County, Virginia, Personally appeared before me D. L. Morrison Clerk and Master of the Chancery Court at Pulaski John W. Gorde and made oath that he received this packet sealed up as it now is from Alexander Black Esq. and that it has not been out of his possession

or opened or altered since that time. I. W. Good. Vint. H. L. Morris Clerk & Master
 "State of North Carolina, do all whom these presents shall come greeting, Be it known that W.^m
 Hill Esq. whose signature appears in his own proper hand writing to the annexed Certificate to a copy
 of an act of the General Assembly of North Carolina passed at the time of signing the same and now
 is Secretary of State in and for the State of North Carolina and as such he is duly qualified
 and empowered to give said Certificate which is here done in the usual and proper man-
 -ner and full faith and Credit are due the same and ought to be given to all the of-
 -ficial acts of the S.^d W.^m Hill Secretary as afo.^e In testimony whereof I E. B. Dudley, Gov.
 ernor, Captain General and Commander in Chief have caused the great seal of
 the State to be here annexed and signed the same at the City of Raleigh on
 27th Sept A.D. 1837 & 62nd year of the independence of the United States.
 By the Governor Edward B. Dudley

Christopher C. Battle Private Secretary.

Act of
1806

An act declaring what gifts of Slaves shall be valid for the prevention of frauds,
 Sec. 1st Be it enacted by the General Assembly of the State of North Carolina and it is
 hereby enacted by the authority of the same — That no gift hereafter to be made of any Slave
 or Slaves shall be good or available either in law or equity unless the same shall be made
 in Writing signed by the donor and attested by at least one credible witness subscribing
 such gift be valid unless the Writing by which the title to any Slave or Slaves is transferred
 shall be proven or acknowledged as Conveyance of land and registered in the Office of the public
 Register of the County where the donor resides, within One year after the execution thereof if
 the donor be in the actual possession of the Slave or Slaves so given and transferred, but if
 under any special agreement made at the time of the gift the donor shall remain in
 possession of the Slave or Slaves so given then the Writing transferring or conveying the same
 Slave or Slaves shall be proven or acknowledged as afo.^e and registered within the same time
 in the County where the donor resides.

Sec. 2nd And be it further enacted that on all trials, where any such writing shall be introduced
 to support the title of either party the due and fair execution of such writing shall be proven
 by a Witness subscribing and attesting the execution of such writing, but if such Witness shall
 be dead or removed out of the State, then the probate or acknowledgment and registration of
 such writing may be given in evidence.

Sec. 3rd And be it further enacted that every person claiming title to any Slave or Slaves by
 virtue of any parcel gift heretofore made shall prosecute his or her suit for the same within
 three years from the passing of this act, otherwise the same shall be forever barred, provided how-
 -ever that if any such person or persons be at the time of passing this act within the age of
 twenty one years, Non compos mentis, insane, idiotic, imprisoned or beyond seas such person
 or persons shall within three years next after, full age, coming of sound mind — discontinue
 enlargement out of prison, or return from beyond seas, commence and prosecute his or her suit
 for any such Slave or Slaves claimed by such force of such parcel gift and not otherwise pro-
 -vided that where any person shall have put into the actual possession of his or her Child & Children
 any Slave or Slaves and the said Slave or Slaves shall remain in the possession of such Child or
 Children at the time of the death of such person he or she dying intestate such Slave or Slaves
 shall be considered as an advancement to such Child and Children and be regulated by the law
 now in force relating to advancements made to Children by a parent in his life time.

Sec. 4th And be it further enacted that this act shall commence and be in force from and
 after the 1st day of April next. — Read three times and Ratified in General Assembly 10th
 day of December 1806. John Reddick S. C. — John Moon S. H. C.

Examined by J. McElborn, William Norwood

State of North Carolina Secretary of State's Office — J. Williams Hill Secretary of State
 in and for the State of North Carolina do hereby certify that the foregoing is a true and

perfect copy of an act of the General Assembly of this State, that the same is now in force and has been in force since 1st day of April 1807 Given under my hand this 27th day of September A.D. 1837. Wm. Wells.

At a Chancery Court begun and held for the counties of Gile and Lawrence at Pulaski on 5th day of March 1838. by consent of parties by their counsel It is ordered by the court that this cause be continued and be open for testimony on both sides until the next term of this Session Court and at the September Term 1838. Where the following decree was made — "Be it remembered that this cause came on to be heard before the Honorable L. M. Bramlett Chancellor *Said* Upon Bill, Answer, Replication, and proof in the cause and was heard accordingly, and it appearing to the Court that the Negro Slaves mentioned in the pleadings and sought to be recovered were the Negroes of Charles Sallard as is charged in the Bill, and that defendant with the said Charles Sallard and the said Charles Sallard agree with the deft that in consideration on that said Sallard would furnish the said Slaves to remain in the possession and use of him deft until the Const^{ble} Eleanor who was then an infant one or two years old should arrive at the age of twenty one year or should marry that then at the happening of whichever events should first take place he the said deft would deliver the said Slaves to said Eleanor to hold as her own property and it also appearing to the Court that the said Eleanor did intermarry with the Const^{ble} Corrie M. Skene before the commencement of this suit and that the deft as trustee for said Eleanor continued to hold said Slaves for the said Eleanor up to the time of said marriage and at the time of said marriage and ever since he has omitted and neglected and now refuses to deliver said Slaves or any of them to the Const^{ble} and that he still holds the same in his possession, It is therefore ordered, adjudged and decreed by the Court that the said deft deliver up to the Complainants the said Negro Slaves named Murphy, Sam, Anna, Patsy, Abigail, Malinda, William, Roan, Madam, Caroline, Richard, Samuel and Maria the measure of said Anna and Sarah Ann, Alexander, Arth^r and Emeline the measure of said Patsy and the Negro boy Mamed Henry the measure of Mary and these measures and that the Clerk and Master enquire into and report to the next Court whether said Negroes or any of them have produced any increase since the filing of the bill in this case, and if any what and that the Clerk and Master also take an account of the hire of said Negroes, but because it does not appear to the Court that any demand of hire has been made of said Slaves by the Const^{ble} before the time of commencing this suit it is ordered that the Clerk and Master take the time of filing this bill as the time from which to take an account of hire and that he take said account from that time up to the time said Negroes shall be delivered to Const^{ble} in pursuance of this order and decree and that deft pay said Const^{ble} said hire, that the Clerk and Master make his report to the next term of this Court and that the deft pay the costs of this suit, and all these matters are reserved until the coming in of said report and this Court particularly reserves the right to decree such settlement on the Complainant Eleanor as may seem to the Court just and right out of the property hereby decreed — After the decree in this cause the deft by his counsel offered the following petition — Your petition William M. Skene the defendant in this cause would respectfully represent and show unto your honor that some time in the month of August 1837. he your petitioner received notice to take the depositions of Elizabeth Jordan from the Complainants in this cause at the dwelling house of James Jordan in the County of Fayette and State of Tennessee, The said deposition when taken may be read as evidence in the above cause and the time fixed for taking the same was some day in the latter part of the month of August 1837. Your petitioner at that time not knowing what the said Elizabeth Jordan might be disposed to swear in relation to the title of the Negroes in controversy in this suit, The Master and terms upon which your petitioners had received and held the same of said Charles Sallard the grandfather of the Complainant promptly attended in person at the time and place fixed for taking said

depositions. your petitioners state that when he arrived at the house of said James on the day the said deposition was to be taken, he found there the said James and his wife Elizabeth but neither the Constable nor any one on their behalf attended to take the deposition of said Elizabeth but wholly omitted to do so your petitioners then interrogated said Elizabeth & James Jordan as to what they knew or would swear, in relation to the bill of said negro the time upon which your petitioners has received the same of said Sallard in the manner in which he had held the same since they were in his possession and particularly what it was they knew in relation to said debt which they both fully and frankly as your petitioners supposed informed him that they knew nothing about any of said matters and that it would be wholly useless for the Constable to take their depositions for they knew nothing that would benefit the defendants complainants, your petitioners having and placing confidence in the said James and Elizabeth returned home to Maury County where he then and now resides. He further shows that sometime afterwards and in the early part of the year 1838, he was again notified to take the deposition of said Elizabeth and also of said James at the house of the said Jordan in Fayette County Tennessee each on different days, but your petitioners having the utmost confidence in the integrity & veracity of said Elizabeth and James and believing that they could say nothing prejudicial to your petitioners in said cause knowing as he did as the said Elizabeth and James know nothing about the matter and knowing too that they had never heard your petitioners say any thing in relation thereto, he did not attend the Constable to examine said witnesses but the same were taken by James McKenack an attorney and brother of Constable - your petitioners further states that the said deposition of Elizabeth Jordan when taken was not sent to the Clerk and Master of this Court altho the said cause was pending here but that the same was sent to Edwin P. Pillow the Solicitor of Constables at Columbia some time before the last term of the Court and that the same remained in his possession unopened until the first day of the term of this Court, your petitioners and his counsel being wholly ignorant of the contents of said deposition and never suspecting for a moment what had been sworn to by said Elizabeth and having of course no opportunity to cross examine said Elizabeth or to rebut what she had sworn - He further shows that he is informed and believes that on Saturday evening before the sitting of the term of the Court his counsel examined the papers in the cause to see if any additional proof on the part of the Constable had been taken and found none and on Monday morning not suspecting or knowing the contents of the deposition of said Elizabeth the same upon having been filed or opened set the said cause down for hearing, that the cause was taken up on the same day for trial about 10 o'clock of said day and to the astonishment of the counsel of your petitioners the said deposition of Elizabeth Jordan was produced and read, by which your petitioners was taken by great surprise and had no opportunity to rebut said deposition or to rebut the same your petitioners states that he believes if he can have a rehearing in this cause and be permitted to take the deposition of Elizabeth once again when he may cross examine, she will not swear to what she has sworn to and that she would at any rate satisfy the Court that she knew nothing about the whole matter, your petitioners feels well assured that what said Elizabeth has sworn if she was cross examined would prove to be hearsay evidence predicated upon and removed and not fully placed in the deposition so as to read of her own knowledge, your petitioners believing also he can rebut the deposition of said Elizabeth by persons who were present whilst she solemnly declared to him she knew nothing about the matter. Your petitioners therefore prays your honor to grant him a rehearing in this cause and that the same be open for testimony until the next term of this Court that the same be reheard and justice done your petitioners this is asked only for justice and for such other and further relief as shall seem meet and proper in the premises.

Attest Edw^d for Petitioner, J. W. Gordon Sol^r for Petitioner.

State of Tennessee Personally appeared before me J. L. Morrison Clerk and Master of the Chancery Court City of Nashville Wm. McKenack and made oath that the within statement is true to the best of his knowledge and belief. Wm. McKenack.

Sworn to before me 7th Sep^r 1838. J. L. Morrison Clerk and Master

September 2nd 1838. This day came the debt by his counsel and presented to the Court by

petitions regularly sworn to for a rehearing which being considered by the court It is ordered that said petitions be disallowed from which decisions and from the decree of the Chancellor in this cause the said Pragg an appeal to the next Supreme Court for the State of Tennessee to be holden at the Court house in the city of Nashville on 1st Monday in June next which is granted to him upon his giving bond and security in the sum of Five thousand dollars which bond and security are accordingly given as follows: Know all men by these presents that we William M. Kinick, Archibald Wright and Thomas M. Jones are held and firmly bound unto O. M. Kinick and Eleanor his wife in the penal sum of \$5000, for which payment well and truly to be made we bind ourselves our heirs executors jointly and severally firmly by these presents sealed with our seal this 7th Sept 1838. The condition of the above obligation is such that whereas in a suit in Chancery instituted in the Chancery Court at Pulaski in the name of O. M. Kinick and wife vs W. M. Kinick which said suit came on for hearing at the September Term 1838 of the said Chancery Court at which term a decree of said Court was made in the said suit against the said W. M. Kinick from which decree the said W. M. Kinick prays an appeal to the Supreme Court of Errors and appeals to be holden at Nashville in the State of Tennessee on 1st Monday in June next Now if the said W. M. Kinick shall prosecute his said appeal with effect or in case of failure therein shall pay and satisfy all costs and damages which have accrued and shall accrue in said cause and shall abide by, perform, fulfill all such orders, sentence, and decree as the said Supreme Court may render against him therein, then the above obligation void else to remain in full force and virtue W. M. Kinick Seal. A. Wright Seal. Thomas M. Jones Seal. Test J. L. Morrison Clk. Bill of Costs in Chancery Court in all \$60.76.

State of Tennessee I Daniel L. Morrison Clerk and Master of the Chancery Court of Pulaski do certify this County that the foregoing contained in sixteen sheets of Manuscript is a full true and complete transcript of the record and proceedings in the case lately determined in said Court in which O. M. Kinick and Eleanor his wife were Complainants and W. M. Kinick was defendant. Witness my hand at Office in Pulaski this 22nd day of November A.D. 1838, and 63rd year of the Independence of the United States. J. L. Morrison.

Bill of Costs

State Tax. \$2.50

Clk and Master 4 Commissions 1.50. 10 Affidavits 1.80.	3.50	
Subpoena for Witness 12 th Security for prosecutors 18.	30	
Sitting for hearing twice 25. Rules and Contemners	80	
Dammy Cost 25. Transcript of record 22.00.	22.00	29.10
Sheriff Webb calling cause twice 8 th	08	
Justice Garrett taking 2 depositions	2.00	
" A. Black " 1 "	1.00	
" S. Hamblin " 1 "	1.00	
" J. L. Satterfield " 1 "	1.00	
Sheriff Webb serving notice	50	
Constable Garbrough summoning Witness	25	
" J. J. serving notice	50	6.33
Justice Williams 25. Clk. Norman certificates 50.	75	
" Same 2 depositions Same 2 depositions	1.50	

Postage paid by Complainant in the premium of Clk & Master on depositions. 75 3.00
Costs at Pulaski \$38.43

Costs at Columbia

Clk. for Copy bill 1.00. Subpoena 75. bond 50. 4 Commissions 1.50. Taking 2 depositions 1.00 from appellants 1.00 two orders 50 transcript of the case 11.70 Rule 25.	18.20	
Sheriff Subpoena to Answer bill from Subpoena for Witness 100 4 Notes 2.50.	4.12 1/2	22.32 1/2
Total Costs at Columbia & Pulaski		\$60.76 1/2

I Daniel L. Morrison Clerk and Master of the Chancery Court at Pulaski do certify that the foregoing contained on the sixteen sheets of Manuscript is a full true and complete transcript

of the record and proceedings in the case lately determined in said Court in which Orville W. McKim and Wife are Complainants and William McKim is defendant, which my hand at office in Raleigh this twenty second day of November A.D. 1838 & 63rd year of American Independence.

A. L. Morrison

And now at a Supreme Court of Errors and Appeals begun and held at the Court house in the town of Nashville on 1st Monday in December A.D. 1838, and on the 21st day of January 1839 of said Term present the Honorable William P. Reese, William B. Purley and Nathan Green Judges of said Court the following proceedings were had in said Cause to-wit:

Orville McKim & Eleanor his wife Compts vs William McKim Deft. $\in$ Equity.

This cause came on to be heard at a former day of the term and also on this day the 21st January 1839, before the Honorable William P. Reese, William B. Purley and Nathan Green judges upon the transcript of the record of the Chancery Court of Giles County and was argued by counsel on both sides, whereupon the Court is of opinion and doth declare that the Negroes, Murphy, Ann and Patsy in the pleadings and proof mentioned were held by the defendant for himself having been put in his possession at the time of his marriage by his father-in-law Charles Sallard and that they were not held in trust by defendant for his daughter Eleanor and this Court is also of opinion that the Negro slave Sam, was given to Complainant Eleanor in her infancy by her grandfather and was placed in the possession of the deft. for her use, to be delivered to her when she arrived at lawful age or of her Marriage and that deft held the said Negro for many years in North Carolina and for more than three years in Tennessee before the commencement of this suit for the Complainant Eleanor & in trust for her and that his possession was that of the said Complainant, It is therefore ordered, adjudged and decreed that the defendant deliver to Complainants for the sole and separate use of said Eleanor, the said Negro boy Sam and account for his hire from the date of the Marriage of Complainants and that the Clerk and Master take an account of said hire making all just allowances and make his report as soon as possible practicable, It is further ordered, adjudged and decreed that so much of the decree of the Court below as ordered the delivery by defendant of the three Negroes Murphy, Ann and Patsy and this decree be and the same is hereby reversed and that each party pay their own costs. And afterwards toward at the December Term 1840 of the Supreme Court of Errors and Appeals at Nashville present the same judges the following additional decree was rendered in said Cause to-wit:

Orville McKim and Wife Complainants vs William McKim Deft. $\in$ In Equity

Be it remembered that this cause came on for final hearing before the Supreme Court of Tennessee on the 4th day of January 1841 upon the interlocking decree heretofore made by this Court and the report of the Clerk and Master of this Court made in pursuance thereof and which said report is in the words and figures following to-wit: In pursuance of the decree made at a previous term directing the Clerk and Master to take and state an account of the hire of Sam in the pleadings mentioned he has leave to state that for the service he has taken, the following is his report. — O. McKim intermarried with Eleanor McKim in Oct 1833 and boy Sam was delivered up by deft. in March 1839.

Hire of Sam from Oct 1833 to Oct 1834 at \$90	\$90.
Interest from Oct 1834 to Oct 1841.	32.40
Hire of Sam from Oct 1834 to Oct 1835 at 100.	100.00
Interest from Oct 35 to Oct '41.	30.00
Hire of Sam from Oct 1835 to Oct 1836 .. 110	110.00
Interest from Oct 1836 to Oct 1841.	26.40
Hire of Sam from Oct 1836 to Oct 1837	135.00
Interest from Oct 1837 to Oct 1841	24.30
Hire of Sam from Oct 1837 to Oct 1838 . at	150.00
Int from Oct 1838 to Oct 1841	18.00
Hire of Sam from Oct 1838 to March 1839.	62.50
Interest from March 1839 to Oct 1841	5.93
All which is Respectfully Submitted	5.93 \$784.53

J. D. Clarke Clk and Master

And no exceptions being taken to said account and report, It is ordered and decreed by the Court that the same be in all things confirmed and that said Complainant recover of defendant seven hundred and eighty four dollars and 50/100 with interest thereon from 1st day of October 1841. till paid and that execution issue — and because it appears to the Court that the amount so recovered is in right of Compt Eleanor the Wife of Orville McKinnick and that she is the parentress of the same, It is ordered adjudged and decreed by the Court that the balance of the fund after deducting three hundred and fifty dollars to wit \$100. to G. S. Pillow, \$100. to W^m A. Leach, & \$150. to J. W. Combs which the Court thinks reasonable and proper to be paid the Compt of Compts. be settled and vested in the said Eleanor for her sole and separate use and all such property as may be purchased with the said fund shall remain her sole and separate property and for the purpose of carrying the intent of this decree into full effect it is ordered that N. S. Brown Esq. be and he is hereby appointed trustee for the said Eleanor and the said fund, as trustee he may receive the said money as soon as the same is collected from the hands of the Clerk and Master of this Court to whom the same is to be paid and that the balance of the costs are to be paid by the debtors for whose execution money issued — And at the December Term 1841 of said Court, Do unto the same judge the following additional order was made in 5th Cause fornt —

O. McKinnick & Wife vs. William McKinnick. In this cause as no one can be obtained who will act as trustee for the Compt Eleanor and receive said money in the hands of the Clerk and Master it is ordered by the Court that the Clerk and Master of this Court loan out the amount of money in his hands till the next term of this Court for the benefit of Mrs. Eleanor McKinnick State of Tennessee

J. P. Clark Clerk and Master of the Supreme Court of Error and Appeal at Nashville do hereby certify that the foregoing is a full and true transcript of the record and proceedings had in the case of O. McKinnick and Wife vs. W^m McKinnick as the same appears from the records on file in my Office, In testimony whereof I have hereunto set my hand and Affixed the Seal of said Court at Office in Nashville this 30th day of August All 1842 and 66th year of the Independence of the United States.

J. P. Clark.

Fees. \$24.57.

On the hearing of this cause the following depositions were read on the part of Complainant fornt

peffs
moos
Depo. State of Tennessee, Giles County, In pursuance of the inchoat Commissions to me directed for the Chancery Court holden at Pulaski in the County of Giles and State of Tennessee I John Annis an acting Justice of the peace in and for said County have caused to come before me at the dwelling house of Thomas Edmondson and Martha G. Edmondson in the County and State aforesaid on the 8th day of November 1842 the said Thomas Edmondson age 56 years and the said J. Edmondson Martha G. Edmondson age 54 years Witnesses for the Complainant in a certain Matter of Controversy now depending in said Chancery Court between Orville W. McKinnick & Eliza W. McKinnick his wife Complainants and William McKinnick defendant, The Thomas Edmondson first duly sworn on the Holy Evangelists of allmighty god deponeeth and saith — Question 1st by Complainant, State if you are acquainted with certain Negroes now in Controversy in this cause and in the possession of the defendant William McKinnick? Ans. I am acquainted with them of them, Murphy Anna and Patry, Question 2 by same State if you know from whom said Negroes were derived by William McKinnick and in what manner he received them? and when it was? and upon what terms? Ans. about the year 1814 the said defendant William McKinnick rec^d said Negroes from Captain Charles Sallard after the Marriage of the said William McKinnick had married the daughter of the said Charles Sallard the said Negroes were rec^d by the said McKinnick in the State of North Carolina, I do not know on what terms the said Negroes came in possession of William McKinnick, whether by gift, loan or other wise in the year of 1819

in the state of North Carolina at Person County Court house I had conversation with said McKimich
 in which he stated that what property that he had from the said Sallard he did not claim as his
 property that every Cent of it was said Complainant's Eleanor's property, I understood the property mentioned to
 include the said Negroes for William McKimich was speaking of said Negroes in that conversation I think
 I have heard the said William McKimich say two or three times that he did not claim the property
 received of the said Sallard but the same day the said Eleanor property those statements were made a
 bout the year 1819 and in the state of North Carolina. — Question by same State if you
 know when Complainant's Eleanor W. was born and was it before or after William McKimich
 got possession of said Negroes. — She was born in the year 1815 after the said Negroes
 came in the possession of the said William McKimich. — Question by same State at what time
 William McKimich intermarried with Rebecca the mother of said Eleanor W. Answer in the year 1814
 Question by Defendant State of what particular place at said Person Court house said conversation
 occurred and who if any person was present? Answer It was at the Court house of the defendant
 I do not recollect that any person was present. — Question by same did Capt Charles Sallard give to said
 defendant William McKimich a horse, if so at what time and when did he come into the possession
 of said defendant? Answer he had horse from said Sallard, but he does not know how he got
 him, I think the first time I saw the horse in possession of said McKimich was in the year
 1815 in the Spring of the year, I am not certain as to the time but think it was as above
 stated. — Question by same, after the lapse of so long a time do you feel certain as to what
 occurred in the conversations you say you had with the defendant? Answer I am certain
 in what occurred in those conversations and that the said McKimich use the language above
 mentioned. — Question by same, did not you marry a daughter of said Sallard, did he not
 give you some property on or after such marriage, Negroes included, and did you not always
 keep them and use them as your own and make such disposition of them as you thought proper?
 Answer I married a daughter of Capt Charles Sallard, after said marriage I received some Negroes from
 the said Sallard, which I use and dispose of as I thought proper exercising the exclusive
 control and ownership over them. — Question by same, when you received said Negroes from
 said Sallard did he execute to you or your wife or any member of your family any deed, bill of
 sale or any other instrument of writing for said Negroes? Answer When I received the property from Capt
 Sallard I never read any bill of sale or any other instrument of writing for them after I was married
 said Sallard said I could have taken Negroes and sent to me some Negroes there was no instrument
 in writing to any of my family as I know of about said Negroes. — Question by Complainant
 State if Capt Sallard afterwards reclaimed any of the Negroes that you received from him if so when
 and what was done? Answer One of the Negroes, ran away from me and went back to
 Capt Sallard (a Negro girl) and he kept her about twelve months and then gave her to my
 daughter Rebecca, this girl was afterwards taken as my property under Execution and sold for my
 debts, I had had possession of this girl about one year when she ran away, when she went
 back to Capt Sallard he claimed her and refused to give her up to me and when he sent
 her back it was as the property of my daughter Rebecca, the gift to my daughter was verbal
 two witnesses being called upon to the same, there was no writing about it in any way, Capt
 Sallard afterwards always said the Negro girl belonged to my daughter and was her property
 this Negro girl (Milly by name) after she was sent back, was claimed and held by me
 as the property of my daughter Rebecca, Capt Sallard did not object to the sale of her
 but said the girl could be recovered back by my daughter (Defendant by his counsel objects
 to what Capt Sallard said as evidence) at the instance of defendant states that defendant
 William McKimich has had continued possession of the Negroes first sent above mentioned
 from 1814 to this time. — Question by Complainant, State if you know whether Complainant's
 Eleanor W. has always claimed the Negroes in controversy and to whom were they said to
 belong in the family of William McKimich? Answer She always claimed them as her property
 for three years back when I first saw her in Tennessee and they were always called hers in North

Carolina by William McKimach and Capt Sallard and by the neighbors generally, at least all I ever heard speak on the subject, this question I answer objected to by defendant, Question by same State who has claimed these Negroes since you first knew them down to the present time? Answer, Capt Sallard claimed them before they were received by William McKimach and since then they have been always claimed by Complainant Eleanor W and for her by William McKimach, Capt Sallard and others of the Committee, I never heard William McKimach claim the Negroes in controversy until lately, objected to by defendant, Question by defendant, did you ever hear a conversation with Complainant Eleanor about the Negroes in controversy until within the last three years? Answer no I never had, Question by same did you ever hear any conversation with defendant about said Negroes except the things mentioned by you in the year 1819? Answer no I have never had a conversation with said McKimach the defendant since the year 1819 in North Carolina of which I have spoken above concerning said Negroes, Question by same, when did you remove from the State of North Carolina? have you been back since? if so, When? Answer I removed from the State of North Carolina in the year 1826. I returned there about six years ago which is the only time I have been back there, Question by same, did not you and the defendant + William McKimach have a difference some year or two back, and is there not a bad State of feeling now existing between you? Answer we had no other difference than in a settlement about money matters, there is no bad State of feeling existing on my part, Question by same, Can you now name any person in North Carolina whom you heard claim said Negroes as the property of Complainant Eleanor, except Capt Sallard & defendant as you have stated? Answer no I do not recollect the names of any person who said they were hers, and further the defendant said not. Thomas Edmondson

Dep. M. Mrs Martha E Edmondson living next same State, as follows - Question 1st by Compt. Edmondson State all you know about the matter in controversy in this case? Answer I am acquainted with the Negroes, Murphy, Anna and Patsy mentioned in the above depositions they were the property of my father Capt Charles Sallard and in his possession in the State of North Carolina until some time in the year 1814 when they were put in the possession of William McKimach the defendant before the birth of Eleanor W after his marriage with Rebecca Sallard daughter of said Charles Sallard, I do not know upon what terms said Negroes were placed in the possession of said William McKimach by Capt Sallard as I was not present at the time but about the year 1826 I was present at a conversation between said Sallard and William McKimach, in North Carolina about said Negroes when Capt Sallard said "I give up these Negroes to you (addressing himself to William McKimach) to keep for your daughter Eleanor W" "that they were Eleanor W's Negroes, and William McKimach was to take care of them for her" and that he (William McKimach) had been holding said Negroes before that time for Eleanor W" and Capt Sallard in the conversation called upon me and William McKimach to bear witness to what he did, and William McKimach agreed to keep the Negroes for Eleanor W, and to give them up to her whenever she should come of age or marry, I understood at the time in that conversation that the Negroes were the property of Eleanor W in the way I have mentioned, William McKimach said he would take care of the property and give it up to Eleanor W whenever she called for it + he said also that he never would claim any of the property that came from Capt Sallard that it was all to belong to Eleanor W, William McKimach said in that conversation that he did not claim said Negroes, that they belonged to Eleanor W, and I heard him say at other times that he did not claim them that they were hers, Being Cross examined by defendant Witness states, In the conversation above alluded to Capt Sallard said he gave the Negroes to Eleanor W and put them in the hands of William McKimach to take care of for her and he was to give them up to her whenever she called for them, said Negroes were given by Capt Sallard to said Eleanor W, and not by said William McKimach to said Eleanor W, and said McKimach then agreed that he would give them up to said Eleanor, Capt Sallard said on that day, that said Negroes

+ were the property of Eleanor M. and William McKimich was to keep them for her, It was agreed then by both Capt Sallard and William McKimich that said Negroes were the property of said Eleanor M. There was no person present in that Convention except Capt Sallard, William McKimich and myself, I do not recollect that any person was present at any of the other Conventions I had with said McKimich, except him, myself and probably Capt Sallard. I have never had a conversation with said William McKimich in relation to said Negroes since the year 1820, I never heard Capt Sallard say that he had given William McKimich any thing or William McKimich and his wife any thing, I never heard said Sallard say that he intended to give William McKimich some more property or William McKimich and his wife some more property, I do not recollect that I ever heard said Sallard say that he had given William McKimich and wife less than he had given his other children, I heard him say he intended to give said Eleanor M. some more property. Question by Complainants, when you say that Capt Sallard gave the Negroes to Eleanor M. do you mean that he placed them in the possession of William McKimich to be Eleanor property or that they were then given directly to Eleanor M.? Answer, I understood that he placed them in the hands of William McKimich to be Eleanor property and that William McKimich was to keep them for her and give them to her when she called for them, In the Conventions above mentioned Capt Sallard stated in the presence of William McKimich that the Negroes were now given to him but were placed in his possession for Eleanor M. to which he did not object but said he would not have one cent of it; and further this deponent saith not. Matthew G. ^{his} Edmondson.

+ I certify that the foregoing deposition is in the hand writing of myself and in the hand writing of the Complainants and Counsel for the defendant, I am in no wise related to either of the parties. The same was taken before me on the day and at the place and in the presence of the parties set forth in the caption; it has not been out of my possession or in any wise altered, added to or changed since it was signed by the said Thomas Edmondson and Matthew G. Edmondson this the 18th day of November 1842. John Amis (J.A.) — Costs of taking this deposition two dollars not paid J. Amis. J.P.

Dep. of C. Sallard Pursuant to the enclosed Commission to me directed from the Chancery Court held at Putnam in the County of Giles and State of Tennessee I have caused to come before me at the dwelling house of Charles Sallard in the County of Person and State of North Carolina on the 23rd day of January 1843. Charles Sallard aged ^{about} twenty eight years a Witness for the plaintiffs in a certain Matter of Controversy now depending in the Chancery Court at Putnam between Orrin M. McKimich and his wife Eleanor Complainants and William McKimich defendant who being first duly sworn upon the holy evangelist God depose and saith as follows, Question 1st by plff. agent, Look at this deed Exhibit A and state whether you executed the same for the purposes mentioned therein and at the time it bears date thereto. I did execute said deed at the time and for the purposes therein mentioned. Question 2nd by same: State if the Negroes mentioned in Exhibit A. who is a part of this deposition are in the possession of William McKimich at this time or were at the time Exhibit A was executed and when they first came to his possession and how and upon what terms and in what manner. Ans. I do not know whether the Negroes mentioned in Exhibit A are in the possession of Wm McKimich at this time neither do I know whether they were in said William McKimich's possession at the time I executed the deed marked Exhibit A. as to the date the said Negroes were put into William McKimich's possession I cannot distinctly recollect, I think the said William McKimich was married to my daughter Rebecca who was the Mother of said Eleanor wife of Orrin M. McKimich about the year 1813 or 1814 or perhaps 1815, the day after said McKimich was married to my daughter Rebecca I put into his possession the said Negro Anna and a two months afterwards I put into his possession the said Negroes Murphy and Patsy, I put the said Negroes in William McKimich's possession without any bargain or contract whatever. Question 3rd by same, State whether you ever gave said

negroes or any of them to William McKinnick at any time and whether you are parties with your title to said Negroes until the Execution of Exhibit A. which is attached to this deposition and makes a part thereof and whether said Negroes belonged to you? Ans. I never made said McKinnick any right or title to any of said Negroes at any time I did not part with my title to any of said Negroes until the Execution of Exhibit A. Only in this way I had a conversation with said William McKinnick between two and three years after he married my daughter Rebecca which was shortly after her death, I told him I wanted his daughter Eleanor to have the Negroes which I had put into his possession and that if she died without heirs I wished him to have the Negroes back again, he assured me that he was perfectly satisfied to have it so and afterwards told me that I need not give myself any uneasiness about the matter that Eleanor should have the Negroes, I had frequent conversations with him afterwards and he always expressed himself satisfied with the bargain that we had made and always assured me that Eleanor should have the Negroes until after her Marriage with Corvill McKinnick he then as I am informed refused to give up the said Negroes to said Eleanor and her husband I have laid no claim to said Negroes since this conversation but considered all of them to belong to said Eleanor, before this conversation I considered my title good to the same. How long did William McKinnick keep the Negroes in North Carolina and at what time did he move them to Tennessee? Ans. William McKinnick resided in Person County North Carolina until he moved to Tennessee, which I am informed and believe was in the year 1832. or thereabouts and I suppose he kept the Negroes in his possession from the time he received them from me until he removed to Tennessee and I am informed he carried the Negroes with him or sent them before he went himself. Question 2^d by same, Did you ever set up any claim to said Negroes while in North Carolina or at any other time? Ans. I did until I made the bargain with W^m McKinnick above mentioned for the benefit of his daughter Eleanor. Question 3^d by same Did you not say to Rebecca Prime that if W^m McKinnick's wife and child should both of "die" you would not have taken the Negroes from said William McKinnick as you had given them to him as his own property? Ans. I have no recollection of any such conversation. Question 4th by same Did not Murphy apply to you to purchase him about the time I was going to move to Tennessee with a written permit that I would sell him as he wished to stay with his wife and was not this not your reply, boy I have given you away and whenever I give any thing to my children I will never purchase it back so long as it remains their property? Ans. I recollect the boy Murphy applying to me to purchase him but I have no recollection of his bringing a written permit from said W^m McKinnick offering to sell him to me I told him I would not purchase him I do not recollect that I assigned any reason why. Question 5 by same, Are the four Negroes, Murphy, Sam, Anna and Patsy which he gave to me and my wife all the Negroes you gave up? Ans. The above four Negroes are all I put into his possession I did not make him any right to the same. Question 6th by same, Did you not give up such and his children? Ans. I did not and further this deponent saith not. *John Sallard.*

State of North Carolina. I hereby certify that the above deposition was sworn to at Person County. Subscribed before me the day and place above mentioned and that the body of the deposition is in my hand writing who is no party agent or attorney in this suit. *G. D. Satterfield J.P.*

State of North Carolina. I Charles Mason Clerk of Person County Court of pleas and Person County. I further hereby certify that G. D. Satterfield Esq. whose signature appears to the foregoing Certificate is an acting Magistrate in and for the County of Person duly commissioned and qualified and the signature purporting to be his is genuine therefore full faith and credit should be given all of his official acts as such. In testimony whereof I have hereunto affixed my seal of office and subscribed my name at office in Roxborough Feb 8th 1843. *Charles Mason Clerk*

State of North Carolina, Person County. I Henry Webb Chairman of the Court of Pleas

and justice before in the County of Person in the State of North Carolina do hereby that
 Chas. Mason whose name appears to the foregoing certificate is Clerk of the Court of Pleas
 and justice before of said County and was Clerk at the time he signed and sealed the
 above certificate and that his said certificate is in due form of law given under my hand
 this 8th day of February 1843. Thomas Webb C M

Exhibit A.

Ex A. Knows all men by these presents that I Charles Sallard of the County of Person and State
 of North Carolina for and in consideration of the Natural Love which I bear to my grand
 daughter Eleanor W McKinnish wife of Orrille W McKinnish of Giles County in the State of
 Tennessee have given and granted and by these presents do give and grant unto the said
 Orrille W McKinnish and his wife Eleanor aforesaid the following negro Slaves men in the person
 (as I am informed) of William McKinnish of the County of Murray in the State of Tennessee namely
 Murphy, Anna, Patty and the mistress of the two latter Annist, Mary, Elvira, Melinda, William
 Krom, Madison, Richard, Caroline, Harriet, Margaret, Henry, Milton, Caroline and Elmsen, who
 are the mistress of the said Anna and Sarah Ann, Elbert, Arabella, Emeline, and an infant
 name not known, who are the mistress of the said Patty and also any and all the the in-
 crease of the said above named Negroes who may have been born since I heard last from
 them or who may be in being at the time, to have and to hold all and singular the
 right, title and interest of the said Charles Sallard in the said Negroes to the said Orrille W
 McKinnish and wife Eleanor, their administrators, Executors and assigns forever and it is ex-
 pressly understood by all parties and confirmed by the said Charles Sallard that he the
 said Sallard does not warrant the title to the Negroes herein named and referred to, but
 that he merely gives and transfers to the said Orrille W McKinnish whatever interest he the
 said Sallard may have in the said Negroes without incurring or assuming any responsibility
 to make good the title to the said Negroes to ^{the said} Orrille W McKinnish and wife, the said Sallard
 having years ago placed the said Negroes, Murphy, Anna and Patty (the mistress of
 the rest of the Negroes herein named & referred to) in the possession of said William
 McKinnish son of Murray County Tennessee for the use and benefit of the said Eleanor
 wife of the said Orrille W McKinnish. In testimony whereof the said Charles Sallard
 has hereunto set his hand and affixed his seal this the 23rd day of September 1841.

Witness, C H Jordan, R H Morrey

Charles Sallard

State of North Carolina

Person County

County of Pleas and Justice before September Term 1841
 Be it remembered that Charles Sallard whose name appears is signed to the within deed of
 gift to Orrille McKinnish and his wife Eleanor, came into open Court and acknowledged the said
 deed of gift to be his act and deed for the purposes therein expressed and at the same time
 the execution thereof was duly proved by the oath of C H Jordan one of the subscribing Witnesses
 thereto. In testimony whereof I Charles Mason Clerk of the Court of Pleas and justice before
 of the County of Person in the State aforesaid have hereunto set my hand and affixed my seal of office
 this 24th day of September 1841. Charles Mason Clk.

State of North Carolina

Person County

I Thomas Webb Chairman of the Court of Pleas and Justice before
 of the County of Person State of North Carolina do hereby certify that
 Charles Mason whose name appears to the foregoing certificate is Clerk of the Court of Pleas & Justice
 before of Person County aforesaid and was Clerk at the time the said acknowledgment was
 taken and that his said certificate is in due form of law, Given under hand this 24th day of Sep-
 tember 1841. Thomas Webb Chairman

State of North Carolina

Person County

I Charles Mason Clerk of Person County Court of Pleas and Justice
 before, hereby certify that Thomas Webb whose name appears to
 the foregoing certificate is Chairman of the Court of Pleas and Justice before of Person County
 aforesaid and was Chairman at the time of signing the above certificate and that his said

certificate is in due form of law. In testimony whereof I have hereunto affixed my seal of office and
 Subscribed my Name at office in Raleigh September 24th 1841. Charles Marion Elph

In pursuance of the enclosed Commission directed to me W^m Burtenshaw from the
 Chancery Court holden at Pulaski in the County of Giles and State of Tennessee, I have caused to
 Depo. Come before me at the residence of James Jordan in the County of Fayette and State of Ten-
 I Jordan - nepee on the 19th day of August 1840. James Jordan aged about 58 years and Elizabeth
 Jordan aged about 48 years. Witnesses for the plaintiff in a certain Matter of Controversy now
 depending in the Chancery Court at Pulaski between Corvill W^m McKimich and wife Complainants
 and William McKimich defendant who being first duly sworn upon the Holy Evangelist of Al-
 mighty god depose and swear - James Jordan being first called to the witness - Question by
 Plaintiff's Counsel, Do you know Charles Sallard the grand father of Eleanor the wife of the
 Plaintiff in this cause if so, did you ever have any conversation with him in relation to cer-
 tain Negroes left in the possession of William McKimich, State that conversation? Answer, I knew Charles Sallard who was the grand father of the wife of the Plaintiff in this case
 I have heard him speak about the negroes frequently, He said Mr. McKimich always said he
 would give up the negroes to Eleanor when she became of age or married but do not recollect
 whether Mr. McKimich was present or not but believe he was not, Question by same, Did or did
 you not have several conversations with William McKimich the defendant in this case in relation
 to the title to the Negroes claimed in this suit if so state what was the nature of that conversation?
 Answer, I have heard Mr. McKimich say that the Negroes belonged to his daughter Eleanor -
 Question by same, Can you recollect the names of the Negroes which McKimich the defendant said belonged
 to his daughter? Answer, I recollect the names of the old ones which are as follows, Murphy Sam, Anna
 & Patty - Question 1st by self, Did you consider it a jest in me or that I was in earnest
 when I said the Negroes belonged to my daughter Eleanor? Answer, I thought you were in earnest -
 Question 2nd by same, At what time did I marry my wife the mother of Eleanor? Answer, I think it was in December of 1814 or 1815. I am not certain which. Question 3rd by same
 Please state after your removal to North Carolina what property you heard Mr. Sallard say he
 had given me? Answer, The Negroes that I have named, some household furniture, a horse & cart
 a yoke of Steers, hogs and cattle - Question 4th by same, did not Mr. Sallard seem to think
 as much of me as of any of his sons in law? Answer, Yes, as much or more, Question 5th by same
 Did you not marry a daughter of Capt Sallard, if so, state what property he gave you -
 Answer, He gave my wife four Negroes, Question 6th by same, did you hear Capt Sallard claim
 those Negroes after giving them to me and my wife? Answer, I never heard him claim them as his
 property - Question by Plaintiff's Counsel, You said in answer to a question of the defendant
 that Mr. Sallard told you that he had given some Negroes and other property to defendant
 In that conversation with Mr. Sallard did he or did he not say that the property was intended
 for the benefit of the children that McKimich might raise? Answer, I understood the
 property to be given to him as it was to me and my wife, and further this deponent
 swears not. J. Jordan

Depo. Elizabeth Jordan being next called to the witness. Question by Plaintiff's Counsel -
 E. Jordan Did you know the defendant William McKimich in North Carolina, and did you ever have
 any conversation with him in relation to the Negroes put in his hands by Capt Charles Sallard?
 Answer, Yes, he has said to me many a time that he did not intend to take care
 from the child Eleanor - Question by same, When Eleanor his daughter was sick at your
 home in North Carolina did or did the defendant often say to you that, the Negroes that
 Mr. Sallard had left in his possession was the property of Eleanor and that he McKimich
 was to give them to her when she married or became of age? Answer, he did say that
 the property was Eleanor's and that he was to give it her when she married or became
 of age, - Question, did you ever hear your father Charles Sallard say how he intend-
 ed the Negroes left with McKimich to be disposed of? Answer, He said Mr. McKimich

was to keep the negro until Eleanor was married or became of age, when the property was to go to her. — Question by the same, Was Mr. McKrack the defendant ever present in any of the conversations you had with your father Mr. Sallard in relation to the disposition of the negro? Ans. He was. Question by same, Do you know the names of the negroes that were the subjects of these conversations? if so state them, Ans. Murphy, Sam, Anna and Patty. Question 1st by Dist. Please state what property your father told you he had given to me and my wife Rebecca? Ans. The negro (which he said he had given to Eleanor) household furniture and stock of different kinds. Question 2nd by same, did you not when you moved to Gen. Call at my house and insist upon my giving some of the negroes which Capt Sallard had given me and wife to my daughter Eleanor? Ans. I did persuade you to give her some of them at the instance of Eleanor, she said if he would give her a few she would not sue for the balance until after his death. — Question 3rd by same, did you ever hear me at any time say any thing about any species of property that Capt Sallard had given me either in North Carolina or Tennessee? Ans. I have heard him say what property there was, was for Eleanor; and further this deponent saith not. Elizabeth Jordan

State of Tennessee
Hayette County. I hereby certify that the above depositions were sworn to and subscribed before me the day and place above mentioned, and that the body of the depositions are in the hand writing of myself and that I am no party agent or attorney to this suit Given under my hand this the 19th day of August 1843. Wm. Benton J.P.
Parties for J.D. paid by S.H. Cor. Wm. Benton J.P.
Oroville W. McKrack & Wife

The depositions of James Douglass, Mannix Q. Hurt —
William M. McKrack. Thomas A. Yancy, William B. Roberts and William H. Howard and William Camard & John Hamlett and others taken by agreement of parties at the instance of Complamant at the Office of the Clerk and Master in Pulaski Tennessee to be read in evidence on the trial of this suit now in the Chancery Court at Pulaski, James Douglass being first duly sworn deposes and says. Question by Complamant State if you are acquainted with the general Character of Thomas Edmondson and if so how long and from that general Character would you believe him on oath in a Court of justice? Ans. I have been acquainted with the general Character of Thomas Edmondson for two or three years, during that time he has lived in my neighborhood in Giles County and I would believe him on oath in a Court of justice. Question 2nd by same Are you acquainted with the general Character of Joby Smith and Polly Smith his wife and if so would you believe them on oath in a Court of Justice? Ans. I was acquainted with the general Character of Joby Smith for several years while he lived in my neighborhood and from that I am at a loss to say whether I could believe him or not his Character was mixed and was that of a man who would not tell the truth in common affairs as to his wife Polly Smith I cannot say that I am acquainted with her general Character. Question by Defendant, Do you or do you not say that Mr. Smith had the general Reputation of a man who would not speak the truth or was not the public opinion mixed and various as to that matter amongst his neighbors? Ans. it was the general opinion of the people so far as I heard that he would not tell the truth at all times and further this deponent saith not. James Douglass.

Sworn to and subscribed before me 31st Aug 1844. James M. Callahan C & M.

Witness Claim 1 days attendance 75 Cents

Dep. William M. Howard being next sworn deposes and says. Question by Complamant State if you are acquainted with the general Character of Thomas Edmondson if so would you believe him on oath in a Court of justice? Ans. I have been acquainted with Thomas Edmondson and his general Character ever since I was a boy, about eighteen or twenty years, and I should believe him on oath in a Court of justice.

Questions by Same, Are you acquainted with the general Character of Joby Smith & his wife Polly Smith? Ans. I am and have been for fifteen or eighteen years I know nothing against Joby Smith and would believe him and as to Joby Smith I should doubt and hesitate in believing him on oath, I know nothing of my own knowledge but I speak from his general Character Questions by Defendant Are you not your doubt of Joby Smiths veracity founded on any thing you have seen or known of him yourself or is it merely from what other persons have said? Ans. as for my own part I would be compelled to believe Mr. Smith from my own knowledge alone to this last question I answer, Complained by his Counsel excepts and further the defendant swears not
 Williams St Howard
 Sworn to and Subscribed before me 31st August 1844 James McCallum C & M.

Dep. H. Q. Hart being next examined deposes and says as follows Questions by Complainant are you acquainted with the general Character of Thomas Edmondson if so would you believe him on oath in a Court of justice? Ans. I have been acquainted with the general Character of Thomas Edmondson for four years he lived in a few hundred yards of me and I would believe him on oath as soon as any body, Questions by Same are you acquainted with the general Character of Joby Smith? Ans. I know something of his general Character while he lived in Giles and from that I would be afraid of him, he was commended by his neighbors generally the worst sort of a liar, as to his wife Polly Smith I know nothing of his Character the one way or the other and further swears not
 H. Q. Hart
 Sworn to and Subscribed before me 31st Aug. 1844 James McCallum C & M.

Dep. J. Hamlett being next examined deposes and says. Questions by Complainant, are you acquainted with the general Character of Thomas Edmondson if so would you believe him on oath in a Court of justice? Ans. I am acquainted with his general Character and have been for four or five years and would believe him on oath in a Court of justice, as to Joby Smith I know his general Character for two or three years while he lived in Giles County he was a man that his neighbors did not rely on and from that I should be doubtful of his oath, as to his wife Polly Smith I know nothing of her Character the one way or the other and further swears not.
 J. Hamlett

Sworn to and Subscribed before me 31st Aug 1844 James McCallum C & M.

Dep. W. Barnard being next examined swears that he has been acquainted with the general Character of Thomas Edmondson for the last five years and from that general Character would believe him on oath in a Court of justice and further swears not
 William Barnard
 Sworn to and Subscribed before me 31st Aug 1844 James McCallum C & M.
 (Witness claims 1 day and 42 Miles.)

Dep. J. A. Yarny being next examined deposes and says as follows, Questions by Complainant are you acquainted with the general Character of Thomas Edmondson if so would you believe him on oath in a Court of justice? Ans. I have been acquainted with the general Character of Thomas Edmondson for the last two years and he lived on the same plantation for two years and I would believe him on oath in a Court of justice and further swears not
 Sworn to & Subscribed before me 31st Aug 1844 James McCallum C & M. J. A. Yarny.

(Witness claims 1 days attendance 75.

Dep. W. Roberts being next examined deposes and says. Questions by Complainant Are you acquainted with the general Character of Thomas Edmondson, if so, would you believe him on oath in a Court of justice? Ans. I have been acquainted with the general Character of Thomas Edmondson for two years past and have lived about a mile from him, I would believe him from his Character on oath in a Court of justice as to Joby Smith I lived one year about two miles and a half from him but I know nothing of his Character the one way or the other and further swears not
 Sworn to and Subscribed before me
 31st Aug 1844 James McCallum C & M. William P Roberts
 (Witness claims 1 days attendance 75.

Dep. Joseph M. McShee being next examined deposes and says as follows, Questions by Complainers
 JH McShee State of you are acquainted with the general Character of Thomas Edmondson, if so would you believe him on oath in a court of justice? Ans. I have a vague knowledge of his general Character and as far as I know it I would give him credit on his oath, — Questions by Same
 Are you acquainted with the general Character of Joby Smith, if so, would you believe him on oath? Ans. I was acquainted with his general Character while he lived in Gely and should believe him on oath, I know Mr. Smith very well, and he is very partial to William M. Kinnick and leans in his favor generally but I know nothing of his feelings about this suit and further said Mr. McShee

Sworn to and Subscribed before me this 31st Aug^r 1844 James M. Callum C & M.

Dep. The deponent Bryant M. Peden being of lawful age deposes and saith Questions by Complainers
 BH Peden State of you are acquainted with the general Character of Joby Smith and if so state whether you would believe him on oath in a court of justice? Ans. I was acquainted with his general Character whilst he lived in this County and from that general Character I would have no hesitation to believe him on oath in a court of justice said Smith left this County some six or seven years ago and removed to Maury County since his removal deponent has not been acquainted with his general Character nor has he heard any thing in relation to his Character and further this deponent saith not.

Sworn to and Subscribed before me Aug 31st 1844 J M Callum C & M by J C Rhinall C & M

Dep. The deponent James Patterson being of lawful age deposes and saith Questions by Complainers
 JP Patterson State of you are acquainted with the general Character of Joby Smith and if so, state whether you would believe him on oath in a court of justice? Ans. I was acquainted with his general Character whilst he lived in this County and from that general Character I would have no hesitation to believe him on oath in a court of justice said Smith left this County some six or seven years ago perhaps not so long and removed to Maury County since his removal deponent has not been acquainted with his general Character, nor has he heard any thing in relation to his Character and further this deponent saith not.

Sworn to and Subscribed before me Aug 31st 1844 J M Callum C & M by J C Rhinall Dep.

Dep. Correll M. Kinnick & Wife vs William M. Kinnick. — The depositions of David R. Wilson
 DR Wilson Memill Stafford and J. T. Darby taken before the Clerk and Master at his office in Pulaski the 22nd July 1845 to be read as evidence on the hearing of said cause now pending in the Chancery Court at Pulaski in behalf of the Complainers. The deponents being of full age David R. Wilson deposes and saith, Questions 1st by Complainers. State of you are acquainted with the general Character of Joby Smith and if so would you give him credit on his oath? Ans. I think it doubtful whether I was acquainted with his general Character but from the prevailing opinion of a portion of the neighborhood in which he lived, I could not give him credit on oath, I was acquainted with his general Character in the part of his neighborhood nearest to me, I cannot state that I was acquainted with his general Character in the whole neighborhood, I never heard any person say they would not believe him on oath but I have heard them say they could not give credit to his statements. — Questions by Defendants. State who you heard speak of not believing his statement? Ans. I have heard James Longlap on more than one occasion speak of him, also Q. C. Chambers, Franklin Bodinhamer & others I know but when naming I cannot now recollect in the precise language used, and I think I have heard William M. Pettus speak of him in way that I thought he did not esteem him as a man of truth, I am under the impression that I have heard it stated some where that he had been charged with swearing to "lies, or some other similar charge where he came from, I have no recollection who it was that told me, or whom I heard it or how nor am I certain that I ever did hear such charge, if I did I think it probable I heard it from Q. C. Chambers, I do not recollect the words used by those persons

whom I heard say they could not give credit to Smith's statements, all that I pretend to state is the impression made on my mind by what I heard without recollecting the words. I did hear, I am certain I heard remarks about him of that character, what I heard was principally at Chambersville which was a public place and the chief resort in the neighborhood. Chambers had some difficulty with Smith and the grounds of the difficulty grew out of the attempt of Chambers to change a public road, which passed by Smith's house who entertained travellers, on the road and was opposed to changing the road, Chambers and Smith were both ambitious men and were abusive in speaking of each other, the change of the road which West Chambers endeavored to effect was to run it by Chambers and leave Smith's, the people in the neighborhood were generally opposed to the change except those residing in Chambersville the first time I ever saw Smith or heard his name mentioned as I now recollect was at a meeting at Chambersville to work on the road or in some way connected with it and at the time a quarrel ensued between Smith and Chambers about the road, at which time and after Smith left various persons expressed their opinions about Smith, and I think it likely it was in that quarrel if at all that the charge made against Smith which I have before referred to and further Smith met.

Q. R. Wilson

Sworn to and subscribed before me 22nd Feby 1845 James M. Callum C. & M. Witness Clavin 1 day

Def
L. H. Farley being Next Examined deposes and saith at the instance of the Complainants that I was acquainted with Joby Smith when he lived on Agrus Creek in this County, I do not know whether I was acquainted with his general character or not, I know what the rumors in the neighborhood was about him and from that rumor I do not think I could give his oath credit, I never heard any person say that he had been sworn or that he had sworn a lie, I never heard him sworn myself, I lived at the time about a mile from Chambersville and Smith lived in the neighborhood about twelve months and that was the only time I knew him, I think I heard James Longfellow and perhaps William W. Potter and I think Frank Boduchmann say they would not believe him on oath and the only reason they assigned that I recollect was that he was a contrary old devil and that he wanted him out of the neighborhood, I think I heard others speak of him in like manner, but who those others were, I do not now remember, the principal part of what I heard said about him was in Chambersville, I also heard him spoken of in neighborhood, the neighbors so far as I heard them speak of him all wanted to get him away and I never heard any of them speak well of him, John P. Lindsay lived about two hundred yards from Smith while Smith lived in this County and was his nearest neighbor, William W. Potter about a quarter of a mile and James Longfellow about a mile from him and further saith not.

Littleton H. Farley.

Sworn to and subscribed before me

22nd Feby 1845 James M. Callum C. & M. Witness Clavin 1 day attended

Merrill Stafford being Next Examined deposes and saith at the instance of Complainants

Def
L. H. Farley } On the hearing of this cause the following depositions were read on behalf of the Defendants (viz)

" Croille W. M. Kenack & wife

vs

William M. Kenack.

Def
A Grant } The depositions of Archibald Grant taken by commission before the Clerk of Master of the Chancery Court at Pulaski at his office in Pulaski on the 9th day of November 1842 to be read as evidence on the hearing of A Grant above cause now pending in the Chancery Court at Pulaski on behalf of the defendant, the deponent being of full age depose and says, Question 1st by defendant, State when and where you first became acquainted with the negro in controversy in this case and in whose possession they then were? Ans. In 1827 I became acquainted with Murphy who was then in the possession of William M. Kenack the defendant, then residing in the State of North Carolina. I was then an Arman

for Capt Sallard and live about Miss Miley from the defendant, The defendant being about to send a portion of his Negroes to his farm in Tennessee in the year 1827. including the said Murphy and said Murphy being desirous to remain promised a note from the Defendant authorizing him to go about and look for some person to purchase him, said Murphy came to Capt Sallard with said note and requested Capt Sallard to purchase him, at which time I heard Capt Sallard say he had given him Murphy to the defendant and he did not intend to buy back any of the property he had given to his children I remained for Capt Sallard from year waiting from the 25th of October to 25th of November thereafter and quit his employ on the 25th of October 1829, I heard Capt Sallard say while I was his overseer, that he had given the defendant four Negroes to wit, Murphy, Patty, Anna & Sam, I also heard Capt Sallard say it was his wish that defendant should give said Negroes to his daughter the Complainant Eleanor W. this declaration was not made in the presence of the defendant, I never heard Capt Sallard claim any of those Negroes, but I often heard him say that he had given them to the defendant and I also heard him say he had given defendant less than he had his other children and that the defendant had taken better care of what he had received than the others and had accumulated more property, Capt Sallard was frequently talking about what he had given his children, In 1829 when I was about removing from the State of North Carolina to this State, I heard Capt Sallard request the defendant to send out with his own Negroes by me a Negro Woman Sukey with eight or nine children or perhaps more said woman and children were then in the possession of Capt Sallard and the aforesaid conversation took place in the presence of Capt Sallard the defendant and myself at Capt Sallard's house, I understood that Sallard intended the Negroes aforesaid for the defendant but I refused to bring them out as my wagon was small and had not room for them, before my said removal from North Carolina I never heard any person claim said Negroes Murphy, Patty, Sam and Anna their names or any of them except the defendant nor did I ever hear them called the Negroes of any other person, neither did I ever hear the defendant claim them, I had but little acquaintance with defendant during my residence in North Carolina, I never him speak in relation to the title of said Slaves in said State. In 1827 or 1828 defendant removed said Negro Murphy from North Carolina to this State and some times in November 1829. I arrived in this State and took charge of Defendant's Negroes as his overseer in the County of Edge and State of Tennessee where I took charge of said Negroes said Sam and Murphy were among them, I remained Overseer for the defendant four years in 1832 the defendant removed from the State of North Carolina to this State and brought with him said Anna & Patty and their names and has held and had possession of said Anna Patty, Murphy & Sam and their names in the County of Edge and Murray in said State ever since their said removal to this State, for six or seven years past I have heard of Complainants claim to wit from about the time of their bringing their former suit for said said Negroes, I have no knowledge of how defendant obtained possession of said Negroes, whether by gift, loan or otherwise, I am not acquainted with either Capt Sallard or the defendant at the time Defendant first claimed possession of them nor for some time afterwards, Ever since my said removal to this State and the removal of said Anna & Patty as aforesaid the defendant has held said Negroes Sam, Murphy, Anna and Patty and their names used and enjoyed exclusive control and ownership over them up to this time except Sam who has been out of defendant's possession these four years at the instance of complainants said Petition further states, In 1834 I think defendant removed Anna and her children, except her eldest child to Murray County and I did not see said Negroes after that time until about two years ago when I saw them on defendant's farm in Murray County and I have seen them several times since on his said farm as late as February last and further this deponent saith not.

Rock B. Grimes

Sworn to and subscribed before me this 8th day of November 1842 James McCallum C.M. & State of Tennessee In presence of the undersigned commissioners to me directed from the Chancery Court Murray County I held at Pulaski in the County of Edge and State of Tennessee, I have caused to come before me at Goshens A. Wiley in the County of Murray and town of Spring Hill & State of

Def. Dempsey on the fifth day of January 1843 aged about forty three years a witness for William & A Wing McKimach in a certain in a certain matter of Controversy now depending in the Chancery Court at Pulaski between Orrille W McKimach and wife Complainants and William McKimach defendant who being first duly sworn upon the Holy Evangelist of Almighty God depone and saith, I declare the first by the defendant, How long have you been acquainted with me? Am Seventeen or Eighteen years, 2^d And are you acquainted with the Negroes that I got from Charles Sallard to wit Anna, Murphy, Patty and Sam, ? Am. I have always understood the above named negroes was rec^d from said Sallard as a legacy by his first wife. Question 3^d Have I not always kept the four said Negroes in my employ as my property both in the State of North Carolina & State of Tennessee? Answer. You have with the exception of Sam which Orrille W McKimach and wife received from said William McKimach a few years since. Question 4th Did you ever hear of Charles Sallard or any other person claiming the four said Negroes in the State of North Carolina or Tennessee? Am. None until the suit was brought by Orrille W McKimach and wife, I understood that Orrille W McKimach and wife & wife claimed the property soon after they were married. Question 5th How long did I hold & hold the same property in the State of North Carolina? Am. about seven or eight years. Question How long have I had the said Negroes in possession in the State of Tennessee? Answer. about seven years. further the deponent saith not. G A Wing State of Tennessee I do hereby certify that the above deposition was sworn to and subscribed Mary Combs to before me the day and place above mentioned and that the body of the deposition is in the hand writing of Reuben H. Simmons who is no party or attorney in this suit sworn under my hand and seal this 5th of January 1843. Reuben A. Simmons JP State of Tennessee

Def. I. Smith on the 5th day of January One thousand eight hundred & forty three I. Smith aged about fifty six years a witness for William McKimach in a certain matter of controversy now depending in the Chancery Court at Pulaski between Orrille W McKimach and wife Complainants and William McKimach defendant, who being first duly sworn upon the Holy Evangelist of Almighty God depone and saith I declare the first by Defendant, Are you acquainted with me whom I married Charles Sallard's daughter Rebecca in the State of North Carolina and how long have you been acquainted with Charles Sallard? Answer. I was acquainted with William McKimach before he was married to Charles Sallard's daughter and I was acquainted with Sallard also. 2^d Question, Please state about the time I was married to Sallard's daughter, and what ^{negroes} Sallard gave me and wife whom I was married? and what was their names? Am. He was married to Mrs Sallard's daughter in the 1814 and Sallard gave McKimach and wife four Negroes to wit Murphy, Anna, Patty and Sam. Quest 3^d How long after our marriage did you see these Negroes at my home in my possession at Roxborough North Carolina? Am. I saw three of them there to wit Murphy, Anna & Patty soon after McKimach and some few months after that time I saw Sam there. Question 4th Have you not been acquainted with the said Negroes ever since that time and state how long I had them in North Carolina and when I brought them to this State and I have not had possession of them ever since I brought them here and if they haven't been under my control adversely to Chas Sallard and any other person or persons both in North Carolina and Tennessee? Am. I have been acquainted with the same Negroes ever since and McKimach sent Murphy and Sam to this State in 1827 and the rest remained with McKimach in North Carolina until he removed to this State in the year 1832 and have remained in his possession ever since and under his control with the exception of Sam, and the said Negroes have always been under his control both in North Carolina & this State also and I never heard of Sallard or any person or persons putting up any

any claim to them whatever until after the Marriage of his daughter was married to Orrin McKimach. Question 5th State the conversation between myself and Charles Sallard in the fall of 1834 in State of N Carolina at Roxboro? Answer I heard Sallard & McKimach in conversation in N Carolina at Roxboro and Sallard requested McKimach to give Orrin McKimach some of the Negroes what Sallard had given to William McKimach & wife and William McKimach told him he would not nor even intend to do it for he said it would be throwing it away, Sallard then answered and said you must do as you please for it is your own property and when Sallard ordered his horse I named to him you could not get McKimach to give his daughter any thing, Sallard answered me he would not give them any thing for said Sallard, McKimach was better acquainted with Orrin than he was, and that he always thought of McKimach a gentleman, that he thought he would do the thing that was right, and further the deponent saith not.

Isby Smith.

State of Tennessee I hereby certify that the above depositions were sworn to and subscribed at Murfreesboro before me the 5th day of January 1843. at Graham A. Kings office in Spring Hill Murfreesboro Tennessee and the body of the depositions is in the hand writing of Redwin H. Sumner who is no party agent or attorney in the said case under my hand and seal this 5th day of January 1843.

Redwin H. Sumner

Dep
Isby Smith

In pursuance of the enclosed commission to me directed from the Honorable Court held at Palatka in the County of Giles and State of Tennessee I have caused to come before me Isby Smith at the Store Room of William McKimach in Spring Hill Murfreesboro Tennessee on the 11th of August 1843. aged fifty five years a witness for the defendant in a certain matter of controversy now depending in the Chancery Court at Palatka between Orrin McKimach and wife complainants and William McKimach defendant who being duly sworn upon the holy Evangelist of Almighty God depose and saith, Question 1st by the Plaintiff. Are you personally acquainted with William McKimach and Charles Sallard and how long Ans. I have been acquainted with William McKimach & Charles Sallard for the last thirty odd years. Question 2nd Please State as near as you can what time William McKimach married the daughter of Charles Sallard whose name may please? Ans. in the fall of 1814. Question 3rd State what Negroes William McKimach received from Charles Sallard soon after his marriage with his daughter Rebecca? Ans. at the time of his marriage he received three namely Murphy Anna & Patty and some few months after received a small boy named Sam. Question 4th Do you know or did you ever hear of Charles Sallard or any other person or persons claiming these Negroes but William McKimach? Ans. I never did till Orrin McKimach and wife brought suit in the year 1836. Question 5th Had not William McKimach such plausible pretenses and the entire control of said Negroes with these women while he remained in N Carolina and after he removed to Tennessee? Ans. he had till Orrin McKimach and wife brought suit in the year 1836. at which time they recovered the Negro boy Sam. Question 6th State how far William McKimach lived from Charles Sallard in North Carolina and if he did not know when William McKimach started to move to Tennessee with said Negroes. Ans. between eight & ten miles and Charles Sallard was at William McKimach the day before he started to move. Question 7th did you not hear a conversation between William McKimach and Charles Sallard at your house in Roxboro N Carolina in the fall of 1834 and state what that conversation was? Ans. I did hear a conversation between William McKimach and Charles Sallard in October 1834. at my house, Charles Sallard asked William McKimach if he was not a going to give his daughter Eleanor some property, William McKimach answered he was not for he thought it was throwing it away, if he did give her any he would see his own time, Charles Sallard then answered and said, I gave you property when you married my daughter and I would be glad you would give your daughter some of the Negroes I gave you or some others. William McKimach then said Capt Sallard do you pretend to lay any claim to the Negroes you gave me when I married your daughter, Capt Sallard (which is Charles Sallard) answered I do not

but the negroes I gave you when you married my daughter I gave you as your right and property, William McKimble then said if you are not satisfied in giving me the negroes you did, If you will say what they were worth at the time I received them from you I will pay you the money for them and you can do as you please with the money, Charles Sallard then said I lay no claim whatever to the negroes for they are your property to do as you please with for I have ever thought that you were a gentleman and that you would do the thing that you thought was right — Ques. 8th State how far you lived from William McKimble when he married Charles Sallard's daughter Rebecca? Ans. Eight miles — Ques. 9 State when you became intimately acquainted in my family and when you began to do business for William McKimble? Ans. about the year 1818 and began to do business for him about the year 1825 or before. Ques. 10 At what time did you move to Tennessee? Ans. In the month of May 1835. Ques. 11 Have you not been attending to business for William McKimble more or less ever since you moved to this State? Ans. I have — Ques. 12th Did you ever hear or understand that Charles Sallard or any other person or persons had any claim or title or pretended to have any to the aforesaid negroes but William McKimble? Ans. I never did until Orville W McKimble and wife brought suit for them, Ques. 13th did any Commission pass respecting the title of the aforesaid negroes and state what it was between you and Charles Sallard? Ans. Charles Sallard was at my home in Roxborough after W^m McKimble had left in the year 1834 I asked Charles Sallard if he got Charles Sallard McKimble to agree to give Eleanor his daughter any of the negroes before he went away. Charles Sallard answers he did not agree to give her any thing but he thought as McKimble had got the negroes by Eleanor rather he might afford to give her some or something ^{but} that William McKimble had a right to do as he pleased with the negroes that he had given him, for he did not consider that he the said Charles Sallard had any right to them, Ques. 14th What Commission passed between you and Thomas Edmondson at your house since the year 1836 respecting the title to the aforesaid negroes? Ans. Some time in ^{the} year 1839 the said Edmondson was at my home where I now live and stated to me that Orville W McKimble had been to his house in Montgomery County to take depositions before himself and William McKimble concerning the title of the negroes in dispute and stated that he knew nothing about the title of said negroes but always understood the right was in William McKimble, from from the Sallard family and further this deponent saith not

W^m J. Smith

I Certify that the foregoing deposition is all in my own hand testifying that I am in no way related to either of the parties that the same was taken before me on the 11th of August 1843 in the Store Room of William McKimble Spring Hill at Set forth in the Caption & has not been out of my papers or in any wise altered, added to or changed since it was signed by the said W^m J. Smith this the August 11th 1843 John Brown Justice of the Peace for Maury County Tennessee

The presence of the enclosed Commission to me deputed from the Chancery Court holden at Paducah in the county of Giles and State of Tennessee I have caused to come before me at the dwelling house of W^m J. Smith in the County of Maury and State of Tennessee on the 15th day of May 1844 G. A. Wing, Polly Smith, W^m J. Smith, Witnesses in a certain matter of controversy now depending in the Chancery Court at Paducah between W^m McKimble & Wife Complainants and William McKimble defendant who bring first duly sworn upon the Holy Evangelist of Almighty God depose and saith — Deposition of G. A. Wing. Question by defendant Directors 1st Are you acquainted with the negroes in controversy in this case at what time, when and from whom did William McKimble ^{obtain} them who has had possession of them since that time to the present and what has been the character of that possession? Ans. I am acquainted with those negroes (named) Murphy, Patty and Anna, how long William McKimble has had them I know not neither do I know from whom he obtained them but have always understood that he obtained them but have always understood that he obtained them

Dep.
G. A. Wing

from Charles Sallard, I have been acquainted with them ^{from} 18 to 20 years, during which time they have been in the possession of William McKim and I never heard his right to them questioned until the commencement of suit by present Complainants

and further this deponent saith not G A Wing

Deposition of Polly Smith, Questions by Defendants, Question 1st Please state the conversation of Charles Sallard at your table in the fall of 1834? Answer Mr. Hugh Woods asked Charles Sallard if he could not take the property back which he had given Col McKim and give it to his (Col McKim's) daughter he replied that he had given to Col McKim he had given him when he married his daughter and he had no claim to it and that Col McKim was the only son in law that he had that had ever improved any thing he had given him, Question 2 How long has Col McKim had the property in possession? Answer He has had the property in possession some 15 or 16 years since I became acquainted with them, how long he had them in possession before I know, I cannot tell, Question 3rd Was not Charles Sallard at Col McKim's home about the time he moved from North Carolina and did he object to Col McKim bringing the Negroes from that country? Answer He was at Col McKim's home the day before he started to move and if there was any objection to his bringing the Negroes, I did not hear it, Question 4th Please state the conversation that took place between Charles Sallard and his grand daughter and at what time the conversation took place? Answer His grand daughter asked him whether that property (the Negroes) were hers or her father's he replied they were her father's and for her to do what was right and her father would do it this conversation took place in North Carolina the day before Col McKim started to move to this country, Question 5 Please state the conversation that took place between Charles Sallard and Abram Vinble and William Graham in prison in prison of his grand daughter, Sallard a daughter of Simon Sallard, at the time she applied for a writ? Answer, Vinble asked Charles Sallard if he could not take the property back that he had given his son Simon Sallard and give it to his daughter he replied he could not he had given it to his son and when he gave his children property he did not take it back, Question Please state whether you ever heard any person question Col McKim's claim to said Negroes either in North Carolina or Tennessee until the commencement of suit by the present Complainants? Answer, I never did, Question by Complainants, Question 1st Do you recollect whether or not there was any other person present at the time the conversation took place between Charles Sallard and Hugh Woods in 1834? Answer There was a good many others at the table at the same time but I cannot name any but those two, Question 2 Do you recollect whether the names of any of those Negroes were mentioned in that conversation? Answer I did not hear any of their names mentioned, Question by Defendants from the general Character of Thomas Edmondson would you believe him on his oath in a court of justice? Answer I could not, Question by Complainants Do you know of any particular fact or facts that should go to discredit the said Edmondson? Answer I do not know of any particular fact or facts that should go to discredit him I judge from his general Character and further this deponent saith not

Polly Smith

Deposition of Abby Smith, Questions by Defendants, Question 1st are you acquainted with the Negroes in controversy in this case at what time when and from whom did Wm McKim obtain them, who has had the possession of them since that time to the present and what has been the Character of that possession? Answer I am acquainted with the Negroes in controversy in this case, the defendant William McKim obtained some of said Negroes from Murphy Anna and Patty about the year 1814 in the State of North Carolina from Charles Sallard his father in law at or about the time of his marriage with the daughter of said Sallard, the other Negroes in controversy are the increase of said Negroes Anna and Patty said Negroes Patty Murphy continued in the possession of said Negroes until the present

William M. Smith claimed by him as his own property and made his contract in the State of North Carolina from the time he acquired possession of him as aforesaid until the year 1827 when said M. Smith sent him to this State where he has ever since had & held possession of him adversely claiming him as his own property and made his contract to this time said Negro Anna and Patty and the other Negro in controversy their increase were in like manner possessed by said M. Smith from the time he first acquired the possession of them as aforesaid of said Anna & Patty and the others respectively of said increase in the State of North Carolina until the year 1832 when said Negro were brought to this State since which time said Negro and their increase from their respective births have been held possessed and enjoyed and controlled adversely to all persons claiming them as his own property up to the present time. I understood the Complainant filed a bill in the Chancery Court at Columbia for said Negro in the year 1836. and removed the Negro long since the possession of said Negro with the exception of said suit and present suit has as far as I know been quite peaceful and uninterrupted and continued in said M. Smith and the possession was never changed by said suit except as to Sam who was removed by Complainant, said William M. Smith always since the first acquisition possessed of said Negro claimed and held them and their increase as his own property adverse to all other persons. Question 2^d were you present at a conversation between Charles Sallard and myself at your home in Monticello North Carolina in the fall of 1834 and please state what that conversation was? Answer I was present at the conversation that you allude to between Charles Sallard and yourself I heard Charles Sallard ask William M. Smith if he would not give his daughter Eleanor some property notwithstanding she had treated him amiss W^m M. Smith said that had not intend doing anything for her for her treatment to him was such that he could do nothing for her, Charles Sallard then said I gave you some negroes when you married her mother and I think you ought to give her daughter some of them negroes that you got by her mother or some others, M. Smith then asked Sallard if he pretended to hold any kind of claim to the negroes you give me when I married your daughter, Sallard answered I do not hold any kind of claim whatever, M. Smith then said the Negroes had increased and he had been at trouble and expense raising them and if he (Charles Sallard) put up any kind of claim to the negroes he had given him if he would any person to say what they were worth when he raised them from him, he was then ready and willing to pay him for them the money for them, Sallard then said, M. Smith when you married my daughter I give you these Negroes as your right and title so I hold no claim whatever all I want is for you to give your daughter something you know the man she married better than I do therefore I will leave it to yourself, I always and thought to be an honest man and I have no doubt but you will do the thing that is right if they will do so.

Question 3^d Please state the conversation that took place between yourself and Charles Sallard at your home the same evening after Sallard and myself had a conversation relative to the property now in controversy? Answer I asked Capt Sallard if Capt M. Smith had agreed to give his daughter any property he replied he had not but he hoped he would but let M. Smith said he had no confidence in Orville but he hoped he would give her something after awhile and then said he could do no more the property was M. Smith's and he had nothing to do with it. Question 4th from the general Character of Thomas Edmondson would you believe him on oath in a Court of justice as soon as you would the common sense of man. Answer I would not.

And further this deponent saith not.

Orby Smith

I certify that the foregoing deposition is all in my own hand writing that I am in no wise related to either of the parties that the same was taken before me on the day at the place and in the presence of the parties set forth in the Caption and it has not been out of my possession or in any wise altered added to or changed since it was signed by the said G. A. Wing, Polly Smith, and Orby Smith the 15th day of May 1844 Robert A. Glenn Justice of the Peace for Montgomery County State of Tennessee

\$3.00 R. A. Glenn

Dep. Smith W M Kinach and Eleanor W his wife by William M Kinach - The Depositions of B M Bush Bernard M Bush and Nelson Patterson Edward W Rose taken this day before the Clerk and Master at his office both parties being present to be read as evidence on the hearing of the above case in the Chancery Court at Pulaski Tennessee. Bernard M Bush of lawful age being first duly sworn states as follows to wit: - Question 1st by defendant were you acquainted with the general Character of Isby Smith whilst he resided in the County if so would you believe him from that general Character in a Court of Justice? Answer I was acquainted with the general Character of Isby Smith and from that general Character I would believe him as soon as any man since the removal of said Smith to Murray County. I have not heard any thing in relation to his general Character in any way I think he moved from this County in 1838 or 1839 and further this deponent saith not. B M Bush.

Sworn to and Subscribed before me 19th Feb'y 1845 James M Callum C & M.

Dep. The said Nelson Patterson being duly sworn states as follows to wit: - Question 1st by defendant please answer the above question propounded to Bernard M Bush? Answer I was acquainted with the general Character of said Isby Smith and from that general Character would believe him as soon as any man. I had no business transaction with said Smith but used to be frequently in his Company hunting with him and otherwise and was well acquainted with him since his removal to Murray County I have not heard any thing in relation to his general Character in any way and further this deponent saith not. Nelson Patterson

Sworn to & Subscribed before me 19 Feb'y 1845 James M Callum C & M.

Dep. The said Edward W Rose being duly sworn states as follows to wit: - Question 1st by defendant please answer the above question propounded to Bernard M Bush? Answer I was well acquainted with the general Character of said Isby Smith and with him personally during his residence in this County and had several business transactions with him and so far as my information extends I would believe him as soon as any man since his removal to Murray County which I think was in 1838 or 1839. I have not heard any thing about him in any way -

Sworn to and Subscribed before me

Edw Rose

19th Feb'y 1845. James M Callum C & M

Dep. The deposition of Edward R Field taken by Commit at the same time and place - Question by Defendant. Are you acquainted with the general Character of Isby Smith, if so would you from that general Character believe him on oath in a Court of Justice? Answer I think I know his general Character when he lived in this County I also know him personally the whole time he lived in the County from his general Character I would believe him on his oath. At the instance of Complainant Witness states that he forms his opinion of said Smith's general Character from what he heard the father of Complainant Orville W. to wit Eg. A W M Kinach W M Howard, Quet Chambers and some others say of him, I understood from those above mentioned that they knew said Smith in North Carolina and they lived in the same neighborhood in this State they spoke of him as a clever old fellow. I do not recollect that I ever heard any person say any thing against him, I considered him an inoffensive harmless man, a good deal under the influence of William M Kinach the defendant but I do not believe that said William M Kinach could induce him to swear falsely, I provided medicine in the family of said Smith some four years, I had an account against said Smith which according to my contract with said Smith was to be doctored with some corn which I got from the farm of W M Kinach whilst said Smith was overseer for him, I presented said account to W M Kinach and requested him to pay it saying that I had understood he had a deed of trust on the property of said Smith, he said that some of the Negroes belonged to him, he paid me a portion of the account refusing to pay the balance and further this deponent saith not.

E R Field

Sworn to and Subscribed before me

19th Feb'y 1845 James M Callum

The further taking depositions in this cause is continued until tomorrow morning 9 Oclk
July 19th 1845 J. M. Callum C. M.

Orville W. M. Kinch and Wife (Read on behalf of Complamants)

Dep. William M. Kinch. The depositions of Charles Cyrus and William M. Kinch
C. B. Cyrus taken by Consent of Parties and
to be read in evidence on the trial of this cause who being sworn depone and say:
Question by Counsel, are you acquainted with the general Character of Joby Smith if so would
you from that believe him on oath in a Court of Justice? Answer I think I was while he
lived in this County during two or three years of his residence and from that I would have
some doubts but I would have to believe him, I do not remember who I heard speak against
him except a family of the Ramer's who had had a falling out with him and who would
not believe him as they said I do not recollect hearing any others speak against him further
Smith Not.

Charles P. Cyrus.

Sworn to and Subscribed before me 19th July 1845. J. M. Callum C. M.

Dep. John P. Lindsey being next Examined depone and says, Question by Complamants
J. P. Lindsey Are you acquainted with the general Character of Joby Smith. If so would you believe him on
oath? Answer I was acquainted with his general Character and from that I would believe
him on oath, though he was a man that would equivocate a little in private neighborhood
matters and such was his Character a good deal of that thought was in just, I did not know
when to believe him in that way but I think he would swear the truth, It has always been
my understanding from general common or report that defendant William M. Kinch had a claim
on all the property of Joby Smith and since he moved to Spring Hill where M. Kinch resides
that M. Kinch has got all his property but I know nothing of my own knowledge, It is well
understood that Joby Smith is broke, all that part of the deposition in relation to information
from common report to be by defendant except as to general Character and further Smith Not.

Sworn to and Subscribed before me

J. P. Lindsey

19th July 1845. J. M. Callum C. M.

Dep. John M. Wilkins being next sworn depone and says, Question by Complamants
J. M. Wilkins Are you acquainted with the general Character of Joby Smith if so. would you believe him on
oath? Answer. I am acquainted with his general Character and from that I would not
know whether to believe him or not. Some people said they would believe him and some said
they would not and I am not prepared from this to give a definite opinion, And it is
the general common that Joby Smith is broke and that W. M. Kinch has got all his property
but I know nothing of it myself, this last statement objected to by defendant and further
Smith Not.

John M. Wilkins

Sworn to and Subscribed before me 19th July 1845 J. M. Callum C. M.

Dep. J. G. Wilson being next sworn and Examined by Complamants says that he is
J. G. Wilson acquainted with the general Character of Joby Smith, and from that I would desire to risk
his oath if he was intended. I never heard that his oath had been impeached in Court, I
never heard a good many persons say they would not believe him until to day from some
of the witnesses in this cause I have heard a good many persons say that the two men
were lived at that place they even know saw they were Joby Smith and William Ramer
and further Smith Not.

J. G. Wilson

Sworn to and Subscribed before me 19th July 1845. J. M. Callum.

Dep. William W. Potter being next sworn and Examined by Complamants states that he is ac-
W. W. Potter - quainted with the general Character of Joby Smith and that in ordinary transactions I would
believe him but in cases where he was personally interested I should hesitate, Question by Court
Suppose Joby Smith were defendant upon the party for whom he was a witness had all his
property in his power what confidence would you give his oath from his general Character? Answer
under such a state of facts I would also hesitate. I wish to be understood as meaning that I.

would hesitate in a case where Ioby Smith has a deep personal pecuniary interest at stake or where he would gain or lose in the Court and supposing that William McKimach the defendant has the property of Ioby Smith under his control by deed of trust or Mortgage I would under such circumstances hesitate to believe him - I do not know that Ioby Smith stands in such relation to William McKimach except from report I have always understood so (this last objected to by defendant) I know him about two years in Giles County, he lived in sight of my house, he removed from there some years since and went to Spring Hill in Maury County I have heard some persons in the neighborhood where he lived say they would not like for him to swear against them where he was interested and those persons were not the Brown family and further South Mt

W. W. Potter.

Sworn to and subscribed before me 19th July 1845 James McCallum C. M. E.

(Read on behalf of defendant as follows)

State of Tennessee

Maury County

In pursuance of the enclosed commission to me directed from the Dep. Honorable Chancery Court at Pulaski in the State of Tennessee, I have caused to come before me at the dwelling house of William McKimach in the town of Spring Hill Maury County in the State of Tennessee on Saturday the 1st day of March 1845 John W. McKimach aged about twenty four years a witness in behalf of the defendant in a certain matter of controversy in said Court depending between Orrille W. McKimach and Eleanor his wife complainants and William McKimach defendant who being first duly sworn on Holy Evangelists depone as follows. Question by Defendant, are you acquainted with the general character of Ioby Smith if so how long have you been acquainted with it and from that general character would you believe him on oath in a Court of justice? Answer I am very well acquainted with the general character of Ioby Smith, have known him ever since I was a small boy and from the general character of Ioby Smith I would believe him on his oath in a Court of justice. Question by the Complainants, Quer. Do you not know that for several years past both Ioby Smith and wife have been perfectly dependent on William McKimach, has not McKimach got all their property or got it in his control State fully their condition where they live & how they live? Answer I do know that for several years past that Ioby Smith and wife have been living at William McKimach's plantation, but I do not know that they are dependent on him, as regards the property or the transactions between Ioby Smith and William McKimach I know nothing Ioby Smith attends to William McKimach's business and is supported by it further this deponent South Mt

John W. McKimach

I Certify that the foregoing deposition of John W. McKimach was taken, sworn to and subscribed to before me John Brown an acting Justice of the peace for Maury County in the State of Tennessee at the place and on the day in the caption mentioned, and was written by the said deponent in my presence who is not interested in the event of said suit nor is the agent, attorney, or solicitor for either of the parties the defendant being present at the taking of the same, and I do certify that I am not agent attorney or solicitor for either party and that I am in no way interested in the event of said suit Given under my hand and seal this the 1st day of March 1845. John Brown Seal Justice of the Peace for Maury County.

State of Tennessee

Maury County

In pursuance of the enclosed commission to me directed from the Honorable Chancery Court at Pulaski in the State of Tennessee I have caused to come before me at the dwelling house of William McKimach in the town of Spring Hill Maury County in the State of Tennessee on Saturday the 1st day of March 1845 Doctor Spray McKimach aged about fifty four years a witness in behalf of the defendant in a certain matter of controversy in said Court depending between Orrille W. McKimach and Eleanor his wife complainants and William McKimach defendant who being first duly sworn on

the Holy Evangelist deponeth as follows — Question by the defendant Quest- 1st — Are you acquainted with the general Character of Irby Smith if so how long have you been acquainted with it and from that general Character would you believe him on oath in a Court of Justice? Ans I have been acquainted with Irby Smith between twenty and thirty years, I boarded with him while he kept tavern in Roxborough in N^o Carolina in the year 1832 I never heard any man in that Country doubt his truth and his honesty since he moved to this Country he has resided in Giles County and is now living in Maury County in the Neighborhood of Spring Hill and from all I have seen known or heard I would not hesitate to believe him on his oath — Question by Comptrol Quest do you not know that for several years past both Irby Smith and wife have been perfectly dependant on William McKenach has not McKenach got all their property or got it in his control State fully their Condition where they live and how they live Ans I know that Irby Smith and wife are living on William McKenach's farm but do not know that they have been perfectly dependant on him nor do I know how they live as regards food but would not hesitate to say they breathe one common atmosphere and are sustained by the same principles of morality that others are, and further this deponent saith not.

S. M. Kenach.

I hereby Certify that the foregoing deposition of Spring McKenach was taken, sworn and subscribed before me John Brown an acting justice of the peace for Maury County in the State of Tennessee at the place and on the day in the Caption mentioned and was taken in my own hand writing by me in the presence of the defendant who is not interested in the result of said suit nor is he agent attorney or solicitor for either party that I am no ways interested in the result of said suit, Sworn under my hand and Seal 1st day of March 1845.

John Brown Just of the peace for Maury County

Bill of Cost to Justice \$1.00

Dep
St. W. King

State of Tennessee In pursuance of the enclosed commission to me directed from the Honorable Maury County & Chancery Court at Pulaski in the State of Tennessee I have caused to come before me at the house of William McKenach in the town of Spring Hill Maury County in the State of Tennessee on Saturday the 1st day of March 1845 Gosham & W. King agreed about forty six cents a witness on behalf of the defendant in a certain matter of Controversy in said Court depending between Coville W. McKenach & Eleanor his wife Complainants and William McKenach defendant who being first duly sworn upon the holy Evangelist deponeth as follows, Question by the defendant 1st Are you acquainted with the general Character of Irby Smith, if so how long have you been acquainted with it and from that general Character would you believe him on oath in a Court of Justice? ANSWER I am acquainted with the general Character of said Irby Smith and have been both in N^o Carolina and this State for about twenty or twenty years, during a portion of that time since the removal of said Smith to this State he resided in Giles County where I was acquainted with him having him at his house and treated as a Family Physician and was acquainted with his general Character there, he removed from Giles to this County where he still resides, In North Carolina we resided in the same Village for about two years, one of which years I boarded in his house, I know him in North Carolina for about eight or nine years and from his general Character during this time both in N^o Carolina and this State I would believe him as soon as any man as far as I have ever heard he has stood as fair as any man and would be believed on his oath without hesitation and I do not believe that he could be induced to swear falsely — Question by Comptrol with Consent of defendant, Do you not know that for several years past both Irby Smith and wife have been perfectly dependant on William McKenach, has not McKenach got all their property or got it in his control, State fully their Condition where they live and how they live? Ans I do not know that Irby Smith and his wife or either of them have him or are dependant upon William McKenach or any other person Irby Smith is and has been living

for several years on William McKim's plantations in the County of the same and said McKim has no control of any of said Smith property as I know of and further this deponent saith not.

G. A. Wing

I hereby certify that the foregoing deposition of G. A. Wing was taken, sworn to and subscribed before me John Brown an acting justice of the peace for Maury County in the State of Tennessee at the place and on the day in the Caption mentioned and was taken in my own hand writing by me in presence of the deponent who is not interested in the event of said suit nor is the agent, attorney and solicitor for either of the parties, the defendant being present and I do certify that I am not agent attorney or solicitor for either party and that I am no way interested in the event of said suit, Given under my hand and seal 1st day of March 1845. John Brown. Seal Justice of the peace for Maury County Bill of cost to the Justice \$1.00.

Exception to Dep. Orville W. McKim & Wife vs William McKim - Defendant objects to the answer to the first question put to James Jordan in his deposition filed in this case because said testimony is hearsay evidence which is illegal. A Wright & Goode & Sons Solicitors.

Exception to Dep. Orville W. McKim & Wife vs William McKim - In this case the defendant by his counsel objects to all those parts of the depositions in said case of J. P. Lindsey, John McKim, James G. Wilson and W. W. Pettit in which they speak from rumor or hearsay except in relation to the general character of Joly Smith July 19th 1845. Wright & Goode for W^m McKim. The foregoing exceptions sustained July 26th 1845 James McCullum C.M.

In the progress of this cause the following orders were made by the Court Term September Term, Monday September 4th 1843.

Continued By consent of parties it is ordered that this cause be continued until the next term of this Court and be open for proof five months, hearing not to be delayed.

March Term, Wednesday March 6th 1844.

Continued As upon the affidavit of the Complainants, it is ordered by the Court that this cause be continued until the next term of this Court and open for testimony on both sides - It is further ordered by the Court that Complainants have leave to retake the depositions of Jordan and Wife and that defendant have leave to retake the deposition of George A. Wing, Joly Smith and Pelly Smith.

September Term, Wednesday Sept 4th 1844

Continued On affidavit of Complainant it is ordered that this cause be continued and stand open for proof on both sides until the next term of this Court.

September Term, Friday September 12th 1845.

final term Be it remembered that this day this cause came on for hearing before the Honorable Jerry H. Cahal Chancellor, Upon bill, Answer, Replication, Exhibits and proof and it appearing to the satisfaction of the Court that in the year 1814 or 1815, Charles Ballard then a citizen of ^{the County} ~~the County~~ and State of North Carolina was the owner of the Negroes, Murphy, Anna and Pelly now in controversy in this suit and that on or about that date he placed said Negroes in the possession of the defendant William McKim who was then also a citizen of said County and State and who previous to that time and in 1813 or 1814, had intimated with Rebecca Ballard daughter of said Charles Ballard and it appearing that the defendant remained in the State of North Carolina until 1827 when he removed to the State of Tennessee where he now resides and that ^{during all that} period and up to the present time he has retained possession of said Negroes and now has them in possession together with all their increase as named in the bill and it appearing also that said Charles Ballard when he placed said Negroes of ~~said~~ in the possession of the defendant as aforesaid, did not make any conveyance of the same to the defendant either verbally or otherwise but retained his title thereto and never did part with the same to the said defendant, the Court therefore is of opinion and doth so declare that the defendant

received said Negroes in the first instance ^{of} Baller of Charles Sallard and that his possession of them and their increase ever since has been a badmote and that the same has never been terminated and his possession all the time has been accompanied with such acts and declarations as make it consistent with the rights of said Sallard and not adverse, and that the defendant has never in any way acquired any title to said Negroes and their increase but that the same still remained in Charles Sallard and it appearing that on the 23^d day of September 1841. said Charles Sallard by his deed of that date conveyed by way of Gift to Complendants the said Negroes - Murphy, Anna and Patty and also Mary, Abnera, Malwida, William, Roan, Madison, Richard, Caroline, Harriet, Margaret, Henry, Milton, Calvin & Clemon, the increase of Anna, and Sarah Ann, Ellick, Arabella, Emaline, and an infant Name not known, the increase of Patty and all the other increase of the same. And the Court is of opinion and doth so declare that by the execution of said deed of Gift Complendants acquired a complete title to all of said Negroes and their increase, It is therefore Ordered, adjudged and decreed by the Court that Complendants recover of the defendant all of said Negroes and their increase, and that the defendant deliver possession thereof to the Complendants accordingly and it appearing that the defendant has had the use and hire of said Negroes it is ordered and decreed by the Court that he account for the same since the time of the filing of the bill in this cause and for this purpose that this cause be referred to the Clerk and Master of this Court, that he take an account of the hire from the time of the filing of the bill, charging the defendant with interest upon the value of the hire from the end of each year up to the time of taking the account and that he make the defendant all proper allowances, It is further ordered that the defendant pay the costs of this suit and that Execution issue for the same.

Appeal

From which decree of the Court the defendant prays an appeal to the Supreme Court of the State of Tennessee at a Court to be holden at the City of Nashville on the first Monday in December next and having entered into bond in the penal sum of \$500.⁰⁰ dollars for the prosecution of the said appeal the same is granted.

Bond

Bond

On the filing of the Bill in this cause the bond required by law for the prosecution of the suit & was filed in Words and figures following to wit
" State of Tennessee, Know all Men by these presents that we Niles S Brown and Ebenezer J. Shields are held and firmly bound to Wm M Kearick in the sum of two hundred and fifty dollars, to which payment well and truly to be made, we do hereby bind ourselves, our heirs, Executors and administrators jointly and severally firmly by these presents, sealed with our seals and dated this 22^d day of June 1842; The condition of the above obligation is such that Whomever Orville W McKinnish have lately filed in the office of the Clerk and Master of the Chancery Court at Pulaski a bill of Complaint in Equity against the above named William McKinnish, now therefore if the said Complaintant shall prosecute the said bill with effect, or in case he fail therein shall satisfy and pay all costs and damages that may accrue in consequence of such failure and also shall stand to abide by and perform all order and decree that the Court may render against him in said cause, then the above obligation to be void otherwise the Remain in full force
N S Brown Seal E J Shields Seal

Appeal

Bond

On granting the appeal to the Supreme Court of Tennessee in this cause a bond for the prosecution of said appeal was executed & filed in the words and figures following to wit
" Know all Men by these presents that we William McKinnish Archibald Wright and John W Goodie of Giles County Tennessee are held and firmly bound to Orville McKinnish and Wife in the penal sum of five hundred dollars for which payment well and truly to be made we bind ourselves, our heirs, Executors and Administrators, jointly and severally, firmly by these presents sealed with our seals and dated this 12th day of September 1845. The condition of the above obligation is such that Wherein in a suit in Chancery instituted in the Chancery Court at Pulaski in the Name of the said Orville McKinnish & Wife Complendants against the said

William McKinnish, Defendant, Where said suit came on for hearing at the September Term 1845 of the said Chancery Court, at which term a decree of said Court was made in the said suit against the said William McKinnish, from which decree the said William McKinnish prayed and applied to the Supreme Court of Errors and Appeals to be holden at Nashville in the State of Tennessee on the 1st Monday in December next - Now if the said William McKinnish shall prosecute his said appeal with effect or in case of failure thereof shall pay and satisfy all costs and damages which have accrued or may hereafter accrue in said suit and appeal, and shall abide by fulfill and perform all such order sentences and decrees as the said Supreme Court may render against him therein, then the above obligation to be void, otherwise to remain in full force and virtue

Wm McKinnish (Seal) A. Wright (Seal)

In the progress of this cause the following rules were entered in this cause (Howd.)

Rules.

Bill filed 23rd June 1842 - Spas and copy Spas must day - July 21st 1842 Answer filed - October Rules 1842 Exceptions to Defendants Answer filed - September Rules 1843 Set for hearing by defendants Counsel - September 1843 Continued by Court - and open for proof five months hearing not to be delayed thereby - March Rules 1844 Set for hearing by Defendants Counsel - March Term 1844 Continued as on affidavit of Defts Complainants and order to retake certain depositions - September Rules 1844 Set for hearing by defendants Counsel - September Term 1844 Continued on affidavit Complainant and open for proof on both sides - March Rules 1845 Set for hearing by defendants Counsel - September Term 1845. Open for Complainants and appeal.

Bill costs

State Tax \$3.75

Wm Morrison - Procs. Bond 50 copy bill 120 Spas to Ans. 75th afft. 18 - 2 Com^s

15 - 1 rule 10

3.98

McCallum Enrolling bill 120 Spas. Exhibits 22.25 - Taking 22 Dep^s & Inter^s

14.62¹/₂ - 5 rules & set for hearing 62¹/₂ m 6 continuances 150 - 6 commissions

2.25 - Spas for 22 witnesses 2.75 - 2 afft^s for continuances 36 - afft to retake

Dep 18, order to take same 12 - Entering 2 orders 12 - entering decree 60

order of appeal 10 - Enrolling order & decree 74 - appeal bond 50.

Portage paid by clerk on Dep^s 56¹/₂ - 4 afft^s on receiving depositions 12

Copy costs 25

50.15

Shff Laskins, calling cause 1 times 28, returning 2 Spas not found 25

.53

" Hart - Spas for 14 witnesses 3.50 notice 50

4.00

" Pedan Spas for 4 witnesses

1.00

Justice John Davis Taking 2 depositions

2.00

" John Brown " 3 Dep^s

3.00

" Do " 1 Dep

1.00

" Simmons " 2 Dep^s

2.00

" R A Glenn " 3 Dep^s (paid by Dep^t)

3.00

" Wm Burton " 2 Dep^s (paid by Compl^t)

2.00

" Springfield 1 Dep & clerk certificates (paid by Compl^t)

2.25

Witness James Douglas 1 days attendance

.75

" Wm Barrard 1 day & 42 miles

2.43

" Thos A Gandy, Wm B Roberts, D R Wilson, & L A Wilson 4 days each 1 day

3.00

\$84.84

fee for this Transcript 45.00

\$129.84

State of Tennessee

I, James McCallum Clerk and master of the Chancery Court at Pulaski in said state, held in and for the ninth Chancery district of the middle division of the State aforesaid, do hereby certify that the foregoing is a true & perfect transcript of the records & proceedings in the cause lately determined in said court wherein Orville W. McMissile and Eleanor W. his wife were complainants and William McMissile was defendant, as the same remains of record and on file in my office.

J. S. L.

In testimony whereof I have hereunto set my hand and affixed my private seal (having no seal of office) at office in Pulaski this 15th day of December A.D. 1845 and 70th year of American Independence

James McCallum

Mr. Ripart & wife

to

William Mr. Ripart

O. W. McWhipack & wife

vs

William McWhisack.

1. This case must now be tried exclusively upon the title of Charles Sallard. It has once been tried upon its merits upon that of McWhipack & wife & can never be tried again. As to that part of the case it is res adjudicata. No fraud is suggested as to that decree & it can never be revised, reheard or reversed. Story's Eq. Pl. Sec. 780-1-2-3-4 & Sec. 790 (p. 608) Sec. 791-792-3-4. Pine vs Dunn 4 Johns. Ch. Rep. 142 Overton vs Higlow 10 Jer. Rep. 48, Wilson vs Wilson (20. 200.) The defence may be by answer as well as plea. Story's Eq. Pl. Sec. 790. Kinsey vs Kinsey 2 Ves. Jr. 577. Story's Eq. Pl. Sec. 887. 439, 608, 647. It is a good defence under the general issue in an action of assumpsit, that the same matter had been once adjudged against the plaintiff. Young vs Black 7 Cromb 567. Prother vs Overton 4 Cheres Jr. Rep. 239-40. It is said this defence in England can only be by answer if the decree is not enrolled. 2 Ves. Jr. 577. But here our decrees are the same or enrolled when the term passes & hence the defence may be either by plea or answer. 10 Jer. Rep. 57. 4 Johns. Ch. Rep. 199.

2. ~~Admittedly~~ That Sallard had no title to these slaves, whom he made his and of gift to the complainants & that consequently they derived none from him & cannot recover on his title. I say The original possession of these negroes by defendant in 1874 was under a parol gift from Sallard either to the defendant or to the defendant's daughter & that this, so instantly, created an adverse possession in the defendant, by which Sallard lost his title by the statute of limitations. I say in fact the gift was to the defendant. But if the relation between Sallard & defendant was at first, that of bailor & bailee (which I deny) still the defendant ~~kind~~ ~~again~~ for a series of years assumed the ownership of these negroes claimed them as his own & denied Sallard's right or authority over them, which was well known to Sallard & all which we say, amounted in fact, to a conversion of these negroes & gave the defendant a complete title. To sustain these views I refer the court to the following parts of the record: namely: Bill p. 1-2. The deed from Sallard p. 3. Plea p. 6. Dep. Sallard p. 9. Dep.

of Martha G. Edmonson p. 12. Dep. of Edwards p. 13. Dep. Sallard p. 15
+ 16 Dep. Edif. Jordan p. 19. 20. Dep. Judy Grant p. 23 - Dep. Thos.
Edmonson p. 31. Dep. M. G. Edmonson p. 31-32. Dep. Sallard p. 33 -
Dep. A. Grant p. 39-40. P. Smith's Dep. 41-2 - L. J. Smith's
Dep. 42-43 - 44-45.

Harrison vs. Kays 4 Jer. Rep. 507 4 Do. 104
McDonalds vs. McDonalds 8 Jer. Rep. 145. Willison vs. Watkins 3 Pet. 45.
Rute vs. Cooper 6 Jer. Rep. 280. 9 Do. 315. 10 Do. 376. McWhisack vs. McWhisack
Mudge Rep. 434. Wallen vs. Kniff 5 Kump. 91. The very acts of the
defendant in offering to sell these negroes & in referring to let the
complainants have them, when required by Sallard, were conversions
in law. Bristol vs. Burt 7 Johns. Rep. 254.

The St. Carolina decisions on not in har:
= many with those in Tennessee upon the Statute of limitations. In *Waller
+ wife vs. Pol* 1 Der. Eq. Rep. 58 held the bailor cannot hold adverse to the
bailor R. and in other cases, that court holds, that a proaf gift does
not create an adverse presuption but only a tritlement. *Will vs. Hughes*
1 Der. + Batt. Low. Rep. 336. These decisions on not in accorded
with those in Tennessee. But even the cases of *Morton vs. Herbert*
2 Der. + Batt. Low. R. 504 & other cases, it seems to me, will
prove that the defendant held these slaves adversely & that
Sallard is barred.

3. I contend, that if the relation of Larmor & Larmor R. let:
= from Sallard & the defendant in the original transaction
was clearly established, still the defendant having
held these slaves, without any charge or account
for him R. claiming all the while in opposition
to the right of Sallard, for a period of near 30
years, the title of Sallard, upon lapse of time
alone, must be presumed to be extinguished & that
as to this the law is well settled. *Whitaker's Lavery* 74 (note)
Do. 80-81. *Cook vs. Wilson* 6 Litt. R. 437. 4 Mump. Rep. 382.
Mor. + Jer. Rep. 228.

5. "The attempted conveyance from Sallard to the complainants was void & of no effect for champerty & maintenance. Acht = attal adversely held cannot be transferred, so as to give the purchaser or donor a right to sue.

Goddard v. Lloyd 8 Porter's Rep. 237 Stogdale v. Fingate 2 Morshill's Rep. 136. Studmor v. Piddick 4 Bowls' Rep. 29. There was a state demand which Sallard himself would not prosecute, nor warrant, nor risk the costs of. The complainants on willing & got it not to aid commerce or trade, but solely to prosecute the suit. Pennington v. Sullivan 4 Long 2 Mylne & Keen 590 cited 8 Cond. Eng. Ch. Rep. 140.

6. "How can a man, champerty & maintenance aside, make a valid gift of a chattel adversely held? There is no delivery. There can be none, for the donor has neither the actual, or constructive possession. A delivery is impossible without a trespass. Can any thing be the subject of a gift or donation which is not capable of a delivery? Pennington v. Patterson 2 Gill & Johns. 208, Mohe v. Jones 1 Bailey's Eq. 141. 2 Will's Ch. Rep. 629 1 Atk. & Mc Cond 592. 1 Dev. Low. Rep. 309. 1 Mup. R. 117.

7. "The depositions & proof in the first case of McLipack & wife v. McLipack were matters of record. Act 1835 Ch. 20 Sec. 15 & 16 [A. V. Rev. 231 2]. The clerk both of the Supreme & chancery court, must keep the record in their office & can only give out copies. The suits in both cases being between the same parties the depositions & proceedings in the one can can be read & looked to in the other. Coke v. Fountain 7 Vern. 413 & notes. Smith et al. v. Johnson et al. 2 Vern. 447. Williams v. Broadhead 1 Simons 157 cited 2 Cond. Eng. Ch. R. 77.

A. Wright for Defendant

O. Mr. Westpack &

Wife
per 3 brief

Wm Westpack

Shiles

1

Orville M. McKracken & Wife
William McKracken } Br. & of E. P. Child.

The negroes in controversy, were put into possession of defendant in 1813-14 or 15 - (except the increase since that time) shortly after his intermarriage with the daughter of Charles Ballard the mother of complainant Eliza W. in Person County North Carolina, by said Ballard without any bargain or consideration whatever, in relation thereto. (See Charles Ballard's depositions. Answer to 2nd question) This further divested Ballard's title or barred his right to resume or recover possession thereof at any time thereafter and created no presumption that a gift was intended by him to his son in law (the defendant). For ~~as has been said~~ by the ~~supreme court of this state~~ since the passage of the act of N. C. of 1806, no presumption can arise that slaves sent by a father in law, to a son in law was intended as a gift. See McKracken v. McKracken old & Barker 8th Jers. 145. And in the law in such a case forbids the view that the slave was given, and ~~that~~ such an act must be regarded as a loan only. Law 148. "A written contract or transfer is necessary under the act of 1806 of N. C. in all cases when a person gives slaves to another" Cotton vs Powell 2nd Car. L. R. 431. And again when a parent puts a slave into the possession of a child, without an express

personal gift. This possession is not ad-
verse to the parents. Justice vs Cobbs &
Others. 17th Decr 1869 (Porter vs 3rd Humph
586, Kings 435)

Sallard, however, in his deposition
rebutts the idea, that a gift was intended.
See his answer to Question the third
where he states "I never made said McKis-
pack any right or ^{title} to any of said negroes
at any time. I did not part with
my title to any of said negroes, until
the execution of Exhibit A. (A deed of
gift from him to Cornplanets in 1841)
~~affirmed~~ with his deposition in this
case, except he adds, "I had a conver-
sation with defendant two or three
years after his marriage and shortly
after the death of my daughter in which
I told him (Mr McKispack) I wanted
his daughter Eleanor to have the negroes
which I had put into his possession
&c with which he appeared as he
was perfectly satisfied". It is clear
from the proof, when the negroes went into
McKispack's possession, he received them, not
under
~~as a~~ a personal gift, but merely as a loan.

Dec 8th per. 1868. How did his conversation
with defendant dictated by Sallard ef-
fect his title? ~~Exhibit A~~? If it ~~did~~
^{did not} ~~amount to~~ a ^{personal} gift to his ^{grand} daughter at that
time, it was merely a loan according
to the authority above quoted, & the use
& possession were to continue in ^{McKispack}
until the marriage or ~~full~~ age majority of
Eleanor M. And if McKispack held either

for him self or his daughter, it was ~~not~~
~~in the Character~~ ⁱⁿ either ^{an} ~~con~~ ⁱⁿ ~~struction~~
 loan or gift by ⁱⁿ ~~possession~~ ⁱⁿ ~~possession~~
 Character his title was that of a ~~holder~~
 But the Statute of Limitations, does not apply
 between bailor & holder & the latter can
 not by denying the bailment & claiming
 against the bailor make his possession
 adverse. Collier & Ell. V. Doe 1 Den. Eq. 58-
 The law presumes that the ^a ~~holder~~ ~~holder~~
 continues to hold in the Character in
 which he acquired the possession.
 See McKracken V. McKracken 438-
 And consequently the Statute of Limitations
 will not be a bar to ~~comptinent~~
 recovery in this suit unless the bail-
 ment, ~~if~~ ~~part~~ of the negro with
 McKracken was determined & more
 than three years thereafter had elapsed
 before the commencement of this
 suit. For if the negro had been origin-
 ally given to him in N.C. bought by a
 partial gift, no length of possession
 could avail him in his defence
 here. For as above quoted: "The gift of a
 slave by partial since the act of 1806
 operates as a bailment; and no length
 of possession under such gift will raise
 a presumption of title in the donee."
 See Miller, Hughes 2 Den. & Bat. Vol. 1st 336 &
 Martin v. Barker 2nd Den. & Bat. 504 & again
 The act of 1806, voiding the gift of slaves
 unless in writing, attested by a subscribing
 witness & registered is a Statute of frauds
 made for the protection of not only of credit

itors & purchasers but also of donors, &
under it a deed is inoperative against
the donor, unless duly attested & registered:
Palmer vs Hancock 2nd Dev. 240. &

3rd Dev. 171. Regarding the N.C. act of 1866
as a statute of frauds in favour of donors,
I made expressly for their protection. It is
clear that no length of possession under a
gift or transfer void by that ^{act} would at all
imPAIR the title of the donor. For it is a
well settled Maxim that in Equity, that
no length of time is a bar in cases of
fraud. Angell on Limitation. 491. If
Mr. McKrack became possessor of said negroes
either by loan or gift by parol in N.C. since
1866, his possession, ~~his possession~~ under the
laws of that state would be regarded
as a bar to suit & would not be in con-
sistence with Hallard's right. And in what-
ever character, his possession commenced
the law presumes ^{it} continued. See McKrack
vs McKrack 435. ^{Porter vs Porter and Humphries 586} The character of this
possession, it is true, might be changed, & after
such a change, that statute of limitation would
form a bar to Hallard's right. But the
change of the character of the possession
could ^{only} be effected by certain ^{acts} ~~length of time~~ ^{acts}
~~facts~~ known to the established rules of
law. Porter vs Porter 3rd Humphries. 586. Every
presumption of possession is to be made
in favour of the true owner. Peaceable possession
for any number years, would not rebut this pre-
sumption & create a presumption of ad-
verse holding in the possessor. Angell on
Limitation 82, 83, 84. ~~In such a case as the~~
Where property is claimed to be held for a

another, & possession taken under his
title, adverse possession does not com-
mence title demands made, or some
open act of Enclosure ownership. see
Angell on Linn. ⁸¹⁻² 86-102. A denial of the
hailment & claim against the bailer by the
bailer is not sufficient to make his
possession adverse. Collins & Cas. vs. Poe
18 Allen Eq. 555. "The possession of the defendant
was that of mere bailer, not withstanding
his declaration, that he claimed them as
his own, he could not by his own act
throw off his character of bailer." Idem

5-7. It seems that the mere declarations
& acts of the bailer are ^{not sufficient} ~~sufficient~~ ^{see 18 Allen Eq. 555} to
change the character of his possession.

The books however, define what acts
of the parties would have that effect.

In North Carolina, if the donor de-
mands possession & the donee refuses
to deliver up the slave, claiming ^{him as} his
own, his possession then becomes
adverse & ^{thereafter} three years will bar
his action. Martin vs. Warkins 2nd

Dev. & Bat. 504. Upon the death of the
bailer the hailment, & especially termination.
Pondell vs. Powell 18 Dev. & Bat. Eq. 399

If the donor of a slave under a parol
gift, convey him in trust to secure creditors
but a stipulation in the deed, state retain possession
such possession is not the possession of the ~~estate~~
alienor so as to operate as a bar to the donor
under the statute of limitations. Hill vs. Hughes
18 Dev. & Bat. 336

And again: When one made a moral
 gift of slaves to his son in law, and
 the latter by the direct ^{him} of the former
 gave them by his will to the grand
 grand children of the donor, it was
 held that this did not constitute a
 gift in writing within the act
 of 1806 (Rev. Ch. 701) and the donor
 might after the death of his son in law
 resume the possession of them.

Bennett vs. Flowers 18th Dec. & Bat.
 See also 15th Nov. 1849, Supreme
 467. And our own courts have decided, that
 when possession commences in obedience
 to the title of another, the character of that pos-
 session by intentment of law continues un-
 til changed by an assertion of ownership
 renounced by some tangible act in hostility
 to the owner such as a change of the
 possession by a sale: Porter vs. Por-
 ter 3rd Humphreys 586. There are
 the only instances, in which, this question
 has been adjudicated upon, in refer-
 ence to the N.C. act of 1806, whether
 in that state & in Tennessee, and it is
 preserved that the courts will not
 hereafter go beyond the cases al-
 ready decided. The nature of the
 plaintiff's claim or assertion of own-
 ership if any such is proved bears
 no analogy to the cases cited. Plaintiff
 states that in the various conferences
 & conferences between him & defend-
 ant ^{plaint} never set up any claim to the
 negro adverse to his, in which as
 to a greater portion of his statement
 he is ~~not~~ corroborated by the

Edmundson, cother of the antislavery. (see their
 deposition). As late as 1835 he had a con-
 ference with defendant in which it
 seems ~~to show~~ defendant did not
 assert any positive ownership over the
 slaves but was seeking a conveyance
 of one half of them from Ballard &
 was offering to put with the other
 half to be delivered over to Com-
 plainant Eleanor M. (see Calvin Jones
 deposition). No demand of the property
 & a refusal to deliver by defendant is
 pretended. No sale is made of any of it
~~from~~ by him. No change of possession
 has taken ^{place}. The possession is yet so far
 as the proof goes in dispute and no posi-
 tive and conclusive act of ownership
 on the part of defendant is shown at
 any time before the commencement
 of this suit (much less three years be-
 fore that time) adverse to the title &
 claim set up by Ballard, of which
 Ballard had ~~such~~ such notice
 as would enable defendant to
 avail himself of it, in his defence
 under the plea of the Statute of limita-
 tions to this suit. Where is that tangible
 act of ownership evinced by Mr. McSpaen
 in hostility to Ballard's title & from the
 home to Ballard, such as sale of the
 slaves, or change of possession or demand
 & refusal to deliver up as is required
 by the authorities ~~above~~ ^{quoted} cited
 to change the character of the possession?

~~It is not to be found in the proof~~
 filed in this cause. Defendant & Ballard had frequent conversations, and defendant always asserted Ballard that Eleanor should have ^{the negroes} ~~them~~ sent to after her marriage with Dr. Hille, McKipack, he then as I am informed, says Ballard refused to give up the said negroes to Eleanor & her husband.

This is no sufficient assertion of right or title, ~~to form the basis~~ ^{as} ~~regarding~~ ^{regarding} the authority to form a bar to Ballard's recovery. In the case above cited of Bennett vs. Plowers (S. Ct. Dec. & Bat. 1857) the father had made a partial gift of the slaves to his son in law & gave directions to his son in law to give them to his grand children in his will which he did and yet it was held that the donor, after the death of his son in law might resume the possession of the ~~slaves as a husband and wife~~. That was a much stronger case against the donor than the one now under consideration.

If the view, we have taken is correct & Ballard's testimony can be relied on and there is no ground ^{to} doubt his credit, no title to the slaves in controversy was communicated to complainants until the ^{execution} ~~date~~ of the deed of 1841: which it appears was made in pursuance of a promise on the part of Ballard of high moral obligation to be sure ~~but~~ not obligatory on him in law or equity.

Consequently Complainants never had
 a right of action until said ~~deeds~~
 deed was executed to them: And a suit
 by them prior to ~~that~~ their ~~execution~~
 acquisition of title to said slaves, could
 form no bar to their recovery, in a suit
 commenced since their acquisition of
 title, as they do not now hold under
 a supposed partial gift to them by
 Gallard, which was void to all in-
 tents & purposes under the Statutes
 of V. C. but by a deed direct from
 him to them. It is the right of Gallard
 then had, not theirs, at that time which
 Complainants are litigating in this ac-
 tion. I am unable to see any
 preclusion whatever in the defence
 set up on the grounds, Champerty &
 will ^{therefore} leave a consideration of that
 part of the subject to others.

A. McIntosh

to receive

Wm. McIntosh

—

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C. M^r Skipick & wife

vs.

William M^r Skipicks.

This cause came on this 10th day January 1846 to be heard upon the transcript of the record from the Chancery Court at Pulaski, and was argued by counsel. Then it appeared to the Court that at the time of the execution of the deed from Charles Sallards to complainants on the 23rd day of September 1841 the defendant William M^r Skipick had held the slaves in the pleading mentioned adversely more than three years previous to that time in the state of Tennessee, and by virtue of the operation of the Statute of Limitations the said slaves had become the absolute property of the defendant, & that nothing passed to complainants by said deed. It is therefore ordered, adjudged and decreed, that the decree of Court below be reversed, the Bills of complainants be dismissed, and that defendant recover of complainants the costs of this suit in this Court & the Court below.