

Chancery

Maryville

No. 11.

Manuscript

Nicholas S. Peck & others

vs

James M. Eakin & others

To Supreme Court Knoxville Sept Term 1858

From

The Chancery Court at Maryville

Blount County

Geo. Brown Secy

Filed Sept. 13. 1858

Enrolled

L. J. [Signature]

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A. S. Peck & others
vs
J. H. Becklin & others

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Nicholas S. Peck & others } Chancery Court - May Term 1858
vs } Chancery Party. Injunct. Bice
James M. Aikin & others }

Be it remembered that the following is a transcript copy of this case filed in the Chancery Court at Maryville made out in obedience to an order granting an appeal to the Supreme Court at Knoxville to be held on the 3^d Monday of Sept. next - made at the May Term of the Circuit Court at Maryville for 1858. the Hon. J. M. Wicker Judge of the Judicial Circuit presiding arising to the incompetency of the Hon. S. Nixon Maudyke Chancellor. which transcript is in the words and figures following to wit:

To the Hon. S. Nixon Maudyke Chancellor
sitting in Chancery at Maryville.
Your orators N. S. Peck, Thomas P. K.
Peck and Robert Smaller of Monroe
County, Calhoun L. Turk of McMinn
County and your Oratrix Sarah M.
M. Peck of the County of Monroe and
State of Tennessee, humbly complain-
ing sheweth unto your Honor that a-
bout the day of 18 a certain
James M. Aikin then a citizen of
County Alab. brought an action of Ejectment
against P. S. Peck in Monroe County Ten.
and such proceedings were had in said
case that said Aikin recovered the land
said on in the Circuit Court of said

County, that an appeal was taken in said cause to the Supreme Court at Knoxville and the said Judgment was reversed, and sent back; and then said Atkin dismissed his suit.

Champutous agreement

Your Orators further state that afterwards by some arrangement between a certain John Wilson and his son named Salaman Wilson of Monroe County Tenn. said John Wilson paid the costs of said ejectment suit, and by a Champutous agreement with said Atkin, who your Orators understands resides in the State of Arkansas, said Salaman Wilson agreed to purchase said tract of land from said Atkin for the sum of Nine hundred dollars, provided the land could be gained in another suit; and said Atkin was to allow his name to be used as plaintiff, but the costs were to be deducted out of said Nine hundred dollars; and if said land could not be gained in a suit at law, then said Salaman Wilson was to pay Lawyers fees & all costs, and said Atkin to leave the land. Upon this agreement suit was brought in the Circuit Court of Monroe County for said land against your Orators and oratrix, and after the same remained there some time, it was brought to the County of Blount by change of venue, when it is now pending, and being prosecuted under said Champutous agreement, as aforesaid, The

Venue changed to Blount County

forgoing is the agreement as your orators
understand it-

Your orators were never informed of
said agreement until two or three days
past. Complainants are not able to make
proof of said contract except by the oath
of said dependents.

The premises considered your orators
pray that said James M. Atkin of
County State of Arkansas and John Wil-
son and Solomon Wilson of Monroe Coun-
ty Tenn. be made parties dependants to
this Bill, with proper process for that pur-
pose; that each of them be compelled
to answer the allegations of this Bill and
And your orators pray that if they have
in any thing been wrongfully informed
as to the exact terms of said Champertous
agreement; that said dependts. may be
compelled to disclose upon oath the true
terms of said Agreement; and to file with
the Clerk of your Court the writings or deeds
for this land or relative to it; and state
who pays the Witnesses and lawyers fees,
and whether said Atkin is or not; to be
responsible for any costs, or lawyers fees
if the land is not gained in the suit; and
let them disclose the whole facts of the
case fully and truly; let them tell who
is attending to said suit for said Atkin
And in the meantime, your orators pray
your Honor to enjoin this suit until the
dependents answers come in to be read

as evidence in this suit of Ejectment now pending This is the first application for an injunction in this case.

Rogers & Boyd & Lyon & Soale Solicitors.

State of Tennessee This day personally Blount County appeared before the undersigned, N. S. Peck one of the Comptrols, who, after being legally sworn, with the facts stated in the foregoing bill, stated as of his own knowledge are true, in substance and in fact, and those facts stated an information of others he believes to be true.

Sworn to & subscribed & }
before me this 23^d of } Nicholas S. Peck
January 1855. }
David J. Patterson Judge

The State of Tennessee
To the Clerk & Master of the Chancery Court
at Maryville

Let an injunction issue as prayed for in the foregoing Bill of Complaint upon Complainants entering into Bond with security as the law in such cases prescribes.

Given my 22^d 1855. David J. Patterson, Judge
(Enclosed) Filed June 26th 1855 Sent Price C. & M.

The Joint Answer of John & Solomon Wilson to a Bill filed against them and James M. Stikin by N. S. Peck Thomas P. K. Peck Sarah M. W. Peck Robert Smullen and

(Process issued)

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and Caleb Turk in the Chancery Court
at-Mayville

Respondents reserving the usual excep-
tions to the said Bill, and for answer
say that they have been informed that
an action of ejectment was brought by
Jarnesell Eakin in the Circuit-Court of
Manroe County against P. S. Peck & that
said Eakin recovered a judgment in said
Court, and that the defendant or defen-
dents as the case may have been, appeal-
ed from said judgment to the Supreme
Court, when the judgment of the Circuit
Court was reversed, and the cause re-
manded for a new trial. This suit
while pending in the Circuit-Court as
respondents are informed and believe
was dismissed.

It is also true that sometime after the
said action of Ejectment was dismissed
Respondent John Wilson, for his son the
said Solomon Wilson, paid the costs of
the said action of ejectment, but it is
totally false as charged by the said Com-
plainants, that this payment was made
under any accomplice agreement
with Jarnesell Eakin or any person else.
Neither of the Respondents ever made any
part of agreement with the said Eakin
of any kind whatever in relation to the
land, and in fact Respondent Solomon
never, to his knowledge saw the said
Eakin, or had any correspondence with

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him whatever. Respondents deny most positively, that any such agreement or charge was ever made between them or either of them and the said James M. Eakin, but they are perfectly willing to make a full disclosure of every thing that they have had to do with the land in dispute, or with the suit; and they will here make a full statement of all the facts as far as they can remember them, and circumstances of the case.

One Robert Eakin the brother of James M. Eakin was the security for the prosecution of the action of ejectment, and the Supreme Court had decided that James M. Eakin could not recover until he paid for an improvement that the said Patrick S. Peck held upon the land; and thence it became necessary to dismiss that action of ejectment, and to pay up for the said improvement, and bring another suit; and for this reason, the action of ejectment was dismissed, and judgment rendered against the said James M. Eakin for the costs of said suit. James M. Eakin at that time, or at any time since, did not reside in the State of Tennessee, and he had no property here except the land in dispute. It therefore became necessary as Respondents was informed for said Robert Eakin to make some arrangement to get the money to pay the costs of said suit and the said valuation.

At this time the said Robert-Eakin called an Respondent to get the money to pay costs and valuation claim. Respondents were not willing to let him have the money especially if the litigation continued and they refused, and did not let the said Robert-Eakin have any money, neither did they agree to let him have money.

Shortly after this Respondents both saw the said Patrick S. Peck, and enquired of him whether there was to be any more litigation about the land, provided valuation claim was paid; and the said P. S. Peck informed Respondents if his valuation claim was paid, and some small sum in addition thereto, that he would at any time surrender the land to the said James M. Eakin; and stated further that he did not claim the title to the land, but only claimed for the improvements. Within a few days after this conversation, if not on the same day Respondents met with the said Robert Eakin, and then informed him of what the said Patrick S. Peck was willing to do, as above stated. It was then agreed that Solomon Wilson, provided that the said Peck would surrender the possession of the land, and Respondents then felt very confident that he would, should purchase the said land for the sum of nine hundred dollars, which

sum was to be paid absolutely, and unconditionally provided the possession was surrendered, as agreed to be by the said P. S. Peck. It was further agreed with the said Robert Eakin, that Salaman Wilson should pay the costs of said action of Ejectment & pay the said P. S. Peck the amount of his said valuation claim, which sum was to be deducted from the said nine hundred dollars, or was to constitute a part of that sum. This was a mere verbal unwritten agreement with the said Robert Eakin, and no part of it was reduced to writing; and the said Robert Eakin, as Respondents soon afterwards learned, had no authority from his brother James M. to sell said land.

Respondents felt so confident that the said P. S. Peck would surrender the possession of (said) land upon the terms agreed on, or as above stated, that Respondent John Wilson, for the benefit of his son Salaman paid the costs of said suit, and assumed it by giving his note to some of the witnesses, and also paid the said valuation claim of the said P. S. Peck, all of which amounted to something over four hundred dollars, though the precise amount is not recited.

Respondents were very greatly surprised to learn, after all this had been done, and after the said Peck had been paid for his valuation or improvement

claim, and after his promise to do so, would not surrender the possession of said land, on the ground, as the said P. S. Peck stated, that his father the said D. S. Peck had interfered and would not let him do so. Respondents then found that they had become liable for several hundred dollars of money, & paid it out by relying on the false promises of the said P. S. Peck, and that another suit would have to be brought.

Respondent Solomon Wilson then to secure the payment of the money that Respondents had paid and agreed to pay, as a promise took the said Robert Eakin's note for the same. On the 10th day of May 1832 the first note was renewed, & the said Robert Eakin gave to Respondent Solomon Wilson a new note including in it another small debt, making the note amount to at that time the sum of \$514.31. and on the same day the said Robert Eakin executed to Respondent John Wilson as Trustee a Deed of Trust conveying Robert Eakin's land to the said Trustee to secure the payment of said debt. This Deed of Trust was afterwards registered in the Register's office of Monroe County Tenn. This is all of the agreement that Respondents or either of them ever had about the purchase of said land, and as Robert Eakin had no authority from his brother Samuel Eakin to sell the said

land, but afterwards sent to his brother (as Respondents know of their own knowledge) for a power of attorney, and the said James M. Eakin one which only authorises the said Robert Eakin to bring the suit for the possession of the land, and when the possession is got, and not before, it then authorises the said Robert Eakin as his Attorney in fact to sell the land.

Respondent positively denies that there ever was any deed or deeds about the purchase of said land, or any writing whatever to their knowledge, so far as they are concerned.

It is true that a second action of ejectment was brought by the same James M. Eakin for the recovery of the possession of said land, and respondent John Wilson at the request of the said Robert Eakin became the security of the said James M. Eakin for the prosecution of the said action of ejectment, & this suit on a charge of venue is pending in the Circuit Court of Belmont County.

Respondents deny that they or either of them, employed any attorney to bring the said action of ejectment, but they were informed that the said Robert Eakin gave his note to one George Brown, an attorney to bring & attend to this suit; and they are informed & believe that this note has not been paid. Respondent Solomon Wilson never had

nothing to do with said suit, as in employing any lawyer to attend to the same.

Respondent John Wilson would further state that long after said suit was brought, and long after the change of venue, he was informed that there was some misunderstanding between the said Brown & ^{Robert} Eakin about said suit, and that said Brown had informed said Eakin that he would not attend to said suit any further. Respondent was informed after this fact, and seen the said Brown & requested him to go on and attend to the suit as Respondent was the security for the costs, and that Respondent would see his fee paid, but Respondent never gave any note for the fee, and the only interest that Respondent has in said suit arises out of his securityship.

Respondents never heard of any agreement or understanding written or otherwise by which the said Eakin or either of them were not to pay costs or lawyers fees for the prosecution of said suit.

Respondent John Wilson would further state that to keep from becoming liable for costs, and from the fact that James M. Eakin never has attended to said suit in person, and from the fact that Robert Eakin is very badly qualified to attend to business, and at the request

of said Robert-Eakin, Respondt has for some time giving the said-dome attention such as getting the witnesses to attend and has a few times went to the Court to attend to said suit in the place of the said Robert-Eakin, and at the January Term 1855 of the Circuit Court of Blount County, Respondt for the said Robert-Eakin, and at the request of the said Geo. Brown, requested one Horace Maynard Esq. an Atty of said Court to assist the said Brown in the trial of said suit, provided it came on for trial. Respondt as his return name impaired the said Robert-Eakin, (he not being at that time of said Court) of what Respondt had done, and he expressed himself satisfied with what Respondt had done, in the premises.

Respondent John Wilson does not know whether this will render him personally liable for Mr. Maynard's fee or not, if he should attend to the case, but Respondent intends to see his fee paid, provided he attend to said suit when it is tried.

Respondents deny all charges of Champerty with which they stand charged, and having answered they pray to be discharged with their reasonable costs.

Geo. Brown, Sol for Respondt

Endorsed Filed, 15th April 1855 Paul Priddy & Co

At the November Term 1855 of the Chancery
Court at Maryland the Hon. S. Ripon
Vendrype Chancellor de presiding the
following order was made viz:

~~James M. Eakin & others~~

Nov. Term 1855.

S. J. Peck & others } In consequence of
us } the incompetency of
James M. Eakin & others } of J. M. Vendrype Chan-
cellor & C. is continued, and that the same
be transferred to the Circuit-Court of
Blount-County.

Respects Exceptions.

S. J. Peck & others } Respondent-expects to
us } the Reading of the de-
James M. Eakin & others } position of John Giff-
pitt George C. Davis, P. J. Peck Leander Gar-
en John Thomason & John C. Vaughan, &
all others taken in this case for the
following reasons, to wit: 1st No proof
can be heard in this case. 2^d The said
depositions were taken after the time
allowed by law, for taking depositions
had expired. For these and other reasons
the Respondent-expects to.

January 29th 1856.

George Brewer Sol
for Respondent.

Endorsed Filed January Term 29th day 1856.

Samuel Price C. C. M.

The Clerk & Master reports the 1st exception
to the Hon. Court - The second exception is
overruled

Samuel Price C. C. M.

January 31st 1856.

the plaintiff legal notice of the time & place of taking said depositions.

And Complainants Nicholas S. Peck Thomas P. K. Peck Sarah M. M. Peck, Robert M. Smalley and Caleb L. Suck by leave of the Court first had and obtained presents their amendment to their bill heretofore filed in this Hon Court

Compt's charge that as they believe they will be able to prove, if the same should be denied, or avoided by their dependents that the offence of Chancery party has been perpetrated by and between these said dependents, touching the lands in controversy at law, wherein James M. Wilkin is plaintiff - Nicholas S. Peck, Thomas S. K. Peck, Sarah M. M. Peck Robert M. Smalley and Caleb L. Suck are dependents

That these dependents have been long in possession of the lands in controversy, holding for themselves and against all others, to wit from the Spring of 1835 to this day, adverse to all others, and especially against these said dependents, and while so holding the Chancery party contract, charged in the bill to which this is an amendment, was perpetrated

15th Complainants have shown in proof that they bought improvements on said lands in the Spring of 1835 of white men, and paid over \$200 dollars for them, and held a continuous possession on them from that time

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up to this day, and have a legal valuation
for a considerable amount for improve-
ment on said lands yet unpaid for by
Respondents

Complainants proved that John Wilson
an one of these dependents in conversation
said he had to raise 300 dollars before they
could bring another suit for the lands in
dispute; and that Respondent John Wilson
did pay costs in a suit of ejectment brought
in the name of James M. Allen against
the Pecks before John Wilson, Respondent had
become security in this present suit at
law for the said lands.

Complainants believe they can prove
one of the Respondents, by a collusion treaty,
treaty with one of these Complainants to
get into the possession of the said lands a-
gainst the will of the others.

And Complainants expect to prove that
Respondent John Wilson did pay costs in
two suits at law, one before this present
suit was brought, and cost in this present
suit of ejectment, now pending in the
Chancery Court.

Complainants expect to prove that
Salaman Wilson was to be the beneficiary
in the contract if the land was gained by
Allen, and in conversation stated the
Pecks could not give security, and would
be turned out of possession. And the said
Salaman W. Wilson held himself ready to
move on the said land and possess the

same as his own, and that John Wilson offered to buy of Sarah M. Peck if she would give him possession on the land.

Complainants expect to prove that money was advanced by Salaman or John Wilson to the amount of \$74 dollars and 31 cents towards the 900 dollars that was given for the land in dispute.

Complainants will rely upon the proof made, as upon such as they may make and such facts as defendants may admit in their answer.

Complainants call upon John or Solomon Wilson to state on oath whether, in conversation one or both of them have not said if Salaman Wilson had back again his money the land or law suit might go.

Complainants call upon Solomon Wilson Respondent to state on oath, whether or not he respondent advanced \$74 dollars & 31 cents towards paying costs of suits brought against the Pecks for the said land in dispute by James M. Atkin and take a deed of trust on Robert Atkin's land, and made your father John Wilson Trustee, and when that deed was made, and when fell due, and if the money has been paid, or why it has not been paid; as is Respondent waiting to see the result of the suit now pending; & that the proceeds said deed of Trust. State if you was not to move on the said land as owner when gained, and that money advanced

to Stikins was to be so much paid, and lawyers fees also taken out of the nine hundred dollars, the price given for the land. State have that whole contract was to terminate and you was or not to be hanged. Tell all about the contract.

Complainants call upon John Wilson Respect to state for what reason he paid costs of suits brought for said lands against the Pecks: by James M. Stikins and state for what interest in the land in controversy, he became liable for costs: State who was security for the prosecution of the suits brought before you was hanged for costs, and if the first securities was not able to pay the costs of all the suits brought by James M. Stikins or his Attorney before this and that he is security for the prosecution of. State how much money you paid as costs in suits brought by James M. Stikins^{or} his Attorney against the Pecks before you became security for any.

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Complainants pray that this be received as their amendment, that Respect be compelled to answer the same or to every point charged, fully and completely as if directly interrogated.

That Complainants be permitted to take proof on all and singular the matters not compassed in the answers made already, and expected to be made to this amendment; and such proof as has already been taken, as such as may be

Statements contained in the said Amended Bill, and for answer thereto, or to so much thereof as they are advised it is necessary for them to respond to, and for answer say, that the offence of Champerty has not been perpetrated by & between respondents or either of them touching (the) land in controversy as falsely charged by the said Complainants.

It is not true that the said Complainants have been long in the possession of the land in controversy, holding for themselves against all others to wit from the Spring of 1835 up to the date of filing said Bill. This charge is false. Respondents never heard of any claim being set up to said land by Complainants or either of them until the action of ejectment that is now pending in the Circuit Court of Blount County was brought. No claim before that had been set up except the claim that Patrick S. Peck set up for improvements, which was fully paid before the aforesaid action of ejectment was brought. And the first action of ejectment was defended solely on the ground that the improvement had never been paid, as will appear from the decision of the Supreme Court.

As to what the said Complainants have proved in this case, Respondents are advised that the depositions will best show for themselves and Respondents upon the Honorable Court to the proof, with the single remark

that Complainants statements of it is a wilful perversion of the truth & proof.

Respondents do not know what ~~the~~ said Complainants expect to prove, but as they they do know and that is, if they say that they expect to prove, they will prove what is absolutely false, and never did take place.

Respondents further answer and say that they nor neither of them, never did say "that if Sal. H. Wilson had back his money the law suit might go." at least if either of them made the remark they have no recollection of it.

Respondent Salaman Wilson answers that the \$514.31. was advanced as a payment on the land, under the belief that the Pecks would give it up without any more litigation, and when he ascertained that the said Pecks would not give up the possession of the land without another suit he then gave up the trade, which was a mere verbal agreement without any writing, made with Robert Eakin the brother of James M. Eakin, and then took Robert Eakin's note for the money that had been paid, and took the Deed of Trust from the said Robert on his land to secure the payment of the same. The money was paid for this purpose, and the deed of Trust taken for this purpose and no other. A part of this money was applied to the payment of costs of a former suit that James M. Eakin had brought

against the Pecks for this same land which he had the costs to pay, and the said Robert Eakin was the security & had become liable in this capacity for the costs as Respondents were informed.

See appendix B.

Respondent John Wilson the father of the said Solomon is the Trustee in said deed of Trust. Respondents do not remember the date of said deed of Trust as it is not now before them but it will be filed and will show the true date of the deed, and when the money fell due. The money has not yet been paid, and the reason is because Respondent Solomon has been unable to get it from the said Robert Eakin. He has done all in his power to get the money from the said Robert Eakin, but he is very poor & has nothing that is liable to be taken for his debts except the said land, conveyed to secure the said debt, and if the money is not paid within a few days Respondent will have the land sold. Respondent is not waiting to see the result of the said suit; in fact Respondent is about removing to the west to live, and will start within a few weeks, if not providentially hindered.

Respondent further answers that after it was ascertained that the said Pecks would not give up the possession of the said land, this verbal agreement was recorded, and there never was any other agreement about the land of any kind, and there never was at any time any written agreement or me-

mandatum between Respondent & Ecklin, or
 any person else about said land. Respon-
 dent was not to show on the land where
 gained; and the money paid to Ecklin was
 not so much paid, & lawyers fees also
 taken out of the nine hundred and dol-
 lars, the price given for the land as fall-
 ly charged by Complainant. Respondent
 was to give by verbal agreement made
 long before the action of ejectment was
 brought that is now pleading for the land,
 and it was to be the same, no more, nor
 no less on any contingency; and when
 this trade was made it was understood
 by both of these Respondents, and the
 said Robert Ecklin that the possession
 of the land would be surrendered up
 without any further litigation; and it
 was made under that supposition and
 no other; and as soon as it was ascer-
 tained that the said Ecklin would not
 give up the possession of the land with-
 out further litigation, this agreement
 was rescinded and abandoned by the
 mutual consent of the parties, and the
 aforesaid note taken for the money
 that had been paid, and the deed of
 Trust taken to secure the same. Respon-
 dent John Wilson paid costs on suits
 for this reason, and all fees that were
 paid went in to make the said \$514.31
 and Respondent paid it out of the money
 of his son Salaman Wilson, and per

him at his request. Respondent John Wilson was to receive no interest in the said land whatever, for he coming the security for the prosecution of the said action of judgment.

Respondent does not know of his own knowledge who was the security on all the suits brought by James M. Eakin against the Pecks about said land, but Respondent was informed that the said Robert Eakin was the security, and if so he was not good for the costs without selling all of the land that he owned, and thus leave him without a home.

Respondents having fully answered as they are advised may to be discharged with their reasonable costs.

Geo. Brown Sol. for Respondents.

State of Tennessee } Personally appeared
 Monroe County } before me the under-
 signed Justice of the peace in & for said
 County John & Solomonth Wilson & made
 oath that the facts stated in the foregoing
 answer of their own knowledge and
 those made as on the imputation
 of others they believe to be true.

Sworn to & subscribed before
 me this 12th day of Sept 1856 } Solomon & Wilson
 John Wilson

Justice of the Peace

Emasred Filed September 25th 1856

Samuel Prich

Clerk & Master.

At the October Rules 1856. the following entry
was made

Oct. Rules 1856.
Judgment pro con vs
James M. Ecklin

vs
James M. Ecklin & others } No answer having been
filed within the period
granted by Court, by James M. Ecklin judgment is
taken as confessed as against him.

Exemptions

The defendant exempts to the deposition
of John F. Payne because the same was
not taken until after the time allowed
by law for taking depositions had ex-
pired, and because the said deposition
was not filed until after the Saturday
before the Sept Term of this Court, &
therefore cannot be read.

Sept 28th 1856.

Geo. Brown Sol
for Resp'ts.

Enclosed Filed Sept. 28. 1856. Samuel Price C. & M.

Sept. Term 1857

At the September Term 1857 of the Circuit
Court at Maryville the Hon James M.
Melcher Judge presiding by interchange
the following order was made
vs } This cause is continued
James M. Ecklin & others } as upon the affidavit
of Campb'ts till
next Term of this Court, and is remand-
ed to the Rules, and Campb'ts are allowed
to retake the depositions of John F. Payne
and Abraham Eddington by giving Resp'ts
legal notice. Said Depositions to be taken

in Monroe County Tennessee, and Respects
are allowed to take testimony to rebut
the evidence of the said two witnesses a-
bove named.

Should be before
the order of Sept.
Term 1857. page 25

At the July Special Term 1857. of the Circuit
Court of Blount County the Hon Wm
G. Swan Judge the preceding the following
order was made.

N. S. Peck & others } By the consent of parties
vs } this cause is continued &
Jas. M. Allen & others } remanded to the Rules
for taking testimony generally

At the January Term 1858. of the Circuit
Court held for the County of Blount
the Hon James M. Melker Judge & pre-
siding the following proceeding was had

N. S. Peck & others }
vs } This cause coming on
James M. Allen & others } for hearing as to be
heard on this 29th day of January 1858 be-
fore the Hon James M. Melker Judge of
the 3^d Judicial circuit upon the bill and
amended bill, and answer, Judgment
pro confesso against Robert Eakin, plead-
ings and the proof, and the same not
being determined the Court adjourned
till to morrow morning

January 30th 1858

Court met pursuant to adjournment
This cause is ordered to be continued un-

27.

de disclosure until the next term
of this court.

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Depositions of Complainants.

Depositions of John Thomas taken before John Prock a Justice of the Peace on the 18th day of January 1856. at the house of Andrew McLesland in Monroe County Tennessee on behalf of the Complainants who ~~was~~ after being duly sworn depose & say.

Ques 1. By Compt. - A. S. Pick.

Please state when A. S. Pick came and settled ~~on~~ on Cannonville Creek, and tell if you know if he settled within the bounds of a 320 tract of land, and if (he) continued to reside on said land.

Ans. A. S. Pick settled on the 320 acres surveyed in December 1835 and had been on said land ever since, only one year and six months up to this time.

Ques 2. Please state who that land was granted to & who from.

Ans. The land was granted to A. S. Pick & John F. Gillispy, from the State of Tennessee.

Ques 3. State if the land in dispute between James M. Arkin & others and A. S. Pick and others is covered by that grant of 320 acres.

Ans. Yes it does.

Ques 4. Please state if you ever was witness in a suit about the said land between James M. Arkin and Patrick Peck. Please state it.

ans. I was.

Ques 5. Tell how much did your witness collect amount to? Who paid you your witness fee? How did that suit terminate and when?

Ans. The suit went against James M. Hillier and John Wilson paid me by note my costs about four years ago. My fee was \$20.

Ques 6. State if you please if a new suit has been commenced about the same land in the name of James M. Hillier against Nicholas S. Peck and others now pending in the Circuit Court of Blount County Tennessee.

Ans. Yes, there is a suit in that Court for the same land by James M. Hillier against N. S. Peck & others.

Ques 7. Do you or do you not believe Robert Hillier is acting as agent in this suit for James M. Hillier; if so, state how often John Wilson went to Court to attend to said suit in the absence of Robert Hillier, and if he did employ a lawyer or lawyers to carry on said suit?

Ans. I believe Robert Hillier is acting as agent for James M. Hillier in said suit. I think John Wilson went to attend to the suit three or four times in the absence of Robert Hillier I don't know whether John Wilson employed a lawyer or not.

Ques 8. State if you stoppt often and stayed

of nights with John Wilson, at his request going to, and returning from, Coacut

Ans. I have stayed several nights with John Wilson going to & returning from Coacut at his request

Cross Examination

Ques. 1. By Respondent. State if know whether H. S. Peck ever had peaceable possession of the 320 acres of land mentioned in your first question by Caswell? if so how long at a time?

Ans. H. S. Peck never had peaceable possession more than two or three years at a time.

Ques. 2. State if that 320 acre tract of land is in the Coac District or in the Hewesee District

Ans. The 320-acre survey is in the Coac District

Ques. 3. Please state if you didn't request or state to me that if I didn't go and attend to that suit, as I was security for the prosecution of it, I might have costs to pay; for Robert Aikin didn't understand it?

Ans. I told John Wilson if he didn't attend to the suit he would have the costs to pay.

Ques. 4. State if I haven't asked you to stay with me at different times when you was not tending as witness

Ans. John Wilson has asked me to stay with him at different times when I was not attending as witness

Re Examinations by Campbell & S. Peck.

Ques. Mr. Thomas please to state, at the time
 A. S. Peck was absent as before stated how
 long & by what means, did or did not Thos.
 P. H. Peck one of the Campbells go into the
 possession of the same house, and con-
 tinue there until I returned to him; &
 how long the Pecks had a continued pos-
 session up to this day of the land in
 dispute.

Ans. Yes, the Pecks have had a continued
 possession up to this day from 1835 &
 further says not

John Thomas.

State of Tennessee
 Monroe County, I John Prock one
 of the acting Justices of the Peace for
 the County aforesaid do certify that
 the foregoing deposition was reduced
 to writing by the witness himself in
 my presence; that Archibald S. Peck one
 of the Campbells and John Wilson one of
 the Respondents were present during the
 examination, and I am not of
 counsel or of kin to either of the parties
 nor in any way interested in the result
 of the said Exam under my hand
 and seal this 18th day of January 1856.

John Prock *J.P.*

Justice of the Peace

Endorsed Filed Jan'y 28th 1856.

Saml Price C. & M.

Deposition of Patrick S. Peck taken in
 behalf of the Campbells before John Peck
 one of the Justices of Monroe County on
 the 9th day of July 1855 at the house of
 Isaac B. Kumbrae. of said County who after
 being duly sworn deposes and says.

Ques. By Campblt. S. S. Peck

Patrick S. Peck please to state if you
 are acquainted with the fractional quar-
 ter section of land now in dispute be-
 tween S. S. Peck Thos. H. Peck father and
 James M. Aikin, Lisse on Courneauys creek
 if so how long & in what way was the pos-
 session got and held and what you heard
 John Wilson say concerning buying said land.

Ans. I saw the place was bought by S. S. Peck
 of Edward Buckhannon in 1835 for ~~some~~
 eighty some odd dollars. and was held first
 by Joshua Adams for S. S. Peck, and the
 possession was continued up to the time
 witness bought possession of Thomas Adams
 for thirty six dollars of a part of the same
 tract; also of Jacob Peptan the improvement
 when Dunsan lived on the other side of the
 creek for fifty three dollars; and then gave
 Dunsan & Dargun five dollars for another
 part of said place, all of which was given
 up to me. Says he heard John Wilson
 say that he wanted to buy the claims of S.
 S. Peck and witness & have no more law
 suits about it.

Ques. Please state if you had a judgment a-
 gainst James M. Aikin for improvements

an part of said land, and who you sold that judgment to?

Ans. Yes. I had & sold it to John C. Deuphin

Ques 3 Was you acquainted with James M. Stinson, when, and did he live at the time, that he entered said land, and where does he live now.

Ans. I was. I think he lived in Alabama at the time he made the entry, & now in Texas.

Ques 4 Please state if ever you sold a judgment of any sort to John or Solomon Wilson; State if ever you contracted with either John or Solomon Wilson, or promised to give them possession of said land or any part thereof?

Ans. I never did

Ques 5 State when you went into possession of the improvements bought of Thomas Adams Jacob S. Lepton, Lazarus Benson & Thomas Dugan, and when A. S. Peck went into possession, when Joshua Adams lived on said land.

Ans. I moved on that part I bought of Thomas Adams in December 1836. and got possession of Lepton Benson & Dugan in 1838. in February.

Cross Examination by Resolt J. Wilson

Ques 1. Please state whether the improvement that was bought of Edward Buckingham by A. S. Peck, and that of Thomas Adams and that of Jacob Lepton was not land

valued as ~~indeed~~ improvement, and if
Buckhannon was not a native or part
Indian

That part of this question respecting
Indian improvements was objected to
by A. S. Peck

Ans. If valued as Indian improvements I
never know it, but it was valued for me
as white man improvements on which
I obtained judgments against James W.
Sikkin. As to Buckhannon I suppose he
was white and all his family.

Ques 2. Please state as near the time that con-
versation took place between you & myself
concerning the purchase of that land,
mentioned in A. S. Peck's first question

Ans. Believe in the fall of 1850. before I moved
away

Ques 3. Please state if I did not tell you at the
time above mentioned that if I could
not get all of the claims on that land
peaceably and without a law suit, that
I would not have any thing to do with
it, and if you did tell me or not that
the judgment that you got against
James W. Sikkin was all the claims on
the land

Ans. Yes that was my understanding that
you did not want a law suit, or other-
wise would not have any thing to do
with it. I told said Wilson that was
all the claim I had but my possession

Ques 4. Please state if John C. Merwin paid

you for that judgment

Ans. Yes He did

Ques. Please state how many lawsuits there has been about that land, since you got it in possession

Ans. I think five or six suits with the two that are now depending

~~Ques.~~

Re Examinations by A. S. Peck Camp

Ques. Patrick S. Peck please state if John Wilson is appearing to buy up the claim on the said land in dispute, appraise the full valuation for them to you or A. S. Peck who was then in the possession of said land, living on said land, and in the inclosure.

Ans. No he did not. He made no appraiser at all. and further this deponent saith not
Patrick S. Peck.

State of Tennessee

Monroe County) I John Prock one of the acting Justices of the peace for the county aforesaid do certify that the foregoing depositions was reduced to writing by me & signed in my presence that A. S. Peck one of the Camps and John Wilson one of the Respondents were present during the examination I am not acquainted with either of the parties nor in any wise interested in the event of the said suit. Given under my hand & seal this 9th day of July 1855

Enclosed. Filed Nov. 8th 1855

John Prock. 

Depositions of George C. Harris and John Griffith taken before James A. Coffin Clerk & Master of the Chancery Court at Madisonville on the 10th day of July 1858 at the Court House in Madisonville on behalf of the Comptts to be read in evidence in this case and after the witnesses being legally sworn the said George C. Harris deposes and says

Ques 1. By J. S. Peck Compt.

Are you acquainted with Comptts J. S. & Thos. P. Peck and others; and also with the fractional quarter section in dispute between them & the Respondents A. Reed & Wilson

Ans. I am

Ques 2. Please state what conversation you have heard from said Wilson respecting their purchase of said land, and the law suit existing about said land?

Ans. John Wilson Esq once told me that he had bought the land, and was to give nine hundred dollars for it; and that what money he had paid towards it or in payment of costs was to draw interest till the suit was decided or till he got possession of the land, I am not positive which, he might have named both if not it was one or the other.

Ques 3. Please state if you know who was in possession of the said land at that time?

Ans. I am not positive who was in possession of the land at that time. On reflection I re-

phetician I recalled O. S. Pick had possession
 Ques 4 Did you have any conversation with
 Salomon Wilson on the same subject?

Ans I do not remember that I ever did. The way
 the conversation with John Wilson Esq took
 place, was that he came to me to borrow
 money to buy up Witness tickets in a suit
 that had been decided in reference to the
~~series~~ land, casts that Eakin had to pay.

Ques 5 what is that lot of land worth now?

Ans I think it worth fifteen hundred dollars
 I would give that sum for it.

Crass. Examination by Respects

Ques 1. Please state if John Wilson did not tell
 you in the same conversation above re-
 ferred to, that the Picks had agreed to de-
 liver up the possession of the land with-
 out any further suit by having impro-
 vements paid for that O. S. Pick had re-
 ceived a judgment for?

Ans I do not recollect that Esq Wilson told
 me that, or any thing else than I have
 stated.

Ques 2. How long was it that this conversa-
 tion took place before Eakin brought
 the present suit.

Ans I do not know how long, or whether
 it was before or after. So the best of my
 recollection the conversation took place
 in the fall of 1849. But I am not positive as
 to the time

Geo. C. Dennis

John Griffith deposes and says.

Quest. By Compt. A. S. Peck.

Please state if you know who was to get the possession of the land in dispute if it had been gained by Atkin in the action of ejectment in the Circuit-Court at Mayville?

Ans. My understanding from Salaman Wilson was that if Atkin gained the land that he (Sal Wilson) was to have the first refusal of the land at the price of \$4900. It was as he stated just a verbal arrangement; that there was no writing, not a scrape of a pen between them. My understanding was that the arrangement was made by Salaman Wilson with Robert Wilson & Atkin. Salaman Wilson said he had to send some \$620. or \$625 to Robert Atkin & had took a deed of trust on the land of said Atkin.

John Griffith

State of Tennessee,
 Monroe County, } I A. Coffey Clerk of Court
 do hereby certify that the foregoing two depositions were reduced to writing by me and signed in my presence by deponents that A. S. Peck Compt. & John Wilson Respondent as well as Gary Brown & Sal. were present during the examination, and I am not of counsel or attorney or of kin to either of the parties nor interested

ed in this case. Given under my hand
and seal this July 10th 1855.

Enclosed Filed Nov. 3^d J. A. Coffin *Esq*
8th 1855. Saul Price *Att* Clerk of Court, Madisonville, Ten.

The depositions of John Vaughan aged 32.
and L. J. Gannon aged 38. years taken be-
fore John Carson in behalf of the Comptroller
at the Court-house in Madisonville on
the 17th day of January 1856 to be read in
evidence in this case and after being
duly sworn the said John Vaughan de-

John Vaughan says and says.

Ques. By Nicholas Peck

Mr. Vaughan are you acquainted with
Nicholas S. Peck Patrick S. Peck and the land
in dispute between Nicholas S. Peck & others
and James M. Aikin on Cannasauge Creek
Manroe County Tennessee

Ans. I am well acquainted with N. S. Peck
and P. S. Peck and the land in dispute be-
tween said Pecks and James M. Aikin by-
ing on Cannasauge Creek in Manroe
County Tennessee

Ques. Please state if you ever held a judge-
ment against James M. Aikin in favor
of P. S. Peck obtained in the Circuit Court &
confirmed by the Supreme Court and who
brought that judgment from you. Tell all
you may know about that said judgment.

Ans. While doing business at Dry Creek in
Manroe County Tenn. Patrick S. Peck came

to my brother & myself with a judgment against James M. Aikin, which he had obtained against him, I think in the Circuit Court of Monroe County, and afterwards affirmed in the Supreme Court at Knoxville. We bought said judgment from P. S. Peck amounting to some eighty dollars I think, and said judgment was assigned over to J. C. & A. J. Deeghan & we afterwards sold said judgment I think to John Wilson, or any how he paid us for it, and it was in the Spring of 1850. to the best of my recollection; and that judgment was obtained against James M. Aikin in a suit concerning the same land now in controversy.

Ques. State if you know how long Nicholas S. Peck has had the possession of said the land in dispute, and who was holding the land at the time Wilson paid you that judgment.

Ans. I have been acquainted with said land since 1844 and my understanding has been that P. S. Peck & Nicholas S. Peck or some of their tenants has had possession of it ever since I have been acquainted with said land, and that N. S. Peck was living on said land at the time we bought said judgment from P. S. Peck to the best of my recollection, and also at the time we sold said judgment to John Wilson.

Cross. Examination By Respects

Ques 1. By Resps Sal. Please state if you know who sold John Wilson purchased said Judgment for?

Ans. My understanding from John Wilson was that he was buying said judgment for James M. Eakin or some of his attorney who was engaged in the suit for said land.

Ques 2. Please state if A. S. Peck did not attend to prosecuting the suits against Eakin for P. S. Peck upon which the judgment was recovered, referred to by you?

Ans. I think, and it was my understanding that A. S. Peck did attend to prosecuting said suit between P. S. Peck and J. M. Eakin.

Ques 3. Did not P. S. Peck cultivate a part of the land in dispute at the date of the purchase, and sale of said judgment?

Ans. P. S. Peck did cultivate a portion of the land at the date of the sale, so I think.

Ques 4. Did Wilson purchase said judgment before the action of ejectment brought by James M. Eakin against the Pecks for the same land now pending in the Circuit Court of Blount County?

Ans. John Wilson did purchase said judgment from us before the bringing of the suit now pending between the parties aforesaid named. The payment was not made at the time we made the trade but after wards. And further this deponent saith not.

John C. Vaughan.

Leander J. Garrison being sworn deposes & says,

Quest. By Archibald S. Peck.

L. J. Garrison dep.

Mr. Garrison please state at the time John Wilson told you that he had bought the land in dispute between James W. Eakin and Arch. S. Peck & others in a suit now pending in the Circuit Court of Blount County Tenn. who was living & holding possession of said land for themselves adverse to all others.

Ans. At the time Wilson told me a time or two, when I was at his the said Wilsons house, that he had bought the land provided Eakin gained it, A. S. Peck was then living on the land in dispute. C. L. Peck was also living on said land. I do not know who they were holding for.

Quest. Please state if John Wilson or Solomon Wilson was asked or requested you to buy the land in dispute from Sally Peck or Archibald S. Peck.

Ans. John & Solomon Wilson requested me to buy out Sally Pecks interest in said land as they had rather buy as to have a lawsuit, if they can get it) for reasonable terms.

Quest. State what Solomon Wilson said about moving on the land if it was gained?

Ans. Solomon Wilson told me if Eakin gained the land that he expected to own it, & be a neighbor to me.

Quest. Please state what John or Solomon Wilson

Ques I heard John Wilson say he had to raise some three hundred dollars to pay the costs of a suit James Eakin had lost about said land before he Eakin could commence a suit. Whenever Eakin gained the land John & Solomon Wilson was to give him nine hundred dollars for it. Wilson told me that Robert Eakin had a power of Attorney to sell the land provided he Eakin gained.

Cross Examination by Respondent's Sol.
 Ques Did John & Solomon Wilson tell you, in the conversation referred to, about purchasing Sally Peck's claim on the land in dispute that they knew none of the Pecks had any interest in the land?

Ans They the said always ~~said~~ believed that none of the Pecks had any legal right to it.

Ques Who did P. S. Peck put into the possession the land when he left it?

Ans Pinckney Peck; one of the dependents told me that he had bought the claim in the land from Patrick Peck, and Patrick Peck also told me the same, and Pinckney took possession when Patrick left.

Ques Did not Thomas P. K. Peck commonly called Pinckney cultivate some of the land under P. S. Peck at the time Eakin brought his action of ejectment?

Ans He did cultivate some, but I do not

know who he held under. and further
this dependent death not

his
L. J. Garrison
mark

State of Tennessee

Manassas County I John Carson one of the
acting justices for the County aforesaid, do
certify that the foregoing depositions were re-
duced to writing by me and John E. Vaughan
one of the respondents and signed in my
presence: that Chas. S. Peck Campbell & John Wilson
and Geo. Brown, his Respects Wilson counsel
were present during the examination, and
I am not of kin counsel or attorney to either
of the parties nor interested in this cause.

Given under my hand and seal this
17th day of January 1856

Endorsed Filed Jan'y 26th 1856
Saml Priddy C. & M.

John Carson
of Manassas County Sen.

Deposition of A. M. McClellan, Richard
McCannell and Calvin Lee in behalf of the
Compt's taken before by John Prock a
Justice of the Peace for Manassas County
Tenn on the 23^d day of January 1857.
at the School house in Rural Dale district
in said County to be read in evidence
in this case who after being duly sworn
by the said Justice Prock deposes and says.

Ques 1. By Campbell & S. Peck to Richard McCannell.

A. McCannell. Dep. Are you acquainted with James M.
Arthur John Wilson & Salaman Wilson
dependants in a suit Chancery in the Cir-

cut-Court in Pleasant County wherein A.S. Peck and others are the Compt's and they are the dependants; and if so, how long have you been acquainted with them?

Ans I know John Wilson & Salaman Wilson for 20 years. Do not know him J. A. Hikin.

Ques³ Please state if in conversation you ever heard John Wilson or Salaman Wilson set up any claim by purchase to a tract of land wherein A.S. Peck now lives and if Salaman Wilson expected to make an said land when gained at law?

Ans. I did hear Salaman Wilson say he was interested in the land. When gained he would make to it.

Ques⁵ Please state if this conversation took place while the suit of ejectment was pending, and what year if you can recollect. I was for crops 53 as well as I recollect while the suit was pending.

Ques⁴ If Salaman & Wilson in that conversation, or at any other time seemed to be very sure or certain Hikin would gain the land.

Ans. Yes, he seemed to be very sure Mr. Hikin would gain it. His conversation run that way.

Ques⁵ State if you please what Pleasant St. Gharmsly and Robert Hikin is worth in land and property?

Ans I believe Robert Hikin's land is worth \$1000 dollars Pleasant St. Gharmsly's land is worth \$2500 dollars; as to their personal

property I know nothing of it

Cross Examination

Ques 1. By Respondt John Wilson

Please state if that land that Robert Atkin owns was not the land that Salomon Wilson was claiming or whether it was another.

Ans. The land that was in law with Mr. Peck was the land spoken of.

And further saith not

J. at 3 o'clk. R. H. G. McCannal.

Calvin Lea being sworn deponent & depy.

Ques 1. By A. S. Peck.

Mr. Lea tell if you are acquainted with Pleasant M. Gornely & Robert Atkin and what relation they bear towards James M. Atkin

Ans I am acquainted with them Pleas M. Gornely & Robert Atkin.

Ques 2. State if you please what Pleasant M. Gornely & Robert Atkin is worth in land and property at the time this suit spoken of about the land in dispute between the Pecks Atkins & Wilsons.

Ans I do not know what they are worth.

No objection to depy

And M. Ellan Andrew M. Ellan 45 years of age being sworn deponent & depy.

Ques 1. By Nicholas S. Peck Mr. M. Ellan please state as near as you can recollect how long

S. J. Peck and others of the Pecks have had a continued possession on the land in dispute between the Pecks, James M. Eakin & John & Solomon H. Wilson?

Ans From the year eighteen hundred and thirty six in the spring of that year up to this time.

Ques^d State if you was along when a three hundred & twenty acre survey in the name of John F. Gillispy and Nicholas S. Peck was made, and marked the survey, and that survey covers the land in dispute between the Pecks Eakin & Wilson.

Ans I was with them when the survey was made and marked, and said survey covers the land in dispute.

Cross Examination by John Wilson


Ques^t Was that land in dispute between the Pecks and James M. Eakin in the Newbern or Ocoee district?

Ans In Ocoee District. Further with me
A. M. McChesin

State of Tennessee

Monroe County) I John Prock one of the acting Justices of the peace for said County aforesaid do certify that the foregoing deposition was reduced to writing by me and signed in my presence; that S. J. Peck one of the complainants and John Wilson one of the defendants were present during the examination; that Sam

not of counsel or of kin to either of the parties, nor in any wise interested in the event of the suit. Given under my hand and seal this 23^d day of January 1857.

John Prock 
Justice of the Peace Monroe City.

Endorsed Filed Feby 26. 1857.

The deposition of George E. Harris in behalf of the Complt taken before J. E. Houston Clerk of the Circuit Court of Monroe County at the Court House in Madisonville on the 18th day of April 1857. to be read in evidence in this case who after being duly sworn deposes and says

Ques 1. By Complt J. S. Peck.

Geo. E. Harris

Squire Harris please state what conversation you may (have) had with Solomon H. Wilson respecting his purchase of the land in dispute between the parties, if he expected to gain the land at the next Court and make an the said land that Spring; and state as near as you can when that conversation took place

Ans There was some conversation between him and me I once asked him to buy his interest there, but I do not recollect distinctly the answer he made me, but he left the impression on my mind that he would do so when the next Spring It was in the fall when I proposed to buy it, but I do not recollect the year

Ques 2. State if you please, if in conversation Sol-

aman Wilson said he expected to gain the land in controversy at the next Court; and if the suit for the same had been commenced before that time

Ans It was my understanding from him that he expected to gain the suit against that time, (say next Spring) I also understood that the suit was then commenced.

Cross Examination by Respondent

Ques 1. Is there not a considerable enmity between you and me, and am or both of the defendants in this case?

Ans I do not consider that there is the least between Salaman Wilson & myself or vice versa. There has not been a good understanding between John Wilson & myself for two or three years, and I have no more enmity at him than other men of the same character. I would further state that I have not enmity at him sufficient to injure him or his property

Re-Examination by Campb.-C. S. Peck

Ques 1. Squire Harris was or was not your wish to buy out Salaman & Wilson and buy out the Pecks and stop the suit then now pending; as the land in dispute suited lands you owned an Conasay Creek.

Ans That was my intention to work the matter in that way. I have land on the sides of said land in dispute.

And further this deponent saith not

Go. C. Harris

State of Tennessee J. E. Houston Clerk of the
 Monroe County Circuit Court for Monroe
 County Tennessee do certify that the foregoing
 deposition was reduced to writing by me, &
 signed by the deponent in my presence, that
 Campbll and Responetts were present during
 the examination - that I am not of coun-
 sel or of kin to either of the parties, nor
 interested in said cause. Given under my
 hand and seal this 18th day of April 1857.

Enclosed Filed April 21st 1857.

J. E. Houston, Clk. *(Signature)*

Depositions of John Smith & Peyton Hud-
 son in behalf of the Campblls taken before
 Messrs Williams a Justice of the Peace for the
 County of Monroe at the house of Peyton
 Hudson in said County on the 23rd day
 of May 1857. and the said Witnesses being
 duly sworn the said Peyton Hudson
 aged 51 years deposes and says.

Peyton Hudson

Ques 1. By Campbll. et. S. Peck. State if you please
 if you are acquainted with John and
 Salaman D. Wilson?

Ans. I have been acquainted with them
 about twenty years.

Ques 2. State Mr. Hudson the conversation out
 of the said Wilsons had with you when
 he borrowed money from you Tell all cir-
 cumstances as you can recollect.

Ans. As John Wilson came to me to borrow ^{some} mo-
 ney to pay some costs on a suit about
 some bond. I loaned him fifteen dollars
 the said that he would get a debt Peck

would up so that he would ~~be~~ have to make

Cross Examination by Respondent:

Ques. Are you acquainted with the general character of the Pecks Richard McCaul, if so, state if you could believe him on oath or not?

Ans. Yes I am acquainted with the general character of the said McCaul. I have never heard of his oath to be disputed. It is as much as I could do to believe him on oath. And further with nat-

^{his}
Peter X. Hudson
^{me}

John Smith John Smith aged 59 years deposes & says.

Ques. 1. By Counselor J. S. Peck Mr. Smith state if you are acquainted with John Salaman & John Smith Wilson

Ans. Yes I am acquainted with them both

Ques. 2. State if ever you heard either John or Salaman Wilson talk about the lands in dispute between Aikin & the Pecks

Ans. Yes. I heard Salaman talk about it.

Ques. 3. Please state in conversation did Salaman say he was to have the land when gained?

Ans. He said if the land was gained he allowed to move to it.

Ques. 4. State if he did not say he wished you to move there too and help him improve the place?

Ans. There was such conversation between Salaman & me or Isaac & me and I don't know which, nor I don't know to which place it was.

Ques. Mr. Smith state when that conversation took place as near as you can recollect

Ans. As near as I can recollect it was in the year 1853.

Ques. Cross Examination by Respondent. Please state if Salaman Wilson & Isaac Wilson has a mill joining the Atkin place or not, and if that conversation did not take place when you were helping build the mill

Ans. My understanding was that the mill is joining the Atkin land, and that conversation took place when I was helping with the mill and further this dependent scath not

John Smith
State of Tennessee, I certify that the fore-
Manroe County's going depositions was taken before me and are in my own hand writing—that I am neither of counsel or of kin to either of the parties nor interested in the result of this suit, that the same was taken at the time & place set forth in the Caption That it has not been out of my possession since they were signed by the said Payton Hedson & John Smith, that the same was taken in the presence of J. S. Peck Campbell & John Wilson deponent—that it has not been altered or changed nor added to.

Given under my hand and seal this
23^d day of May 1857.

Edw. H. Fildes May 25th 1857.

John Williams Secy
L. P. Marshall City Secy

Deposition of Elizabeth ^{aged 89} With & Nancy With aged about 85 years for the Comptroler in this case taken upon Hesketh with one of the Justices of the peace for Monroe County on the 15th day of April 1857. and the said witnesses being legally sworn the said Nancy With departs and says

Quest. By A. S. Peck Comptroler Nancy With please state if you lived on Canabaga Creek in Monroe County Tennessee immediately adjoining & below Edward Buckhannans improvement in the year 1834 and 1835

Ans I did

Quest 2 State if you please in what part time & what time of the year Joshua Adams came and lived on the said improvement?

Ans In February 1835

Quest 3 State if Joshua Adams did or did not live there for some time holding for Nicholas S. Peck.

Ans He said he was holding for Nicholas S. Peck I don't know how long he stayed there

Quest 4 Please state if Joshua Adams was still living at the same place when A. S. Peck moved there

Ans He was still living at the same place when A. S. Peck moved there.

Cross Examination by Resp. Geo. Wilson

Quest 1. Please state if that place that Joshua Adams lived was Indian improvement

Ans. I never heard it called nothing else.

Quest 2 Was it named by the Agents or Commiss-

answers for the Indians

Ans I do not know, they valued it that way

Re expropriation by Capt. S. Peck
 Ques. Please state if that place was or not
 an Indian old field so called, and if
 there was either house or pile there, but
 was made by white people, and if
 Buckman's family and Joshua
 Adams' family were not a white family
 so called

Ans It was called Indian old field by white
 people

I except to any questions about im-
 provements valued for Indians. If it
 was so a regular record will show
 that fact

Charles S. Peck one of
 the Campbells

Ques by deposit Was not Sally Medaell a
 claimant with the Indians, and had she some
 mixed blooded children by an Indian

Ans She said she had a claim there, and
 said she had Indian children.

And further south met

see
 Nancy X With
 mark

Elizabeth With Elizabeth With deposit & with

Ques. By Capt. S. Peck. Mrs. With state
 if you please when Joshua Adams took
 possession of the place in controversy for
 S. Peck, bought of Edward Bushman
 and how long he lived there? and when
 S. Peck moved there?

Ans. In February 1835 settled on the improve-
ment that Dr. S. Peck bought of Buckhannon
and remained there until Dr. S. Peck moved
down there. He said he was holding for
said Peck and further deuth nat-

Elizabeth ^{nee} Witt
mark

State of Tennessee

Blount County, I certify that the follow-
ing dispositions are all in my own hand
writing—that I am not of kin nor con-
cerned, nor in any wise interested in said
suit to either of the parties; that the same
was taken before me at my own house
in the presence of the Parties on the 15th
day of April 1857. and has not been
out of my possession, altered added
to or changed since it was signed by
the witnesses given under my hand &
seal this 15th day of April 1857.

Enclosed Filed 2^d July 1857.

Zekeiah Witt
Justice of the Peace

Deposition of L. J. Gurner in behalf of
the Compt taken before John Ramsey one
of the acting Justices of the Peace for Mon-
roe County on the tenth day of July 1855
and after being duly sworn the said L. J.
Gurner aged 37 years deposed and says.

Sworn by Compt Peck

Mr. Gurner please state if you are
acquainted with Dr. S. Peck Thos. P. R. Peck
and the preacheral quarter section of

land in dispute between them and James
M. Atkin

Ans. Yes. I am

Ques. 3 Please state what connection you
heard John or Solomon Wilson have with
regard to the purchase of said land

Ans. My understanding from John Wilson
they was to give nine hundred dollars
for the land provided they gained it
and that the expense of the lawsuit
was to come out of the nine hundred
dollars provided they gained it.

Ques. 3 State what you believe that fraction
of land is worth at a fair sale

Ans. The way they value land up there, its
worth twenty five hundred dollars &
I would not take less than that for it
if it was mine.

Ques. 4 State if you can recollect, the time when
John Wilson told you he had bought
the said land.

Ans. It was either in the fall of 1849, or in
the winter of 1850, and Nicholas S. Peck was
living on said land at that time.

Cross Examination by Redf. J. Wilson

Ques. 1 Please state if that was James M. Atkin
that you had that conversation with
about the land

Ans. No it was not, it was Robert Atkin

Ques. 2 Please tell the conversation that I had at
the time you wanted your father to live
in the ~~land~~ house that Brewster lives in

if I didn't say to you that I had nothing to do with it.

Ans. You stated that as far as you were concerned you had nothing to do with it, I would have to go to Eakin

The exhumation by Capt. S. S. Peck
 Just. Mr. Guman State if you ever lived on the disputed land with the Pecks, and if John Wilson asked you to try to get possession of the land for him

Ans. Yes I did live on the land. I suggested the idea to them that they had better buy out than to have out, or get somebody to do it for them, and they said they didn't believe it could be done. I told them that I could do it, and they said that I might go and try and see what I could do. This conversation was in the presence of John & Salaman Wilson both and they said that it was a good time to buy Pecks claim for he had got into a difficulty; the conversation took place in the Spring of 1850. And further this deponent scith nat

J. L. Garrow

State of Tennessee
 Blount County, I John Rensley one of the Justices of the Peace for the county aforesaid do certify that the foregoing deposition was reduced to writing by me and signed in my presence - that S. S. Peck one of the Captains & John Wilson

are of the Respects were present during
the examination. That I am not of coun-
sel or of kin to either of the parties nor
in any wise interested in the result of
the said Exam under my hand & seal
this 11th July 1855

Endorsed Filed Nov. 8. 1855.

John Ramsey Esq
Justice of the Peace

The Deposition of ^{Ernos D. Shields} ~~John F. Payne~~ for
Comptroller taken at ^{Wood Land School} ~~his own~~ house on the
22nd of ^{May} ~~June~~ 1857. and of John F. Payne
taken at his own house on the 23rd of
June 1857. and of Ernos D. Shields taken
at his own house on the 24th day of
June 1857 before John Prock Esq a Justice
of the Peace for Mansour county said
places of taking being in said Mansour
County. and said Witnesses being duly
sworn the said Ernos D. Shields deposed
and says.

Deus. 1. By Comptroller S. S. Peck

Ernos D. Shields

Person Shields please state if you are
acquainted with the tract of land in
controversy between James Ch. Atkin
John & Salaman Ch. Wilson and the Pecks
whom the Pecks name live

Ans I am.

Deus 2 State if you and John Ray owned a
lot of land joining the land above name-
ed, and when & to whom you sold the
said land to as near as you can re-
collect-

Ans We did own a lot adjoining & we sold it to Grace & Salaman Wilson about three years ago. or not far from that time

Ques 3 If you ha a conversation with Robert Wilson about buying the land in dispute from him, and what he said to you about selling the same, and as near as you can recollect the time the conversation took place?

Ans I had a few minutes conversation with Mr. Atkin on that subject - parallel Ray I asked him if the land could be bought - he answered he would not - that Mr. Wilson had advanced some money about the costs in the former suit, and that he would have to have the land.

Ques 4 State if you please whether, Atkin said if the land was gained Wilson was to have it, or if the land was in suit at that time you speak of having that conversation, and what at this day do you believe the land worth

Ans I know nothing about the lawsuit - I think the land worth two thousand five hundred dollars.

Cross Examination by Resp. Wilson

Ques 1 Do you know of your own knowledge or from hearsay about James H. Atkin John Wilson and Salaman H. Wilson and Archabal Peck & others an Complaint concerning this land in dispute?

Ans I have understood there was such a suit

Of my own knowledge I know nothing about it and the conversation I alluded to in my former answer was with Robert Atkin

Ques 2 Please state if that conversation that you had with Robert Atkin was not in the year 1849 or thereabouts

Ans No, not so long ago.

Ques 3 State if Robert Atkin didnt tell you that he was going to give Salaman St. Wilson the refusal of that land when he sold it

Ans I dont recollect such conversation

Re Examinacion by Compt. & S. Peck
Ques 1. State if you please to your best recollection if the conversation spoken of between Robert Atkin & yourself was or was not shortly before you & Ray sold to Isaac Wilson & Salaman Wilson

Ans I think it was not long before that sale, & further this deponent doth not
taken May 22^d 1857

Enos D. Shields

John F. Payne

John F. Payne being sworn deposes & says

Ques 1. By Compt. & S. Peck. - Capt. Payne are you acquainted with James St. Atkin John & Salaman St. Wilson defendants in the suit now pending between them and the Pecks & others and the lands in dispute between them an Couradaya or Creek Montae County Tennet

Ans I had a small acquaintance with James

of Stikine & were acquainted with John
 & Salamant Wilson, and with the Pecks &
 with the land in dispute and cultivated
 a portion of it one year viz in 1839.

Ques 2 Please state in conversation with either
 of the Wilsons what was said by either of
 them about their purchase of the land
 in dispute from Stikine

Ans. Salamant Wilson told me that he had bot
 the land in dispute from Robert Stikine
 in August 1855

Ques 3 State if Salamant Wilson ever said to
 you that he had let Stikine have money
 and what he said about calling on
 Stikine about getting the money for to pay
 for the land Wilson was buying from
 you, and if the land was gained by Sti-
 kine if he Wilson could sell the place a-
 gain for the same money, as the said
 Salamant St. Wilson was or not to have
 the land in dispute & move on it?

Ans. Salamant St. Wilson said he had let
 Stikine have upwards of five hundred
 dollars. I wished him to let me have the
 money in place of notes which I was to
 take on Elijah Wilson & John Bell. He said
 he could not; he would lose it before he,
 Wilson would call on Stikine for it until
 the suit was decided if he never got it. But
 said if Stikine did not gain that land he
 wanted to move west; if he did not he would
 want to sell his half of the saw mill and
 tract joining.

Ques 4 Please state the conversation Wilson had to you about owning one half of the said Mill lot, and who was his partner in the said Mill tract

Ans. He said him and Isaac Wilson his brother were partners in the property there

Ques 5 State if you please, in conversation with Solomon St. Wilson, was it not very shortly before the said Wilson moved to the West that he had agreed or concluded to sell his deed of Trust on Robert Atkins's land.

Ans. I never knew of him Wilson offering to sell his deed of Trust on Atkins's land till August or September in 1856 shortly before he moved to the West, and after I bought back a piece of land that I had sold him in 1855

Ques 6 Tell if you please how far you live from John Wilson

Ans. About seven or eight miles in the same County. And further with not taken in the presence of &c. } John F. Payne
Peck one of the Campfts on the }
23^d June 1858 as certified }
3

Deposition of Elias J. Shields taken on the 24th of June 1857. before Justice Prock who after being sworn deposes & says.

Ques 1 By Campft- St. S. Peck - Person Shields please state the conversation Robert Atkins had to you about buying the land in dispute between him and the Pecks, and when that conversation between Atkins and you took place?

Ans. I asked Robert Aikin if the land where Mr. Peck lives could be bought, as Mr. Ray had requested me to do, I think in 1853. He replied he recard not, as Mr. Sol. Wilson was to have the land. And further with not

Enos D. Shields

State of Tennessee
 Monroe County, I certify that the foregoing depositions of Enos D. Shields & John F. Payne were reduced to writing & signed by the witnesses in my presence that I am neither of counsel nor kin to either of the parties nor in any wise interested in the event of the said suit, that same were taken in the presence of S. S. Peck & Wilson, except the deposition of John F. Payne in the presence of S. S. Peck all at the times and places named in the captions and they have not been out of my possession or in any wise altered or changed since the same were signed by the witnesses June 24. 1857. John Prock

Emdashed Filed July 22^d 1857.

Justice of the Peace

The deposition of John F. Payne, ^{of Abraham A. Colington} in behalf of the Comptroller taken before John Prock as Justice of the Peace for Monroe County at Messelers School house in Rural Dale District in Monroe County Tenn. on the 18th day of January 1858. and after being duly sworn the said John F. Payne deposes that

Sworn to by Comptroller S. S. Peck. Capt Payne if you are acquainted with James M. Aikin, John Wilson Salmon & Wilson deponeth and

J. F. Payne

Stephen J. Peck Thomas P. H. Peck, Sarah M. Peck et al. Complainants and the land in dispute between the parties, please state what you may know about it or them:

Ans I am acquainted with the Pecks, John & S. M. Wilson, and have a slight acquaintance with the land in dispute, and cultivated a part of said land in the year 1839. as renter under P. S. Peck.

Ques^d Mr. Parker State what you may have heard Salaman & Wilson say in relation to his purchase of the land in dispute from Robert Stikin brother of James M. Stikin; how much he paid Stikin, and when that conversation took place

Ans In the year 1855 I heard S. S. Wilson say that he had bought the Stikin land, and that it was in law, and if Stikin gained it he would want to sell the land that I would buy him, and if not he would want to sell to sell it & move to the west. I think he stated he was to give him some eight or nine hundred dollars for said land and had paid him some five hundred or the rise of dollars down.

Ques^d State if you please what conversation he Salaman & Wilson had with you about getting back from R. Stikin the money he had paid Stikin, and let you have it in part pay of the land Salaman & Wilson was buying from you

Ans I wanted Salaman & Wilson to get back

the money that he had let Dickinson have, and let me have it in place of the notes that I was to take on Elijah Wilson & John M. Peck; and he said he could not; for he would not call on him for it until the suit was decided if he never got it.

Ques 4 Please state any conversation Salomon St. Wilson might have had to you about moving to the land in dispute if it gained from the Pecks.

Ans He said if Dickinson gained the land he would want to move thereon and asked me if I thought he could sell the land I was selling him for the same money he was giving me. I told him I thought he could. He stated that him and Isaac Wilson owned a Saw Mill adjoining the said land.

Ques 5 Mr. Payne, if either Salomon St. or John Wilson ever in your hearing or to you, made any evil wishes on the land or the law suit please state them.

Ans I heard Salomon St. Wilson say that if the Devil had his rights he would have had old Nick Peck a money a day ago, and if he had his money back the land and Peck and law suit might all go to the devil together, and further said that.

John F. Payne.

Abrah. Edington Abraham Edington deposes and says

Ques 1 By Compt. S. S. Peck. Mr. Edington, how long have you been acquainted with James M. Dickinson

Ans. I have known him the principal part of my life with the exception of the last few years. It is said he moved to Texas

Ques. Mr. Edington state as near as you can when James M. Atkin moved to Texas from Alabama, and what property he owned when he left for Texas?

Ans. I believe he moved in party eight or party nine. He had one horse and probably a cow, when I know him best. As far as I know, I believe that to be all the property that he owned at that time. I and the said Atkin were raised in sight of each other. And further with that.

A. A. Edington

State of Tennessee

Marshall County I certify that the foregoing depositions are in the hand writing of the witnesses that is John F. Payne wrote his deposition and Abraham A. Edington wrote his deposition, that I am not of counsel or of kin to either of the parties—that the same was taken before me, and I am in no wise interested in the result of the suit, and the depositions was taken on the day and at the place set forth in the Caption in the presence of S. S. Peck one of the Comptrols, & John Wilson one of the deponents and it has not been out of my possession and not been altered, added to or changed since it was signed by the said John

J. Payne and Abraham A. Edington. This
15th day of January 1858
Enclosed find
January 22^d 1858 } John Prock
Justice of the Peace

Depositions Lost

The depositions of Joshua Serrano and
Lorenzo Serrano for the Complaint taken
before Luther Cardin a Justice of the
Peace for Monroe County on the
18th day of January 1858. are not on
file in my office & cannot be given here.

Depositions of Respondents

The depositions of ^{Robert Egbert} Isaac G. Wilson a wit-
ness for the Respondents taken before
J. E. Brewster Clerk of the Circuit Court
of Monroe County Tennessee at the Court
house in Madisonville on the 7th day
of April 1857. who after being duly sworn
did depose and say to be read as evi-
dence in this case.

Ques. 1. By Respondents Sal. Geo. Brown

Are you the brother of James M. Galvin
one of the defendants to this suit?

Ans. I suppose I can I own him as a brother

Ques. 2. You will please state when your bro-
ther James M. has lived for the last ten
years, and how long has it been since he
was in this county

Ans. I think it has been some eight or ten
years since he was in this county; he

mand from her to Alabama, and from that to Texas.

Ques 3 Have you been acting as the agent & attorney in fact for your brother about the land in dispute between the parties in this suit & the action of ejectment, and if so, state any conditional trade that you may have made with John & Solomon Wilson for the land in dispute, state the contract and the reason why the contract was abandoned?

Ans I have been acting as the agent for my brother & attorney in fact for the land in dispute and attorney to the action of ejectment. I sold the land to John Wilson provided he could buy Pickett's claim off & have no law suit. This was only a verbal contract. The price to be given was one thousand dollars. Pickett would not give Wilson possession and therefore the trade was abandoned.

Ques 4 Please state whether this conditional verbal trade was abandoned before the present action of ejectment was brought in the Circuit Court of Monroe County?

Ans It was.

Ques 5 If any money had been paid for the payment of costs by either of the Wilsons that was to go into the purchase money, provided Wilson got the land, how was the money secured to Wilson & has it been paid & if so how and when?

Ans I got the money from Selamon St. Wilson to pay east on a former suit about the land, and I gave him a deed of trust on the land on which I lived to make the money sum. I afterwards sold the land & paid the debt. This was in the fall of 1856. Said Wilson has left this country.

Ques 6 Please state whether any of the money that was paid by Sal. St. Wilson was paid as a payment for the land in dispute?

Ans It was not

Ques 7 What was the land in dispute worth at the time you were talking of selling it to Wilson?

Ans I considered it to be worth about one thousand dollars in the condition it was then in.

Robert Eakin

A. S. Peck one of the Complainants not being present until the deposition of Robert Eakin was taken, Comes in and exhibits to the deposition of the said Robert Eakin being heard for cause of the suit and being otherwise interested in the result of the suit.

Ques 1 By Respect to Sal to Isaac G. Wilson

You will please state if you know any thing about a constitutional travel by either John or Selamon St. Wilson for the land in dispute, and if so, state all that you know about the same?

71.

Ans. There was a conditional trade about the land in dispute, the conditions of the trade was such that if they could buy the Pecks off without a lawsuit that they were to give nine hundred or one thousand dollars for it; And if they could not get the Pecks off without a lawsuit there was no trade. They did not get the Pecks off, and therefore there was no trade. This was previous to the suit of ejectment. My father went to Pecks with the intention of buying it out and I went with him, and there was no trade made, and all previous contracts were null & void.

Ques² State if you know what a certain deed of Trust was given by Robert Ecklin for the benefit of Salaman^d. Wilson was given for, and has the same been paid by Ecklin, and if so, when? When does Salaman^d. Wilson live now?

Ans. Salaman Wilson loaned Robert Ecklin some money and took a deed of Trust on a tract of land which he Ecklin then lived on. Wilson had not all the money at hand at the time, but gave his note for Court Gleasons that were out the money so he could use to pay costs on a former suit about the land. Ecklin has paid Salaman Wilson back the money so loaned as aforesaid by selling the land on which was the said deed of Trust. I think he paid it back to said Wilson on

the last day of September, 1856. and the said
Solomon Wilson is now living in the state
of Missouri.

Ques 3 Were there at any time any written con-
tract with either of the Gallins with John
or Solomon W. Wilson for the land in dis-
pute?

Ans. I never heard of any such contract.

Ques 4 By N. S. Peck one of the Complainants,
Mr. Wilson state what relation you
are to John & Solomon W. Wilson.

Ans. John Wilson is my father & Solomon
Wilson is my brother.

Ques 2 State if Solomon W. Wilson & you were
not partners in the purchase of a tract of
land joining the land in dispute.

Ans. We were.

Ques 3 State Mr. Wilson how much of that land
you and Solomon Wilson purchased, is
fit for cultivation, and if you do not
reside on the land you two bought?

Ans. I suppose there is about five or six
acres fit for cultivation. I live on the same
land. I bought it expressly for a mill site.

Ques 4 Please ^(state) if you was present when your
brother and Gallin made the conditional
trade for the (land) you speak of.

Ans. I heard them talk the matter frequent-
ly, but cannot say whether I was present
when the final trade was made or not.

Ques 5 Have you bought out your brother in

least in the land you live on; and do you know that Robert Gilkin paid Salamon Wilson his money? Was it before the filing of the amended bill in this suit was filed or after, and when Salamon & Wilson started to Missouri.

Ans. I have not bought my brother's interest. I was not present when the money was paid, but I heard my brother and ^{Robert} Gilkin both say it was paid. I do not know the precise time the bill was filed, but suppose my brother started since my brother started first of October 1856. if I am not mistaken to Missouri.

Ques 6. State if the land in dispute contains a quantity of good bottom land where it joins the land you live on?

Ans. It contains some tolerable good bottom land.

Signed by Isaac G. Wilson

State of Tennessee

Marshall County } J. E. Houston Clerk of the
Circuit Court of Marshall County do hereby certify that the foregoing depositions were reduced to writing by me & signed by the deponents in my presence - that each party was by their sel. during the examination that I am of counsel or attorney or of kin to either of the parties, nor interested in said cause. Given under my hand this 7th day of April 1857.

Enclosed Filed April 10th 1857.

J. E. Houston Clerk

At the May Term 1858 of the ~~Chancery~~ Circuit Court
 at Maryland the Hon. ^{James M. Welcher, Judge Sec.} ~~James M. Welcher, Judge Sec.~~
 presiding the following decree was
 pronounced, viz

H. S. Peck & others
 vs
 James M. Aikin & others } May Term 1858.

This cause coming on
 to be heard and determined on the 1st
 day of June 1858 before the Hon. James
 M. Welcher one of the Judges of the Circuit
 Court in and for the State of Tennessee
 sitting for the county of Blount at the
 Court House in Maryville, the said
 cause having been certified to said
 Court from the Chancery Court because
 of the incompetency of Chancellor J.
 Kirgan Bondyke, upon the Bill and
 amended Bill & answers exhibits, proof
 and judgment pro carpesse against
 James M. Aikin one of the Respondents
 the said cause having been held for ad-
 visement since the last term of this court
 to wit January 1858. And because his Honor
 is of opinion that the equities of the
 bill have been fully made out and
 sustained by the proofs, and that the
 Chancery Court's agreement has been fully
 established by the proofs in the cause, and
 the judgment pro carpesse against James M.
 Aikin, and that Complements are en-
 titled to the relief sought, His Honor is

thereupon pleased to order, adjudged & decreed that the ejectment suit at law now pending in the Circuit Court of Blaine County of James M. Atkin vs. Complainants, be dismissed, and that the defendant Atkin be perpetually enjoined from prosecuting the same, and from proceeding further in said suit for the recovery of said land, and that Respondents James M. Atkin & Salaman Wilson pay all the costs of the suit at law, and all the costs of this cause for which execution is awarded.


From which Judgment & Decree of the Court Respondents James M. Atkin pray an appeal to the next term of the Supreme Court to be held at Knoxville on the 2^d Monday of September next - which is granted upon their giving bond and security as otherwise complying with the law in such case made and provided.

It is now all men by these presents that James M. Atkin John Wilson Salaman Wilson & George Brown are held and jointly bound unto Nicholas S. Peck Esq. P. Peck, Robert Smarden, Caleb L. Peck and Sarah M. Peck in the sum of two hundred & fifty dollars in the which payment will and truly to be made to the said N. S. Peck & others or their heirs, executors or administrators

tas jointly & severally, firmly by these pre-
sents. Signed and sealed and dated this
1st day of June 1858

The condition of the above obliga-
tion is such that when as a decree has
this day been pronounced in the Chancery
Court at Maryville by the Hon James
M. Meeker Judge of the 3^d Federal Cir-
cuit of Tennessee, presiding to supply the
the incompetency of the Hon J. Wilson
Wardlaw Chancellor of the in favor of the
Complainants and against the Respondents
pending in said court wherein Nicholas
P. Peck & others are the Complainants and James
M. Aikin and others are Respondents from
which decree the said Respondents have
procured an appeal to the next Term of the
Supreme Court at Knoxville on the
second Monday of September next

Now if the said James M. Aikin & others
shall well and truly, and with effect pro-
secute said appeal, or in case of fail-
ure to prosecute the same, to pay
and satisfy all costs & charges on the
same, and well and truly obey and per-
form and execute all such decree or
judgment as said Supreme Court shall
give or make in relation to said suit
or matters therein contained, then the
above obligation to be void, else to re-
main in full force and effect

James M. Aikin 
By Geo. Brown his Atty.

Attest-

Samuel Price C. C. M.

John Wilson Esq.
 By Geo. Brown his attorney
 John Wilson Esq.
 By Geo. Brown his attorney
 George Brown Esq.

State of Tennessee I Samuel Price Clerk
 Blount County and Master of the
 Chancery Court at Maryville do hereby
 certify that the foregoing and accom-
 panying Exhibits is a true full and
 perfect transcript copy of the cause
 N. S. Pick & others vs. James M. Aikin
 & others on file and on record of re-
 cord in my office

Given under my hand and
 the seal of office at office in
 Maryville this 18th day of
 August-1858.

Samuel Price C. C. M.

Appendix

Exhibits on file in the case of James
M. Atkins & S. Peck & others vs James
M. Atkins & others.

This indenture made and entered into
this 10th day of May ~~1855~~ in the year of our
Lord one thousand eight hundred & fifty
two by and between Robert Atkins of the
first part and John Wilson of the second
part both of the county of Monroe and
State of Tennessee.

Witnesseth that for and in considera-
tion of the sum of five dollars to me in
hand paid, and the other considerations
herein aptly mentioned here this day bar-
gained and sold, and do hereby transfer
and convey to the said John Wilson, his
heirs, administrators, Executors &c. the fol-
lowing described piece, parcel, or tract of
land, lying and being in the county of
Monroe, New Castle District State of Tennessee
Beginning on a stake on the East side of
South West quarter of Section 35 Township
4. Range 2. East, running North 26 poles to
the corner of the North West quarter, then
North 160. poles to a stake - then West 160. poles
to a stake; then East 116 poles to a rock in
the field: then South 41. degrees East 13. poles
to a black oak: then South 61. degrees East
38 poles to the Beginning containing 165

across more or less, with its appurtenances unto the said John Wilson, and will warrant and preserve defend the title to the same. I do covenant with the said Wilson that I am lawfully seized of said land that the same is unincumbered, and that I have a good right to convey.

But this deed is made for the following uses and trusts, and for no other purpose whatever, that is to say. I am indebted to one Salaman S. Wilson in the sum of five hundred & fourteen dollars, and thirty one cents (\$514.31) due by note under seal, bearing date this day, and due one day thereafter. Now if I shall well and truly pay said note with all interest and cost that may accrue on the same, on or before the 10th day of May 1854 then this deed to be null and void, and the said land return and rest in me & my heirs. But if I shall not fully pay and satisfy the same, then the said John Wilson as Trustee, shall be authorized to advertise said land in writing for the space of thirty days at the Court house door in the town of Madisonville, and at three other public places in the neighborhood, and expose the same to sale for ready cash, and sell to the highest and best bidder at said Court house door, and first pay all costs incurred in this deed, secondly, pay and satisfy said note of \$514.31 with interest, and secondly,

(Thirdly) the balance if any to me.

In testimony whereof I the day and date
above signed & sealed the same.

Witness } Robert Eakin ~~Esq~~
L. J. Gomer }
M. J. Hicks }
3

State of Tennessee Personally appeared
Mansur County } before me John A.
Stephens Clerk of the County Court of the
County aforesaid Robert Eakin the bargan-
or to the within deed of Trust with whom
I am personally acquainted, and who
acknowledged that he executed the same
for the purposes therein contained

Witness my hand at office in Madis-
sonville this 12th day of January 1858

Endorsed Filed } John A. Stephens ~~Clerk~~
Nov. 24. 1856 } By A. S. Hicks, D. C. Clerk

Transcript.

Be it remembered that at a circuit Court
began and held for the county of Monroe
at the Court-house in Madisonville on
the second Monday of September 1838
in the second judicial Circuit being the
10th day of said month, and holden by
the Hon. Edward Scott, Judge of said
District appointed to hold said Court &
the following proceedings were had of
record to wit-

State of Tennessee
To the Sheriff of Monroe County.

Greeting; You are hereby commanded to summon Joseph Auger up to be present in your county, to appear at before the Judge of our circuit-Court to be held in the town of Madisonville on the second Monday of September next to answer the Complaint of John Den Lese of John F. Gillispy and Nicholas S. Peck in a plea of Trespass for that the said defendant entered upon the tenements of the said plaintiff and the appurtenances thereunto belonging, and ejected him therefrom to the damage of the plaintiff 500 dollars. Said paid not and have you then and then this writ & how you have executed the same.

Witness E. H. Wear Clerk of our said Court-at-office in Madisonville
2 Monday of May 1838.

E. H. Wear Clk

By James M. Broyles D. C. Clk

Enclosed Original Sum. John Den Lese 985 of John F. Gillispy & Nicholas S. Peck vs. Richard Fen, with Notice to Joseph Auger damage 500. dollars Issd 20th day 1838. Copy of declaration for defendant Joseph Auger etms

I do hereby deputise Munc Hallaway to execute the within process. Given under my hand and seal this 3^d September 1838.

Marton Henderson, Shff.
Came to hand the 4th day of Sept 1838 and executed the same day

Munc Hallaway D. C. Shff.

Know all men by these presents that
we John F. Gillispy and Nicholas S. Peck
and _____ are held & firmly
bound unto Josiah Stuges in the sum of
two hundred & fifty dollars to be void
on condition that John Den Liss of said
Gillispy & Peck prosecute with effect an
action of ejectment this day commenced
in the Circuit Court of Monroe County
against Richard Fen with notice to Josiah
Stuges, otherwise pay and satisfy all costs
that may be awarded for failure
20th August 1838.

John F. Gillispy *(S)*

Nicholas S. Peck *(S)*

State of Tennessee

Monroe County Circuit Court Sept Term 1838.

John Den by Attorney complains of
Richard Fen summoned by the Sheriff of
said County, for that whereas John F.
Gillispy & Nicholas S. Peck on the 18th day
of April 1838 at Dry Creek in the County
aforesaid had devised to the said John
Den a certain tract of land situated & being
in the County aforesaid bounded as
follows, that is to say. Beginning on James
Leelies South west corner, thence south
one hundred and sixty poles to a post
ack - thence East three hundred and twenty
poles, thence North one hundred &
sixty poles, thence West to the Beginning
containing three hundred & twenty acres
with the appurtenances to have & to hold
the same to the said John Den and his

assigns from the 14th of April 1838 past & during, and until the full end and term of twenty years from thence next ensuing, and fully to be complete and ended by notice, of which said demise the said John Den entered into the tenements, and became, and was possessed thereof for the said term so to him granted; and the said John Den being so thereof possessed the said Richard Fen on the 16th day of April 1838 with force and arms entered into the said tenements with the assistance in which the said John Den was so interested in manner, and for the term aforesaid, which is not yet expired, and ejected him the said John Den from his said farm and other wrangs to the said John Den, then and then did against the peace and dignity of the state, and to the damage of the said John 500 dollars.

John Pecunau, atty

Mr. Josiah Hughes

Sir

I am informed that you are in possession of a claim title to the premises in the declaration mentioned or to some part thereof, and I being sued as casual ejector only, and having no claim or title to the same do advise you to appear at the next Circuit Court to be held at Madisonville on the second Monday of September next, and then and then by rule of Court cause yourself to be made

dependent in my room and staid, other-
wise I shall suffer judgment to go by
default and you will be turned out
of possession

Very Respectfully
Your obt. Servt-

Richard Fox

Endorsed. Original Declaration John
Derr Lister of John F. Gillispy & Nicholas S. Peck
986. vs. Richard Fox. Notice to Josiah Hughes
Filed 20 Aug. 1838

I hereby deputise Mr Hallaway to serve
the within process. Given under my hand
and seal this 3^d Sept-1838

Merston Henderson Esq. Shff.

Came to hand the 4th of Sept- Executed
by delivering a copy the ejectment or de-
claration & summoning Josiah Hughes
the same day it came to hand

Mr Hallaway B. Shff.

Friday 14th Sept-1838

John F. Gillispy & Nicholas S. Peck	}	Ejectment
us		
Josiah Hughes	}	Came the Plea by their Attorney John O'Connell Esq and the defendant being solemnly called to come into Court, and cause himself to be made dependent in the room and staid of Richard Fox the casual ejector sued in this action or he would be turned out of possession came not but made default.

It is therefore considered by the Court
that the plaintiffs recover of the defendant
their term yet to come in and to the premises
and that the plaintiffs recover off of the
defendant all costs in this behalf expended
and that the plaintiffs have their writ of
possession

Edw^d Scott

State of Tennessee S.S.

Monroe County } I Elisha E. Griffith
Clerk of the Circuit Court for the coun-
ty and state aforesaid, do hereby certify
that the foregoing is a full, true and
perfect transcript of the aforesaid
cause as appears of record in my office
Given under my hand and private
seal having no seal of office at
office in Madisonville this 21st day
of January 1853.

E. E. Griffith (Seal)
Clerk. C. C.

Enclosed. Transcript John F. Gillispy and A.S.
Pick. vs Josiah Hughes. — C.C. p. 102^{1/2}

Transcript of 1867.

Be it remembered that a circuit Court
began and held at the Court House in
the town of Madisonville Monroe County
and State of Tennessee, on Monday the
13th day of September one thousand
eight hundred and forty seven being the
second Monday of said month Past and
presiding the Honorable Ebenezer Clegg
and duly elected and qualified to hold

said Court, (the following proceedings were had as read to wit-

To the Hon. E. Alexander Judge of the Second Judicial Circuit sitting in Madisonville for the County of Monroe in the State of Tennessee

The petition of James M. Atkin a citizen of the State of Alabama respectfully represents unto your Honor that about the 25th of March 1839. he purchased from a certain Josiah Hughes his occupant right & claim to the North West quarter of Section Eight, 1st Fractional township, fourth Range East of the Basis line in the Beae District - Monroe County for which he gave the sum of \$ which occupant claim was proved by Joel Cash Sr & Joel Cash Jr. before a Justice of the peace for Monroe County, and in the form required by law. to prove occupant rights, and the same was regularly assigned and transported to said James M. Atkin; and which probate and transcript is referred to and asked to be made a part of this petition, and marked (A.)

Your petitioner further states that on the 4th day of June 1839. he entered the land in the entry takers office of the Beae District which quarter section was found to be prebunal, and to contain only 155 acres, and for which he has since obtained in his own name. After the

entry was made by the said Atkin Joshua Adams claimed to hold an occupancy on said quarter section of land, and had the same proved as required by law, and petitioner bought his claim, and took a transfer for the same, and which shall be produced when necessary. Petitioner supposed that there could not be any other claimant to said quarter section, or for any improvement on the same. Patrick S. Peck, Jacob J. M. Peck and some others got possession of said quarter section of land, and petitioner was constrained to institute an action of ejectment against them, and which suit is now pending in the Circuit Court of Monroe County, and stands for trial.

Your petitioner further states to your Honor, to his great surprise, and as he believes, to embarrass and delay the suit in ejectment - Patrick S. Peck has applied to the entry taker of the Occo District, representing to him that he Peck had valuable improvements upon said quarter section of land, and requesting him to appoint two Jurors to value the same, and accordingly the entry taker appointed Robert Smaller of the County of Gloucester and Josiah Childress of the County of Pulke to value the improvements, and said appointees proceeded to value the same and awarded to the said Peck the sum of \$213.84 cents, as petitioner has been informed.

and believes that said Peck was not an occupant in said quarter section of land; that he never resided on it; nor held he any valid claim by purchase from any person whatever.

Your petitioner further states that the claim of said Peck is unjust and without foundation, as he is informed and believes. Your petitioners then had no information of the proceedings of the said Patrick S. Peck in relation to the award above stated; that he was absent in the State of Massachusetts at the time & had he been present he would have appealed from the unjust and illegal proceedings of the said Peck and appointees of the Entry Taker.

Your petitioners respectfully requests the Hon. John O'Connor Judge of the Third Judicial Circuit to examine the facts contained in the foregoing petition, & if consistent with the Rules of Law, grant the same, to the end that a new hearing on trial may be had in relation thereto, and direct the Clerk of the Circuit Court of Monroe County to issue the writ of Certiorari; directed to Robert M. Smallen and Josiah C. Childress commanding them to certify all their proceedings in the valuation of improvements between Patrick S. Peck and James M. Hillier to the next term of the Circuit Court to be holden for the county of Monroe, in the town of Madisonville on the second Monday of January next; and a

supercedas issue directed to Patrick S. Peck, commanding him to desist from all other proceedings upon said award. That he be notified to appear before the Court to be holden for the county of Monroe on the second Monday of January next to prosecute his claim founded upon said — and in duty bound your petitioner will ever pray.

James M. Hillier
By Pleasant M. Ghormly

State of Tennessee

McMinn County } This day personally appeared before me John O Cannon Judge of the Third Judicial District Pleasant M. Ghormly and made oath in due form of law that the facts contained in the foregoing petition, as of his own knowledge are true, and those facts stated from information he believes to be true.

Subscribed and sworn

to before me this 9th day } Pleasant M. Ghormly
of December 1845.

John O Cannon Judge.

The affiant further states that James M. Hillier appointed him his agent to attend to and prosecute the action of Ejectment against Patrick S. Peck, & others referred to in the foregoing petition; so soon as he was informed in regard to the improvement and award he communicated the facts to Hillier in Alabama, but as yet he has received no

answer; and this application is made
 for writs of Certiorari, lest time might operate
 to the prejudice of Atkin's interest. Subscribed
 and sworn to this 9th day of Dec. 1845
 Sworn to & subscribed }
 Decr. 9th 1845 } Pleasant M. Gresham
 John O'Connor Judge

To the Clerk of the Circuit Court of Monroe
 County— Let writs of Certiorari and se-
 curities agreeably to the prayer of the
 foregoing petition (issue) on petitioners enter-
 ing into bond and security in the sum of
 five hundred dollars conditioned as the
 law requires. Given under my hand &c.
 Dec. 9th 1845 John O'Connor Judge
 Filed in my office Dec. 12th 1845
 E. E. Giffith Clk.

It is now all men by those presents that we
 James M. Atkin & Robert Atkin of Monroe
 County and State of Tennessee, our heirs
 executors and administrators are held
 and firmly bound unto Patrick S. Peck
 his heirs, executors administrators or as-
 signs in the sum of five hundred dol-
 lars to be void on condition that the said
 James M. Atkin shall prosecute with ef-
 fect a writ of Certiorari by him thereby
 obtained to remove the proceedings in
 the valuation of an improvement in the
 Peck District wherein Patrick S. Peck is plain-
 tiff and James M. Atkin is defendant.

from upon Robertell Smallen and Josiah Childress into our Circuit Court for the County of Monroe, or in case of peculiar ~~things~~ perform what judgment shall be awarded and rendered by said Court in said cause; or in case said certiorari shall be dismissed by said Court for informality, or want of sufficient substance or for any other cause, they and testify said judgment as the said Court shall have given against him.

Witness our hands and seals this 12th day of December 1845

Attest
E. E. Griffith

James M. Eakin *Eakin*
P. J. M. Ramsey
Robert Eakin *Eakin*

State of Tennessee Monroe County.
To Robertell Smallen & Josiah Childress Greeting
Whereas Patrick S. Peck testified certain proceedings for the valuation of an improvement on the North West quarter of Section 8, first Township and Township 4th Range east of the basis line of said Dist and you were appointed Commissioners, and rendered an award according to the Statutes in that case provided, & we for certain reasons being desirous that the record of your said proceedings should be certified to us, do hereby command you to enclose all the papers relative to said award, under your hands & seals, distinctly and plainly, together with this writ, and transmit the same to a

Court to be held by the Judge of the Circuit Court of law and equity for the county of Monroe at the Court House in Madisonville on the second Monday of January next in order that our said Court may do therein what of right ought to be done.

Witness E. E. Griffith Clerk of our said Court at office in Madisonville the second Monday of September Anno Domini 1845 and of American Independence the 70.

(Endorsed)

E. E. Griffith Clerk.

1576. Certiorari. Patrick S. Peck vs James M. Eakin. - Issd 12th Dec. 1845

I do not know it in my power to bring into Court the award made by myself and Josiah Childress in favor of Patrick S. Peck against James M. Eakin for improvements, because on the day it was made out in writing and signed by us we handed it up to said Peck, and also the petition & appointment of the entry Leake. this 14th day of January 1846.

R. M. Smalley

January 14th 1846

Patrick S. Peck, Petitioner

vs } This day came the plaintiff
James M. Eakin } by his attorney, & by leave
of the Court, a rule is granted him
to show cause why the defendants
petition should be dismissed

January 15th 1846

Patrick S. Peck }
 vs } Petition for Motion of the
 James M. Eakin } dependt by his Attorney &
 it appearing to the Court satisfaction
 of the Court from the return of Robert
 M. Smalling in the Certiorari directed
 to him and Josiah Childress appointed
 by the entry Book of the Court District
 that the papers and proceedings were de-
 taching the valuation of the improve-
 ments named in the proceedings were de-
 livered to the plaintiff Patrick S. Peck. It
 is therefore ordered by the Court that
 the plaintiff file the papers and proceed-
 ings referred to in the certiorari and
 upon the next term of this court; and
 that he be served with a copy of this order

May 12th 1846.

Patrick S. Peck, Certio
 vs } This the plaintiff filed
 James M. Eakin } into Court the award
 described in the dependants petition.

May 14th 1846

Patrick S. Peck, Certio & Supplicatio
 vs } This day came in per
 James M. Eakin's argument the rule
 heretofore entered in this cause by the
 Plaintiff to dismiss the dependants petition
 and writs of Certiorari & Supplicatio and
 after argument of counsel and mature

deliberation of the Court, it is ordered by
the Court that said Rule be discharged

May 15th 1846.

Patrick S. Peck, an motion & commis-
us } sion is awarded the plaintiff
James M. Eakin to take the deposition of
Josiah Childress of Polk County, upon
giving five days notice to David Cum-
mingsham defendant Agent, of the time
and place of taking the same

January 12th 1847

Patrick S. Peck, The trial of this cause
us } is continued until the
James M. Eakin next term of this Court
as an affidavit of the plaintiff, and an
motion an order is granted him to
take the deposition of Luke Lee of Brad-
ley County and Josiah Childress of Polk
County Linnæus by giving David Cum-
mingsham Agent for the defendant ten days
notice of the time and place of taking
the same

May 11th 1847.

Patrick S. Peck, Ceto.

us } The trial of this cause is
James M. Eakin continued until the next
term of this Court on the affidavit of the
plaintiff, and it appearing to the Court
that this was the second continuance, it
is therefore ordered by the Court that

the defendant - recover of the plaintiff
the costs of this term for which execu-
tion may issue

September 17th 1847.

Patrick S. Peck } Certe
us } Came the parties by
James M. Ecklin } their attorney and then
upon came the panneling jury of good
and lawfull men citizens of Monroe
County, to wit John E. Payne Daniel J.
Adams John Webb Jeremiah Culpeper Saml
Gregory Wm A. Spencer John Milder Thos
Tallant Jas James E. G. Smalley Benj. How-
ard and Melame Beard, who being elected
empannelled and sworn well and truly
to try matter in controversy between the
parties, and the argument of counsel
not being closed the jury are respited until
to morrow morning

Sept^r 18th 1847.

Patrick S. Peck } Certe
us } Came the parties by their
James M. Ecklin } Atty and then upon came
the same jury who on yesterday were
respited until to day to wit John E. Payne
Daniel J. Adams John Webb Jeremiah Culpeper
Saml Gregory Wm A. Spencer John Milder
Thomas Tallant James Farvis, E. G. Smalley
Benjamin Howard and Melame Beard
who upon their oath ~~appeared~~ appeared
do say they find for the plaintiff that the

~~the~~ plaintiff's improvements upon the land described in the petition adds Ninety two dollars additional value to the land on the 29th day of November 1839. It is therefore considered by the Court that the plaintiff recovers of the defendant the sum of Ninety two dollars the damage assessed by the jury in manner and form aforesaid together with all costs in this behalf expended for which execution may issue. Thereupon the defendant by his Attorney, moved the Court for and obtained a rule to show cause why a new trial should not be granted.

Sept. 18th 1847.

Patrick S. Peck } Come the parties by their
 vs } Attorney, and came on for
 James W. Collins } argument the rule heretofore entered in this case, to show cause why a new trial should be granted, and after argument of counsel it is considered by the Court that the said Rule be discharged and a new trial refused, and thereupon the defendant having amended his bill of exceptions, pray that the same may be signed, sealed, and made a part of the record which was done.

Patrick S. Peck } Be it remembered that
 vs } on this 18th day of Sept
 James W. Collins } 1847. This cause came on to be heard before the Hon. Ebenezer

Alexander, and a jury of Monroe County when the following proceedings were had in the case to wit:

The plaintiffs caused read to the jury the petition of Pauline S. Peck to the Entry Taker of the Acad District praying him to appoint Commissioners to value the improvements, together with appointment of said Entry Taker, and the award of the Commissioners which are hereto exhibited marked 280-1 and to be taken as a part of this bill of exceptions. The deposition of Josiah Childress was then read to the jury by the plaintiffs Attorney which is also hereto exhibited marked No 2, and made a part of this bill of exceptions. Robert M. Smalling was then introduced as a witness for the plaintiffs who swore that he was one of the Commissioners appointed by the entry taker in this case, and made and signed the award exhibited on the day it bears date in connection with Josiah Childress; that they went upon the land, and counted such rails as were of any value; that they also carefully measured the land and as said quarter. The price was composed mostly of long and short rails; they valued the long rails at 75¢ cents and the short at 3½¢ cents per hundred; that they believed the improvements on the land added value to it to the amount

of the ~~sum~~ award made. He was acquainted with the land on the 29th Nov. 1837, but could not well determine distinguish what improvements were made on the land from that day to the time the award was made. The rails looked like they were new in the short penneils. They valued the whole improvements in the quarter, a part of which belong to Jacob J. M. Peck; that that part claimed by Jacob Peck was estimated at \$83.

Nicholas S. Peck was next introduced on behalf of the plaintiff. He stated he had been acquainted with the quarter section mentioned in Exhibit 280-1 for twenty ^{odd} years; that one Buckhannon lived upon it many years since; that he purchased from Buckhannon his improvement for \$80 and transferred the same by gift to the plaintiff; that Buckhannon had some twelve acres cleared and fenced, at the time of the passage of the Pea land law. Josiah Hughes, Lazarus Benson and Joshua Adams were living on said quarter; that witness put Joshua Adams in possession, who surrendered it up to him on his demand, and Adams moved away after the passage of the law. Adams was his tenant. Jacob J. M. Peck purchased Josiah Hughes improvement for which he gave him a rifle gun which he thereupon moved away and deor-

surrendered possession to said Jacob Peck. Lay-
 ren Denson was living on the quarter as
 a renter under Jacob. Leptan. Patrick S. Peck
 purchased Leptan's part for fifty dollars, &
 Denson surrendered his possession to said
 Patrick in the Spring of 1838. & moved away.
 Thomas Adams had improvements on said
~~land~~ quarter amounting to 6. or 7. acres of
 cleared land. Patrick S. Peck purchased his
 improvement on the quarter for \$36 in
 a horse, and took possession of the
 same. Patrick S. Peck was then in posses-
 sion of the entire improvements on said
 quarter, except the part purchased by
 Jacob J. Peck, and has continued in
 possession ever since. The whole of the
 cleared land in the possession of Patrick
 S. Peck, witness thinks would amount
 to about 30 acres. Witness thinks the ad-
 ditional value added to said quarter by
 said improvements was about \$4 per
 acre at the passage of the law. Jacob Peck's
 improvements were included in the valu-
 ation made by the Commissioners. The
 prices were better at the time of the valu-
 ation than at the passage of the law, and
 the land was only tolerably well cleared.
 It was hard clearing.

It was admitted by defendant's attorney
 that the defendant entered the land describ-
 ed in the plaintiff's petition in the Entry
 Takers office of the Ocas District at a gen-
 eral entry on the 4th day of June 1839, up-

on which a grant afterwards issued.

Dependants Proff.

John Thomas witness per dependt pro-
ved that in 1833-34 improvements on said
gr. Sec were valued as indian improve-
ments. Sumner put Buckhannon on
the place. Thomas Adams lived on there,
but moved off before the passage of the
law. Buckhannon also moved away
before the law passed. Josiah Hughes Joshua
Adams and Lorenzo Benson lived on the
land at the time the law passed and no
one else. Six or seven acres were cleared
gr. in 1834 which is now in possession of
Patrick S. Peck

James Smith a witness mentioned
by dependt prover that Josiah Hughes
improvement embraced about 12 acres
and Bensons about 7. or 8 and that $6\frac{3}{4}$
of the improvements of Bensons had
been made by Joel Cash.

Lorenzo Benson witness per dep-
endent prover that he Josiah Hughes &
John Adams were living on the quarter
at the time of the passage of the law, that
he was a tenant under Lepton after the
passage of the law. Lepton & Peck came
to him & Lepton told him he had sold
his Leptons right then to said Patrick S.
Peck, and he Benson must leave; that he
told them he set up no claim then. He
had sowed the land in wheat which he

he sold to Patrick S. Peck, stating that he then shut the door of the house he lived in and locked it, and prevented all persons from entering into it; that he made no sale of his improvements or interest to Peck, or any one else, at that time, that he claimed none; that he made no improvements then except a little tobacco patch, and that a year or two ago. Eakin the defendant purchased his interest in that part about one dollar.

Yael Cush witness for defendant admitted on the land in 1832-3. He claimed $\frac{6}{4}$ acres on the quarter; he sold to Blackwell - Blackwell transferred to Sipton & his son-in-law Lazarus Sipton then rented from Sipton, and was living on the land at the time the law passed. So were Hugh and Joshua Adams were also living there at the time the law passed.

The court charged the jury amongst other things that the persons who were actually residing upon the land in dispute on the 29th day of November 1837 were entitled to enter as occupants, or to pay from the general interest for the improvements which they respectively had in said quarter, and if they assigned or transferred their right of occupancy to one, either by parol or written assignment, their assignee or assignees would be entitled to pay for the improvements.

in the same manner as the persons who had made the assignments to them would have been had they not made such assignments. And the Court further charged the jury that no one would be entitled to pay for any improvements on said quarter, except the actual settlers on said quarter, at the time of the passage of the law, and their actual assigns or assignees.

A verdict was rendered for the plaintiff, a new trial asked and refused; to which opinion of the Court in refusing a new trial the defendant excepts in law, and tenders this his bill of exceptions and prays that the same may be signed, sealed and made part of the record.

E. Alexander *(Seal)*

State of Tennessee

To the Sheriff of Monroe County, Greeting
 You are hereby commanded that of the goods and chattels lands and tenements of James M. Eakin in your county you cause to be made the sum of two hundred and eight dollars eighty one and $\frac{3}{4}$ cents which Patrick S. Pick lately in Circuit Court held for the county of Monroe recovered against the said Eakin for damage and cost, wherein the said James M. Eakin is convicted and liable as appears of record. And have you the said money to render before our said Court to be held

#4103.

for the county aforesaid at the court house
in Madisonville on the second in May next
and have you then and then this wit-

Witness E. E. Giffith Clerk of said Court
at office in Madisonville this 3^d Mon-
day of January 1850 and of Ameri-
can Independence the
E. E. Giffith Clk

(Enclosed)

1st J. H. 3597. P. S. Peck vs J. M. Eakin
issd 25th February 1850.

Recd of J. M. Eakin per Robt Eakin a sum
one hundred & seven dollars & twenty nine
cents being in full of the within judgment
and interest thereon (except costs) this 29th of
July 1850
John Wilson

Also Recd of John Wilson the full amt of
costs
E. E. Giffith Clk

On the execution Decket is the following
For value recd I assign this judgment on
the opposite page to John C. Vaughan this
1st of April 1850.

Patrick S. Peck *(Seal)*

For value recd I assign the judgment on the
opposite page to John Wilson this 10th day of
April 1850
J. C. Vaughan.

State of Tennessee
Madison County ss.

J. Eliza E. Giffith Clerk
of the Circuit Court for the County and
State aforesaid hereby certify that the forego-

ing is a full, true and perfect transcript of the cause as appears of record in my office wherein Patrick S. Peck is plaintiff and Jas. M. Eakin is defendant, together with a true copy of the execution issued on said judgment with the endorsements and copy of the receipts on the back of said execution, & a true copy of the assignments of said judgment rendered in said cause as appears in the execution Docket made out in said cause, all of which appears of record in my office.

Given under my hand and private seal having no seal of office, at office in Macedoniaville the 21st day of June 1856.

E. E. Griffith *E. E.*

(Copied)

Clk. Court-Clk Monroe County.

Filed 26th June 1856.

Power of Attorney

Filed by Aspinetts Sol. at the May Term 1858 to wit on the 1st day of June 1858 after the decree of the Court was pronounced in this case.

Know all men by these presents that I James M. Eakin of the County of Rusk in the state of Texas, have this day nominated and appointed Robert Eakin of the County of Monroe in the state of Tennessee, my true & lawful attorney, to bring suit in my name to recover the possession of the following described land to wit, containing one hundred and fifty five acres, lying in the county of Monroe and state of Tennessee aforesaid situate in the 2^d Sec District known and de-

scribed upon the plan of said District by the fourth Range East of the basis line, first fractional township North, Eight section, being the North West fractional quarter of said section, Beginning at the North East corner of said fractional quarter, together with all the appurtenances thereunto belonging and appertaining; and sign ~~in~~ my name to a bond given for the prosecution of said suit, and to use my name in every way that he may see proper in order to recover the possession of said land, to bring suit in the Circuit Court of Monroe County aforesaid, against any person or persons that may be in the possession of the aforesaid described land or any portion thereof. And I the said James M. Eakin do further nominate and appoint the said Robert Eakin my true and lawful attorney to sell convey and transfer the aforesaid described tract of land in my name, in fee simple to any person or persons, after he recovers the possession of the same; and in bringing suit as aforesaid, and in conveying said land, and executing a deed of conveyance for the same, and in doing all other acts whatsoever appertaining thereto, I do hereby ratify and confirm ~~my~~ whatsoever my said attorney may do in transacting the same; and I do hereby fully authorize, empower my said attorney to sign my name to all such proceedings as though I was present at the doing thereof and I do hereby ratify and confirm what-

do ever my said Attorney may do in the
premisses.

In testimony whereof, I have hereunto set
my name and affixed my seal this 22^d
day of May 1850.

Saml Gant

James M. Allen Esq

A. G. Semmy

State of Texas Before the undersigned au-
thority of Bush & Tharity, this day came James
M. Allen whose name appears signed to the
pursuing Power of Attorney and signed the
same in my presence, and acknowledged
that he signed, sealed and delivered the same
for the purposes therein set forth

To certify which I hereunto sign my name,
and affix my official seal this 22^d
day of May A. D. 1850



James M. Williams

Clerk of the County Court of
Bush County, Texas

The State of Texas James B. Glascock Chief Justice
County of Bush & Judge of Probate Court in & for

the county and state aforesaid do hereby certify that
James M. Williams whose name appears in said certi-
ficate is and was county clerk, and that he is the pro-
per officer and keeper of the Records of said office
and that due credit and faith is due all of his offi-
cial acts, and that his seal attestation is in due form of
law. Given under my hand and seal of office in the town
of Henderson May 20th A. D. 1850.

No Seal appended.

J. B. Glascock Chief Justice &

Judge of Probate

(Embossed)

Filed June 1st 1850 after the same was pronounced
Saml Price C. & M.

Charles S. Peck & others }
 vs } Bill of costs
 Mrs M. Eakin & others }

State Tax \$ 43.75
 County Tax 1.87 1/2

For filing bill 37 1/2	Procs. Bond 50	2 depositions 50	1.37 1/2
" Record Procs. Bond 25	Probate 25		.50
" Copy of Bill issued 890 words 89	Subp. to am 75		1.64
" Ans. filed 37 1/2	probate to do 25	Amend. bill filed 25	.87 1/2
" Probate to ans 25	filing 4 bills except 1.00	2 do. 50	1.75
" 5 probates filing deposit 1.25	Record clerks 715	715	1.96 1/2
" 5 Commissions 75	375	Injunctions 1.00	4.75
" Subp. issued to parties	amend Bill		.75
" Record Costs 50	This copy of costs 50		1.00
" Continuances 1	1 Rule entered		1.10
" Final decree 75	Appeal bond & hearing 75		1.50
" Applying seal of office to transcript			.50
" Copy of transcript 25	820.		23.82
" Settling court per hearing 5	doctors		1.25 4.75
" 2 orders of publication to non Res.			1.50 48.69 1/2
" Serving parties with copy of bill & subp.			2.25
" Injunct 2 parties served			2.00 4.25
" 2 Publications to non resident parties			6.00 6.00
" 1 Subpoena 1 witness			10
" " Subp. 2 wit 20	Taking 2 Depositions 2		2.20
" " Prock	Taking 12 depositions		12.00
" " Carson	" 2 depositions		2.00
" " Colk Coffin	" 2 depositions		2.00
" " Shff Young	Serving Subp & Amend bill 2 parties		2.00
" " "	Sum & wit 75	10 notices 19 parties times 50.	9.25
" " "	Subpoena for witness		25 42.50
" " Vaughan	1 Notice 1 party 50	attm wit 1 day Dep	1.25
			90.94 1/2

Shff. Parks
 " " "
 Printer Swan
 Justice Kimbro
 " Williams
 " Prock
 " Carson
 Colk Coffin
 Shff Young
 " "
 " "
 " Vaughan

Amount that was		9999
Const Simons	For 1 leaving 1 sub 1 wit 28 leaving 1 not 50	75
Com J. E. Houston	" Taking 3 depositions postage 20.	3.20
" H. Witt	" Taking 2 depositions	2.00
" L. Cardin	" " 2 "	2.00
Chas E. Griffith	" Transcript case circuit Court Monroe	5.72 1/2
Miss J. E. Demas	" Attendance 2 days	1.50
" Jno Griffith	" " 1. "	75
" P. J. Peck	" " 1. "	75
" Jno Thomas	" " 1. "	75
" Th. Young	" " 1. "	75
" J. E. Peck	" " 1. "	75
" L. G. Garren	" " 2.50 leaving subpoena 35	1.85
" R. W. Carroll	" " 1.75 54 miles travel 2.16	2.91
" A. W. Lellum	" " 1. day	75
" P. J. O'Byrne	" " 1. "	75
" John Smith	" " 1. "	75
" Nancy Witt	" " 1. "	75
" Ediz Witt	" " 1. "	75
" E. D. Shields	" " 2. "	1.50
" Payne	" " 2. "	1.50
" Edington	" " 1. "	75
" Jos. Simons	" " 1. "	75
" L. Benson	" " 1. "	75
" Robt Wilson	" " 1. "	75
" Wilson	" " 1. "	75
"	5 Calls - 8	40
		<hr/>
		\$ 128.05
for orders per publication		1.50
		<hr/>
		126.55

By the Court

There is no charge
maintained in this case. The deace must
the bill dismissed at the cost of con

X R.

Know all men by these presents that we
Nicholas S. Peck Thos. P. K. Peck and Smedley D. Wright
are held and firmly bound unto James M.
Atkin in the sum of two hundred & fifty dollars
in the which payment well & truly to be made
to the said James M. Atkin be our heirs and
selves and each of our heirs by our executors admin-
istrators jointly & severally, primarily by these presents
Signed & sealed and dated the 23^d day of January 1855

The condition of the above obligation is such
that whereas the said N. S. Peck, Th. P. K. Peck, as the day
have filed and Robert Smallin has this day
have filed a bill of injunction in the Chancery
Court at Mayville against James M. Atkin
Now if the said N. S. Peck Thos. P. K. Peck & Robert
Smallin shall well & truly and with effect
prosecute said bill of injunction as in case of
failure so to prosecute the same to pay & satisfy
all costs and charges on the same then the above
obligation to be void otherwise to remain in
full force and virtue

Attest-

Saml Davis C. M.

Nicholas S. Peck Esq

Thos. P. K. Peck Esq

J. D. Wright Esq

Nich. S. Peck & others
 as
 John M. Atkin

Bill of Costs Chancery Court

State Sup

Ed. M. Price	For filing bill 37 1/2 Pros. Bond 50. 2 Accurates 50.	1. 37 1/2
"	Recording Pros. bond 25 - copy of bill issd 887 words 89	1. 14
"	Issd Subp. to ans. 75 - answer filed 37 1/2 probate do. 15.	1. 37 1/2
"	Filing amended bill 25 - answer filed 25 - probate 25	75
"	Issd Amended bill 1080 words 1.08 - Subp. to ans. issd 75	1. 83
"	Filing from exhibits 1. Order of public. To non res.	1. 75
"	Two exceptions 50. 5 probate to file depositions 125	1. 50
"	Orig bill issd to Maurer. Co. 887 words 89. Sub. to ans. 15	1. 64
"	Recording decr 765 words 65 1/2 5 Commenced 3.75	4. 40
"	Issuing Injunc. 5 continuance 1.25 - Entering	2. 25
"	7 Rules 70. Record costs 50. Copy do. 50.	1. 70
"	Order for publication to no accidents	75
"	Final Decr 75 - Entering Appeal & taking bond 75	1. 50
"	Copy of trans. up to Sup. Court 23820 words	23. 82
"	Applying seal of office	50
"	Sitting cause for hearing 5 times	1. 25
"	Docketing cause 7 times	70 48. 23
Thpp Parks	Serving copy of bill & subp. 2.25. do Injunc. 2 parts 2	4. 25
" Young	Serv. 2 witnesses 50. Serving notices 15 parts 900.	9. 50
"	" 1 wit 50. serving subp. to ans. 2 parts	2. 25
" Vaughan	Notice to 1 party 50. all ind. 1 day as witness 75	1. 25
West-Melham	Taking 2 depositions 2 & 3 Subp. issd 10.	2.
" Kenbro	Issuing sub. & wit 10	
" Prock	Taking 12 depositions	12. 00
" Carson	" " 2 " "	2. 00
Ed. M. Price	" " 2 " "	2. 00 16

~~65. 50~~

Wm Houston	For taking 3 depositions 3. postage 20-	3.20
Sam Witt	" " 2 "	2.00
" L. Cardin	" " 2 "	2.00
Colk E. E. Giffin	" Copy of Transcript	8.12 1/2
Leard Sumner	" Sum 1 mit-25 do Notice to 1 party 80	75-
W. G. Dennis	" Attendance 2 days	1.50
" Geo Giffith	" " 1. "	75-
" R. S. Peck	" " 1. "	75-
" J. Thomas	" " 1. "	75-
" Th. Spang	" " 1. "	75-
" J. S. Peck	" " 1. "	75-
" J. G. Gason	" " 2 " 1.50 being sub. 95-	1.85
" R. M. Canall	" " 1 " 75 54 miles travel 2.16.	2.91
" Chas. Lellan	" " 1 "	75-
" P. Heyden	" " 1. "	75-
" Geo. Smith	" " 1. "	75-
" Sam. Witt	" " 1. "	75-
" Ely Witt	" " 1. "	75-
" E. D. Shields	" " 2 "	1.50
Payne	" " 2 "	1.50
Edington	" " 1 "	75-
J. Sumner	" " 1 "	75-
L. Huson	" " 1. "	75-
R. Wilson	" " 1. "	75-
J. G. Wilson	" " 1. "	75-
Swan printer	" 2 Notices to non residents newspaper 6.00	39.58

State of Tennessee, I Samuel Price Clerk & Master of the
Blount County } Common Court of Blount County
do certify that the foregoing is a true copy of the pro-
secution bond and the bill of costs in the case of
S. S. Peck & others against James M. Hill in this
court & which was by appeal taken to the Su-
preme Court at Knoxville on the 10th Monday
of Sept-1858. and that ~~that~~ said costs have not been
paid. the prosecution bond not having been
copied in the transcript to the Supreme Court

Given under my hand & the seal of
of office at office in Maryville the
11th day of Sept-1859

Samuel Price
C. M. Comm Court

Transcript
of S. S. Peck
vs
James M. Hill