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Dist Court Minutes A

April 22nd 1878.

The State of Texas } Be it remembered that at a term of the Hon.
County of Travis } District Court of Travis County begun and held at the Court House thereof at the City of Austin on Monday the 22nd day of April A.D. 1878 the same being the day fixed by the Constitution of this State for the meeting of said Court the following proceedings were had to wit: Dennis Corwin the Sheriff of Travis County did, by the order of the Hon. E. B. Turner Judge of the 16th Judicial District of this State, proclaim the opening of the court & thereupon said Sheriff adjourned Court till to morrow the 23rd inst. 9 o'clock A. M.

April 23rd 1878.

Court met according to adjournment, present the Hon. E. B. Turner, Judge of the 16th Judicial District presiding, E. Tallmann clerk of the District Court of Travis County and Dennis Corwin, Sheriff of Travis County, whereupon the following proceedings were had to wit:

Jury Commission

It was ordered by the Court that George Malone, John Wilson, and William Saunders be appointed jury commissioners for this Court and that they be summoned to appear before this Court on Monday the 29th inst.

And thereupon the Court administered the oath to the Sheriff Dennis Corwin & to the Deputy Sheriffs John P. Kirk & T. Sublett, as in regard to summoning jurors as provided by law.

Grand jury.

And thereupon the Court ordered the Sheriff to call the names of those appearing upon the regular venire as grand jurors selected and summoned as such according to law, and the following named persons answered to their names: 1 Jno. W. Glenn, 2 R. F. Campbell, 3 Jas Doxey, 4 Wm H. Hill, 5 Jno McChristian, 6 Jas Littlepage, 7 W. L. Young, 8 B. Mallasky, 9 J. M. Patton, 10 Peter Rum, 11 E. M. Hull, 12 D. F. Waddle. And Thereupon the above named persons were legally tried, empannelled and sworn according to law as the Grand Jury for and during the present term of the District Court of Travis County, and Jno. W. Glenn was appointed Foreman of said Grand Jury. And said Grand Jury being duly charged by the Court as to the duties devolving upon them, the were ordered to retire upon a discharge of the same.

W. T. Davis, Theo. Sublett & Wm Lubbuck were by the Court sworn according to law as bailiffs for the Grand Jury.

2955 Abby Thompson Admrx et al vs. A. H. Barnes & W. Merrill. Continued generally

2957 Abby Thompson Admrx et al. vs. R. A. Rutherford. Continued generally.

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2958 Abby Thompson Admtx et al. vs George Saunders. Continued generally.

2960 Abby Thompson Admtx et al. vs. H. L. Raven. Continued generally

3137 Francisco Cuellar vs The State of Texas. Continued.

3180 William Eborn vs. Geo. B. Zimpelman Admtr of the estate of Thos Eborn et al. This cause coming on to be tried the plaintiff Wm Eborn appeared by Attorney and the defendants G. B. Zimpelman Admr and Mr Gibbey Barron, Mary L. Adams joined by her husband J. A. Adams, and Mrs. Sophia Poul heirs at law of the said Thomas Eborn deceased appeared by Attorneys of record and their Attorneys in fact and announced themselves ready for trial, Thereupon the Court having heard the pleadings and evidence and considered the same; It is ordered and adjudged by the Court that the claims of the plaintiff William Eborn against the estate of the said Thomas Eborn deceased be and the same are hereby established, as just claims against said estate; and it is further ordered and adjudged that the plaintiff William Eborn do have and recover of George B Zimpelman administrator aforesaid the sum of twenty thousand and eight hundred dollars, principal and interest to date, together with all costs in and about this suit expended; And the plaintiff Wm Eborn in person and by Attorney appearing in open Court, suggests to the Court, that he agrees to accept in satisfaction of the principal and interest of this judgment the sum of two thousand and five hundred dollars; It is thereupon ordered and adjudged by the Court that said principal interest in this judgment aforesaid shall be satisfied and discharged by the payment by the administrator out of said estate the said sum of two thousand and five hundred dollars the same to be paid first from moneys which may be in or come to his hands and that the residue of said estate after paying cost of this suit and all legal demands against the same shall be distributed to the heirs of said estate according to laws of descent and distribution. It is further ordered that this judgment be certified to the Probate Court of Travis County to be discharged and observed in due course of administration.

3188 Paul Pais et als. vs. The State of Texas. The judgment in this cause having been affirmed by the Supreme Court, this cause is now dropped from the docket.

3193 Pablo Garza vs. The State of Texas. The judgment of this Court in this cause having been affirmed by the Supreme Court this cause is now dropped from the docket.

3194 Antonio & Jesus Ysaguirre vs the State of Texas. The judgment of this court in this cause having been affirmed by the Supreme

April the 23rd 1878.

Court, this cause is now dropped from the docket.

3195 ✓ Theodocio Sanchez vs. The State of Texas. The judgment of this Court in this cause having been affirmed by the Supreme Court, this cause is now ordered to be dropped from the docket.

3200 ✓ Conceptian Garza vs The State of Texas. The judgment of this Court in this cause having been affirmed by the Supreme Court this cause is now dropped from the docket.

3201 ✓ Neever Villareal vs. The State of Texas. The judgment of this court in this cause having been affirmed by the Supreme Court this cause is now dropped from the docket.

3264 ✓ Thos F. McKinney vs. C. W. Whitis. The judgment of this court in this cause having been affirmed by the Supreme Court, this cause is now dropped from the docket.

3360 ✓ The State of Texas vs. W. H. Morris et als. The judgment of this court in this cause having been reversed by the Supreme Court & a final judgment rendered by said Supreme Court therein, this cause is now dropped from the docket.

3363 ✓ Samuel M. Jarvis vs. The State of Texas. The judgment of this court in this cause having been affirmed by the Supreme Court this cause is now dropped from the docket.

3373 ✓ Raymond & Whitis vs. A. S. Roberts. The judgment of this court in this cause having been affirmed by the Supreme Court, this cause is now dropped from the docket.

3755 ✓ The City of Austin vs. A. G. Buddington. The judgment of this court having been affirmed by the Supreme Court this cause is now dropped from the docket.

3756 ✓ The City of Austin vs. Joseph Lucksinger. The judgment of this court having been affirmed by the Supreme Court, this cause is now dropped from the docket.

3766 ✓ The City of Austin vs. Joseph Lucksinger. The judgment of this court having been affirmed by the Supreme Court, this cause is now dropped from the docket.

3767 ✓ The City of Austin vs. A. G. Buddington. The judgment of this Court having been affirmed by the Supreme Court, this cause is now dropped from the docket.

4105 ✓ M. C. Hamilton vs. Juliet G. Hicks et al. Left Mrs Fahey gives notice by her attorney D. Phillips of objections and exceptions to the reports of commissioners of partition.

4177 ✓ Cora C. Shephard & husband vs. John H. Conner et al. Left Mrs. Fahey excepts to report of commissioners of partition.

4265 ✓ M. C. Hamilton vs. Martha J. Fahey et al. Left Mrs. Fahey excepts

April 23rd 1878.

to the report of commissioners of partition.

4807 Bellie Tucker vs Peter Tucker. Upon motion of Pffs Atty it is ordered that Pffs have leave to amend.

X 4818 Mary J. Lee vs Thos Stubb et als. This day came the plaintiff by her attorney of record G R. Freeman and dismisses this suit as against all defendants except Thos Stubb, & it was thereupon ordered by the court that all costs incurred by making said persons defendants to this suit, be paid by the plaintiff Mary J. Lee & her sureties on her costs bond for which execution may issue.

4886 Margaret C. Boatner vs. Geo. W. Glasscock et als. Upon motion it was ordered that the defendants represented by Messrs Terrell & Walker have leave to amend their answer.

4943 Ruthrauf & Miller vs. Travis County. Upon motion it is ordered that defendant have leave to amend his answer.

5055 James E. Boulden Exec^tr vs. Charles Behnke et als. This day came the plaintiff by his Atty of record Mr. Gardner Ruggles into open court and dismissed this cause as to the defendants Green and Sutor.

X 5075 Florence Whitis Exec^trix vs John W. Taylor. Upon motion of pffs Atty this suit was dismissed & ordered that plaintiff pay all costs of this proceeding.

5077 George N. Hopkins vs Anna V. & S. C. Vineyard. Continued under the rule for costs.

And thereupon Court adjourned till to morrow morning 9 o'clock

April 24th 1878.

Court met pursuant to adjournment. Present same as yesterday. Whereupon the following proceedings were had to wit:

3720 Geo. W. Paschal vs Central Rail Road Company & Austin City. The death of plaintiff being suggested & no new parties being made, this cause was ordered to be dismissed.

4149 D. A. Teague vs Townsend & Anderson. The appeal taken in this cause having been dismissed by the Supreme Court & the judgment of this court having been affirmed, it is ordered that this cause be dropped from the docket.

4180 L. V. Davis vs. Horace Rowe et al. The judgment of this court having been affirmed by the Supreme Court, this cause is now dropped from the docket.

4248 John B. Rector vs W. M. Walton. The judgment in this cause having been affirmed by the Supreme Court this cause is now dropped from the docket.

April 24th 1878.

4390 | See exec. dock 5 pag 56 | Francis Willis vs Henry Willis. It appearing to the Court by a former judgment rendered in this cause, that Henry B. Willis is indebted to the officers of this court in the sum of $52.30 fifty two & 30/100 dollars, that being the amount of costs incurred in this cause & heretofore adjudged against said Willis, & it further appearing to the Court that said Willis has no property out of which said amount of costs could be made and that W. A. H. Miller had been legally summoned as garnishee to answer what he is indebted to the defendant Henry B. Willis & that said Miller has so answered & admitted that he is indebted to said Henry B. Willis in the sum of about $150.00; It was therefore ordered, adjudged & decreed by the Court that said W. A. H. Miller pay to the officers of this Court the said amount of ($52.30) fifty two & 30/100 dollars & that said officers have their execution therefor against said Miller, and it was further ordered that such payment by said Miller shall be a credit & discharge of his indebtedness ~~to~~ towards the said Henry B. Willis for the amount so paid.

4766. | Exec. dock 5, page 56. | John D Wende & Mary Wende vs. August Heileman & Mary Heileman & Wilson Green. On this day 24th April 1878. this cause being regularly called, came the parties by their attys. & the demurrer of the defendant Mary Heilman was overruled. And thereupon the Court after hearing the pleadings, testimony and arguments of Counsel, and fully understanding the same, & finding the allegations in the petition to be true. It is therefore considered ordered & adjudged by the Court, that the plaintiffs do have and recover of the said August Heilman the sum of Six Hundred & Seventy one Dollars, payable in Coin, and ten per cent interest from date, and all costs of suit. And it is further ordered as against the said Mary Heilman & Wilson Green that the Vendors lien be and it is established against the said lots No 5 & No 6. in Block No 90. of Austin City lots to secure this judgment: And it is further ordered and decreed by the Court that an order of sale do issue herein ordering the sale of said Austin City lots No 5 & No 6. in Block No 90. in the City of Austin, County of Travis to satisfy this judgment. And it is further ordered that plaintiffs recover their Costs of the defendants. And in offering said lots for sale that part sold to Wilson Green by Heilman & Wife to him viz: 60 feet by 138 off the South end of said lots No 5 & No 6. shall only be sold after the

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remainder of said lots have been sold and the Judgment be unsatisfied. and for any balance after sale of said lots 5 & 6. in Block No 90. aforesaid, that execution issue against August Steilman alone. To which judgment & decree the defendant Mary Steilman excepts & gives notice in open Court. of Appeal to the Supreme Court.

4556 C. P. West Executor vs. F. M. Hanks et al. Continued to make parties.

4557 C. P. West Executor vs. F. M. Hanks et al. Continued to make parties

4553 C. P. West Executor vs. F. M. Hanks. Continued to make parties.

4626 P. Jacobs & Beckhardt vs F. Blause & Co. Continued for service.

4672 A. A. Scroggins vs. Ida Lake. Dismissed.

4688 B. F. Collins vs. J. W. Robertson. Costs having been paid cause is dismissed.

4830 Florence Shenworth vs. B. Brown et als. Upon motion it was ordered that Plaintiff have leave to file first supplemental petition and that Defts have leave to amend their answer.

5100 W. B. Beakley vs. Sam. P. Nichols. Dismissed at costs of Defendant.

5111 Mildred P. Goodloe vs. Mollie Pope Buck et al. It being suggested to the Court that the defendants Henry Caldwell, Emma Caldwell, & Eula Caldwell are minors, it was ordered that Walton P. Caldwell be, appointed guardian at litem for said minors and that said guardian be required to enter in bond for the faithfull performance of his duties as such guardian in the amount of $1000.00 one thousand dollars.

5123 S. R. Yates vs Saml. Lentz & Ellen P. Lentz. Upon motion of Pltf's Attorney it was ordered that the Sheriff of Bastrop County have leave to amend his return on citations against defendants.

And thereupon Court adjourned till tomorrow morning at 9 o'clock.

April 25th 1878.

Court met pursuant to adjournment. present same as yesterday Whereupon the following proceedings were had to wit:

3241 Scheerck & Berkson vs C M Rome & John Dawson. Defts. C R Johns, F. Everett, & Wm Von Rosenberg. Garnishees. This day this cause coming on to be tried the plaintiffs Louis Scheerck and Theodore Berkson appeared by atty and the Defendant John Dawson and the Garnishees C. R. Johns Flavius Everett & Wm Von. Rosenberg appeared by their attorneys

Exec. dock 5. page 43.

25th

April 24th 1878.

and announced themselves ready for trial. And it appearing to the Court that the Deft C M Rome has been duly served with Citation and Copy and petition in this cause, and has failed to appear and plead, answer or demur to plaintiffs cause of action. Thereupon the Defendant John Dawson by Atty presented his motion to quash the original attachment sued out by plaintiffs in this cause; And the same being heard and considered by the Court, and it appearing to the Court that the law is with the plaintiffs on said motion, It is ordered that said motion be and the same is overruled and said attachment be sustained, Thereupon the Defendant Dawson by Attorney presented his motion to quash the second attachment in said cause issued on the 14th day of June A D 1872. And said motion being heard and considered by the Court, it is ordered and adjudged that said second writ of Attachment be and the same is quashed, and the levy thereunder is vacated. Thereupon the Court having heard the pleadings and evidence and considered the same, It is ordered and adjudged by the Court, that the plaintiffs Louis Scherck and Theodore Berkson do have and recover of and from the Defendants C. M. Rome and John Dawson the sum of ($880.00) Eight Hundred & Eighty Dollars principal debt and interest to date, together with all costs of this suit; And it appearing to the Court that C R. Johns, F Everett and Wm Von Rosenberg partners under the firm name of C R Johns & Co. have been duly served with process of Garnishment on the 7th day of March A D 1872. and that the said Garnishees had in their hands at said last date the sum of Twelve Hundred Dollars belonging to the Defendant John Dawson, and that so much of said sum as was or may be necessary to satisfy plaintiffs debt and the costs of this suit, was and is liable and subject to said garnishment. It is therefore ordered and adjudged by the Court that the said plaintiffs Scherck & Berkson do have and recover of and from the said C.R. Johns, F. Everett, and William Von Rosenberg. composing the firm of C.R. Johns & Co. their principal debt and interest adjudged against the said C. M. Rome and John Dawson to wit the sum of ($880.00) Eight Hundred & Eighty Dollars together with all

April 24th 1878.

Costs in and about this suit expended, that the principal amount adjudged bear interest from this date at the rate of eight (8) per cent per annum for 4c
ale which execution may issue &c. It is further ordered and adjudged that the amount which may be paid by the said C A Johnson & Co on this judgment shall be a credit upon the claim or demand of the Defendant John Dawson against them.

× 4530. Exec. dock No 5 page 36.

Phineas De Cordova vs. Maria L. Allen and William T. Allen. Now on this day this cause coming on to be tried, thereupon came the parties by their attorneys and announced themselves ready for trial. And the Defendants demurrer to Plaintiffs pleading being heard and considered by the Court it is adjudged by the Court that the same be overruled, Thereupon the Court having heard and considered the pleadings and the evidence offered by the parties. It is ordered and adjudged by the Court that the Plaintiff Phineas De Cordova do have and recover of the Defendants the tract of land described in plaintiffs petition, to wit: Being a part of the Headright League of land granted to William Cannon and described as follows. Beginning at the South West corner of a tract of land and a part of said league sold by William R Cannon to Benjamin F. Johnson thence with the West line of said Johnson tract to the North West corner of the same in the South line of another tract sold by Cannon to George Neill. Thence North 60° West with the South line of said Neill tract to the West line of said Cannon League thence South 30° West with said West line of said League to the North West corner of a tract of land sold out of said league by William R. Cannon to Thomas Eborn. And thence East with the North line of said tract and the North line of another tract sold by said Cannon to said Eborn to the place of beginning It is further ordered, adjudged, and decreed, by the Court that the title to the above described tract of land 4
× be and the same is hereby quieted in the said Plaintiff, and that writ of possession do issue commanding the Sheriff or other proper Exec. officer to place the said plaintiff in possession of said land. It is further ordered that the plaintiff do have and recover of and from the Defendants the sum of One Dollar as damages and all costs in and about this suit expende

April 24th 1878.

Thereupon the Defendants by Attorney, in open Court excepted and gave notice of Appeal to the Supreme Court.

45-21. W. R. Davis vs. Alfred Scott. On this the 24th day of April A.D. 1874 the above entitled and numbered cause coming on to be heard and both parties appearing by their respective Attorneys announced to the Court that they had agreed to the judgment to be rendered in said cause, and of this fact had reduced their said agreement to writing and filed the same among the papers in this cause, which said agreement is in words and figures as follows to wit:

W R Davis
vs
Alfred Scott

No. 45-21. It is agreed by the Attys for Plff and Deft in the above entitled and numbered cause that judgment may be rendered for the Plff as prayed for in his petition. He having since the institution of this suit purchased the title of Deft to the lot in question. Plff paying the costs of suit.

John Dowell W. P. Bacon
Atty for Plff. Atty for Deft

and the Court having inspected said agreement and duly considered the same, and found it to be in due form of law it is therefore ordered adjudged and decreed by the Court in accordance and by virtue of said Agreement that the Plaintiff W. R. Davis do have and recover of and from the Defendant Alfred Scott in said cause Lot No (5) Five in Block (23) Twenty three a subdivision of Out Lot No (3) thirteen in Division D. of the Out Lots of the City of Austin, County of Travis and State of Texas together with all improvements situated thereon and for which a writ of possession will issue to place said W R Davis in possession of said lot. It is further ordered that the Plaintiff W R Davis pay all costs incurred in the prosecution of this cause for which execution may issue.

45-22. Miller, Dowell et al vs Alfred Scott. On this the 24th day of April A D 1874 the above entitled and numbered cause coming on to be heard, both parties appearing by Attorneys announced to the Court that they had agreed of the judgment to be rendered in this cause and had filed their agreement in writing among the papers in this cause which is in the following words

April 25th 1878.

and figures, to wit:
Miller, Dowell, et al
vs
Alfred Scott

No 4522. It is agreed by the Attys for the Plffs and Defts in this cause that judgment may be rendered for the Plffs as prayed for in their petition, they having purchased the title of Deft to the lots in question since the institution of this suit. Plffs paying the costs.

John Dowell for Plffs
W. P. Bacon Atty for Defts.

And upon which said agreement they asked the Court to render judgment accordingly. Whereupon it is ordered adjudged and decreed that the Plaintiffs in said suit, W. A. St Miller, John Dowell, George F. Pendexter, and Preston B. Ward do have and recover of the Defendant Alfred Scott Lot No (4) four in Block No (23) Twenty three a Subdivision of Out Lot No (13) thirteen in Division O. of the Out Lots of the City of Austin, County of Travis and State of Texas, together with all improvements situated thereon and that a writ of possession issue in favor of Plaintiffs to put them in possession of the same. It is further ordered that the Plaintiffs pay all costs in this behalf expended for which execution may issue.

× 4769 W. W. & Chas E. McLaughlin vs John D. Logan et al. Upon motion of Plffs Attys it was ordered that this cause be dismissed and that the plaintiffs and the sureties on their cost bond to wit W. D. Patton and Walter Tips pay all costs in this behalf expended for which execution may issue.

× 4768. E. L. Compton vs. The heirs of Henry Reinhart. On this the 24th day of April A. D. 1878. Came the Plff E L Compton by his Atty of record. G. R. Freeman Esq. and came also Elizabeth Reinhardt, surviving wife of Henry Reinhardt decd. John J Reinhardt, Ellen Reinhardt, Alice Ramsaur joined by her husband D. W. Ramsaur, Mary J Cochran joined by her husband L. W. Cochran resident citizens of Catawba County, North Carolina, as the heirs of Henry Reinhardt decd. by their atty of record John B Rector Esq. and also appeared Robert St. Ward Esq. on behalf of the unknown heirs of Henry Reinhart, representing said unknown heirs by appointment of the Court, and all parties announced themselves ready for trial. And no jury having been demanded the case was submitted to the Court. And

April 25th A.D. 1878.

after the reading of all the pleadings and the introduction of the evidence and after the argument of Counsel for all parties. the plff by his atty asked leave of the Court to take a non suit in this case. Which motion was by the Court entertained and a non suit in this behalf granted to the Plff. And it was further ordered by the Court that the Plff & L. Compton and the sureties on his cost bond to wit John P. Key and J.B. Baines pay all costs in this behalf expended. for which execution may issue against said sureties.

And thereupon Court adjourned till tomorrow morning at 9 Oclk

April 26th A.D. 1878.

Court met pursuant to adjournment. present same as yesterday.

3688. W. St. Day. Plff. vs A. L. Heren & W. J. Cloud Defts. Frank S. Box and N.C. Edwards. Garnishees. And now on this the 24th day of April A.D 1878. this cause being regularly reached upon the Docket, Copies the Plff by his attys, and it appearing to the Court from the answer of the garnishee Frank S. Box that he was and is justly indebted to the Deft A L Heren in the just and full sum of Six hundred & fifty gold dollars due and payable for the purchase money of .380 acres of land sold to him by said A L Heren out of the Francis Hughes 640 acre tract of land on South Nolens Creek in Bell County State of Texas. It is therefore considered ordered adjudged & decreed by the Court that the Plff do have and recover of & from the said Frank S Box the sum of Six hundred & fifty dollars gold coin. and it is further ordered adjudged & decreed that the vendors lien be & the same is foreclosed upon said land for and on account of which the same is due and that an order of sale do issue directed to the Sheriff of Bell County commanding that he proceed to sell as under execution all that certain tract of 380 acres of land lying & situated in said County. on South Nolen Creek & being a part of the Francis Hughes 640 acres of land, said 380 acres being that part thereof sold or by deed conveyed by said A.L. Heren to the said Frank S. Box & which is more particularly described therein & the proceeds of such sale pay over to the Plff or his Atty. It is further ordered that, said showed land not sell for enough to satisfy this judgment that execution.

April 26th 1878.

issue for balance. It is further ordered that Plff pay costs of this proceedings up to including the Judgment & that all future costs accruing therein to be paid by the said F. S. Box

And thereupon Court adjourned till tomorrow morning at 9 o'clk

April 27th 1878.

Court met pursuant to adjournment present same as yesterday.

× S-962.√ W. H. Firebaugh vs. T. T. Pendley. On this day the above entitled cause came on for trial whereupon the Plff appeared by Atty and announced ready for trial, and the defendant failed to appear and answer herein but wholly made default. And it appearing to the Court from the evidence introduced by the plaintiff that 10 per cent Atty's fees on the amount now due on the note sued on would be reasonable & necessary Attorneys fees in such a case as this, and it further appearing to the Court, that there is now due as principal & interest on the note sued on in this cause the sum of Eleven Hundred and thirty seven & 34/100 ($1137.34). It is therefore ordered adjudged and decreed by the Court that the plaintiff W. H. Firebaugh do have & recover of & from the defendant T. T. Pendley the sum of Eleven Hundred & thirty seven & 34/100 ($1137.34) dollars with interest thereon from this date at the rate of twelve per cent per annum until paid, And that said plaintiff W. H. Firebaugh do have and recover of & from said T. T. Pendley the further sum of One hundred & thirteen & 73/100 ($113.73) dollars as attorneys fees with interest thereon from this date until paid at the rate of eight per cent per annum and all costs of suit in this cause expended for all of which execution may issue.

× S-125.√ Executors of William Nelson vs R. E. Grant. Now on this day this cause being regularly called for trial, whereupon came the plaintiffs Frank Hamilton John S Whiting and Robert A Smith Executors of the last will of William Nelson deceased by their Attorney and announced themselves ready for trial. And it appearing to the Court that the defendant R E Grant had excepted service of the petition in this case and waived copy of citation and petition more than five days before the first day of this term of this Court exclusive of the day of acceptance of service. And said defendant having failed to appear either in person or by atty and answer said

April 27th 1878.

petition; on motion of plaintiffs Attorneys judgment was rendered against said defendant by default. And it appearing to the Court that the facts alleged in plaintiffs petition are true, And the plaintiffs announced by their Attorneys that they would remit all of the interest due on said notes and moved for judgment for the principal sum due on said notes sued on and the Attorneys fees. It is therefore ordered adjudged and decreed that the plaintiffs Frank Hamilton, John S Whiting and Robert A Smith Executors of the last will of William Nelson decd. do have and recover of the defendant R. E. Grant the sum of Twenty Eight hundred and Sixty three dollars the principal sum due on said notes with interest from date at the rate of eighteen per centum per annum, and the further sum of Two hundred and eighty six dollars as attorneys fees stipulated in said notes with interest on said last sum at the rate of eight per centum per annum from date together with all costs in this behalf expended for which execution may issue, And it appearing to the Court that the plaintiffs have and hold a Mechanics lien to secure the payment of said principal sums due on said notes. on lots number Seven (7) and eight (8) in Block number Eighty Two. (82) in the City of Austin County of Travis and State of Texas and the improvements thereon situated, It is therefore ordered, adjudged, & decreed that said mechanics lien be foreclosed and that an order of sale be issued directed to the Sheriff of Travis County directing him to sell said lots number Seven (7) and eight (8) in Block number Eighty two in the City of Austin County of Travis and State of Texas, with the improvements thereon situated, as Sales are required by laws to be made under executions, And that of the proceeds arising from such sale he pay off and discharge the judgment herein rendered in favor of the Plffs together with all costs due the Plffs or officers of Court in this behalf and the balance if any he pay to said defendant R E Grant and in case said property does not sell for a sufficient amount to satisfy this judgment and costs then that plaintiffs have their execution for the balance that may be due on this judgment

April 27th 1878

5126 Wilson Green vs E. W. Holler. This day came the plff Wilson Green by his Atty. and the defendant E. W. Holler failed to appear and answer in this behalf but wholly made default. And it appearing to the satisfaction of the Court that the Def E W Holler is indebted to the plff in the sum of 906.25/100 dollars and that the note sued on bears interest at the rate of ten per cent per annum, and it further appearing to the Court that said note was given to secure the payment of the purchase money of the following described tract of land: to wit: Part of the Applegate league situated in the County of Travis and State of Texas, 6 miles north east from Austin. Beginning at the S.E. corner of a tract of land sold by R. A. Rutherford to D. Loyd Sorrell off of the same survey for corner. Thence N 30 East 1195 vrs as to a stake for corner. Thence S 60 E 789 vrs as to a stone, corner of the West line of the Rice survey. Thence S 30 W 1190 vrs as to a stake for corner. Thence North 60 West 790 vrs as to the place of beginning. It is therefore considered by the Court that the plff. Wilson Green do have and recover of the said defendant E W Holler said sum of 906.25/100 principal and interest thereon from this date at the rate of ten per cent per annum together with his costs in this behalf expended. And it further ordered adjudged and decreed by the Court that the vendors lien upon the above described tract of land be and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County commanding him to sell the above described tract of land as under execution: and that he apply the proceeds thereof to the payment and satisfaction of the said sum of 906.25/100 dollars together with all interest that may be due thereon and the costs of this suit, and if the said land shall sell for more than sufficient to pay off and satisfy said sums of money then the said Sheriff is hereby directed to pay over the excess to the Deft but if the said land shall not sell for enough to pay off and satisfy this judgment then the Clerk of this Court is directed to issue execution for the balance remaining unpaid. The plff now in open Court agrees to give the defendant a

This judgment satisfied in full this February 8th 1889.
Wilson Green

5126 ✓ 1885 ✓ 4 7 2

April 27th 1878.

stay of Judgment until January 1st 1880.

W Green vs G W Erwin & E E Erwin. This day came the Plff Wilson Green by his attorney and the Defts G W Erwin and E E Erwin though duly served with process having failed to appear and answer but wholly made default and it appearing to the satisfaction of the Court that the defendants E E Erwin and G W Erwin are indebted to the Plff in the sum of 1923 80/100 dollars and that the note sued on bears interest at the rate of ten per cent per annum. And it further appearing to the Court that said note was given to secure the payment of the purchase money of lots Number four five & six (4. 5. & 6.) in Block number Forty one (41) in the City of Austin Travis County Texas. It is therefore considered by the Court that the Plff Wilson Green do have and recover of the said G W Erwin & E E Erwin said sum of 1923 80/100 dollars principal & interest, with interest thereon from this date at the rate aften per cent per annum, together with his costs in this behalf expended. And it is further ordered adjudged & decreed by the Court that the vendors lien upon the above described tract of land be and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County commanding him to sell the above described tract of land as under execution, and that he apply the proceeds to the payment and satisfaction of the said sum of 1923 80/100 dollars together with all interest that may be due thereon, and the Costs of this suit, And if the said land shall sell for more than sufficient to pay off and discharge said sums of money, then the said Sheriff is hereby directed to pay over the excess to the defendant but if the said land shall not sell for enough to pay off and discharge this judgment then the Clerk of this Court is directed to issue execution for the balance remaining unpaid. The Plff now in open Court agrees to give the defendants a stay of execution until January 1st 1880.

4720 Helena Bernhard et al. vs. Andrew J. Glasscock et al. Upon motion it was ordered that the Defts have leave to amend their answer.

1127 [illegible] to ap[illegible] net. A[illegible] the Def[illegible] on of[illegible] s inte[illegible] ther[illegible] n to [illegible] the fol[illegible] of the [illegible] avis [illegible] eginn [illegible] therfo[illegible] com[illegible] orne[illegible] West[illegible] stat[illegible] of [illegible] that [illegible] said [illegible] that [illegible] in pe[illegible] behalf [illegible] decree [illegible] the [illegible] sam[illegible] Court [illegible] eriff[illegible] bove[illegible] and [illegible] nt [illegible] s to- [illegible] and [illegible] e sell [illegible] isfy [illegible] s [illegible] Deft [illegible] y off [illegible] Court [illegible] g unp[illegible] a

This judgment Dakin Clerk By Val Burgess D 16th day of April 1878 W Green vs The State Watkins Trespass to Try Title

April 27th 1878.

4793 Whitefield Chalk vs. Stephen S. Darden Comptroller. The judgment of this Court in this cause having been affirmed by the Supreme Court, this cause is now dropped from the docket.

4970 W. M. & S. E. Sandford & J. & D. V. McSherney vs The unknown heirs of Elnathan Beebee and the unknown heirs of Horatio Reys & James O'Neill. This day it was ordered that J. P. C. Whitehead Esq. be appointed to defend the unknown heirs in this cause.

And thereupon Court adjourned till Monday the 29th inst. 9 o'clk A.M.

April 29th 1878.

Court met pursuant to adjournment Present same as first day. Whereupon the following proceedings were had to wit:

4812 M. J. Cavenaugh vs. W. A. Taylor et als. Upon motion of Pff's Atty it was ordered that this cause be dismissed and that the plaintiff pay all costs of this proceeding for which execution may issue.

4830 Florence Shenewerth vs B. Brown et al. Upon motion of Defts Atty it was ordered that the Defts have leave to file their first supplemental answer.

4873 Henry Hirshfeld vs. W. S. Biles & wife. Upon motion it was ordered that plaintiff have leave to file his first supplemental answer.

4918 B. C. Stavely vs Joseph Pedore. Continued to make parties.

4886 Margaret C. Boatner vs. Geo W. Glasscock et al. This 27th day of April 1878 came the parties to this suit by their Attys and the Pffs motion to suppress the depositions of E. J. Talbot M. S. Boatner & Wells coming on to be heard & being fully argued by counsel, it was ordered by the Court that the depositions of M. S. Boatner & E. J. Talbot be and they are hereby suppressed. and the motion to suppress the depositions of the witness Wells was overruled.

3241 Sherk & Berksan vs Rome & Dawson. This day came the parties to this suit by their Attys and the defendants motion for a new trial in this behalf coming on to be heard & being fully argued by counsel, was by the Court overruled. And the Defts thereupon excepted to such ruling of the Court and gave notice in open Court of appeal to the supreme Court.

4818 Mary J. Lee vs. Thomas Chubb & Walter Gresham. On this day came the parties Mary J Lee & Thos Chubb by their Attys. & the Pff heretofore having dismissed her suit as to the Deft Gresham at Costs of Pff. And the case being regularly reached on the docket (on this 29th day of April A.D. 1878) the parties announce themselves ready for trial, and thereupon the plea in abatement, demurrer and exceptions of the Deft coming on to be heard & after argument of Counsel & the Court fully understanding the matters, & the Court believing

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April 29th A.D. 1878.

the law to be with the Defendant. It is therefore considered ordered and adjudged by the Court that the plea, demurrer & exceptions to the petition be sustained & the Plff not asking to amend, the Court doth order & adjudge that the cause be dismissed, & that the Plff take nothing by her suit. & that the defendant have & recover of the Plff all costs of suit herein expended for which execution may issue. And the Defendant Gresham is granted leave to withdraw his title papers filed to wit: deed from Thos Chubb to W. L. Mann & Walter Gresham of date April 27th A.D. 1874. & deed from Thos Chubb to W. L. Mann of date 27th April 1874. leaving copies thereof:

4818. Mary J Lee vs Thos Chubb & Walter Gresham. This day came the parties to this suit by their Attys. and the Plffs motion for a new trial in this behalf coming on to be heard & being fully argued by Counsel, was by the Court overruled. To which ruling of the Court the Plff in open Court excepted and gave notice of appeal to the Supreme Court.

4777. James Shelton vs David Painter et al. This Case being regularly called for trial. Come now the Plaintiff and the Defendant David Painter by Sheek & Sneed his attorneys and announce themselves ready for trial. And the Court after hearing the pleadings of the parties and the evidence given and arguments made by Counsel herein does find for the Defendant David Painter. It is therefore ordered adjudged and decreed that the Plaintiff take nothing by this his suit against the said David Painter and that the said David Painter do have and recover of and from the Plaintiff and the Surety on his Cost Bond Wm M Chandler all his costs in this suit laid out and expended and accruing costs for which he shall have his execution and for which execution may issue. And thereupon the Plff excepted to such judgment of the Court & gave notice in Open Court of appeal to the Supreme Court.

And thereupon Court adjourned till 9 o'clock to morrow morning

April 30th 1878.

Court met according to adjournment. Present same as yesterday. Whereupon the following proceedings were had to wit:

5129. City Water Company vs. The City of Austin. This day it was ordered

April 30th 1878.

by the Court upon the application of Peffs Atty, that this suit be dismissed and that th Peff pay all cost in this behalf expended for which execution may issue against said Peff.

×5132 Andrew Neill vs. Jacob Ormerod. This day came the parties to this cause and filed their argument in writing that judgment be rendered in favor of plaintiff Andrew Neill against the defendant Jacob Ormerod for eleven hundred and sixty six dollars, and for one hundred and sixteen dollars attorneys fees due upon note sued on by plaintiff and that said eleven hundred and sixty six dollars bear interest from the date of this judgment at the rate of twelve per cent per annum until paid, and that execution may issue on this judgment upon the day the same is rendered. It is therefore ordered adjudged and decreed by the Court that the plaintiff Andrew Neil do have and recover of the defendant Jacob Ormerod the sum of Eleven hundred and sixty six dollars, the amount due upon the note sued on, and the further sum of one hundred and sixteen dollars Attorneys fees, with interest on said Eleven hundred and sixty six dollars from this date at the rate of twelve per cent per annum until paid. together with all costs in this behalf expended, and that execution issue on this judgment forthwith.

5111 Mildred P. Goodloe vs. Mollie Pope Buck et al. Upon motion of Peff Atty it is ordered that Peff have leave to file her first supplemental petition.

And thereupon Court adjourned till May 2nd 1878 9 o'cl. A. M.

May 2nd 1878.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had to wit:

5116 Mrs. J. Sophie Markley vs. Joseph Malle. Upon motion of Peff Atty it is ordered that Peff have leave to file her first amended petition.

× 4783 Martin Belger vs Moses Raynor. And now on this 30th day of April A D 1878. this cause being called for trial the parties appeared and announced ready and no jury being demanded the cause was submitted to the Court. and the Court after having heard the averments and evidence of the parties being of opinion that the plaintiff is entitled to recover. It is therefore ordered adjudged and decreed by the Court that the Peff Martin Belger do have and recover of and from the Defendant Moses Raynor the Lot sued for to wit. Lot No 31. in the Subdivision of Out lot No 50 in Division A.

of the out lots of the City of Austin and that the division line between said Lot No 31 owned by the said Belger and Lot No 28 in the subdivision of said Out lot Nos 8 now owned by said Raynor be and the same is hereby fixed and established as follows: The east line of said Lots Nos 31 and 28 being a prolongation of the same line and the West line of said Lots being also a prolongation of another line (the division line between said two lots shall begin at a point in the east line of said lots equidistant from the North East Corner of Lot No 31 and the South east corner of Lot No 28 and said division line shall run thence in a westerly direction to a point in the West line of said lots equidistant from the North West corner of Lot No 31 and the South West Corner of Lot No 28) and that a writ of possession issue to the Sheriff of Travis County requiring him to put said plaintiff in possession of said Lot No 31 having for its Southern boundary the line as herein fixed and established. And it is further ordered that said Raynor pay all the costs of this suit for which execution shall issue. And thereupon the Deft by Counsel excepted to such judgment of the Court and gave notice in open Court of Appeal to the Supreme Court.

5080 ✓ C. F. Millett vs. M J Doyle. Now on this 26th day of April A D 1878 comes the plaintiff in the above entitled cause and asks the Court to enter judgment according to an agreement on file in said cause between himself and the Defendant M J Doyle. And it appearing to the Court that the Deft is indebted to Plff in the sum of $487 23/100 principal and interest to date and $48 72/100 Attorneys fees. And it further appearing that defendant has agreed that the Mechanics lien be foreclosed upon fifty acres of the tract of land hereinafter described including the improvements of said Deft. It is therefore ordered and adjudged by the Court that the Plff C F. Millett recover of the Deft M J Doyle the said sum of Four Hundred and eighty seven 23/100 dollars principal and interest to date, together with the further sum of Forty Eight 72/100 Dollars as Attorneys fees with interest thereon at the rate of one per cent per month and all costs of suit and that the Mechanics

May 2nd 1878.

lien be foreclosed upon fifty acres of the following described tract of land including the improvements situated thereon to wit: Lying in Travis County Texas on Onion Creek. beginning on the North bank of Onion Creek at a large Pecan marked with a blaze near which stands a Mulberry marked "W" from which a Box elder 10 in dia bears N 33 W 12 varas and an elm 6 in dia bears N 60 E 5 varas (marked thus X) Thence N 45 W 2344. varas to its North Corner a large rock set in prairie Thence S 30 W 1100 varas a Corner on Onion Creek. Thence down Onion Creek with its meanders to the place of beginning including in all about 250 acres of land more or less. And it is further ordered and adjudged that an order of sale do issue to the Sheriff of Travis County commanding him to advertize and sell said fifty acres of land as under execution and apply the proceeds thereof to the satisfaction of this judgment and costs and if anything shall remain after satisfying the same it shall be paid over to said defendant, but if said land shall not bring enough to pay off the same then execution issue for such balance. That this judgment be stayed according to said agreement until the 1st day of January 1879.

And thereupon Court adjourned till tomorrow morning at 9 Oclock.

May 3rd 1878.

Court met pursuant to adjournment. Present same as yesterday. The whole day was occupied with Case No 4830 Florence Chenoworth vs B Brown et al.

And thereupon Court adjourned till to morrow morning at 9 Oclk.

May 4th 1878.

Court met pursuant to adjournment. Whereupon the following proceedings were had, to wit:

5-123. F. C. Arnold vs L. F. Arnold: On this the 4th day of May A D 1878 the above entitled and numbered Cause coming on to be heard in its regular order and the Plaintiff F. C. Arnold appearing in person and by his Attorney and the Defendant L F Arnold appearing by her Attorney both parties announced ready for trial. Whereupon the Cause was submitted to the Court who after hearing the pleadings evidence and argument of

May 4th A.D. 1878.

Counsel in the cause and duly considering the same it is ordered adjudged and decreed by the Court that the divorce as prayed for in Plffs Petition be granted and that the holy bonds of matrimony heretofore subsisting between the said Plff F. C. Arnold and the Deft L F Arnold in the relation of man and wife be and is hereby dissolved and terminated and the said Plff and Deft. forever seperated from each other as husband and wife. It is further ordered decreed and adjudged by the Court that the Plff F C Arnold the father and natural guardian of the children Irene and Daniel Arnold the issue of the marriage of Plff and Defendant be and is hereby given the care custody and control of said children and all orders and decrees necessary to give him the custody thereof issue when required. It is further ordered that the Plff F. C. Arnold pay all costs in this said cause for which execution will issue.

× 5067. Rosa Orlasino vs Guiseppa Orlasino. On this the 4th day of May 1878 the above entitled and numbered cause coming on to be heard in its regular order, and the Plff Rosa Orlasino appearing in person and by her atty. and the Deft Guiseppa Orlasino appearing by his atty both parties announced ready for trial, whereupon the cause was submitted to the Court, who after hearing the pleadings evidence and argument of Counsel in the cause and duly considering the same, it is ordered adjudged and decreed by the Court that the divorce as prayed for in plaintiffs petition be granted and that the holy bonds of matrimony heretofore subsisting between the said Plff Rosa Orlasino and the said Deft Guiseppa Orlasino in the relations of man and wife be and is hereby dissolved and terminated and the said Plff and Deft seperated from each other as husband and wife It is further ordered adjudged and decreed by the Court that the said Plff pay all costs in this behalf expended for which execution may issue.

× 4964. Mary E. Montigue vs John Montigue. On this the 4th day of May AD 1878 the above entitled and numbered cause coming on to be heard in its regular order and the Plff Mary E Montigue appearing in person and by her atty and the Deft John Montigue appearing by his atty both parties announced ready for trial. Whereupon the cause was submitted to the Court, who after hearing the pleadings evidence

May 4th, 1878.

and argument of Counsel in the cause and duly considering the same it is ordered adjudged and decreed by the Court that the divorce as prayed for in Plff's Petition be granted and that the holy bonds of matrimony heretofore subsisting between the said Plff Mary E. Montigue and the Deft John Montigue in the relation of man and wife be and is hereby dissolved and terminated and the said Plff and Deft forever seperated from each other as husband and wife. It is further ordered decreed and adjudged by the Court that the Plff Mary E. Montigue the mother of the child Fanny Montigue the issue of the marriage of Plff and Deft. be, and is hereby given the care custody and control of said child. It is further ordered adjudged and decreed by the Court that the said Deft be and he is hereby forever restrained and enjoined from interfering in any manner with the said Plff in regard to the care custody and control of the said child. It is further ordered that the Plff Mary E Montigue pay all costs in this said cause for which execution will issue.

× 3829. Cora B. Slaughter vs. Anna Lurry et al. On this 4th day of May 1878 came on to be heard the Report of Felix E Smith Commissioner &c. and the Court having examined the same and hearing testimony as to the value of the land sold, and it appearing that the sale was fairly made and for adequate price It is considered and ordered by the Court, that the said report be and it is hereby approved and that the sale and deed made for said lots 4.5.6.11.& 12. to Paul Von Rosenberg be and the same is confirmed. It is further ordered that said account be approved and that the same be recorded. And it is further ordered that the Commissioner be and he is directed after pay necessary costs herein to apply the remainder of funds in his hands. (shown by this and former reports) to the payment of taxes of the estate and if any remain that it be paid over to the Beneficiaries the widow & children or the Guardian. &c.

(Which Report is as follows)

× 3829. Cora B Slaughter
vs.
Anna Lurry et al.

In Travis Dist Court
April 1878.

Comes Felix E Smith Commissioner appointed by the Court in this case to sell certain lands of the estate to pay debts. He makes this his additional report and asks that it be approved and confirmed. The Comr has sold

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a remnant of 9¼ acres being lots No 4.5.6.11.& 12 as shown by plat on file, Sale made for $175.00 which is the full value to Paul Von Rosenberg. The money has been paid and deed made to the purchaser. The Comr has paid Costs of the suit (see Hallmanns account.) ..... $ 53.35

Commissions 17.50

$ 70.85.

Leaving on hand 104.15

Comr shews that there remain taxes unpaid for former years on the lands and he asks that he be allowed to appropriate the balance on hand to that purpose. Comr asks that his report be adopted and that the sale be approved and confirmed.

Sworn to & subscribed before me this 27th " day of April 1878. Felix E. Smith. E. Hallemann Clk

5111. ✓ Mildred P. Goodloe et als. vs Mollie Pope Buckett als } In District Court of Travis County. April Term 1878.

Now on this the 4th day of May 1878 it appearing to the Court that Walter H Caldwell who was on the 24th " day of April 1878. appointed special guardian of the minor Defts. Henry Caldwell Emma Lee Caldwell and Eula Caldwell has given the bond and taken the oath required by law. And the Plffs Mildred P. Goodloe and Winter Goodloe appearing by their Atty John B. Rector and the Defts Mollie P. Buck and her husband Charles H Buck by their atty J F. Oatman, and the minors Henry Caldwell Emma Lee Caldwell and Eula Caldwell by their special guardian W H Caldwell and all announce themselves ready for trial. And it appearing to the Court that the Defts had been properly cited, and that this cause had been regularly reached for trial and no jury demanded. It is therefore ordered adjudged and decreed by the Court after hearing the pleadings of the (pleadings of the) parties and the evidence, that the following described property is the separate property of the estate of John Adam Caldwell deceased: and that the Plff Mildred P. Goodloe have a life estate in one third of the same, and that the Defts Mollie Pope Buck Henry Caldwell Emma Lee Caldwell and Eula Caldwell have the remainder of said estate, share and share alike. And it is further ordered and adjudged that

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they, said last named Defts are the owners in fee of two thirds of said property. and also the third of said land set apart to said Mildred P Goodloe after her life estate terminates. and it is ordered that said two thirds of said estate be partitioned and set apart to them the said Defts share and share alike said Separate property being described as follows. Twenty seven acres of land lying in Travis County Texas part of the Antonio Navarro seven leagues of land. Beginning at a stake on the old East boundary line of the Comanche league from which a hackberry 10 in in diameter bears N 83° E 7 vrs distant the same being the N E corner of a 107 acre tract titled to James W Carnor the 18th of July 1869. Thence N 30 E. 343 varas to a stake in the same line being S E corner of a tract of land heretofore titled to Alfred Caldwell. thence N 60° W 445 varas along with said Alfreds line to a stake in the same being N E corner of a 24 acre tract of land of said Alfreds heirs, thence S 30 W 343 varas to a stake the same being the S E corner of said 24 acre tract thence S 60 E 445 varas to said East boundary line of said Comanche league to the place of Beginning; Also a tract of land. Beginning at a stake on the South bank of the Colorado River in the County of Travis from which a Cottonwood tree marked X bears S 60 E 1½ varas distant and an Elm tree marked H bears N 60 W 1½ varas distant thence S 30 W 3215 varas to a stake in the field thence N 60 W varas to another stake in said field thence S 30 W 1110 varas to a stake in the Prairie, thence N 60 W 895 varas to a stake. thence N 30 E 5-280 varas. (the same being the line between said John Adam Caldwell and his sister Mary) to a stake on the bank of said river from which a hackberry marked C. bears S 18 varas distant another hackberry tree marked P. bears N 57° W 8 varas distant thence down said River to the place of beginning. Contain 800 acres. less the following. heretofore sold off by said John Adam Caldwell in his life time viz: 169 acres to J. C. Pierce. Beginning on the lower corner on the river of Popes home tract from which an Elm 4 inch in diameter bears N 87 W ½ varas and a Hackberry 12 inch in diameter S W. thence S 30° W with Popes east line 2237 varas to a stake from which a Pecan 20 inch in diameter bears

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N 86° E 6½ varas & a Do 15 inch in diameter bears S 32 W 2½ varas, thence S 60 E 426 varas to a stake from which a Cedar 12 inch in diameter bears N 30 E 4 varas, thence N 30 E 2100 varas to the River, thence up the river with its meanders to the place of beginning. Also less 145 acres sold by said John A Caldwell to David J. Anderson. Beginning on the Corner on the river, of 169 acres of land of J Pierce thence S 30° W 2100 varas to a stake from which a Cedar 12 inch in diameter bears N 30 E 4 varas thence S 60 E 474 varas to a stake from which an Elm 12 inch in diameter bears S 47 W 10 varas & a Do bears N 27½ E 2½ varas thence N 30 E 15-30 varas to a stake on the bank of the river from which a Cottonwood 40 inch in diameter bears S 79 E 5 varas and a hackberry 10 inch in diameter bears S 58 W 2½ varas thence up the River to the place of beginning. And it is further ordered adjudged and decreed by the Court that the following described property is the community property of the estate of John Adam Caldwell and the Pleff. Mildred P. Goodloe and that the said Mildred P. Goodloe is the owner in her own right of one half of said property and the said Defts Mollie P. Buck & Henry Caldwell Emma Lee Caldwell and Eula Caldwell of the other half and that the same be partitioned so as to give the said Mildred P. Goodloe one half of said property and the Defts last above mentioned the other half, share & share alike of said property which is described as follows Viz: 140 acres of land lying in Travis County Texas, Beginning on the South line of a 337 6/7 acre tract deeded by John S. Craft Sen. to John S Craft Jun. at a stake from which a mesquite 15 inch in diameter bears N 73½ E 47 varas thence N 30 E 1050 varas Corner in center of lane between John Adam Caldwell and Pape. thence S 60° E. with S line of said Caldwell 823 varas to Corner on West line of 60 acre strip reserved by Col. John Caldwell thence S 30 W 872 varas Corner on same line thence N 72¼ W 841½ varas to the place of beginning. also 80 acres of land in Travis County Texas out of 180 acres purchased by John A Caldwell in Jany 1869 from Henry Montgomery. said land being a part of the Antonio Navarro grant, in Travis and Bastrop Counties and for full description of same see deed from Montgomery as recorded in the

May 4th 1878.

Records of Travis County in County Clerks Office in Book V. pages 469. & 470. Also lots Nos 5.6.7 & 8 in Block 141 in the City of Austin with improvements thereon. Also Lot No 8 in Block No 138 in the City of Austin with improvements thereon. Also Lots No 3 & 4. in Block No 3. in the City of Austin with improvements thereon. Also Lot No 6. in Block No 21 in the City of Austin with improvements thereon. Also lot No 4 in Block No 95 in the City of Austin with improvements thereon, Also Lots No 1. 2. 3. 6. 7. & 8. in Block No 34 in the Town of Webberville. Travis County with improvements thereon, with the exception of the Stone house and the lot on which it is situated which has been heretofore sold off by the said John Adam Caldwell in his life time, Also James J Fowlers Note for Sixty Dollars and interest. Also 870^{dc} out of a note of W.C Jones for $2218.^{53}$ also note against Henry Jones with about 850^{00} & interest due thereon. Also 92 ft x 160 ft out of Block 143 in the City of Austin with improvements thereon. Also Lots Nos 2 & 3 in Block No 16. of Haleys addition to the City of Houston in Harris County Texas. Also one horse & buggy. Also Household and Kitchen furniture and one piano also 129^{00} in money and 120^{00} due from C.D. Johns for house rent. And in order to partition and divide the said property among the heirs of John Adam Caldwell and the said Mildred P. Goodloe as their interests are herein settled. it is ordered that Galen Crow E W Shands and Jeff Houston be and they are hereby appointed Commissions to view appraise and partition the said property herein mentioned and that they have leave to make their report to the present term of the Court

5 113 ✓

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Alexander Gardiner vs James Sims & Bridgett Sims. May 4th 1878

This day came the Plff by his Atty. and the Defts having failed to appear and answer in this behalf but wholly made default. Wherefore the said Alexander Gardiner ought to recover against the said James Sims and Bridgett Sims his damages by reason of the premises: And it appearing to the Court that the cause of action is liquidated and proven by an instrument of writing. it is ordered that the Clerk do assess the damages sustained by said Plff. and the Clerk having assessed the damages aforesaid And it appearing to the Court that the Defendants are

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indebted to Plff in the sum of Seven Hundred and Eighty nine dollars and 16 cents. and that the Contract sued on bears interest at the rate of twelve per cent per annum. And it further appearing to the Court that the money due on said Contract was for material furnished and labor done in making improvements on Lot No Eleven (11) Block 23½ of Norris subdivision of Out lots of the City of Austin Travis County Texas. It is therefore considered by the Court that the Plff do have and recover of said Defts said sum of Seven Hundred and eighty nine 16/100 Dollars principal and interest. with interest thereon from this date at the rate of twelve per cent per annum together with his costs in this behalf expended. And it is ordered adjudged and decreed by the Court that the Mechanics lien upon the above described lot of land and the improvements situated thereon be and the same is hereby foreclosed. and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County Texas. Commanding him the said Sheriff to seize and sell the above described lot of land and the improvements thereon as under execution. and that he apply the proceeds thereof to the payment and satisfaction of said sum of $789 16 with all interest that may be due thereon and the costs of this suit. And if said lot and improvements shall sell for more than sufficient to pay off and satisfy said sums of money then the Sheriff is hereby directed to pay over the excess to the Defendants, but if said property shall not sell for enough to satisfy this judgment. then the Clerk shall issue execution against the Deft James Sims for the balance unpaid.

4822. Jobe & Robinson vs J.P. Norbach. And now on this the 3rd day of May 1878 came the parties in this cause and announced ready for trial. And neither party having demanded a Jury the matter of fact as well as of law were submitted to the Court. and the Court having heard the motion of the Defendant J.P. Norbach by his Counsel, to Consider the exceptions of said defendant to Plffs tender of issues. before defendants pleas thereto the same is granted. and said exceptions having been submitted to the Court and argument of Counsel

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thereon having been heard said exceptions are overruled. except the seventh exception. which is sustained and the portion of Plffs tender of issues pleading special damages and praying recovery thereof. except such damages as are given by law. are stricken from the pleadings And the Court having heard all the pleadings and evidence in said Cause and argument of Counsel thereon and being fully advised thereon. is of opinion that the law is with the Defendant and claimant J.P. Horbach. It is therefore ordered adjudged and decreed that the Plffs P.W. Jobe and Jno H. Robinson take nothing by their suit and that the defendant and claimant J.P. Horbach recover of and from said Plffs all costs in this behalf expended for which execution may issue

And thereupon Court adjourned till Monday morning at 9 Oclk

May 6th 1878.

Court met pursuant to adjournment. present same as first day

× 5078 ✓ Whereupon the following proceedings were had to wit Emily T. Ford vs J.B. Gildart. This Cause coming on to be heard on Petition answer and proofs in the Cause and it appearing to the satisfaction of the Court from the proofs on file in said Cause. That there is now due from the said defendant to said Plff. the sum of One Thousand four hundred and ninety nine & 60/100 Coin dollars ($1499.60) due on the promisory note of said defendant. It is therefore ordered by the Court that said Plff Emily T. Ford do have and recover of said defendant J.B. Gildart the said sum of 1499.60 Coin Dollars with ten per cent interest on said sum from this date together with all costs of suit for which execution may issue.

× 5055 ✓ James E. Boulden Exor vs Charles Behnke et als. Now on this 6th day of May A.D. 1878 came the Plff by his Atty and the said Defts Charles Behnke having failed to appear and answer in this behalf. but wholly made default. Wherefore the said Plff ought to recover against the said Behnke his damages by occasion of the premises. And the said Defendant George M. Steissner having made answer but failing to appear and prosecute his said plea either in person or by Attorney and a jury having been waived. and the matter in controversy. as well of fact as of law having been submitted to the Court and the pleadings and evidence having been

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heard and fully understood by the Court it is therefore consid
ered by the Court that the said plaintiff do have and recover
of the said defendants Charles Behnke and George M Reissner
the sum of Four thousand Two hundred and Fifty one Dollars
and twenty one cents in gold with interest thereon at the rate
of eighteen per centum per annum together with his costs in
this behalf expended and that he have his execution. It
is further ordered that execution issue for the use of the
Officers of Court against each party respectively for the cost
by him in this behalf incurred.

4177 Cora D. Shephard & husband vs. John H. Conner et al. Int. Caldwell & H. McDowell Intervenors. Upon motion of Pffs' attys it is ordered that Pffs have leave to file 1st supplemental petition

4802 Michael D. Miller vs. Miller & Dowell. By consent of Pff & Defts made in open court it was ordered that this case be dismissed and that the plaintiff do have and recover of the defendants W. A. H. Miller & John Dowell all costs in this behalf expended for which execution may issue against said defendants.

4873 Henry Hirschfeld vs W. S. Biles & wife. Continued by defendants.

4892 The State of Texas vs. J. B. Jeames et al. Upon motion it is ordered that the defts Mitchell, Smith, Mrs. Newman & Mrs. St Clair have leave to file their first supplemental answer.

4894 The State of Texas vs. J. D. Bullock et als. This day the defts demurrer to pltffs petition being heard was by the court overruled and leave given to defts to file trial answer.

4896 Joseph Able Jr. vs. B. Brown et als. Continued.

4900 The State of Texas vs. B. Brown et als. Continued by agreement.

4908 W. C. Rogers & H. C. Ford vs. John & Wilson et als. This day it was ordered that this cause be dismissed and that the plaintiffs pay all costs in this behalf expended for which execution may issue on behalf of the Officers of court.

4940 Lucy Robinson et als. vs. G. W. Erwin et als. Continued.

4941 Wm Hudson vs. C. R. Johns & Co Continued by agreement.

4956 George M. Hagan vs. Rhoades Fisher et als. This day it was ordered by the Court that this case be dismissed without prejudice to pltffs cause of action, and it was further ordered that the plaintiff & his sureties on his cost bond to wit J. C. McKinney and S. M. Boren pay all costs in this behalf expended, for which execution may issue on behalf of the officers of court against said parties.

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4975 T. L. Wren vs. Edmond Green. Continued by agreement.

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4976 Thomas B. Tullis vs. Dennis Corwin Sheriff of Travis County. This day it was ordered by the Court that this cause be dismissed for want of prosecution, and that the plaintiff pay all costs of this proceeding for which execution may issue against said plaintiff on behalf of officers of court.

4977 Francis M. Doyle vs. James Leland Hall, Samuel Kail & Lorenzo Pratt. This day it was ordered by the Court that this cause be dismissed for want of prosecution, and that the plaintiff and her surety on her cost bond to wit James McCullough pay all cost of this proceeding for which execution may issue against said parties for the benefit of the officers of Court.

5018. Andrew Johnson vs. James L. Hall et als. This day it was ordered that this cause be dismissed for want of prosecution and that the plaintiff Andrew Johnson pay all costs in this behalf expended for which execution may issue on behalf of the officers of court.

5021 J. B. Wygall et als. vs. The Treasurer of the State of Texas. Continued generally.

5024. L. W. Baker vs. Nicholas Jerolemon. No counsel appearing this cause is continued.

5037 M. C. Hamilton vs. J. J. A. Blanton. No counsel appearing this cause is continued.

5051 H. & T. C. R.R. Co vs A. H. Cook. Continued.

5056 John S. Spence vs. Charlotte J. Thompson et als. This day it was ordered by the Court that A. M. Jackson Esq. be & he is hereby appointed guardian at litem for the minor defendants William, Florence & Henry Collins and that said guardian enter into bond with good & sufficient securities in the sum of ($200=) two hundred dollars for the faithful performance of his duties as such guardian.

5060 J. D. Morgan vs. John M. Hartson. No counsel appearing cause is continued.

5065 Sheeks & Sneed vs. R R Booth & Wm L. Booth. Continued for service.

5066 C. F. Millett vs. Reuben F. Ford. No counsel appearing this cause is continued.

5068 H. Bendratt vs Francisco Alderete, Susan Alderete & B. O. Stavely. No counsel appearing this cause is continued.

5069 Benjamin B. Collins vs. Fred W. Chandler et als. Continued for service.

5070 The State of Texas vs. William F. Ferguson et als. Continued

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by the defendants.

5073 ✓ The State of Texas vs. Wm J. Galloway et als. Continued for service.

5074 ✓ Richard Gildart et als. J. B. Gildart et als. This day it was ordered by the Court that T. J. Fulmore an atty of this Court, be & he is hereby appointed guardian at litem for the minor defendants in this cause to wit Farrar & Elliott Gildart, & it was further ordered that said guardian enter into bond of $ 200.00 with good & sufficient security for the faithful performance of his duties as such guardian.

5079 ✓ Rosina Conradi & William Conradi vs. Karl Schlosser. Continued to perfect service.

5090 ✓ The State of Texas vs. James N. Vaden et als. Continued by the Defts.

5103 ✓ Paul Pressler vs. Carl Schaeffer et al. Upon motion it was ordered that the defendants have leave to file first amendment of their original answer.

5104 ✓ M. C. Hamilton vs. F. W. Chandler et al. No counsel appearing this cause is continued.

5105 ✓ Ellen Kimball et al. vs Louisa Johnson et al. Continued for service.

5107 ✓ The Montopolis Ferry Company vs. Benjamin R. Townsend. Continued.

5112 ✓ B. Bastham vs. Wm Weisenhorn. Continued for service

5114 ✓ R. M. Castleman vs. C. R. Johns et al. No counsel appearing this cause is continued.

5118 ✓ John S. Robinson & Son vs. Texas Furniture Manufacturing Co. Continued.

5119 ✓ Amelia Brichta vs Fannie Teague et al. Continued for service on Ella Teague.

This day came into open Court the Grand Jury of Travis County, empannelled at the present term of this Court, and a quorum of said Grand Jury (11 members) being present, they suggested to the Court that John W. Glenn, heretofore by the Court appointed Foreman of said Grand Jury was absent from the Grand Jury room. It was thereupon ordered by the Court that R. F. Campbell a member of said Grand Jury be & he is hereby appointed Foreman of said Grand Jury during the absence of said John W. Glenn.

4883 ✓ The State of Texas vs. John T King George W Davis William S Griffin John B Park. Charles W Henderson A A Vestal and W G Witten. May 6th 1878. This day came the Pltff and John T King and George W Davis Defts in the above entitled cause by their Attorneys. and it appearing to the Court by the return thereon that the Citation issued to the

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Defendant Charles W Henderson has not been served. the Plff says she will no longer prosecute her said suit against said Deft Henderson. And it further appearing to the Court that William H Griffin John B Park A A Vestal and N G Witten Defts in said cause were duly served with process but failed to appear and answer and wholly made default. Whereupon the said Plff ought to recover against the said William H Griffin John B Park A A Vestal and N G Witten her damages by occasion of the premises. And it further appearing to the Court that neither Plff nor Defts demanded a jury in said cause: and the pleading of plff and the said King and Davis, and the proofs of plffs claim having been submitted to the Court, and the same having been fully considered and understood, It is ordered adjudged and decreed by the Court that the Plff. The State of Texas - do have and recover of and from the Defts. John T King George W Davis William H Griffin John B Park A. A. Vestal and N. G. Witten the Sum of Fifteen Thousand Seven Hundred and Fifty and 62/100 ($15.750.62) Dollars and costs of suit, and that said Plff have execution. And it further appearing to the Court that the Deft John T. King is the principal in the official bond sued on this case, and that the Defendants George W Davis William H Griffin John B. Park. A. A Vestal and N G Witten executed said bond as sureties and as such sureties are entitled to the benefit of the Statute in such Cases provided. It is further ordered and decreed by the Court that the Sheriff levy the execution issued by virtue of this judgment, first upon the property of the said Defts John T. King subject to execution and situate in the County of Travis before a Levy shall be made upon the property of said sureties or either of them: provided so much of the property of the said John T. King shall be found as will be sufficient to make the amount of said execution, otherwise the levy thereof to be made on the property of the said John T. King that may be found if any, and upon so much of the property of said sureties as may be necessary to make the amount of said execution. And it is further ordered and decreed by the Court that in case said sureties or either of them shall make any payment, which is applied on this judgment by reason of their suretyship on said official bond this Judgment shall not be discharged

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by such payment. but shall remain in force and be prosecuted to execution for the use of said sureties or either of them making such payment to the amount of such payment. It is further ordered adjudged and decreed by the Court that the Deft Chas W Henderson go hence without day and that he recover of the Pltff his costs in this behalf expended. And it is further ordered and decreed by the Court that execution issue for the use of the officers of the Court.

× 4884. ✓ The State of Texas vs. John T King ✓ George W Davis & R D Ap Rice
Exec. dock 5 page 39. May 6th " 1878. This cause coming on this day for trial and none of the parties hereto having demanded a Jury the matters in controversy as well of fact as of law were submitted to and tried by the Court. And it appearing to the Court that the Deft R D Ap. Rice was duly served with process but failed to appear and answer. and wholly made default. Wherefore the said Pltff ought to recover against the said Deft R D Ap Rice her damages by occasion of the premises. And the Defts John T King and George W Davis and the said Pltff having appeared by their Attys. and the pleadings of said Pltff and the said John T King and George W. Davis and all the evidence in said cause having been submitted to the Court and the same having been fully considered and understood. It is ordered adjudged and decreed by the Court. that ✓ the Pltff. The State of Texas do have and recover of and from the said Defts John T King. George W. Davis and R D Ap Rice the sum of Eleven Thousand Nine hundred and fifty two and 99/100 ($11.952.99) Dollars and costs of suit, and that said Pltff have execution. And it further appearing to the Court that the Deft John T King is the principal in the Official Bond sued on in this case. and that the Defts George W Davis and R. D. Ap Rice executed said bond as sureties and as such sureties are entitled to the benefit of the Statute in such cases provided. It is further ordered and decreed by the Court that the Sheriff levy the execution issued by virtue of this judgment first upon the property of the said John T King subject to execution and situate in the County of Travis before a levy shall be made upon the property of the said sureties or either of them: provided so much of the property of the said John T King shall be

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found sufficient as will be to make the amount of said execution Otherwise the levy thereof to be made on the property of the said John T. King that may be found if any, and upon so much of the property of said Sureties as may be necessary to make the amount of said execution. And it is further ordered and decreed by the Court that in case said Sureties or either of them shall make any payment which is applies on this judgment, by reason of their suretyship on said Official bond, this judgment shall not be discharged by such payment, but shall remain in force and be prosecuted to execution for the use of said Sureties or either of them making such payment to the amount of such payment. And it is further ordered and decreed by the Court that the Officers of Court have execution for costs.

5033 ✓ State of Texas vs. J M O. Menard, William N Stowe, W E Wilmerding, S. Jalonick, John Penny, George T. Bondies, Charles E Richards, R.K. Lawther, Robert Clarke, Thomas K. Hawkins, M Marx, T Ratto, Seabrook W Sydnor, Thomas Reed, L.E. Edmonson, S. Blum, T. Chubb, N. W. Brown, N W Blagge, Camillo Quintero, P A Targarona, W.G. Crookshank, L Nuse, Solomon Levy, Nathan Metz, Abraham Cohen, V.J. Baulard, A. L. Arnold, Lloyd Arnold, & R. M. Tevis. May 6th A D 1878. This cause coming on this day for trial and none of the parties hereto having demanded a jury the matters in controversy as well of fact as of law were submitted to and tried by the Court. And it appearing to the Court that the citations which were duly issued to the following named Defendants in above entitled cause to wit, to W.E. Wilmerding John Penny. T Chubb Camillo Quintero, P A Targarona, Solomon Levy, Nathan Metz, and W.G. Crookshank have not been served, the Plff says she will no further prosecute her said suit against the said Defendants not served as aforesaid. And it further appearing to the Court that the Defts J M O Menards M. Marx N W Brown Abraham Cohen R R Lawther William N. Stowe George T Bondies T Ratto Seabrook W Sydnor Lloyd Arnold A. L. Arnold. L E Edmonson Charles E Richards Thomas K Hawkins Thomas Reed S Jalonick R M Tevis N. W. Blagge V. J. Baulard S. Blum and Robert Clarke were duly served with process but failed to appear and answer in this behalf and wholly made default. Wherefore the said Plff ought to recover against the said defendants so making default as aforesaid

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January 25th 1884. This judgment and costs is satisfied in full
and principal released by sureties - as per release on execution
in Clerk's Office
and endorsed in Book 58 - page - 573-4-5
Feb 58 - page - 573
J. A. Preston Clerk

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by occasion of the premises. And the Deft L. Nuse having appeared by Attorney the said Plff being also represented by Attorney. And the exception and demurrer of the said Plff to the answer of the said Deft L. Nuse being heard and the argument of Counsel thereon being heard, it is the opinion of the Court that the law is for the said Plff. And the evidence and argument of Counsel having been heard and fully understood by the Court it is considered by the Court that the said Plff. The State of Texas do have and recover of the said Defts J.M.O. Menard M Marx A.W. Brown Abraham Cohen R.R. Lawther William N Stowe George T. Bondies T. Ratto. Seabrook W. Sydnor. Lloyd Arnold A.L. Arnold L.E. Edmonson Charles E. Richards. Thomas K. Hawkins. Thomas Reed J. Jalonick. R.M. Tevis A.W. Blagge V.J. Paulard S. Blum Robert Clarke and L. Nuse the sum of Eleven Thousand Nine Hundred and Thirty Six Dollars and eleven cents together with her costs in this behalf expended except as to so much of the costs as have accrued on account of the said Defts W.E. Welmerding John Penny J. Chubb Camillo Quintero P.A. Targarona. Solomon Levy Nathan Metz and W.J. Crookshank. against whom the said Plff does not further prosecute her said suit and that the said Plff do have Execution. And it appearing to the Court that the Deft J.M.O. Menard is the principal in the writing obligatory sued on in this case and that the other Defts against whom judgment is herein rendered executed said writing obligatory as sureties and as such Sureties are entitled to the benefit of the Statute in such case made and provided. It is therefore ordered and decreed by the Court that the Sheriff levy the execution issued by virtue of this judgment first upon the property of the said Deft J.M.O. Menard subject to execution and situate in the County of Travis before a levy shall be made upon the property of the said Sureties or either of them, provided so much of the property of the said J.M.O. Menard shall be found as will be sufficient to make the amount of said execution. Otherwise the levy thereof to be made on the property of the said J.M.O. Menard, that may be found, if any, and upon so much of the property of the said sureties as may be necessary to make the amount of said execution. And it is further ordered and decreed

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by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said writing obligatory this judgment shall not be discharged by such payment but shall remain in force and be prosecuted to execution for the use of said sureties ~~or~~ either of them making such payment, to the amount of such payment. And it further appearing to the Court from the evidence that the indebtedness upon the writing obligatory sued on in this case is the same as that in case Number 5034 on the docket of this Court wherein the said State of Texas is Pltff and the said J.M. Ormenard George Butler and others are Defts in which judgment has been rendered in favor of the said State of Texas on this day for said sum of Eleven Thousand Nine hundred and thirty six dollars and Eleven cents. It is ordered and adjudged by the Court that any payment made on the principal or interest of the Judgment in this case shall be also applied and credited as a payment on the principal and interest on the judgment rendered in said Cause No. 5034. this however to be without prejudice to any rights or remedies of the sureties in either of said Causes against their principal, or to any rights or remedies of the sureties in either of said Causes against each other for contribution. It is further ordered that the Defts W.E. Wilmerding John Penny J. Chubb. Camillo Quintero P.A. Targarona Solomon Levy Nathan Metz and W.G. Crookshank go hence without day and recover of the Pltff their costs in this behalf expended. It is further ordered that the Officers of Court do have execution for costs

* 5034. Exec. dock 5 page 41.

The State of Texas. vs. J.M. Ormenard George Butler Philip Dargan Thomas K. Hawkins Charles E. Richards and Robert Mills. May 6th 1878. This cause coming on this day for trial and none of the parties hereto having demanded a jury the matters in controversy, as well of law as of fact were submitted to and tried by the Court. And it appearing to the Court that the Citations which were duly issued to Robert Mills and Philip Dargan. Defts in said Cause have not been served. the Pltff says she will not further prosecute her said suit against the said Robert Mills and Philip Dargan. And it further appearing to the

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Court that the said Defts J. M. O. Menard & Thomas K. Hawkins and Charles E Richards were duly served with process, but failed to appear and answer in this behalf and wholly made default. Wherefore the said Plff ought to recover her damages against the said Defts so making default as aforesaid by occasion of the premises. And the said Plff and the said Deft George Butler having appeared by their Attorneys and the exceptions of the said Deft George Butler to Plffs Petition, and the arguments of Counsel thereon being heard it is the opinion of the Court that the law is for the Plff and said exceptions are therefore overruled. And the pleadings of Plff and said Deft George Butler and all the evidence in said cause having been submitted to the Court and the same having been fully considered and understood it is ordered adjudged and decreed by the Court that the Plff. The State of Texas, do have and recover of the said Defts J. M. O. Menard George Butler. Thomas K Hawkins and Charles E. Richards the sum of Eleven Thousand Nine hundred and thirty six dollars and eleven cents ($11.936.11) together with her costs in this behalf expended and that execution issue therefor, except as to so much of the costs as have accrued on account of the said Defts Philip Dargan and Robert Mills, as to whom Plff no further prosecutes her said suit. And it further appearing to the Court that the Deft J. M. O. Menard is the principal in the official bond sued on in this cause and that the said Defts George Butler. Thomas K. Hawkins and Charles E Richards executed said Bond as Sureties, and as such Sureties are entitled to the benefit of the Statute in such cases provided. It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this judgment first upon the property of the said Deft J. M. O. Menard subject to execution and situate in the County of Travis before a levy shall be made upon the property of the said Sureties or either of them provided so much of the property of the said J. M. O. Menard shall be found as will be sufficient to make the amount of said execution, otherwise the levy thereof to be made on the property of the said J. M. O. Menard that may be found if any and upon so much

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of the property of the said sureties as may be necessary to make the amount of said execution. And it is further ordered and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bonds, this judgment shall not be discharged by such payment, but shall remain in force and be prosecuted to execution for the use of said sureties, or either of them making such payment, to the amount of such payment. And it further appearing to the Court from the evidence that the indebtedness upon the Official Bond sued on in this cause is the same as that in cause No 5033 on the Docket of this Court wherein the said State of Texas is Pltff and the said J. M. O. Menard & L. Nuse et al. are Defts in which judgment has this day been rendered in favor of the said State of Texas for said sum of ($11.936.11.) Eleven Thousand Nine Hundred and Thirty six Dollars and eleven Cents It is further ordered adjudged and decreed by the Court that any payment made on the principal or interest of the judgment in this case shall be also applied and credited as a payment on the principal and interest of the judgment rendered in said Cause No 5033. this however to be without prejudice to any rights or remedies of the sureties in either of said Causes against their principal or to any rights or remedies of the sureties in either of said Causes against each other for contribution. It is further ordered adjudged and decreed by the Court that the Defts Philip Dargan and Robert Mills go hence without day and recover of the Pltff their costs in this behalf expended. It is further ordered that the Officers of the Court have execution for costs.

× 5123.
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S. R. Yates vs Samuel Lentz and Ellen P. Lentz. May 6th " 1878. This cause being called for trial the Pltff announced ready and the Defts by Counsel with leave of the Court withdrew that part of their answer which plead $75.00 in off set and reconvention to plaintiffs demand. a jury was waived and the cause submitted to the Court. And it appearing to the Court from the evidence that there is due the Pltff from the Defts the sum of Eighty four and 72/100 Dollars which is a balance due Pltff as part

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of the purchase money for Lot No 8. in the town of Oatmanville, Travis County. State of Texas and that a Vendors lien was retained on said lot No 8. by Pfff to secure its payment, and that there is now a valid and subsisting lien upon said Lot No 8. to secure the payment of said Eighty Four and 72/100 Dollars. It is therefore considered ordered adjudged and decreed by the Court that the Pffs S R Yates do have and recover of and from the Defts Leroy Samuels and Ellen P Lentz the sum of Eighty four and 72/100 Dollars with interest from this date at the rate of ten per cent. until paid (as the note sued on drew ten per cent interest) and all costs in this behalf expended for which execution may issue. It is further ordered and decreed by the Court that Pffs Vendors lien upon said Lot No 8 in the town of Oatmanville, in Travis County Texas as it existed on the 18th day of October 1875. be and the same is hereby established and foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County Texas commanding him to seize and sell the said lot No 8 in the town of Oatmanville after giving due notice as required by law and apply the proceeds thereof to the payment of this judgment or so much thereof as may be necessary to cancel the same and the balance of the proceeds of said sale if any shall be paid to the said defendants and in case said lot No 8 does not bring enough at said sale to pay this judgment and costs. it is further ordered that execution may issue against the Defts for the balance remaining unpaid.

49.67. Joe Able Jr. vs. A C Goodrich and J. S. Able. May 6th 1878.
It appearing to the satisfaction of the Court that the Defts have been duly and legally cited to appear, and having failed to plead, answer or demur to said petition filed in this cause. It is therefore ordered by the Court that Judgment by default be entered against said defendants A C Goodrich and J. S. Able and writ of inquiry be executed at a subsequent day.

4777 James Shelton vs. David Bainter et al. This day came the parties to this suit by their attorneys, and the plaintiff submitted his motion for a new trial in this cause to the Court, which motion after being fully argued by counsel, was by the Court overruled, and thereupon the plaintiff by counsel excepted to such ruling and gave

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notice in open Court of appeal to the Supreme Court.

5121. The State of Texas vs. J. J. Strickland et al. Continued for service.

5122 Baites, Reed & Cooley vs. S. Longini. Continued by Plff's Deft has leave to file an amendment to his original answer.

5128 Thos C. Thompson et al. vs. W. A. Blackburn et al. No counsel appearing for Plff, cause continued.

5130 Wm Green vs. W. T. Clark. Continued to complete service.

And thereupon Court adjourned till to morrow morning 9 o'ck.

May 7th 1877.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had, viz,

5107 The Montopolis Ferry Company vs. Benjamin R. Townsend. Deft has leave to file amended answer.

4520. O. M. Jackson vs John T. Carter et al. A. St. Gattis et al. Intervenors

Be it remembered that this Cause came on to be heard on the Original petition of O. M. Jackson and on the petition of A St Gattis and others, heirs of D. St. Gattis Deceased and on the proofs in the cause, a judgment by default having been taken against all of said Original Defts. they having been duly cited to appear and it appearing from the proof in said Cause that the said heirs of D. St. Gattis are the lawful owners of Lot No 12 in Block 72. in the City of Austin Travis County Texas. as the same is described in said petition of intervention, and it appearing to the satisfaction of the Court that the Deed purporting to be made by D. St. Gattis to John T. Carter dated 18th day of January 1849 and recorded in Book W. Page 542. of the records of Deeds of Travis County is a forgery and no title to said lot 12. Block 72 passed by said deed, and the claim set up by said Carter, Sidney Alexander E. W Shands and the unknown heirs of Julius Shubeth is fraudulent in law. It is therefore ordered adjudged and decreed by the Court that said Deed from D St Gattis to John T. Carter dated Jany 18th 1849. be and the same is hereby vacated annulled set aside and henceforth held for naught. and that any claim set up to said lot by said John T. Carter Sidney Alexander, E W Shands and the unknown heirs of Julius Shubeth be and the same is hereby vacated and annulled and the title to said lot 12 Block 72 is declared to be in the heirs of

May 7th A.D. 1878.

said D.K. Yattis deceased. And the said John T. Carter Sidney Alexander E.W. Shands and the said unknown heirs of said Julius Shubeth are hereby perpetually enjoined from setting up any claim or title to said lot. It is further ordered that Defts pay (½) one half of the costs of this cause and the Intervenors the other half. for which execution may issue.

And thereupon Court adjourned till to Morrow Morning at 9 Oclk

May 8th A.D. 1878.

Court met pursuant to adjournment present same as Yesterday Whereupon the following proceedings were had to wit:

× 4967. ✓ Joe Able Jr. vs. D.K. Goodrich and J.S. Able. Be it remembered that this cause came on to be heard on this the 8th. day of May 1878. on the petition, exhibits, and proof in said cause a judgment by default having been rendered at a former day of this Court, and it appearing to the satisfaction of the Court that the Defts have had due and legal notice of the pendency of this suit, and it further appearing from the proofs in the cause, that the note of one thousand dollars executed by J.S. Able to D.K. Goodrich dated January 27th. 1875 and due Jany 1st. 1876. has been fully paid off and discharged and that by the terms of his title bond dated said 27th. January 1875 the said Goodrich is bound to make a title to an undivided one half of one third of the Wm. B. Brent headright, said headright containing Eight hundred and twenty six acres more or less, lying and being in the County of Bell and State of Texas and that said Goodrich has failed to comply with the terms and conditions of his said bond, and the Pelff is entitled to a specific performance of said Contract. And the Court now being fully advised in the premises doth order adjudge and decree that the title to said one undivided one half of one third of the Wm. B. Brent headright of land in said County of Bell and State of Texas be and the same is hereby divested out of the said D.K. Goodrich and said J.S. Able and the same is vested in the said Joe Able Jr the Pelff in this suit, and the title to said land is hereby declared to be in said Pelff in this suit. It is further ordered by the Court that the said Pelff pay all costs of this suit, for which execution may issue.

May 8th " 1878

3012. George W Brackenridge vs. John W Maddox & Bro.
May 8th 1878. This day this cause being called for trial the Plff announced ready for trial. the Defts although duly cited as required by law failed to answer but wholly made default. A Jury being waived and this cause submitted to the Court, and it appearing to the Court that this suit is brought upon a liquidated demand to wit: a Note, and that the same is due and unpaid It is therefore considered ordered adjudged and decreed by the Court that the Plff George W. Brackenridge do have and recover of and from the Defts John W Maddox and F M Maddox the sum of Twenty Six hundred and eighty nine and 44/100 ($2689.44) Dollars (that being the amount of principal and interest due on the note sued on up to this date) with interest thereon from this date until paid at the rate of 25 per cent per annum (that being the rate of interest specified in the note sued on). It is further ordered adjudged and decreed by the Court that the said Plff George W Brackenridge do have and recover of and from the Defts John W. Maddox and F M Maddox the further sum of Two Hundred ($200.00) Dollars as attorneys fees as specified in the note sued on herein. with interest thereon from this date until paid at the rate of eight per cent per annum and all costs in this behalf expended for which execution may issue.

3014. First National Bank of Austin Texas vs. John W. Maddox & Bro. and Joseph Spence and A B. McGill. May 8th 1878. This day the above entitled cause being called the Plff announced ready for trial. the Defts although duly cited failed to appear but wholly made default. Whereupon a jury was waived and the cause submitted to the Court: And it appearing to the Court from the evidence adduced that the Plff is a body corporate as charged in its petition. that this suit is brought on a liquidated demand to wit: a Note, and that the same is now due Plff from the Defts and is unpaid. And it further appearing to the Court that the note sued on in this cause was given as collateral security to secure the payment of the note executed by the Defts John W Maddox & Bro. on the 1st of March 1876. for two thousand dollars payable to George W. Brackenridge 120 days after its date and drawing 25 per cent interest

Execution docket No 5 page 51.

Issued April 28th 1879 (To vol 17 Bk 3012)
Rec'd on this Fi Fa principal & interest $2149.80 of Attorneys fees $25.00 - Ten sacks Leighton Wolf Proceeds of three Land certificates
(Cecile Archer Atty for Plff)

Filed 15th May 1878 Rec'd on this Fi Fa principal & Interest of this Suit Prof $1130.00 & of the attys fees $50.00
Filed 31st " 1878 Rec'd on this Principal & Interest of this Suit Prof $450.65 & of the attys fees $50.00
Dec. 16th 1878 Rec'd on this Principal & Interest of this Suit Prof $1150.00 & of the attys fees $50.00
Jan. 17th 1879 Rec'd on this Fi Fa principal & interest $1079.25 & of Attorneys fees $23.75 Recieved
" " " "

May 8th A. 1878.

per annum after maturity, and 10 per cent. attorneys fees if not paid at maturity, which said note for two thousand dollears is now in suit in this Court in cause No 5012 wherein George W Brackenridge is Pelff and John W & F. M. Maddox are Defts. And it further appearing to the Court that there is now due on the note sued on in this cause the sum of ($960.) Nine Hundred and Sixty Dollears principal. One hundred and forty two & 08/100 Dollears interest. and the sum of Ninety six ($96.00) Dollears attorneys fees making the aggregate sum now due amount to Eleven Hundred and Ninety Eight and 8/100 ($1198.08) Dollears It is therefore considered ordered adjudged and decreed by the Court that the Pelff do have and recover of and from the Defts John W. Maddox F. M. Maddox Joseph Spence and A. B. McGill the sum of Eleven Hundred and ninety eight & 8/100 ($1198.08) Dollears with interest thereon from this date until paid at the rate of eight per cent per annum and all costs of this suit for which execution may issue. And it appearing to the Court that the Defts Joseph Spence & A McGill are Sureties on the note sued on in this cause, it is therefore ordered adjudged and decreed by the Court that the said Spence & McGill shall have judgment over against John W. and F. M. Maddox for such amount of this judgment as they or either of them may have to pay and that execution issue in their favor against said John W and F. M. Maddox for the same. In consideration of the fact that the note sued on in this cause was given as Collateral security for the above described $2000.00 Note sued on in Cause No 5012. It is considered ordered, adjudged and decreed by the Court that when this judgment or any portion of the same shall be paid and satisfied, the same with the exceptions of the Costs herein and the Attys fees, shall be a credit on the judgment on this day rendered in Cause No 5012. in this Court wherein said $2000.00 note was sued on. And when the said judgment for the sum of Twenty eight hundred and eighty nine and 44/100 ($2889.44) Dollears this day rendered in said Cause No 5012. in this Court shall be fully paid off and discharged, the same shall be a Cancellation and payment of this judgment in full except the Costs herein and the Attys fees, which must be paid

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by Defts in addition to the judgment in full in said cause No 5012.

And thereupon Court adjourned till tomorrow morning ab9 o'k.

May 9th " 1878.

Court met pursuant to adjournment present same as yesterday Whereupon the following proceedings were had to wit

4894. The State of Texas vs. James D. Bullock Robert St. Leonard

Exc. dock 5 page 39. George W. O'Brien and John E. Jiron. May 9th " 1878.

This day this cause came on to be tried and it appearing to the Court from the suggestion contained in his co-defendants answer that said Robert St Leonard had since the institution of this suit become insane and that he is still non compos mentis. It is therefore ordered and adjudged that Thomas E Sneed be appointed special guardian to represent said Leonard in this suit And it further appearing that the said defendants James D. Bullock, George W. O'Brien and John E Jiron appeared by Atty. and that the said Robert St. Leonard appeared by his duly qualified guardian Thomas E Sneed as well as by Atty. and neither party demanding a jury the matters in controversy as well of fact as of law were submitted to the Court. And the evidence and the arguments of Counsel having been heard and fully understood and considered by the Court. It is further ordered adjudged and decreed by the Court. that the Pff the State of Texas do have and recover of and from the said Defts James D. Bullock Robert St. Leonard George W O'Brien and John E Jiron the sum of Three Thousand five hundred and thirty nine dollars and fifty nine cents ($3539.59) and costs of suit for all. which let execution issue. And it further appearing to the Court that the Deft James D. Bullock. is the principal in the official bond sued on in this case and that the Defts Robert St. Leonard George W. O'Brien and John E Jiron executed said official bond as sureties and as such sureties are entitled to the benefit of the Statute in such cases provided It is therefore further ordered adjudged and decreed by the Court that the Shff levy the execution issued by virtue of this judgment first upon the property of the said Deft James D Bullock subject to execution and situate in the County of Travis

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before a levy shall be made upon the property of said sureties or either of them. Provided so much of the property of the said James D Bullock shall be found as will be sufficient to make the amount of said execution otherwise the levy thereof to be made on the property of the said James D. Bullock that may be found, if any: and upon so much of the property of the said Sureties as may be necessary to make the amount of said execution. And it is further ordered and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond, this judgment shall not be discharged by such payment, but shall remain in force and be prosecuted to execution for the use of said sureties or either of them making such payment to the amount of such payment. And it is further ordered and decreed that the Officers of Court have execution for their costs.

4972. John H. Hampton vs W R Hampton et al. This 8th day of May 1878. Came the parties at interest in this cause by their Attorneys and the regular guardian of the minors and submitted to the Court the report of the Commissioner of partition appointed at the last preceeding term of this Court as follows to wit:.....

4972. John Hampton vs W. R. Hampton et al. In the District Court of Travis County. Now comes the Commissioner. J H Forbes appointed by the Court on the 28th day of November A D 1877 to make partition of the property described in the decree in this cause made on that day, and reports to the Court that in obedience to said decree he proceeded to carefully examine the land described in said decree for the purpose of the partition required and found the same of such a character and so situated that he could not divide the same fairly among the parties at interest without great and serious injuries to the several interests involved and he believes it impossible to so divide it without such injury and that it will best subserve the interests of all parties to have the land sold and the proceeds divided. He says that there is a great difference in quality & value between the different parts of the land, and a very small part of it which is improved say about fifteen acres constitutes the principal value of

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of the whole. And a division such as is required by the decree would require a division of that part into three parts at least which must of necessity each be of very awkward and undesirable shape, in order to make a division according to value. While the balance of the land which would have to be set off to the other interests would of necessity be of but nominal value. much of it being without timber or tillable land. He believes that a separation of the land into the several parts required by the decree in the most careful manner and to the best possible advantage for the parties at interest would render each and every interest much less saleable and of much less practical utility than it would be undivided He says that he has spent three days in making the examination of the property necessary to ascertain these facts and in making out this report and that an allowance of Two Dollars and a half a day will be a reasonable allowance for his services. He also says that he has procured the services and advice of Mr G. R. Freeman as an attorney at law to prepare this report, the same being a necessary service. and that Five Dollars will be a reasonable allowance for his service which the Court is requested to make. This March 8th 1878.

J. St. Faubion
Commissioner

Sworn to and subscribed before me
this the 8th day of March A D 1878.

Seal

E. Hallemann Clerk
Dist Court Travis County.

which said report having been considered by the Court and it appearing that said report is in accordance with the facts of the case the same is approved and it is ordered adjudged and decreed by the Court with the consent and approval of all the parties at interest in this cause that said Commissioner J St Faubion proceed to sell the said lands in the plaintiffs petition described for the best price he may be able to obtain for the same at private sale for one third cash and the balance on twelve months time with interest from date of sale secured by vendors lien, and report his action in the premises to this Court at the earliest practicable time for approval

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And it is further ordered that said Commissioner be allowed the sum of Seven Dollars and fifty cents for his services heretofore rendered, and that G R Freeman be allowed the sum of Five Dollars for legal services rendered the said Commissioner in making said report the same to be taxed as Costs in this cause.

4830 / Florence Chenoweth vs. B Brown et al. This 7th day of May AD 1878 came the Pelff. Florence Chenoweth by her attys and came also the Defts. Benjamin Brown and Earl A Brown by their attys and the Defts Joseph S Able, and John Chenoweth came not, but wholly made default, though duly cited to appear and answer and no jury having been demanded the issues of fact as well as of law were submitted to the Court, and it appearing to the Court after hearing the evidence and argument of Counsel that the Defts Benjamin Brown Earl A Brown and Joseph S. Able are indebted to the Pelff in the sum of Fifteen Thousand Seven Hundred and Seven & 66/100 Dollars, and that the note sued on bears interest at the rate of 8% per annum from maturity and it further appearing to the Court that said note was given to secure the payment of the purchase money for the following described tracts of land, situated in Kaufman County Texas to wit, a league and labor granted to Joseph S. Able, on the waters of Trinity River about 12 miles N. W. from Buffalo. Beginning at a Post in the Prairie the N.E. corner of a League and Labor Survey No 2. Thence N. at 2190 varas a branch at five thousand and ninety nine varas a post oak in Prairie from which an elm 8 in in diameter bears N 7½ E 99 varas another 6 in in dia N 4° E 101 varas. Thence West at 4065 varas a branch at Five Thousand and ninety nine varas a Post in the Prairie from which a cluster of Mesquit Bushes bears N. 55 W about 110 varas, a Mesquit bush bears S.g. W. about 350 varas. Thence S. Five Thousand and ninety nine varas to a Post from which a Post oak 11 inches in diameter bears N 31½ W 62½ varas another 10 inches in diameter bears N 52. W 59 varas. Thence East at 470 varas a creek at 1300 varas a branch at Five Thousand and ninety nine varas to the place of beginning. Also a league and labor granted to John Able as a headright on the waters of Bois d. arc fork of the Trinity Beginning at the S. corner of Survey No 109 a Post

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from which a Post oak 12 inches in diameter bears N30°E11 8/10 varas and a red oak 18 inches in diameter bears N25-E34 varas Thence N 45° West Five thousand and ninety nine 1/100 varas to corner post, from which a Post Oak 24 inches bears N55°W 14 2/10 varas and a Post oak 18 inches in diameter bears S31½ E10 2/10 varas. Thence South 45° West crossing Bayou five thousand and ninety nine 1/100 varas to corner post from which a red oak 48 in dia bears South55-West 11 9/10 varas and a red oak 36 in dia bear N 40½ West 10 7/10 varas. Thence South 45- E crossing several small streams five thousand and ninety nine 1/100 varas to corner post from a which a post oak 20 in dia bears N 46° W 11 8/10 varas and a Post oak 15 in dia bears N 65¼ E 3 6/10 varas 1815 varas to Post Oak 18 in dia, 1887 varas to Everlasting Spring 2147 varas to Bottom land. 3171 varas to an ash 30 in dia Line Tree, 3422 varas to Creek Course South East 3557 varas to an elm 5 feet in dia Line Tree 3560 varas to large Bayou 5 varas wide, Course South. Five Thousand ninety nine 1/100 varas to the place of beginning. Also league and labor of land granted to the heirs of Thomas Stakely on Bois d. arc fork of the Trinity River Beginning at the South corner of Survey No 108 a Post in the Prairie from which a lone post oak 10 in dia bears N 24½ E 238 varas and a cluster of bushes. bears S55-E365- varas. Thence N 45- W crossing Finnins Fork Five thousand and ninety nine 1/100 varas to corner post from which a Post Oak 36 in dia bears S 78½ W 13 3/10 varas and a Black Jack 14 in dia bears S 81¾ E 5 7/10 varas. Thence South 45 W 553 varas to Trace, runs East and West 831 varas to Bayou Course East 2495- varas to Creek, Course East 2780 varas to Line Tree a Post Oak 24 in dia 4632 varas to Rocky Creek 3 varas wide, Couse South East 5005- varas to Post Oak 36 in dia. Line Tree, five thousand and ninety nine 1/100 varas to corner post from which a post Oak 24 in dia bears N 80 W 14 2/10 varas and another post oak 18 in dia bears S 31½ E 10 2/10 varas. Thence S 45-E. Five thousand and ninety nine 1/100 varas to corner Post. from which a Post Oak 12 in dia bro N 30 E 11 8/10 varas and a red oak 18 in dia bears N 25-E 34 varas. Thence North 45-East 280 varas to Fennis Fork 7 varas wide. Course S.E. 1308 varas to a prairie with a scattering

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timber. 2368 varas to open prairie. Five Thousand and ninety nine and 1/100 varas to place of beginning. Also eight labors of land granted to Ezekiel Able and patented to Joseph S. Able Assignee. Known as Survey No 86. five miles N.E. from the town of Kaufman. Beginning at the North corner of Survey No 85 at at Post on the bank of a smale branch from which a red oak 26 in dia bears S 81 W 4 1/10 varas another 27 in dia bears N 50 E 8 2/10 varas a Cedar 30 in dia bears S 18 W 30 varas. Thence S 45 E five thousand and ninety nine & 1/100 varas to a corner post from which a smale mound bears N 81 E 31 varas. another bears S 5 7/10 varas. Thence N 45 E 7 1/2 varas to timber 1389 varas to Prairie 1603 varas to timber 2138 varas to Prairie 2756 varas to timber and branch. Course N.E. 2803. varas to branch, course S 55-E 4549 varas to Walnut Creek. course S 55-E Five Thousand and ninety nine & 1/100 varas to corner post from which a post oak 12 in dia bears N 20 E 19 5/10 varas another 16 in dia bears North 3 4/10 varas another 26 in dia bears N 89 E 52 3/10 varas. Thence N 45 W 27 5/10 varas to a post Oak line tree. 2601 varas to Branch, Course S. five thousand and ninety nine & 1/100 varas to corner post from which a post oak bears N 55 W 11 8/10 varas. another bears N 3 1/10 varas a post oak bears N 53 E 10 2/10 vrs. Thence S 45 W crossing the Bayou Five Thousand and ninety nine & 1/100 vs. to the place of beginning. It is therefore considered ordered adjudged and decreed by the Court that the Plff Florence Chenoweth do have and recover of and from the Defts Benjamin Brown, Earl A Brown and Joseph S Able said sum of Fifteen Thousand Seven Hundred and Seven & 66/100 Dollars. principals and interest, with interest thereon from this date at the rate of Eight per cent per an num, together with all costs in this behalf expended. And it is ordered adjudged and decreed by the Court that the Vendors lien upon the above described tracts of land be and the same is hereby foreclosed and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Kaufman County commanding him the said Sheriff to seize and sell the above described tracts of lands as under execution, and that he apply the proceeds thereof to the payment and satisfaction of the said sum of

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$15.707.66/100 together with all interest that may be due thereon and the costs of this suit, and if the said land shall sell for more than sufficient to pay off and discharge said sums of money then the said Sheriff is hereby directed to pay over the excess to the said Defts Benjamin Brown and Earl A. Brown. But if the said land shall not sell for enough to pay off and satisfy this judgment then the Clerk of this Court is directed to issue execution for the balance remaining unpaid. It is further ordered adjudged and decreed by the Court that the costs incurred in making John Chenoweth a party Deft to this suit be taxed against him.

5029 Mary J Lee vs. Charles O Sorrell. On this 8th day of May AD 1878 came on to be heard this cause and the plaintiff came by her atty and submitted her cause to the Court but the Deft answered not but wholly made default and it appearing to the satisfaction of the Court that the Deft has since the institution of this suit acknowledged and satisfied the claim and demand of Pleff as set up by her except one cent and the costs in this cause for which it appears he is justly bound. It is considered ordered and decreed that the Pleff have and recover of the Defendant Charles O Sorrell ~~one~~ cent damages and all the costs of this suit and that execution issue thereof.

4892. The State of Texas vs. Thomas B. James Eli Smith Mrs D Newman
Exec. dock 5 page 39. Surviving wife &c. Samuel W Field. William T Field Eli M. Mitchell John B St Clair and Julia A. St Clair
May 9th 1878. This day this cause came on to be heard and came the parties by their attys and neither party demanding a jury the matters in Controversy as well of fact as of law were submitted to the Court, and the evidence and argument of Counsel having been heard and fully understood it is ordered adjudged and decreed by the Court that the Pleff - The State of Texas do have and recover of and from the Deft Thomas B. James the sum of Twelve Thousand One Hundred and one dollars and sixty cents ($12.101.60) with costs of suit and that execution issue therefor and from the said Deft Eli Smith the sum of One thousand ($1000.00) Dollars with costs of suit and that

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execution issue therefor. and from the said Deft Samuel W Field the sum of Two Thousand ($2000.00) Dollars with costs of suit and that execution issue therefor, and from the said Deft William T Field the sum of Two Thousand ($2000.00) Dollars with costs of suit and that execution issue therefor and from the said Deft Eli M. Mitchell the sum of One Thousand ($1000.00) Dollars with costs of suit and that execution issue therefor. and from the said Deft John B. St. Clair the sum of Four Thousand ($4000.00) Dollars with costs of suit and that execution issue therefor. And it is further ordered adjudged and decreed by the Court that this judgment and the execution thereon shall be discharged and satisfied as against all of said defendants upon the payment of the said sum of Twelve thousand one hundred and one and 60/100 ($12.101.60) Dollars and the legal interest which may accrue thereon and costs of suit or shall be discharged and satisfied against either of said Defts upon the payment by either of them of the amount with costs of suit for which judgment is herein rendered against him. and that said Plff shall not be entitled to recover from all the Defts any greater sum than the said sum of Twelve Thousand One Hundred and one and 60/100 Dollars. with legal interest which may accrue thereon and costs of suit nor from either of said Defts any greater sum than the amount of the judgment rendered herein against him and the legal interest which may accrue thereon and costs of suit. It is further ordered adjudged and decreed that the said Defts Julia A. St Clair and D Newman surviving wife &c. recover of Plff the costs incurred in making them parties to this suit. And it is further ordered and decreed by the Court that the Officers of Court have execution for their costs against the said Defts Thomas B. James. Eli Smith. Samuel W Field William T Field. Eli M. Mitchell and John B St Clair in conformity to law.

And thereupon Court adjourned till tomorrow morning at 9 Oclk

May 10th 1878.

Court met pursuant to adjournment. present same as yesterday Whereupon the following proceedings were had to wit:

5074. Richard Gildart et al. vs J.B. Gildart et al. This cause coming

May 10th A.D. 1878.

on to be heard on petition and answer of Elliott and Fanar Guidart by their guardian ad litem Z T Fulmore and the proof in said cause and it appearing to the satisfaction of the Court that all parties in interest are properly before the Court and that they are the owners of the West half of Lot No (6) six in Block No (5) five out lot No (11) Eleven Division E. in the City of Austin Travis County Texas fronting on Cypress Street one hundred and twenty feet and running back about 200 feet to a bluff on Shoal Creek said lot having a dwelling house and other improvements thereon. That said parties each own an undivided interest in said property as follows. Richard. Frank. James. Susan, Thomas Stand. Jeff Guidart & Virginia Coon and Cornelia Patterson $\frac{2}{28}$ths each of said property. That Lizzie Phelps owns $\frac{3}{28}$ths of said property. and Emily Ford owns $\frac{3}{28}$ths of said property. The said Lizzie Phelps and Emily Ford having purchased the interest of their sister Jane Glass. That said J.B. Guidart owns two twenty eighths ($\frac{2}{28}$) That Fanar and Elliott Guidart together own $\frac{2}{28}$ths being the share of their father W E Guidart deed That Mary. James. Louise. John Lizzie and Alice Yerby together own two twenty eighths ($\frac{2}{28}$) of said property. it being the interest of their deceased mother Catherine Yerby and it appearing that the said parties are entitled to their respective interest in said property, and set out in their petition and amended petition It is therefore ordered adjudged and decreed that said lot and improvements be partitioned among said parties according to their respective rights as aforesaid. It is further ordered that Ly Crow. Geo B Zimpelman and Dennis Corwin be and are hereby appointed Commissioners to make said partition if the same can be divided If the same cannot be divided they will make report thereof to this Court. at the present term thereof and report their proceedings under this decree Ordered and decreed this 10th May 1878.

And thereupon Court adjourned till tomorrow morning at 9 Oclock

May 11th A.D. 1878.

Court met pursuant to adjournment. present same as yesterday Whereupon the following proceedings were had to wit

× 4105 & 4265 Consolidated Exec. docket 5. page 35

M C Hamilton vs Juliet Hicks et al. Now on this day comes the parties to the above entitled cause by their Attys and the Guardian ad litem representing the minor heirs:

May 11th " 1878.

And the motion of Peff to confirm the report of the Commissioners appointed in this cause coming on to be heard, and it appearing to the Court that there is no valid objection to the report of the Commissioners appointed to make partition in accordance with the decree of this Court, which report was filed in this Court in said cause on the 20th day of December 1876. it is therefore ordered adjudged and decreed by the Court that said report be confirmed. and by consent of parties it is ordered that the Sheriff of Travis County State of Texas be and he is hereby appointed a Commissioner to sell the said property described in the decree rendered in this cause as appears of record in Minute Book M. pages 178-180. for the purpose of partition, that order of sale issue instanter directed to said Sheriff directing him to sell said property as under execution on the first Tuesday of June 1878. to the highest and best bidder for cash and that he make report to this Court of such sale for the further order of this Court in the premises. And it is further ordered that said lots shall be offered separately for sale.

And thereupon Court adjourned till Monday morning 9 o'clk.

May 13th 1878

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

3546 F. W. Fanning vs. T. & P. R R Co. Upon application of Pltff Atty it was ordered that this suit be dismissed and that the plaintiff pay all costs in this behalf expended for which execution may issue.

Fine On the 11th day of May 1878 it was ordered by the Court that Terrell & W. P. Blackburn be and they are fined each in the sum of ($5.00) five dollars for contempt of court & that the said Terrell & Blackburn stand committed to the County Jail of Travis County until said fine is paid.

× 3927 M. Wear vs. Geo B. Timpelman. This day came the parties to this suit by their Attys and submitted this cause and their agreement herein to the Court. Whereupon it was ordered by the Court in according to said agreement that the plaintiff M. Wear do have and recover of and from the said defendant Geo B. Timpelman the sum of $200.00 two hundred dollars & all costs in this behalf expended, for all which execution may

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× 4177 ↓ issue.
Cora D. Shephard & husband vs. John P. Canner et al.
On this 10th day of May 1878 comes the intervenor M. C. Hamilton by his Attys Messrs Smith & Blackburn and withdraws his intervention in this cause, and it was thereupon ordered that said Hamilton pay all costs of his intervention for which execution may issue in behalf of Officers of Court,

4499 ↓ Geo B. Zimpelman et al. vs. W. R. Frazer. Upon motion of plffs attys. it was ordered that Plff have leave to amend his petition.

4500 ↓ Geo B. Zimpelman et al vs. John Ross. Upon motion of Peff Atty it was ordered that Peffs have leave to amend the petition in this cause.

4501 ↓ Geo B. Zimpelman et al vs. William Ross. Upon motion of Peff Atty it was ordered that Peffs. have leave to amend petition.

4502 ↓ Geo B. Zimpelman et al vs. D. V. Foner. Upon motion of Peff Atty it was ordered that Peffs have leave to amend their petition.

4503 ↓ Geo B. Zimpelman et al. vs. Mary & Fred Sassman. Upon motion of plffs Atty it was ordered that plffs have leave to amend their petition

4504 ↓ Geo B. Zimpelman et al. vs Thos Robb et al. Upon motion of Peffs Atty leave was given to Peffs to amend their petition.

4563 ↓ J. Sheehan vs. O. W. Jackson. Upon motion it was ordered that Peff have leave to file a supplemental petition.

× 4615 ↓ T. & T. C. R R Co vs. F. W. Chandler. This 9th day of May 1878 came the parties to this cause by their Attys and submitted this cause to the Court. And the Court having heard all the pleadings, evidence and argument of counsel was of the opinion that the law is with the defendant as against the allegations contained in Peffs pleadings. It was thereupon ordered adjudged and decreed by the Court that the defendant go hence without day and recover of the plff. all costs in this behalf expended, for which execution may issue against said plff. And thereupon the Deft withdrew in open Court his cross bill filed in this cause.

4829 ↓ William Brewer vs. Sam Scott et al. Upon motion leave was given to Peff to file a first supplemental petition.

4943 ↓ Ruthrauff & Miller vs. Travis County. Upon motion leave was given to Deft to file a amended original answer.

× 5028 ↓ Sarah Liggin vs. David Liggin. This day came the plaintiff by her Attorney and came also J. P. C. Whitehead on behalf of the defendant, he having been appointed by the Court to represent the absent defendant, and both parties announced ready for trial.

May 13th 1878.

And the Court having heard the pleading, evidence and argument of Counsel is of the opinion that the law is with the plaintiff and that the allegations in plaintiffs petition contained are true; It is therefore ordered adjudged and decreed that the bonds of matrimony heretofore existing between Plff & Defendant are forever dissolved revoked and annulled. And it is further ordered that the plaintiff pay all costs of this proceeding including an attorny fee of ($10.00) ten dollars for Defts Atty, and that execution issue therefore on behalf of officers of Court against said Plff and her security on her cert bond E. F. Millett.

Fine × This day it was ordered by the Court that Osceola Archer and W. M. Walton be fined each in the sum of ($5.00) five dollars for contempt of court by loud talking in the court room, and that they stand committed to the county jail till said fine is paid.

And thereupon Court adjourned till tomorrow morning at 9 Ock

May 14th 1878.

Court met pursuant to adjournment present same as yesterday. Whereupon the following proceedings were had to wit:

× 4922 William Biles vs Thomas E Cater et ab. And now on this 14th day of May A.D. 1878 came the parties to this cause the Plff appearing by Attys, the Defts Thomas E Cater appearing in person and by atty, and the other Defts being minors appearing by their Special Guardian George F. Pendexter Esq. heretofore appointed by order of this Court to represent the interest of said minors Defendants in this suit, and announce themselves ready for trial, and no jury having been demanded by either of the parties the cause was submitted to the Court, and the Court after hearing the allegations of the parties and the evidence offered in support of the same being of opinion that the Plff William Biles is entitled to the relief sought by him in this suit: It is therefore ordered adjudged and decreed by the Court that the Plff William Biles do have and recover of and from the Defts Thomas E Cater, and the minor Defts Eliza M Cater, Maggie Cater, Lulie V. Cater, Emma Cater and Thomas S. Cater an undivided one half of the following Four tracts, or parcels of land and improvements thereon situated in the County of Travis in the State of Texas on the West side of the Colorado River about two miles

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South West of the City of Austin. and all of said tracts or parcels of land being parts of the Isaac Decker league to wit: Lot No(26) Twenty six on the Town tract survey as and described as Murphys borough on the Isaac Decker League by John E Campbell for W L Robards containing five acres of land. and also the following tract of land on the same survey to wit. Beginning N 30 E. 47½ varas from the S.E. corner of Lot No 33 on said survey. thence N 30 E 75 varas to a stake. Thence N 60 W 75 varas to another stake. Thence S 30° W 75 varas to another stake. Thence S 60 E 75 varas to the place of beginning and containing one acre of land. The two tracts of land above described contain six acres of land and are the same that were conveyed to the Deft Thomas E Cater by the said W. L. Robards by deed dated April 17th " 1872. and also the following described tracts of land containing two acres of land to wit: Beginning 60 feet from the S.E. corner of the one acre tract of land last above described and N 30° E 47½ varas from Main Street on said Survey made by said John E Campbell. Thence N 30° E 75 varas to a stake. Thence S 60 E 75 varas to another stake. Thence S 30° W 75 varas to another stake. Thence N 60 W 75 varas to the beginning and containing one acre of land. And also another tract of land of the same size of the last described one acre tract and immediately across the San Antonio Road from it. which road is sixty feet wide the lines to be parallel with. and the same length of the lines of the tract last above described and contains one acre of land. the two one acre tracts last described being the same two acres of land conveyed to the said Thomas E. Cater by W. L. Robards by deed dated October 8th " 1872 said four tracts of land. containing eight acres of land and being the same and all the land conveyed by W. L. Robards to Thomas E Cater by the two deeds aforesaid: and it is further ordered adjudged and decreed by the Court that the title to an undivided one half of said several tracts of land containing eight acres and improvements thereon be and the same is divested out of the said Defts and fully vested in the Pff William Biles and that said Biles be forever quieted in his title thereto: and it is further ordered adjudged &c

May 14th " 1878.

decreed by the Court that the title to the other one undivided half of said several tracts of land be and the same is hereby divested out of the Pleff Biles and Deft Thomas E. Cater and fully vested in the minor Defts Eliza M Cater, Maggie Cater, Lulie V. Cater, Emma Cater and Thomas Scrivener Cater and that said minor Defts be forever quieted in their title thereto: and it is further ordered adjudged and decreed that said several tracts and parcels of land and improvements thereon be partitioned and divided between said Pleff Biles and said minor Defts in such manner that said Biles shall have set apart to him one half thereof, and said minor Defts shall have set apart to them the other half thereof: in making which partition and division, due regard shall be had to quantity quality and value. And it is further ordered that A.P. Blocker, Dennis Corwin and E.W. Shands be and are hereby appointed Commissioners to make said partition and division, who will make partition and report to the present term of this Court their action in the premises. And it is further ordered that the Pleff Biles shall pay one half of the costs of this suit and Deft. Thomas E. Cater pay the other half for which execution may issue

And thereupon Court adjourned till tomorrow morning at 9 o'clk

May 15-th " 1878.

Court met pursuant to adjournment, present same as yesterday

Whereupon the following proceedings were had to wit

× 4882. ✓ The State of Texas vs. John A Biffle. Richard Kimball. L.N. Scrutchfield George S. Powell and Willis A Holloway.

This 15-th " day of May AD 1878 this cause came on to be tried and came the parties by their Attys, and waive a Jury and submit the matters in controversy as well of fact as of law, to the Court. And the evidence and argument of Counsel having been heard and fully understood and considered by the Court, It is therefore ordered, adjudged and decreed by the Court that the Pleff. The State of Texas do have and recover from the said Defts John A Biffle Richard Kimball L. N Scrutchfield George S. Powell and Willis A Holloway the sum of one thousand and Nineteen Dollars and eighty two cents ($1,019.82) and costs of suit for all which let execution issue. And it further appearing

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to the Court that the Deft John A Biffle is the principal in the Official Bond sued on in this case, and that the Defts Richard Kimbale, L.H. Scrutchfield, George S. Powell and Willis A. Holloway, executed said Official Bond as sureties, and as such sureties are entitled to the benefit of the Statutes in such cases provided, It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the executions issued by virtue of this judgment first upon the property of the said Deft John A Biffle subject to execution and situated in the County of Travis, before a levy shall be made upon the property of said Sureties or of either of them: provided, so much of the property of the said Biffle shall be found as will be sufficient to make the amount of said execution Otherwise the levy thereof to be made on the property of the said Biffle that may be found if any, and upon so much of the property of the said sureties as may be necessary to make the amount of said execution. And it is further ordered adjudged and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment, by reason of their suretyship on said ~~of said bond.~~ this judgment shall not be discharged by such payment but shall remain in force and be prosecuted to execution, for the use of said Sureties or either of them making such payment, to the amount of such payment. And it is further ordered adjudged, and decreed, that the Officers of Court have execution for their costs.

4499. George B. Zimpelman & Lucy A Briggs Admrix of the estate of W W Briggs decd. vs. W B Frazer. And now at this, 14th of May 1878 day, this cause being called the Plaintiffs appeared by their Attorneys Carleton & Robertson and J B Rector and the Defts by his Attorneys Hancock West & North, and thereupon came on to be heard the Demurrer of the Defendant to the Plaintiffs petition and the Court having considered the same overruled the same. to which ruling excepted and thereupon the parties having announced themselves ready for trial, a Jury of twelve good and lawful men. Composed of A G McCreery Foreman and eleven others, of Travis County was empannelled, who after

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hearing the pleadings, the evidence, argument of Counsel and the Charge of the Court, retired to consider of their verdict and after due deliberation returned unto Court the following verdict to wit: "We the Jury find for the Defendant." A.J. McCreery. Foreman of the Jury." It is therefore considered ordered, adjudged and decreed that the Plaintiffs, George B. Zimpelman, and Lucy A. Briggs Admin^{rix} as aforesaid take nothing by their suit, that the Deft W.B. Frazer go hence without day, and recover of and from the said Plaintiffs, all his costs in this behalf expended for which execution may issue.

× 45-00 George B. Zimpelman and Lucy A Briggs Admin^{rix} of the estate of W.W. Briggs dec'd vs John Ross. And now on this 14th day of May A.D 1878. this cause being called the plaintiffs appeared by their attorneys Carleton & Robertson and John B. Rector and the Defendant by his attorneys Hancock West & North and thereupon came on to be heard the Demurrer of the Defendant to the Plaintiffs Petition, and the Court having considered the same, overruled the same to which ruling the Defendant excepted, and thereupon the parties having announced themselves ready for trial, a Jury composed of twelve good and lawful men of Travis County, to wit: E Perry, Foreman and eleven others, was empannelled, who after hearing the pleadings the evidence, argument of Counsel and the Charge of the Court retired to consider of their verdict and after due deliberation returned into Court the following verdict to wit: "G.B. Zimpelman et ab vs John Ross. May 14th 1878. We the Jury find for the defendant for the fifty acres claimed by him in his answer in this case." E Perry" Foreman of the Jury". It is therefore considered ordered adjudged and decreed by the Court that the Plaintiffs George B. Zimpelman, and Lucy A Briggs Admin^{rix} as aforesaid take nothing by their suit, that the Defendant John Ross go hence without day and recover of and from the said Plaintiffs all his costs in this behalf expended for which execution may issue.

× 45-01 George B. Zimpelman and Lucy A. Briggs Admin^{rix} of the estate of W.W. Briggs dec'd. vs William Ross.
And now on this 14th day of May A.D 1878 this cause being

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called the Plaintiffs appeared by their Attorneys Carleton and Robertson and John B. Rector and the Defendant by his Attorneys. Hancock West & North. and thereupon came on to be heard the Demurrer of the Defendant to the Plaintiffs Petition, and the Court having considered the same. overruled the same. to which ruling the Defendant excepted and thereupon the parties having announced themselves ready for trial. a Jury of twelve good and lawful men of Travis County. composed of E Perry. Foreman. and eleven others was empannelled who after hearing the pleadings the evidence, argument of Counsel and charge of the Court. retired to consider of their verdict and after due deliberation returned into Court the following verdict, to wit "No 4501. G. B. Zimpelman et ab. vs William Ross. May 14th/78. "We the Jury find for the Defendant William Roes for the "fifty acres claimed by him in this suit. E. Perry" Foreman of the Jury It is therefore considered, ordered, adjudged and decreed that the Plaintiffs George B. Zimpelman, and Lucy A. Briggs Adminrix as aforesaid, take nothing by their suit, that the Defendant William Ross, go hence without day and recover of and from the said Plaintiffs all his costs in this behalf expended for which execution may issue.

× 4502. George B Zimpelman and Lucy A. Briggs Adminrix of the estate of W.W. Briggs decd. vs E. V. Jones. And now on this 14th day of May A.D 1878 this cause being called the Plaintiffs appeared by their attys Carleton & Robertson and John B Rector and the Defendant by his attys Hancock West & North. and thereupon came on to be heard the Demurrer of the Deft to the Plaintiffs petition and the Court having considered the same. overruled the same. to which ruling the Defendt excepted. and thereupon the parties having announced themselves ready for trial a jury of twelve good and lawful men of Travis County. composed of E. Perry Foreman and eleven others × 4 was empannelled who after hearing the pleadings the evidence, argument of Counsel and the Charge of the Court retired to consider of their verdict and after due deliberation returned into Court the following verdict to wit "No 4502. G. B. Zimpelman et al vs E. V. Jones May 14th 1878 "We the "Jury find for the Defendant E. V. Jones for the 100 acres "claimed by him in this suit. E Perry." Foreman of the Jury It is therefore considered ordered, adjudged and decreed

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that the Plffs George B Zimpelman and Lucy A Briggs Admnix as aforesaid take nothing by their suit. that the Defendant E. V. Jones go hence without day and recover of and from the said Plaintiffs all his costs in this behalf expended for which execution may issue.

* 45-03. George B. Zimpelman and Lucy A Briggs Admnix of the Estate of W. W Briggs decd. vs Mary Sassman & Fred Sassman. And now on this 14th day of May A D 1878 this cause being called the Plaintiffs appeared by their Attorneys. Carleton & Robertson and John B Rector. and the Defendants by their Attys Hancock West & North and thereupon came on to be heard the Demurrer of the Defendants to the Plaintiffs' Petition. and the Court having considered the same, overruled the same, to which ruling. the Defendants excepted and thereupon the parties having announced themselves ready for trial, a Jury of twelve good and lawful men of Travis County, composed of E. Perry Foreman and eleven others was empannelled. who after hearing the pleadings, the evidence argument of Counsel and charge of the Court retired to consider of their verdict. and after due deliberation returned into Court the following verdict, to wit: "No 4503. Geo B. Zimpelman et al. vs Mary Sassman & Fred Sassman May 14/1878." We the Jury find for the Defendants Mary & Fred Sassman for the fifty acres claimed by them in this suit. E. Perry" Foreman of the Jury" It is therefore considered ordered adjudged and decreed that the plaintiffs George B Zimpelman. and Lucy A Briggs Admnix as aforesaid take nothing by their suit. that the Defendants Mary Sassman & Fred Sassman go hence without day and recover of and from the said Plaintiffs. all their costs in this behalf expended for which execution may issue.

* 4504 George B. Zimpelman and Lucy A Briggs Admnix of the Estate of W. W. Briggs decd. vs Thomas Robb & Emzy Taylor And now on this 14th day of May A D 1878 this cause being called the plaintiffs appeared by their attorneys Carleton and Robertson and John B Rector. and the Defendants by their Attorneys Hancock West & North. and thereupon came on to be heard the Demurrer of the Defendants to the plaintiffs' petition and the Court having considered the same. overruled the same. to which ruling

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the Defendants excepted, and thereupon the parties having announced themselves ready for trial, a Jury of twelve good and lawful men composed of E. Perry Foreman and eleven others was empannelled, who after hearing the pleadings the evidence, argument of Counsel and the Charge of the Court, retired to consider of their verdict, and after due deliberation returned into Court the following verdict to wit: "No 45-04. "Geo. B. Zimpelman et ab vs Thos Robb et al. In Dist Court "Travis Co May 14th 1878. We the Jury find for the Plaintiff "as to Taylor and for Defendant Robb as to the one hundred "acres in possession of Robb purchased from Taylor" E Perry Foreman of the Jury." It is therefore considered ordered, adjudged and decreed that the Plaintiffs George B Zimpelman, and Lucy A Briggs Adminix as aforesaid take nothing by their suit against the Defendant Thomas Robb, and that the said Plffs do have and recover from the Defendant Emzy Taylor the land described in the petition to wit: that certain tract or parcel of land situated in the County of Travis and State of Texas West of the Colorado River being a portion of the league and labor of land originally granted to William Lewis Sr. and described by metes and bounds as follows: Beginning at the S W corner of the Noel M Bain Survey and the N W corner of this Survey at a stake and mounds. Thence S 60 E 4500 varas to a stake and pile of rocks from which a Mesquite 8 in dia bears S 15° W 10 varas. Thence S 30° W. 2450 varas to a stake and mounds. Thence N 60° W 4500 varas to a stake and mounds. Thence N 30° E 2450 vrs to the place of beginning containing 1948 acres more or less: less the following one hundred acres of land out of the said last described land, described in the answer of the Defendant Thomas Robb as follows to wit: One Hundred acres of land out of said Wm Lewis Sr League and labor described as follows to wit: Beginning at the N W corner of said Wm Lewis League a stone mound. Thence S 30 W 1250 varas to a stake in the West line of said league Thence S 60 E 451 3/5 varas to a stake for the South East corner of this tract. Thence N 30 E 1250 varas to a stake in the North line of said league Thence N 60 W 451 3/5 varas to the place of beginning. It is further,

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Considered that the Defendant Thomas Robb recover from the plaintiffs all his costs in this behalf expended. that the Defendant Emzy Taylor recover from the Peffs all his costs in this behalf incurred up to and including the 19th day of Novb. AD 1877. when this cause was reinstated at plaintiffs costs. that the plaintiffs recover all costs accrued since said 19th day of Novb AD 1877. of and from said Defendant Emzy Taylor for all which executions may issue in favor of the parties entitled to the same. It is further ordered adjudged and decreed that a writ of possession issue in favor of said plaintiffs against said Emzy Taylor and all those claiming the land by through or under him since the 17th day of August AD. 1875. commanding the Sheriff of Travis County to place said George B Zimpelman, and Lucy A Briggs administratrix as aforesaid in possession of the land herein adjudged to them. and to eject therefrom said Emzy Taylor and all those claiming by through or under him since said 17th day of August AD 1875.

X 5074 Richard Gildart Frank Gildart, James Gildart, Susan Gildart Emily T. Ford. Thomas H. Gildart Jeff Gildart. Virginia Coon and her husband W L Coord Cornelia Patterson and her husband H D Patterson. Lizzie Phelps and her husband Girard Phelps Mary Jane. Louise. John, Lizzie and Alice Yerby vs J B Gildart Farrar and Elliot Gildart. Be it remembered that now at this day came on to be heard the report of Dennis Corwin. Geo. B Zimpelman and G Crow Commissioners appointed by a decree of this Court to partition the West half of Lot No six in Block No 5 Out Lot No 11. Division Z. in the City of Austin Travis County Texas. and said Commissioners having reported that it is impracticable to partition the same as directed in said decree which said report is hereby in all things confirmed. And it now appearing to the satisfaction of the Court that said property will have to be sold for partition. It is therefore ordered adjudged and decreed. that said West ½ Lot 6. Block 5 Out Lot 11 Division Z. be and the same is hereby ordered to be sold at public outcry to the highest bidder at South East corner of Block 70 in Austin City Texas. one third of the purchase money to be paid in cash. one third in six months and the other third in twelve months from the date of sale. the purchaser being required to

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give notes with approved security for the deferred payments and a lien to be retained on said property for the unpaid purchase money. It is further ordered by the Court that Dennis Corwin be and he is hereby appointed a Commissioner of the Court to execute this decree and make sale of said property after advertising the same as in case of sale under execution, and will make report of his proceedings thereunder to the next term of this Court for confirmation. It is further ordered that all costs of this proceeding be paid out of the money realized from said sale, to be pro rata borne by the parties interested in said property.
And thereupon Court adjourned till tomorrow Morning at 9 Oclk

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Court met pursuant to adjournment. present same as yesterday.
Whereupon the following proceedings were had to wit

× 4659 ✓ R. J. Swancoat vs James Finlay and William Finlay.
Exec. dock. No 5 page 53. And now on this the 16th day of May 1878 came the parties to this cause by their attys. and both having announced ready for trial, and Defts demurrer to Plffs petition was submitted to the Court, and the same together with argument of Counsel thereon being heard & considered by the Court, is sustained in so far as it applies to the portions of Plffs petition setting up a lien on real estate and said portions of Plffs Petition are stricken out. And thereupon the Plff dismissed said cause as against the Deft Wm Finlay. and leave is given to Plff to file a trial amendment, and the Plff having by way of trial amendment demured to Deft James Finlays amended answer & exceptes thereto. said demurrer being heard & considered by the Court, together with argument of Counsel thereon, the same is sustained as to so much of Deft James Finlay as pleads non est factum as to the words. "used in making payments on tract of land bought of Phillips & Whitis." and said portions of said Defts amended answer are stricken from the pleadings in said cause. and thereupon came a Jury of twelve good and lawful men of Travis County to wit: E. Perry and eleven others. duly sworn tried & empannelled according to law and after hearing all the pleadings and evidence. and argument of Counsel thereon, & the charge of the Court being given them retired

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to consider of their verdict. & returned into court the following verdict to wit: "R.J. Swancoat vs James Finlay. In Dist Court Travis County Texas. May 16" 1878. We the Jury find for the plaintiff R J Swancoat the sum of Twelve hundred and thirty eight and 65/100 Dollars Coin. the same being principal and interest due on note. "Signed" E Perry" Foreman of the Jury" it is therefore ordered adjudged and decreed that the plaintiff R.J. Swancoat do have and recover of and from the Deft. James Finlay the sum of Twelve Hundred and thirty eight 65/100 Dollars ($1238 65/100) with interest from this date at one per per centum per month and all costs in this behalf expended for which execution may issue. except to those costs as were incurred by making Wm Finlay a party to this suit, which costs are hereby against the plaintiff.

4699 James H. Link vs. Austin City Rail Road Company. Continued by agreement.

4886 Margaret L. Boatner vs. George W. Glasscock et als. Continued by Plff.

5017 Miranda McRae vs. A. L. McRae. May 10th 1878. Upon motion it was ordered that plaintiff have leave to file a first amendment to original answer.

5116 Mrs. J. Sophie Markley vs. Joseph Walle. May 14th 1878. Upon motion it was ordered that Defendant have leave to amend his original answer.

4105 & 4265 M. L. Hamilton vs. Hicks et al & M. L. Hamilton vs Fahey et al., consolidated. This 11th day of May came on to be heard the objections to the commissioners report filed in these cases. & after argument of counsel said objections were by the Court overruled.

5115 Maggie Turner et al. vs. H. & T. C. R R Co. This 11th day of May came on to be heard the plaintiffs motion to strike out the defendants answer because improperly endorsed, which motion was by the Court overruled.

4822 Fobe & Robinson vs J. P. Forbash. This eleventh day of May came the parties to this suit by their attorneys and the plaintiffs motion for a new trial in this behalf being fully argued by counsel, was by the Court overruled, to which ruling the Plffs then & there by counsel excepted and gave notice in open Court of appeal to the Supreme Court.

× 4563 Jeremiah Sheehan vs. O.M. Jackson Deft. A.H. Yattis et als Intervenors, May 16th 1878. On this day came the Plaintiff

Exec docket No 5 page 86.

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and Defendant and the Intervenors by their respective Attorneys and announced themselves ready for trial. and then came on to be heard the Plaintiffs motion to suppress the Depositions of A N Gatlin. and the same being heard by the Court it is considered by the Court that the law is with the Plff. It is therefore ordered and adjudged that said motion be and the same is sustained and said depositions are suppressed. And thereupon the said Intervenors A N Gatlin. S G Gatlin. N P Barksdale. W. P. Barksdale A. B. McOfie. John A McOfie M E Talbot. James B. Talbot T. E. Mullens and J M Mullins. by their Attorney D. E. Thomas dismiss their said petition of intervention. And then came on to be heard the Defts demurrer to the Plaintiffs petition and the same being heard it is the opinion of the Court that the same be sustained, and the Plff on motion is granted leave to file a trial amendment. And thereupon came a Jury of twelve good and lawful men to wit: J Warner and eleven others. who being duly empannelled and sworn. and having heard the evidence, Argument of Counsel and Charge of the Court retired to consider of their verdict. and returned into Court the following verdict to wit: "Austin Tex May 16th 1878. We the Jury find for the Plaintiff the sum of Two Hundred and forty five 50/100 Dollars. and find that the Mechanics lien exists in favor of the Plaintiffs and against the Defendant Jackson on Lot No 12 in Block No 72. City of Austin Texas." J Warner Foreman "It is therefore considered by the Court that the said Plaintiff do have and recover of the said Deft O M Jackson the sum of Two Hundred and forty five 50/100 Dollars ($240.50) with interest thereon at the rate of eight per cent per annum together with his costs in this behalf expended and that he have his execution It is further considered by the Court from the finding of the Jury aforesaid that the plaintiffs has a mechanics lien upon Lot No 12 Block No 72. in the City of Austin as against the said O M Jackson for his interest therein to secure the payment of the aforesaid sum of Two Hundred and forty five 50/100 Dollars, It is therefore ordered adjudged and decreed by the Court that the Mechanics lien upon the above described tract and

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Lot of land be and the same is hereby foreclosed as to the interest of the said Jackson therein and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County commanding him the said Sheriff to seize and sell the above described tract and lot of land as under execution, and that he apply the proceeds to the payment and satisfaction of the aforesaid sum of Two Hundred and Forty Five 50/100 Dollars together with all interest due thereon and the costs of this suit. And if said land shall sell for more than enough to satisfy said sums of money then the said Sheriff is hereby directed to pay over the excess to said Defendant. But if said land shall not sell for enough to pay off and satisfy this judgment then the Clerk is directed to issue execution for the balance remaining unpaid. It is further adjudged and decreed that said Intervenors pay all the Costs of their said petition of intervention for which execution may issue.

4720 ✓

Exon. book 5. page 35.

Helena Bernhard & husband Joseph Bernhard. Elizabeth Haffart & husband Joseph Haffart. Willie Haffart. & Louis Haffart minors. of whom R. J. Hill is special Guardian. Martha M Gowan & husband Sidney M Gowan. Mary Ann Johnston John C Johnston. Ella Johnston said John & Ella being minors. of whom R J Hill is special Guardian. Hamilton O'Banion. vs. Andrew J. Glasscock & Albert H Glasscock. (Change of Venue from Williamson District Court.) On this day May 16th A.D. 1878 this case being regularly reached on the Docket & thereupon came the parties. the minors by their said Special Guardian R J Hill & all the parties. plaintiffs and the Defendants by their respective attorneys. and thereupon no Jury being demanded. the Court having heard the pleadings. evidence and arguments of Counsel. And thereupon the Court being satisfied that the pleas of the Defendants. of three & five years limitations by them pleaded to the Antonio Florez & Nicholas Porter Surveys were fully sustained by the testimony and there being no trespass shown as upon the J P. Pulliefer 1/3 League Survey (said League sued for being covered by the said Florez Porter & Pulliefer 1/3 League Survey)

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Whereupon it is considered adjudged and decreed by the Court that as to the land set up and claimed in the answer of the Defendants to wit the Florez and Porter Surveys the Plaintiffs take nothing by their suit. the said survey being included in the field notes by metes and bounds as follows: The Florez Survey. Beginning at the SW corner of Survey No 3 the SE corner also of the Orville Perry League at a stake from which a Live Oak bears N 86 E 80 vs & another live oak bro N 82 E 83 vs. Thence N 19° W 170 vs. to the San Gabriel at 3333⅓. a stake from which a Mesquite bears N 69° E 19 vs. Thence S 71° W 2500 varas to a stone mound on North boundary line of League No 1 of which this is a part. Thence S 19° E 3333⅓ varas to a mound in South boundary line of the O Perry Survey: Thence N 71 E 2500 to the place of Beginning. The Porter Survey begins at the S W corner of Survey No 1 (being the Florez survey above) Thence N 19° W with the W line of the Florez Survey aforesaid 3333⅓ varas to the N W corner of the same, a stake in N. line of O Perry league Thence S 71 W — varas to the N E corner of the J P Pulsifer ⅓ League Survey (being Survey marked G No 3) Thence from said J P Pulsifer's N.E. corner S 19° E 3333⅓ vrs to SE corner of same. Thence N 71° E

varas to the place of beginning. Said two Surveys containing all of said O Perry league but 2500 varas off the West end thereof: And the Court doth order adjudge and decree that the Defts Andrew J. and Albert H Glass Cook recover said Two one third League surveys (the Florez and Porter) of & from the said plaintiffs & all costs of suit therein expended for which execution may issue: And the Court doth further order and decree that the said plaintiffs do recover the said one third league in name of J P Pulsifer, being the upper or West Survey on said O. Perry League. being that to which the disclaimer extends & being all the land described in the petition. & not included in the said Florez & Porter Surveys. It is further ordered that the Defendants have leave to withdraw their title papers. they leaving at their own costs copies thereof on file.

4795 — John C. Duval. Florida G. Howard George W. Sampson Clement R. Johns Flavius Everett and William Von Rosenberg vs Robert Creuzbaur. Suit for Partition. This 30th day of

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April AD 1878 came the parties by their attorneys and waive a Jury, and submit the matter in controversy as well of fact as of law to the Court. and the evidence and argument of Counsel having been heard and fully understood. it is considered determined and declared by the Court that the rights titles and interests of the said parties plaintiffs and Defendants are as stated in the Plaintiffs petition, and that partition be made between them according to their said rights. It is further ordered that Dennis Corwin and William Von Rosenberg be and they are hereby appointed Commissioners to make the partition so adjudged, quality and quantity relatively considered according to the respective rights and interests of the said parties as stated in plaintiffs petition a copy of which partition together with this judgment will be furnished by the Clerk of this Court to the said Commissioners for their guidance, Said Commissioners shall make partition by allotment to each distributee of a part in each parcel or of parts in one or more parcels or of one or more parcels either with or without the addition of a part or parts of other parcels as shall be most for the interest of the distributees provided said lands are susceptible of partition, and if any parcel or tract cannot be divided, said Commissioners will so report. Said Commissioners will ~~so~~ report under oath at this term of the Court as soon as they shall have discharged their duty under this judgment--.

And thereupon Court adjourned till tomorrow morning at 9 Oclk.

May 17th 1878.

Court met pursuant to adjournment. present same as yesterday. Whereupon the following proceedings were had, to wit:

× 4887. J. R Nixon et ux vs Houston and Texas Central Railway Company. And now at this day the above entitled and numbered cause being called for trial. the Plaintiffs appeared in person and by their Attorneys Wheeler & Posey W M Walton and H.L. Bentley. and the Defts appeared by their attys. Hancock West & North and the general demurrer and special exceptions of the Defendants to the Plaintiffs pleadings coming on to be heard and the same having been heard and considered. by the Court.

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It is ordered and adjudged that the same be sustained to that portion of Plffs pleadings setting up exemplary damages, to which ruling the plaintiffs excepted and it is further ordered and adjudged that they be overruled as to the other grounds of exception to which ruling the Defendant excepted, and thereupon the parties announced themselves ready for trial on the merits whereupon came a Jury of twelve good and lawful men composed of Robt Canes. Foreman, and eleven others who after having been duly ~~drawn~~ empannelled and sworn, heard the pleadings evidence argument of Counsel and charge of the Court and thereupon retired to consider of their verdict, and after due deliberation returned into Court the following verdict: "We the Jury find for the Plaintiff and assess the damages at $820-00 Robert Canes as Foreman" It is therefore considered ordered and adjudged by the Court that the Plaintiffs J R Nixon and Lizzie Jane Nixon, do have and recover of and from the Defendant the Houston and Texas Central Railway Company, the sum of Eight Hundred and Twenty five Dollars with all costs in this behalf expended for all of which execution may issue.

5017 Maranda McRea vs A. L. McRea. And now on this day came the parties to this cause in their own proper persons and by attorneys and announce themselves ready for trial and no Jury being demanded the cause is submitted to the Court and the Court being fully advised as to the merit of the cause, after hearing the allegations of the parties and the evidence offered in support thereof doth order adjudge and decree that the bonds of matrimony heretofore and now existing between the Plaintiff and defendant be and the same are hereby dissolved vacated and annulled and that the said Maranda McRea be and she is hereby forever divorced from the said A. L. McRea; and it is further ordered adjudged and decreed by the Court that said Plaintiff Maranda McRea shall have the care custody and control of the minor child of said parties to wit Elijah Thomas McRea until otherwise ordered by the Court, and that said Defendant be and he is hereby restrained from any interference with said

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Plaintiff or with her custody and control of said minor child until otherwise ordered by this Court And it is also ordered that said Defendant pay all the costs of this suit for which execution shall issue In case the costs cannot be made out of Defendant then the same shall be paid by the Plaintiff.
And thereupon Court adjourned till tomorrow Morning at 9 Oclk.

May 18th 1878.

Court met pursuant to adjournment present same as yesterday Whereupon the following proceedings were had to wit:
× 4730. ✓ Wm M Shanahan vs Wm Jenkins. Tom Green County Garnishee. On this the 18th day of May AD 1878. came on to be heard the answer of the Garnishee Tom Green County by Anthony Winston Judge of the County Court and Presiding Judge of the Commissioners Court of said County. and the same being heard and fully understood by the Court it is ordered adjudged and decreed that said Garnishee Tom Green County be and said Garnishee is discharged on the answer of said Officer of said County and that said Garnishee recover costs in this behalf expended, against Plff Wm M Shanahan for which execution may issue
× 5056. ✓ John C Spence vs Wm W. Collins. Florence Collins. Henry W Collins & Charlotte J Thompson & her husband W R. Thompson. In this case now comes the plaintiff by his Attorneys the Defts Wm W Collins Florence Collins & Henry W Collins by their special guardian A. M. Jackson, and Charlotte J. Thompson and her husband W R Thompson by their Attorneys - Jackson & Jackson. and announced themselves ready for trial. and a Jury being waived the cause came on to be heard before the Court without the intervention of a Jury. and it appearing to the Court that the Defendant Charlotte J Thompson then widow of Lawson W Collins, as surviving wife of the said Lawson W. Collins in Consideration of a debt of four thousand dollars due from said Lawson W. Collins to the plaintiff, for which the said plaintiff held a lien upon all the property hereinafter mentioned. and in consideration of the

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buying up of a debt due from the estate of Sixteen Hundred and Thirty Seven 50/100 Dollars payable to Josiah F Crosby. for which a lien was held by said Crosby on the whole of Lot number one in Block Sixty Six in the City of Austin Texas. and in consideration of the warranty deeds of the said Lawson W Collins of two thirds of said lot number one in Block Sixty Six to other persons and to relieve the said estate of Lawson W Collins from embarrassment on account of said Warantees and otherwise, did as such surviving wife of the said Lawson W Collins after filing inventory as such. by deed bearing date 19th November 1873 convey to the said John S. Spence. 1st The one third of lot number one in Block Sixty six in the City of Austin being the remainder thereof unsold by Lawson W Collins in his lifetime. being twenty three feet on Pecan Street and running back one hundred and twenty eight feet. 2d A tract of land in McLennan County Texas on Deer Creek. Beginning at the N E corner of a survey made for B. L. Cole for the South East Corner of this Survey. Thence N 28° W 5-15- varas a branch 1344 varas to the North East corner Thence S 62° W 400 varas a fork of Deer Creek. 715- varas another fork. 1344 varas a mound for North West corner in prairie Thence South 28° East 1344 varas a mound for the South West Corner. Thence North 62° East one thousand and fifty four varas re crossed Deer Creek 1344 varas to the beginning being the same which was granted to J M Reynolds assignee of Ferdinand Reinman. 3d One share being share number 36 in the Young mens real estate and building Association of the City of Austin Texas. The said conveyance being made with the understanding that the said John S. Spence the plaintiff should have a perfect title thereto and for the purpose of acquitting the said estate of the said Lawson W Collins of the debts aforesaid. And it appearing to the Court that the said Three hundred and twenty acres of land in McLennan County belonged to the estate of Lawson B Collins the father of said Lawson W Collins, and that it had descended to Amanda M Collins his surviving wife, and to the said Lawson W. and was not the subject of conveyance by the said Charlotte J as surviving wife of said Lawson W. and that the said Charlotte J. had

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procured a conveyance to the Peff of the one half thereof by the said Amanda M Collins, and being unable to procure a conveyance from the said minors, the children of the said Lawson W Collins, this suit is brought by the said plaintiff. And it appearing to the Court that the said Charlotte J. had acted in the interest of the said minors and to their advantage in the settlement of the claims against the Estate of said Lawson W Collins. And the plaintiffs being willing to accept the said settlement in case a decree can be pronounced confirming the said sale against said minors as a settlement of the claims against their father. Because it appears to be beneficial to the said minors, that the said adjustment and compromise hereinbefore recited shall be accepted rather than to enforce said claims of the plaintiff and sell said property at public auction and it appearing that said debts amount to the full value of said property. It is therefore ordered, adjudged and decreed that the said settlement made by the said Charlotte J Thompson as surviving wife of Lawson W Collins in behalf of herself and the said estate and the said minors, be and the same is hereby confirmed in all things, and the title to all of the said property conveyed as herein recited be divested out of the said Charlotte J. and the said children of Lawson W Collins, viz William W. Florence & Henry W. Collins and that the same be vested in the said John S. Spence the plaintiff. It is further adjudged that the claims aforesaid held by the said plaintiff against the estate of said Lawson W Collins be satisfied and extinguished, and the plaintiff consenting thereto. it is adjudged that the said plaintiff pay all costs in this behalf expended.

5103 Paul Pressler vs. Carl Schaeffer et al. This day came the parties to this suit by their Attorneys, and the defendant submitted his demurrer to plffs petition, and the Court after hearing the argument of counsel, overruled said demurrer.

4894 The State of Texas vs. J. D. Bullock et als. This 11th day of May 1878 came the parties to this suit by their Attorneys, and the defendants motion for a new trial in this behalf came on to be heard and was after argument of Counsel by the Court overruled,

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And thereupon the defendants excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court

4976 T. E. Tullis vs. Dennis Corrin Sheriff etc. This day came the defendant by counsel and submitted to the Court his motion to reinstate this cause, and the Court having heard said motion & the argument of defts Counsel, overruled the same.

4768 E. L. Compton vs. The heirs of Henry Rinehart. This 17th day of May A.D. 1878 came on to be heard the motion of the Plaintiff in this cause to set aside the non suit and reinstate said cause on the docket and allow Pefft to prosecute the same: for cause assigned in the affidavit attached to said motion and the parties coming by their Counsel and submitting the said motion to the Court, it is considered and ordered by the Court that said motion be granted and that the non suit entered in said cause heretofore on the 24th day of April A D 1878, be and the same is hereby set aside and the said cause be & is reinstated on the Docket of this Court. and it is further adjudged that the plaintiff & his sureties on his cost bond to wit: John P Key & J. B. Baines pay all costs of this suit heretofore incurred, and that execution issue therefor against said parties on behalf of the officers of this Court. and that said cause be continued to the next term of this Court.

4922 William Biles vs. Thomas D. Cater et als. This day came the defendants by their Attorneys and submitted their motion for a new trial in this behalf to the Court, and the Court after hearing the argument of counsel, overruled said motion.

4615 Houston & Texas Central Rail Road Company vs. F. W. Handler. This day came the parties to this suit by their Attorneys and the plaintiff submitted its motion for a new trial in this behalf to the Court. And the Court after hearing the same and the argument of counsel thereon, overruled said motion. Whereupon the plaintiff excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5033 The State of Texas vs. J. M. O. Menard et als. This day came the State by her Attorneys and came also the defendant L. Muse by his Attorney and submitted to the Court his motion to set aside the judgment heretofore rendered

May 18th 1878.

in this cause and to grant him a new trial; which motion after being fully argued by counsel and by the Court duly considered, was by the Court overruled. And thereupon said defendant L. Muse excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5033 The State of Texas vs. J. M. O. Menard et als. This day came the State by her Attorneys and came also the defendant L. Muse by his Attorney and submitted to the Court his motion to set aside the judgment heretofore rendered in this cause and to dismiss this cause for want of jurisdiction, which motion after being fully argued by counsel and by the Court duly considered was by the Court overruled. And thereupon said defendant L. Muse excepted to such ruling of the Court and gave notice in open Court of Appeal to the Supreme Court.

5034 The State of Texas vs. J. M. O. Menard et al. This day came the State by her Attorneys & came also the defendant George Butler by his Attorney and submitted to the Court his motion in arrest of judgment in this cause, which motion after being fully argued by counsel and by the Court duly considered, was by the Court overruled. And thereupon said defendant George Butler excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5034 The State of Texas vs. J. M. O. Menard et al. This day came the State by her Attorney and came also the defendant George Butler by his Attorney and submitted to the Court his motion to set aside the judgment heretofore rendered in this cause and to dismiss this suit for want of jurisdiction, which motion after being argued by counsel and by the Court duly considered, was by the Court overruled. And thereupon said defendant George Butler excepted to such ruling of the Court and gave notice of appeal to the Supreme Court.

And thereupon Court adjourned till Monday morning the 20th inst. at 9 o'clock.

May 20th 1878.

For proceedings of this day see Criminal Minute Book "A"

May 21st 1878.

For proceedings of this day see Criminal Minute Book "A"

May 22nd 1878

See criminal Minute Book "A"

May 23rd & 24th 1878

See Criminal Minute Book A'

May 25th 1878

5107 Montopolis Ferry Company vs. B R. Townsend. Upon motion of Defendants Counsel leave was given to Defendant to file an amended motion to dissolve injunction.

4887 J. R. Nixon & wife vs. The Houston & Texas Central Rail Road Company. This 1st day of June 1878 came the parties to this suit by their Attorneys and the defendant submitted to the Court its motion for a new trial in this behalf, which motion was by the Court overruled. And thereupon the defendant excepted to such ruling of the Court and gave notice in open Court of an appeal to the Supreme Court.

June 1st 1878.

4504 Geo. B. Zimpelman vs. Thos Robb et al. This day came the parties to this cause by their attorneys, and the defendants submitted to the Court their motion for a new trial in this behalf. And the Court after hearing said motion & the argument of counsel ordered and decreed that the verdict & judgment heretofore rendered in this cause be set asside and a new trial granted to the defendants.

4830 Florence Chenneworth vs. B. Brown et als. This day came the plaintiff by her Attorneys and came also the defendants B. Brown & Brown by their Attorneys and the said defendants submitted to the Court their motion for a new trial in this behalf, which motion, after being fully argued by counsel and by the Court duly considered, was by the Court overruled. And thereupon the said defendants B. Brown & Brown excepted to such ruling & gave notice in open Court of appeal to the Supreme Court.

June 8th 1878.

Court met pursuant to adjournment, present same as yesterday. Whereupon the following proceedings were had to wit:

× 4829 (Exon No 5. p. 34) William Brown vs Sam Scott and Nancy Scott. And now on this the 8th day of June 1878 this cause having previously been regularly called for trial and both parties having announced ready for trial and neither party having demanded a Jury therein all matters of fact as well as of law were submitted to

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the Court, and after having heard all the evidence and argument of Counsel thereon the Court is of opinion that the law of the case is with the plaintiff and that he should recover, it is therefore ordered adjudged and decreed that the plaintiff William Brown, do have and recover of and from the Defts Sam Scott and Nancy Scott, the following real estate to wit: The South half of a certain lot of land, situated in the County of Travis, State of Texas Known and described as follows, all that portion of Out Lot No one (1) in Division B. of the Out Lots of the City of Austin as Known and described on map of said City, that is bounded and described as follows, to wit: Beginning at a stake in the North line of said Out Lot No one (1) 64 feet from the N.W corner of same, Thence South 19° West 170 feet to a stake for South West corner of this tract, Thence South 67° East 64 feet to a stake for the South East corner of this tract, Thence North 19° E 170 feet to a stake for the North East corner of this tract, Thence North 67° West 64 feet to beginning. Said tract being Known as Lot No 19 in Div B. of out lots adjoining Austin City, together with all and singular the improvements and buildings thereon and thereunto appurtaining, and that he have his writ of possession therefor. And that Plff have and recover all costs of this suit of and from Defendants & that execution issue therefor. &c

5111 ✓ Mrs Mildred Plgoodloe & her husband Winter Goodloe vs Mrs Mollie Pope Buck & her husband Charles N Buck, Henry Caldwell Emma Lee Caldwell & Eula Caldwell. On this the 8th day of June 1878, came on to be heard the report of Galen Crow Clk Shands, & Jeff Houston, who were appointed Commrs by Decree of this Court, rendered by this cause on the 4th day of May 1878 to make partition of the property described in said decree & owned by the parties to this suit; and said report of said Commissioners in making said partition, being considered by the Court & being found to be a fair & complete partition of all the property described therein among the ... owners of the same as set out in said report It is therefore ordered & decreed by the Court that said

June 8th " 1878.

report of said Commissioners in making said partition be & the same is hereby confirmed and made a part of this Decree which report is as follows to wit.

S/11. Mildred P Goodloe et al. vs Mollie Pope Buck et al. In District Court of Travis County April Term 1878.

We Galen Crow E W Shands and Jeff Houston Commissioners in partition appointed by the Hon District Court at its April Term 1878. Judge E. B. Turner presiding, in the above entitled Cause beg leave respectively to submit the following report." We believing that reducing the different lands lots and personal effects to a cash valuation would establish a basis for a more equitable division proceeded to make actual examinations of all the property situate in the County of Travis, and placed the value thereof as follows.

Seperate Property

27 acres of land described in decree	$135.00
486 " in farm " " "	7500.00
	$7635.00
One third life estate of Mrs M P Goodloe in above described property in value	2545.00
Two thirds in value - to children	5090.00
	$7635.00

Community Property

140 acres, described in decree	$ 700.00
80 acres out of 180 act tract	400.00
Lots Nos 5. 6. 7. and 8 Block No 141. Austin City	3000.00
" 8 " 138 do	1200.00
" 3 and 4 " 3 do	300.00
" 6 " 21. do	700.00
" 4 " 95 do.	3000.00
" Nos. 1. 2. 3. 6. 7. and 8. Block No 34 Webberville	125.00
92 X 160 ft out of Block 143 Austin City	900.00
and Lots 2 and 3 in Block No 16. Hedges Addition to the City of Houston	30.00
Furniture, Horse and Buggy	410.50
W C Jones Note	615.00
Henry Jones Note	275.00
C. D. Johns Note	150.00
Money on hand	129.00
Total	$12154.50

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One half to Mrs M P Goodloe as her interest in
Community property $6077.25
One half to Children 6077.25
$12154.50

Your Commissioners in the partition of the tracts of 27 acres and 486 acres, described in the decree of partition as seperate property of the estate, after carefully examining said property and having the exact position of the improvements determined by a competent Surveyor, deeming it very detrimental to the farm and greatly lessening its value to divide the same into five tracts as the words of the decree would seem to require, and believing it would be of advantage to the estate to divide the farm proper in three tracts, set apart to Mrs Mildred P Goodloe as her life interest, one third in value of the seperate property off of the Eastern side of the farm tract of 486 acres - and marked on the plat hereto appended, "life estate of Mrs M P Goodloe." and described as follows: Beginning at the S E corner of the 145 acres sold to Anderson by J A Caldwell in his life time it being the N E corner of said tract of 486 acres. Thence S 30 W 304⅗ varas more or less to the S W. Corner of said 486 acre tract. Thence N 60 W 305 varas. Thence N 30° E. and parallel with the East line 304⅗ varas more or less to the South line of Tract sold Anderson. Thence S. 60° E 305 varas to the place of beginning. Containing 164 acres of land more or less. with the privilege of moving two Cabins off of the Western portion of said 486 acre tract To Emma Lee Caldwell and Eula Caldwell as their one third in value, being one sixth interest each of said Seperate estate we set apart the middle portion of said tract of 486 acres, and marked on the Plat No 2. Beginning at the North West corner of Portion set apart as the life interest of Mrs M P Goodloe. Thence S 30 W. with West line of Mrs Goodloe 304⅗ varas more or less. to the S W corner of Mrs Goodloes tract on the South line of said 486 acres Thence N 60 W 305 varas, Thence N 30° E 304⅗ varas to the North line of said 486 acres. Thence S 60° E 305 varas to the place of beginning. containing 164 acres of land more or less. To Mollie Pope Buck and Henry Caldwell we set apart as their one third interest (⅙ each) in said seperate property the Western portion of said 486 acres and described as follows:

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Commencing at the NW corner of Tract No 2 on plat on the South line of 169 acres of land sold by J A Caldwell to Pierson in his life time. Thence S 30 W 3043 varas with W line of tract set apart to Emma Lee Caldwell and to Eula Caldwell to the South line of said 456 acre tract. Thence N 60 W 350 varas to its N.W. corner. Thence N 30 E 3043 varas with E line of said 456 acres to its N W corner. Thence S 60 E 350 varas to the place of beginning. Marked on Plat hereto attached as No 3 (Two cabins standing on this tract subject to removal by Mrs Mildred P Goodloe) containing 196 acres more or less. Also set apart to them the 27 acres of land described in the Decree as part of the Antonio Navarro seven leagues of land. Beginning at a stake on the old East boundary line of the Comanche league from which a hackberry 10 in. in dia bears N 83 E 7 vrs dist the same being the N.E. corner of a 107 acre tract titled to Jas W Casner the 18th of July 1869. Thence N 30° E 343 varas to a stake in the same line, being S.E. corner of a tract of land heretofore titled to Alfred Caldwell. Thence N 60° W 445 varas along said Alfreds line to a stake in the same being N.E. Cor of a 24 acre tract of land of said Alfreds heirs. Thence S 30 W 343 varas to a stake in the same being the S.E. corner of said 24 acre tract. Thence S 60 E 445 varas to said East boundary line of said Comanche league to place of beginning.

In the partition of the community property we set apart to Mrs Mildred P Goodloe as her one half interest in the same - in value - the following described property to wit: Lots No's 5. 6. 7. and 8 in Block No 141 City of Austin Texas. also Lot No 6. in Block No 21 City of Austin Texas. also Lot No 3 in Block No 3 City of Austin Texas. also 70 acres: the South half of the 140 acres of land described in the decree. Said 70 acres being marked No 4. "M P Goodloe" on the plat hereto attached and to be cut off said 140 acres. by a line parallel with the Northern line of the same. Also 40 acres more or less the Western one half of the 80 acres described in the decree as out of the 160
" acres of land purchased by John A Caldwell in Jany 1864
" from Henry Montgomery. said land being a part
" of the Antonio Navarro grant in Travis and Bastrop
" Counties and for full description of same see deed
" from Montgomery as recorded in the records of Travis

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" County. in County Clerks Office in Book "V" pages 469 and 470.
Said 40 acres of land to be divided off by a line parallel with
the Eastern boundary line of said 80 acre tract. Also all the
Household and Kitchen furniture. Also the Horse and Buggy
Cash in money. Seventy seven 50/100 Dollars $77.50
The C D Johns promisory Note.
" W C Jones promisory Note.
" Henry Jones promisory Note.
Also Lots No 2 and 3 in Block No 16 in Haleys addition to
the City of Houston Harris County Texas.

To Mollie Pope Buck. Henry Caldwell, Emma Lee Caldwell
and Eula Caldwell as their one half interest in the commu
nity property. in value, we set apart to them in common
the following described property.
Lot No 4. Block No 95 City of Austin. Lot No 8 Block No 138
City of Austin. 92 x 160 feet out of Block No 143 City of Austin.
Lot No 4. Block No 3. City of Austin. 70 acres of land the
Northern one half of the 140 acres described in the decree.
40 acres more or less. the eastern one half of the 80 acres, out of 180 acre
tract. described in the Decree. and Lots Nos 1 2 3 6 7 and 8 Block
No 34 town of Webberville Travis County, Texas. Cash in money $52.50

Your commissioners then proceeded to make a division
of the property allotted to Mollie Pope Buck. Henry Caldwell
Emma Lee Caldwell and Eula Caldwell. embracing their
interests in both Community and seperate Estates, and
in said partition we allotted and set a part to Mollie
Pope Buck the following described property.

The Western portion of the farm tract of 406. and
marked and described on the plat as No 3 "M P" Buck and
same hereinbefore set apart to Mollie Pope Buck and
Henry Caldwell. in the division of the seperate property of
the estate. (The privilege being reserved to Mrs M P Goodloe
to remove two cabins from said tract). also set apart to
Mollie Pope Buck the tract of 27 acres hereinbefore set a=
part to her and Henry Caldwell in the partition of the
seperate estate. also out of the Community property
allotted to said four heirs in common. we set apart to
said Mollie Pope Buck. The West one half of the North one
half of the 140 acre tract. Containing 35 acres, out of land and more or less
and numbered on the plat Nos- M. P. Buck. Also Lots Nos 1
2 and 3 in Block No 34 town of Webberville. with one half

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interest in the buildings erected on the same. Also money in cash to the amount of Nine 25/100 Dollars ($9.25/100)

To Henry Caldwell we set apart; The middle portion of the 486 acre tract. marked "No 2 Henry Caldwell" on plat. and hereinbefore set apart to Emma Lee Caldwell and Eula Caldwell, as their interest in value, in the seperate property of said estate: also out of the Cummunity property allotted to said four heirs in Common. we set apart to Henry Caldwell. the east one half of the North one of the 140 acre tract containing 35 acres of land more or less and marked on the Plat. No 6. H Caldwell. also lots No 6.7. and 8. in Block No 34 town of Webberville with one half interest in the buildings on the same. Also the sum of Nine 25/100 Dollars ($9 25/100) money in cash.

To Emma Lee Caldwell, we set apart in lieu of all previous allotments to her. the following described property. The eastern one half of the 80 acre tract described in the decree as out of 180 acres purchased by J A Caldwell from Montgomery containing 40 acres of land more or less. Lot No 8 in Block No 138. City of Austin. 92 X 160 ft out of Block No 143 City of Austin Lot No 4 Block No 3 City of Austin. Money in Cash Thirty Three 50/100 Dollars ($33 50/100) also the sum of Five Dollars per month arising from the rentals of buildings on Lot No 4 Block No 90 in City of Austin for the term of three years.

To Eula Caldwell we set apart in lieu of all previous 19 allotments to her the following described property Lot No 4 in Block No 90 in the City of Austin Texas. subject to payment of five dollars per month from rentals for the period of Three years, to go to Emma Lee Caldwell. We find it difficult to set apart any portion of the property described in the decree for sale to pay the Costs of Court and other expenses, necessarily incured in this partition and do recommend that each party shall pay share and share alike. their fractional portion of the aggregate expenses. and if same is not paid that execution shall issue against the estate of parties delinquent.

The following fees of Commissioners and expenses incurred by them is submitted.

Commissioners $50.00 each $150.00

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Paid for hack hire R Platt.	7.50
J. V. Bergen Plat & report	7.50
Walsh & Doyles Surveyors fees.	5.00
	$170.00

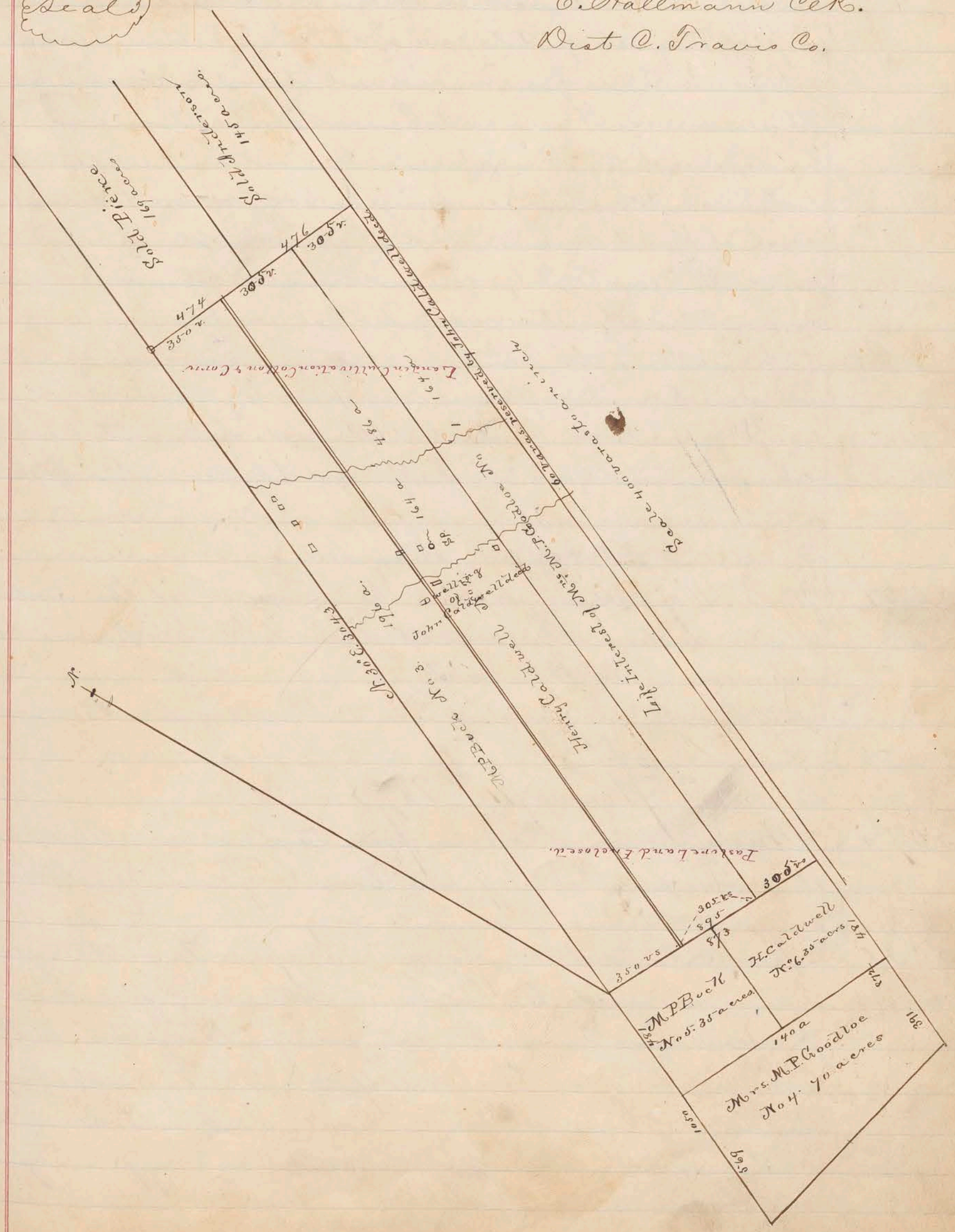
All of which is respectfully submitted.

G. Crow.
Edw. W. Shands
T. J. Houston

Sworn to and subscribed before me this 28th Day of May AD 1878.

Seal

E. Hallemann Clk.
Dist C. Travis Co.



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It is further ordered adjudged and decreed by the Court that the said Mildred P. Goodloe shall own and possess a life estate in the eastern portion of said farm tract as set apart to her and described herein; and that she shall be the sole and exclusive owner in fee of all the community property set apart to her as stated and described in this decree. And it is further ordered adjudged and decreed by the Court that the said Mollie Pope Buck, Henry Caldwell, Emma Lee Caldwell and Eula Caldwell shall each be the sole & exclusive owner in fee of the respective share and portion of property set apart to each of them as herein described and set forth. It is further ordered that the money set apart to the minors Henry and Emma Lee Caldwell as herein stated be received by their special Guardian Walter H Caldwell to be used by him in paying costs of suit taxed against each of said minors, and the remainder if any to be paid over to Mrs M P Goodloe their mother and natural Guardian. It is further ordered that said Commissioners be required to present to the Court an itemized account of the services rendered and expenses incurred by them in making said partition; and that the costs of this suit be paid by the parties, Plaintiff and Defendant in proportion to their respective interests in the property herein partitioned for which execution may issue.

5021 J. B. Wygall et als vs. The Treasurer of the State of Texas
Upon motion it is ordered that G. W. Clark have leave to intervene into this cause.

And Court adjourned till Monday the 10th inst at 9 A. M.

June 11th 1878.

5076 Maria Allen et al. vs. John Sauls et als. Upon motion it is ordered that Peff have leave to file his first supplemental petition.

× 5030 Anna Hamett vs Joseph Bluford Hamett. Upon the statement made to the Court that the Peff will not further prosecute this cause, It was ordered, that this cause be dismissed and that Peff Anna Hamett and her sureties on her cost bond & wit T. H. Miller & J.C. Tullis pay all costs of this proceedings, and that the officers of this Court have their execution against said parties for the amount of such costs.

Exec. docket 5 page 41.

June 15th A 1878.

4889. Exec. dock H No 5 page 55.

The State of Texas vs Charles Saur. Charles Floege Ernst Scheff Joseph Lauda and John Schumacher. This day came the Plaintiff by her attorneys and the said Defendant Charles Saur having failed to appear and answer in this behalf. but wholly made default. Wherefore the said Plaintiff. The State of Texas ought to recover against the said Defendant Charles Saur her damages by reason of the premises. And the said Defendants Charles Floege. Ernst Scheff. Joseph Lauda and John Schumacher appeared also by their attorneys. and neither party demanding a Jury. the matters in controversy as well of fact as of law were submitted to the Court. And the evidence and argument of Counsel having been heard and fully understood and considered. It is therefore. ordered. adjudged. and decreed by the Court. that the Plaintiff. The State of Texas. do have and recover of and from the said Defendants Charles Saur Charles Floege. Ernst Scheff. Joseph Lauda and John Schumacher the sum of Four Thousand and Seventy Six and 49/100 ($4076.49) Dollars and Costs of suit. for all which let execution issue. And it further appearing to the Court that the Defendant Charles Saur is the principal in the Official Bond sued on in this case. and that the Defendants Charles Floege Ernst Scheff Joseph Lauda and John Schumacher executed said Official Bond as sureties. and as such sureties, are entitled to the benefit of the Statute in such cases made and provided. It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this Judgment. first upon the property of the said Defendant Charles Saur subject to execution and situate in the County of Travis before a levy shall be made upon the property of the said sureties or either of them. provided so much of the property of the said Charles Saur shall be found as will be sufficient to make the amount of said execution. otherwise the levy thereof to be made on the property of the said Charles Saur. that may be found. if any. and upon so much of the property of the said sureties as may be necessary to make the amount of said execution. And it is further ordered adjudged and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said Official Bond. this judgment shall not be discharged by such payment but shall

June 15th A.D. 1878.

remain in force and be prosecuted to execution for the use of said sureties. or either of them making such payment, to the amount of such payment. And it is further ordered adjudged and decreed by the Court that the Officers of the Court have execution for their cost.

4913. The State of Texas vs. Charles Saur Friedrich Schulze J.G. Reininger. Valentine Frey Thomas J. Perryman J. Halm. Ferdinand Simon J. Obert, and Gottfried Rohde.

Exc. dock 5 page 39.

This day came the Plaintiff by her Attorneys. and it appearing to the Court that the Citation which issued to the Defendant Thomas J Perryman has been returned not executed the Plaintiff says she will no further prosecute her said suit against said Defendant Perryman: And the said Defendant Charles Saur having failed to appear and answer in this behalf but wholly made default. Wherefore the said Plaintiff. The State of Texas. ought to recover against the said Defendant Charles Saur her damages by occasion of the premises. and the said Defendants Friedrich Schulze J.G. Reininger Valentine Frey J. Halm Ferdinand Simon. J. Obert and Gottfried Rhode having also appeared by their attorneys. and neither party demanding a Jury the on matters in controversy as well of fact as of law were submitted to the Court. And the evidence and argument of Counsel having been heard and fully considered and understood. It is therefore ordered adjudged and decreed by the Court. that the Plaintiff- The State of Texas, do have and recover of and from the said Defendants Charles Saur Friedrich Schulze. J.G. Reininger Valentine Frey J. Halm. Ferdinand Simon J. Obert and Gottfried Rohde the sum of Ten Hundred and eighty Six and 96/100 ($1086.96.) Dollars and costs of suit for all of which let execution issue. And it further appearing to the Court that the Defendant Charles Saur is the principal in the Official Bond sued on in this cause. and that the Defendants, Friedrich Schulze, J.G. Reininger Valentine Frey. J. Halm Ferdinand Simon J. Obert and Gottfried Rohde executed said official bond as sureties and as such sureties are entitled to the benefit of the Statute in such cases provided It is therefore further ordered, adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this Judgment first upon the property of the

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said Defendant Charles Saur, subject to executions and situate in the County of Travis, before a levy shall be made upon the property of the said sureties or either of them, provided so much of the property of the said Charles Saur shall be found as will be sufficient to make the amount of said executions, otherwise the levy there of to be made on the property of the said Charles Saur, that may be found if any, and upon so much of the property of the said sureties as may be necessary to make the amount of said execution. And it is further ordered adjudged and decreed by the Court that in case said sureties or either of them shall make any payment, which is applied on this Judgment by reason of their suretyship on said Official Bond this Judgment shall not be discharged by such payment but shall remain in force and be prosecuted to execution for the use of said sureties, or either of them, making such payment, to the amount of ~~said~~ payment. And it is further ordered adjudged and decreed by the Court, that the Officers of Court have execution for their costs.

5092 v
Exe dock 5 page 40.

The State of Texas vs. Mat W Burney John McIver Julius Zuech Joseph McIver and J T Blount. This day this cause came on to be heard and came the parties by their Attorneys and neither party demanding a Jury, the matters in controversy as well of fact as of law were submitted to the Court and the evidence and argument of counsel having been heard and fully understood and considered It is therefore ordered adjudged and decreed by the Court that the Plaintiff the State of Texas do have and recover of and from the Defendant Mat W Burney the sum of Nine thousand three hundred and Ninety Four and 90/100 ($9394.90) Dollars with costs of suit and that execution issue therefor: and from the said Defendants John McIver Julius Zuech Joseph M. Iver and J. T. Blount the sum of Five Thousand ($5000 00/xx) Dollars with costs of suit and that execution issue therefor. And it is further ordered adjudged and decreed by the Court, that this Judgment and the executions issued thereon shall be discharged and satisfied as against all of said Defendants upon the payment of the said sum of Nine Thousand three hundred and ninety four and 90/100 Dollars and the legal interest which may accrue thereon and costs of suit: or shall be discharged

June 15th A 1878

and satisfied against either of said Defendants upon the payment by either of them of the amount with costs of suit, for which judgment is herein rendered against him, so that said plaintiff shall not be entitled to recover from all the defendants any greater sum than the said sum of Nine Thousand three hundred and ninety four and 90/100 Dollars with legal interest which may accrue thereon and costs of suit nor from either of said Defendants any greater sum than the amount of the judgment rendered herein against him and the legal interest which may accrue thereon and costs of suit. It is further ordered, adjudged and decreed by the Court that the Officers of Court have execution for their Costs. And thereupon the said defendant by Counsel excepted to such Judgment of the Court and gave notice in open Court of Appeal to the Supreme Court.

5115 Maggie Turner et al. vs. S. & T. & R.R. Co. Upon motion of Defts Attys it was ordered by the Court that the defendant have leave to correct the endorsement of its answer.

4636 The State of Texas vs. L. D. Edwards et als. No service had, cause dismissed.

4731 Amanda J Wynne et al vs Louis Felton et al. And now on this day came the parties by their Attorneys and filed an agreement in writing, in which it is agreed that this cause be dismissed at the Defendants costs. It is therefore ordered by the Court that this case No 4731 be and is hereby dismissed and that said Plaintiffs have and recover from said Defendants all of their costs in this case in accordance with said agreement on file for which execution may issue.

4740 M J Bachelder et al vs Ed Sorin Trustee. And now on this day came the parties by their Attorneys and filed an agreement in writing, in which they agreed that this case be dismissed at the Defendants costs. It is therefore ordered by the Court that said cause No 4740, be and is hereby dismissed, and that said Plaintiffs have and recover from said Defts all of their costs in this case in accordance with said agreement on file. for which execution may issue.

June 17th 1878.

4979 ✓ The State of Texas vs. William Cannon et al. No service had, cause is dismissed.

4993 ✓ The State of Texas vs. D. Teague. Death of defendant being suggested, cause is dismissed.

4995 ✓ The State of Texas vs. Francis Burlage. Judgment nisi set aside and cause dismissed.

5003 ✓ The State of Texas vs. Burrell Adams. Judgment nisi set aside and cause dismissed.

5082 ✓ The State of Texas vs. Mark Tiner et al. Continued for service and alias writs of Scire facias ordered to be issued to Wilson County.

5083 ✓ The State of Texas vs. Joe Burlage et al. Judgment nisi set aside and cause dismissed.

5086 ✓ The State of Texas vs. John Means et al. Continued

5087 ✓ The State of Texas vs. Alcy Means et al. Continued.

5093 ✓ The State of Texas vs. H. H. Dickey. Continued.

And Court adjourned till to morrow morning 9 o'clk.

June 20th 1878.

4830 ✓ Florence Chenneworth vs B. Brown et al. Upon motion of Defendants attorneys it was ordered by the Court, that the clerk of this Court send up with the transcript to the Supreme Court the original note sued upon in this case and deposit the same with the clerk of the Supreme Court & that the clerk of this Court retain a copy of said note on file.

5044. ✓ H. L. Bentley vs. Elizabeth Shelton et al. On this the 26th day of April 1878 came the plaintiff in person and claims a judgment by default in this cause. And it appearing to the Court that the defendants Elizabeth Shelton and her husband Shelton have been duly summoned by personal service upon them to appear and answer in this behalf, but that the said defendants have not answered but have wholly made default: It is now ordered that the said plaintiff H. L. Bentley do have and recover according to the prayer of his petition and that a writ of inquiry be executed & plaintiffs damages assessed by this Court at a future day.

5044 H. L. Bentley vs. Elizabeth Shelton et al. June 8th 1878 Upon the request of the plaintiff H. L. Bentley his motions to set aside the judgment by default and to reopen cause - and to substitute papers - were this day dismissed.

✕5044 H. L. Bentley vs. Elizabeth Shelton et al. On this the 8th day of June 1878 it was ordered that the judgment by default heretofore rendered in this cause be set aside & that this cause be dismissed as asked by the plaintiff H. L. Bentley and it

June 20th 1878.

was further ordered that the said plaintiff pay all costs in this behalf expended for which execution may issue on behalf of the Officers of Court.

5021 J. B. Wiggall vs. The Treasurer of the State of Texas. This day came the plaintiff in this cause by his Attorneys and submitted to the Court his motion to retax the costs of this case, stating in said motion that this cause had come here by change of venue from Fort Bend County, that the papers in this cause had been filed in Fort Bend County District Court and that plaintiff had paid the charges for such filing, and that the Clerk of this Court had refiled all the papers in this cause and had charged same to plaintiff, which refiling & charging plaintiff alleged to be error. And the Court being of the opinion that such refiling was required by law and that the charges therefore were proper & just, overruled said motion.

× 5066 C. F. Millett vs. Reuben F. Ford et al. Upon application of plaintiffs Attorneys the continuance heretofore entered in this case is set aside and this cause dismissed at plaintiffs costs.

5069 Benjamin F. Collins vs. Fred W. Chandler et als. Upon motion of plaintiffs Attys it is ordered that plaintiff have leave to file his first amended petition

5111 Mildred P. Goodloe vs. Mollie Pope Buck et al. This day it was ordered by the Court that the three Commissioners Galen Crow B. W. Shands & Jeff Paulson be allowed the sum of ($100.00) one hundred dollars for their services in making partition in this case, said amount to be divided equally among said commissioners and to be taxed as cost in this cause.

And Court adjourned till June 22nd 1878 at 9 A.M.

June 22nd 1878.

3720 Geo W. Paschal vs Central Rail Road Company and Austin City. Upon the motion of pff's Atty & with the consent of defts Attys it was this day ordered by the Court that the order of dismissal heretofore entered be set aside and that this cause be reinstated upon the docket of this Court, and leave was given to make the proper parties plaintiffs in this cause.

× 4773 Amos Morrill vs Geo. W. Sampson et al. Upon motion of plaintiffs Attys it was ordered that this cause be dismissed and that plaintiff pay all costs in this behalf incurred, for which execution may issue on behalf of officers of this Court.

June 22d, 1878.

× 4807. Exec. Book N: 5 pag 37.

Bettie Tucker vs Peter Tucker. Now on this day this cause coming on to be tried, thereupon the Plaintiff announced ready for trial. and the Defendant came not. but made default and it appearing to the Court that the Defendant has been duly cited in person as required by law. Thereupon the Court appointed W M Walton Esq an Attorney of this Court to represent the Defendant. And the Court having heard the pleadings and the evidence and having considered the same, and it appearing to the Court that the allegations of plaintiffs pleadings are true. It is thereupon ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the plaintiff Bettie Tucker and Peter Tucker be and the same are hereby dissolved and annulled. and it further appearing to the Court from the pleadings and the evidence that there is community property belonging to the parties, described in plaintiffs petition as follows to wit: a certain lot or parcel of land purchased from Mr Max Maas. being the West half of lot No (8) eight of the subdivision of lot No (14) fourteen of the subdivision of the G W Spear League near the City of Austin. together with all the improvements thereon. It is further ordered adjudged and decreed by the Court. that said Peff shall have and enjoy the use and occupation of the Lot and premises aforesaid undisturbed by the said Defendant until the further order of this Court. It is further ordered that the Plaintiff and her surety on her cost bond to wit. Joseph Carter. pay all costs of this suit for which execution may issue for the use of the Officers of Court.

× 5104. Exec. dock N: 5. pag 57.

M C Hamilton vs. F W Chandler Fred Carleton Jno. W. Robertson. John Hancock. On this day come the aforesaid Defendants and by leave of the Court withdraw their answers heretofore filed in this case and join with the Peff in asking that the continuance of this cause ordered on the 6th of May 1878 be set aside and thereupon Defendants confess judgment in said cause for the sum of Three Thousand Six Hundred and Eighty Four ($3684 00/100) Dollars principal debt and interest to this date and the further sum of Three Hundred Dollars Attorneys fees. and thereupon

June 22d 1878

it is ordered and decreed by the Court that the said Plff M C Hamilton do have and recover of and from said Defts F W Chandler Fred Carleton Jno W Robertson and John Hancock or either of them the said sum of Three Thousand Six Hundred and Eighty Four ($3684.00) Dollars in the Gold Coin of the United States, the one half thereof at all events to be of full standard weight and value and by consent of the Plaintiff the same is to bear interest from this date ..... at the rate of Twelve per centum per annum. It is further ordered that Plff do have and recover of and from said Defendants the aforesaid and further sum of Three Hundred ($300.00) Dollars Gold for his attorneys fees: and all costs of this suit for all of which execution may issue. And it appearing to the Court that John Hancock one of the Defts is security for the other three Defendants on the note sued on, it is ordered and decreed that for any sum the said Hancock may be compelled to pay on this judgment he shall have execution against said F W. Chandler Jno. W. Robertson and Fred Carleton.

4889 The State of Texas vs. Charles Saur et al. This day came the parties by their Attorneys, and the defendants submitted their motion for a new trial in this behalf, which motion being by the Court fully understood was by the Court overruled, to which ruling the defendants by counsel excepted and gave notice in open Court of appeal to the Supreme Court.

4913 The State of Texas vs. Charles Saur et al. This day came the parties to this suit by their Attorneys, and the defendants by counsel submitted to the Court their motion for a new trial in this behalf, which motion being considered & understood by the Court, was by the Court overruled. And the defendants thereupon excepted by counsel to such ruling and gave notice in open Court of appeal to the Supreme Court.

4795 John C. Duval et al. Robert Creuzbaur. By agreement of the parties to this suit it was ordered, that the decree of partition heretofore rendered in this cause be set aside & vacated, and that plaintiffs be granted leave to file a first supplemental petition.

4922 William Biles vs. Thomas C. Cater et al. The commission

June 22nd 1878.

ers report being submitted to the Court, it appeared by said report that the property to be devided is incapable of devision in Kind, but said report stating no value of the different pieces of property, the Court ordered that the reasons why said property cannot be partitioned in Kind be more fully shown by placing upon each of the several tracts of land its value, and it appearing that Mr. Shands one of the commissioners has left the County & therefore cannot be expected to make the amended report, he is relieved from further duty and Mr. Joseph Lee is appointed in his stead, and required to make together with the other commissioners heretofore appraised the additional report at their earliest convenience.

5106 A. J. Peeler Assignee vs The Hubbard Mining Company. This cause having been submitted to the Court for decision, was this day by agreement of parties withdrawn from the Court, and leave was given to Defendant to file amended original answer, and cause continued.

X 5107 The Montopolis Ferry Company vs. Benjamin R Townsend. June 18/78
The motion of defendant to dissolve the injunction issued in this cause coming on to be heard and the same having been duly considered by the Court: It is ordered adjudged and decreed that said motion be sustained and said injunction be dissolved to this extent namely: That plaintiff have thirty days from the 18th day of June 1878 within which to remove the "dead man" so called or anchorage and shears or stays which fasten and hold up the plaintiffs ferry rope, from off the private lands of defendant not embraced within the sixty feet which constitute the public street or road as is alleged was laid off and established by the Commissioners Court of Travis County on the 20th day of February 1854 leading to the Montopolis crossing of the Colorado river and that if said "dead man" or anchorage and shears or stays are not removed within that time the defendant will be and is hereby authorized and permitted to remove the same from off his private lands and to this extent the injunction issued in this case is dissolved. And it is ordered that the plaintiff pay all costs incurred in this behalf up to this date, and that execution may issue therefore against said plaintiff for the use of officers of Court. And on suggestion of plaintiff that this cause stand over for further hearing it is ordered to stand continued till next term.

4105 M. C. Hamilton vs Juliet G. Hicks et als. } Consolidated
4265 M. C. Hamilton vs Martha F. Fahey et als }

On this day coming on to be heard the motion to confirm the report of the Commissioner Dennis Corwin filed herein on the 8th day of June 1878 and which is as follows. Order of sale. Came to hand

June 22nd 1878.

same day issued and Executed by posting on the 13th day of May A D 1878 three public notices of the time and place of sale one of which notices was posted on the public bulletin board at the Court house door of this Travis County and at two other public places in said county and in which notices was described the property to be sold by the within described decree of this Court and on the first tuesday in June A D 1878 being the 4th day of said month between the hours of two and three o clock pm of said day I did offer at public auction to the highest and best bidder for cash in the lawful money of the United States of America the within described property for sale, selling each lot separately as directed in said order of sale at which time and place all of the within described property was sold to the person making the highest and best bid therefor to wit

Lot No 7 Block No 3 in the City of Austin Travis Co Texas sold to W C Hamilton 1500-
" " 5 " 2 of the subdivison of out lot No 9 Division "A" adjoining the said City of Austin Cowans addition sold to W. C Hamilton 50.
" " 6 " " " " " " " " " 50
" " 7 " " 3 " " " " " " " 50
" " 8 " " " " " " " " " 50
" " 1 " " 4 " " " " " " " 50
" " 2 " " " " " " " " " 50.
" " 3 " " " " " " " " " 50.
" " 4 " " " " " " " " " 50
" " 5 " " " " " " " " " 50
" " 4 " " 2 " " " " " " 50

Making the total amount received from the sale of all the property $2000-
which said sum I now bring into Court for the further order of this Court

Dennis Cormin
Sheriff of Travis County Texas
and Commissioner appointed to sell said property

Became it appears to the Court that said sale was made in compliance with the former order of this Court after legal advertisement and for a fair price and no objection being made to the confirmation of said sale by any of the defendants herein it is ordered adjudged and decreed by the Court that said sale be and the same is hereby in all things confirmed and said Commissioner Dennis Cormin will Execute a deed to the said W C Hamilton for the lots of land above described on receipt from him of Five fourteenths (5/14) of the sums of money bid by said Hamilton at said sale for said lots. It is further ordered and adjudged that said Cormin shall divide the sum of money aforesaid into five (5) equal shares to be paid over to the following named defendants as follows. To Martha J Fahey the one fifth (1/5) less all the

June 22d 1878.

Costs in that part of this cause entitled Hamilton vs Fahey et al No 4265 and one fifth of the Costs in cause No 4105 Hamilton vs Hicks et als which Costs shall be paid to the officers of this court and the balance if any to the said Martha J Fahey, to Juliet G Hicks one fifth less one fifth of the Costs in said No 4105 to Nina McDonell one fifth less one fifth of the Costs in No 4105 to Cora E Shuppard one fifth less one fifth of said Costs and to Perl Connor one fifth less the one fifth of said Costs It is further ordered that if there be not sufficient money in the hands of the Commissioners to pay the Costs of Court that Execution may issue for the balance, except as against Perl Connor as to whom Execution shall not issue. X

And thereupon Court adjourned till Monday Morning at 9 Oclk

June 24th 1878.

Court met pursuant to adjournment present same as first day Whereupon the following proceedings were had to wit

3688. W. H. Day vs A L Heren et al. Frank S. Box Garnishee

This day comes the Plaintiff by his Atty and moves the Court to amend the judgment heretofore rendered in said cause against said Garnishee which being considered by the Court is granted. and it is therefore ordered that said Judgment be amended so as to read as follows to wit:

3688. W H Day vs A L Heren, W J Cloud Defts. Frank S. Box and N C Edwards Garnishees. And now on this 24th day of April 1878. this cause being regularly reached on the Docket. comes the Plff by his Attorneys & it appearing to the Court from the answer of the Garnishee Frank S. Box that he was and is justly indebted to the Deft A L. Heren in the just and full sum of Six Hundred and fifty gold dollars due and payable for the purchase money of a tract of 380 acres of land sold to him by said Heren out of the Francis Hughes 640 acres of land on South Nolans Creek in Bell County State of Texas It is therefore considered ordered, adjudged & decreed by the Court that the Plaintiff W. H. Day do have and recover of and from the said Frank S. Box the sum of Six Hundred and fifty Dollars Gold Coin, and it is further ordered, adjudged and decreed, that the vendors lien be & the same is hereby foreclosed upon said land for and on account of which the same is due

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June 24th 1878.

and that an order of sale do issue directed to the Sheriff of Bell County commanding that he proceed to sell as under execution all that certain tract of 380 acres of land more or less, lying & situated in said County of Bell on South Nolens Creek and being a part of the Frances Hughes 640 acres of land said 380 acres of land being that part of said 640 acres tract sold & by deed conveyed by said Heren to said Frank S Box & which is more particularly described as follows. Beginning at the Centre of Nolans Creek where the west line of said Hughes Survey crosses said Stream. Thence N 19 E 1740 varas to a stone mound in Prairie the N W corner of said Hughes Survey & S W corner of W. T. Millican Survey. Thence S 71. E 2050 vs to the N. E. corner of said Hughes Survey a mound in the Prairie which is also S. E. Cor of the Millican Survey. Thence S 19 W. 1965 vs. to centre of Nolans Creek. Thence up Nolans Creek with its meanders to the place of beginning. and the proceeds of such sale pay over to the Plff or his Attorneys It is further ordered that should said land not sell for enough to satisfy this Judgment that execution issue for balance, It is further ordered that the Plaintiff pay all costs of this proceeding up to and including this Judgment, and that all future costs accruing therein be paid by said Box and be collected as herein directed for the principal sum adjudged

× 5137. Thos P. Reed vs. John F. Smith et al. In the District Court of Travis County State of Texas. June 24th 1878. This day this cause came on to be heard, the defendants having waived citation, appeared and fully answered in this behalf. and all the parties being present the minors Sallie Wilson and Minnie Wilson by their Guardian John F. Smith the cause was submitted to the Court and it appearing to the Court from the evidence that the facts are as alleged in Plaintiffs petition, and that the adult Defendants agree that the Plff shall have conveyance of the tract of one hundred acres of land described by metes and bounds in his petition and also of one hundred other acres of land adjoining said tract as

June 24th A.D. 1878.

hereinafter set out by metes and bounds, and that the plaintiff is entitled to recover from said minors the said tract described in his petition, and one hundred other acres out of the tract conveyed by Thos. B. Huling to J.B. Wilson adjoining the said tract and on the Dobbs Survey. and that the conveyance & partition to the plaintiff of the two tracts of land hereinafter described in satisfaction of his claim in this suit against all the Defendants would be just and fair to the said minors, It is considered ordered and adjudged that Plaintiff Thos. P. Reed have and recover of the Defendants John F. Smith Laura M. Smith, Ida Wilson Sarah Wilson, Minnie Wilson and John F. Smith as Guardian of said Sarah Wilson and Minnie Wilson all their right title and interest in and to the tract of one hundred acres of land described in his petition as follows to wit, a part of the Wm. Dabbs Survey of 1690 3887 Square varas, (patented to Thos. B. Huling assignee of said Dabbs. situated in Collin County in the State of Texas on Pilot Grove Creek about 12 miles N 76. E from the town of McKinney) and the same part selected under the provision of a deed of said Huling to J B Wilson of date February 7th 1860. as of record in said County, adjoining the South of the South boundary line of the 1400 acres described and conveyed by said deed of Huling to J. B. Wilson and described by metes and bounds as follows to wit: Beginning at a point in the East line of the Dabbs survey which is S 342 rods from the N E Corner of the Original survey. Thence West 40 rods is the beginning Corner this tract of 100 acres, whence a Post Oak marked X bro S 45° W 10 links of a 4 pole chain. Thence S 126 52/100 rods the S.E. corner whence an elm 10 inches dia marked X bro N 35° E 15 links of a 4 pole chain. Thence W 126 52/100 rods the S W Cor. whence an elm 10 inches in dia marked X bro N 75° W 40 links of a 4 pole chain. Thence N. 126 52/100 rods the N.W. corner whence a wild Cherry 6 inches dia marked X bro N 8½ E 63 links of a 4 pole chain Thence East 126 52/100 rods to the beginning. And further that the said Plaintiff have and recover of and from the said Defendants one hundred other acres of land out of the part of said Dabbs survey conveyed to said J.B. Wilson by the aforesaid deed of

June 24th A 1878.

Thos B Huling and that the same be set apart to the Plaintiff by metes and bounds as follows to wit: Beginning on the East line of the Wm Dabbs Survey at a point 342 rods South from the N.E. Corner of the orginal Dabbs Survey for the S.E. Corner of this 100 acre tract: Thence W. at 40 rods the N.E. Corner of the other one hundred acre tract therein adjudged to the Plff and at 100 rods the SW. Corner of this tract whence an elm 10 inches in diameter bears N 85° E 213 links of a 4 pole chain Thence N 160 rods to the N E Corner in the East line of the Dabbs Survey whence a Spanish Oak 20 inches in dia Marked X on the North side bears N 150 links and thence South 160 rods to the beginning And that all the right title and interest of the Defts in and to both of said tracts of land of one hundred acres each, so described by metes and bounds be and the same are hereby divested out of the defendants and vested in the Plff. and that the Plff pay all costs of this suit, for which execution may issue

Jury Commissioners. This day it was ordered by the Court that E. R. Brockett Adolph Trautwein & R. M. Castleman be and the same are hereby appointed Jury Commissioners for the next term of this Court and that the clerk of this Court do issue a subpoena summoning them to appear before this Court on the 14th day of October 1878 then & there to serve as such Jury Commissioners. And thereupon Court adjourned till Wednesday June 26th 1878 at 9 Oclock A.M.

June 26th A 1878.

Court met pursuant to adjournment present same as first day Whereupon the following proceedings were had to wit

× 4811. Exec. dock No 5 page 37. D. M. Harrell vs T. E. Tullis. Now comes the Plff and the Deft in this cause by their Attorneys of record to wit, H. L. Bently representing the former & Geo. D. Pendexter representing the latter & a jury having been waived and the cause submitted to the Court upon the petition of the Plff. the pleadings of the Defendant having been withdrawn by the said Attorney of record representing said Defendant, and it appearing to the Court from a written agreement to that effect filed with the papers in said cause, that the said

× 38 45 51 50

June 26th 1878.

Defendant confesses judgment in favor of the said Peff in the sum of Two Hundred & fifty Dollars, it is therefore ordered adjudged and decreed by the Court that the said Plaintiff have his judgment against & recover of the said Defendant the said sum of Two Hundred and Fifty Dollars together with all costs in this behalf expended for which execution may issue.

4951. The State of Texas, on relation of Val Clyles et al vs B. Trigg. And now at this day came on to be heard the motion of Bingham Trigg to dismiss the above entitled and numbered cause, and the judgment heretofore rendered herein, by this Court, having been reversed by the Supreme Court of Texas, and the cause remanded to this Court, and this Court having considered said motion and being fully advised in the premises, it is considered adjudged and ordered that said cause be and is hereby dismissed, that said Bingham Trigg go hence without day and recover of and from the relators, to wit: Val Clyles. Cy Hamsberger, R S Bacon D A James L D Carrington J M Odell Ed A Scofield J. A. Bornefeld F. Wedig Wm Mylilleland Hugh A. Haralson Wa Mooney; Jos A. Nagle, James H Hopkins J W. Bell P L. Hopkins A G Buddington Joseph Nalle John W. Brown A S. Roberts. R. N. Lane, Henry G. Stokes. C S. Sisson J. Harrell, H Smith. W C Walsh. O Rust, and H Horner. all costs in this behalf incurred, and that said herein named relators pay all costs of this proceeding for which execution may issue.

It was this day ordered by the Court that the fines heretofore entered against Wm M. Walton O. Archer A. W. Terrell and Blackburn be and the same are hereby remitted

3803 Robert M. Russell vs. F. Clay Canes et al. Dismissed & cost taxed and his sureties J. M. Robertson & J. C. Sullivan vs Pff

4596 Nannie Taylor vs. Hellman & Sans. Cost being paid in this case, This cause is dismissed upon application of Peff's Attys.

5123 S. R. Yates vs. Saml. Lentz et al. June 22nd 1878. This day came on to be heard the defendants motion for a new trial in this behalf, which motion being fully understood by the Court, was by the Court overruled.

5094 The State of Texas vs. Thomas M. Childers. Continued till next term.

June 26th 1878.

4939 ✓ Gustavus A Rendell vs Joe J Walker.
5060 ✓ J D Morgan vs John M Hartson
5069 ✓ Benj J Collins vs Fred W Chandler
5074 ✓ Richard Gildart et al vs J. B. Gildart et al
5077 ✓ George N Aspkins vs Anna W & S. C. Viney and
5111 ✓ Miedred P Goodloe vs Mollie Pope Buck et al
5112 ✓ B. Eastham vs W Weigenhorn
5126 ✓ Wilson Green vs E. W. Haller
5127 ✓ Wilson Green vs G W Erwin et al
5128 ✓ Thos C. Thompson vs W. A. Blackburn et al

On the 22d day of June A D 1878 came the Clerk of this Court and moved the Court to grant a rule for costs in the above styled 10 causes. It was thereupon ordered by the Court that the Pffs in the above 10 causes be required to enter into bond and security for costs before the commencement of the next term of this Court otherwise said causes to be dismissed. the Pffs Attys being notified of this order by the Court.

And thereupon Court adjourned till to morrow morning at 9 Oclock.

June 27th 1878.

Court met pursuant to adjournment, present same as first day. Whereupon the following proceedings were had to wit

5140 ✓
5141 ✓ June 17th 1878. F. G. Morris and T. P. Washington having this day made application to this Court for license as attorneys and Counsellors at law and having produced to this Court the required Certificate of their good reputation and honorable deportment, and the Committee heretofore appointed by this Court to examine them as to their legal qualifications, to wit: A. S. Walker. J. F. Oatman. and Robert H Ward having this day reported to this Court that they have examined said Applicants and have found them fully qualified to practice as Attorneys and Counsellors at law. It is now ordered by this Court that the said F. G. Morris and T. P. Washington be and they are hereby enrolled as Attorneys and Counsellors at law of this Court. and they are hereby authorized to practice as such in all District and inferior Courts of this State. and it is further ordered that the Clk of this Court do issue to them their license accordingly

June 27th 1878.

+ 4922
Exe docket 5 page 40

William Biles vs Thomas E. Cater et ab. And now on this day the amended report of Commissioners appointed to make partition of the property in controversy in this suit coming on to be heard and the parties appearing by Counsel and no objections being made to said report, and the Court after examination and due consideration of the same, being satisfied therewith and that the property involved in this suit can be partitioned in kind between the parties at interest therein. It is therefore ordered adjudged and decreed by the Court that said amended report of said Commissioners filed on the 27th day of June 1878. be in all things ratified and approved: And the Court doth further order adjudge and decree that the South one acre lot on the West side of the San Antonio road with all the improvements and appurtenances to said lot belonging (the same being one of the lots described in the decree heretofore rendered herein) be and the same is hereby set apart and allotted to the minor Defts herein to wit: Eliza M Cater, Maggie Cater Lulie V. Cater Emma Cater and Thomas Scrivener Cater as joint owners, and that all right title and claim of the Pefft. William Biles and of Defendant Thomas E. Cater in and to said one acre lot be divested out of them and full title thereto is hereby vested in the said minor Defendants as absolute owners of the same: And the Court doth further order adjudge and decree that the remainder of the property described in the decree rendered herein by this Court on the 10th day of May A D 1878. to wit, Lot No 26. in the town of Murphysboro ough, containing five acres of land and all improvements thereon. And also the North one acre lot situated on the West side of the San Antonio Road in said town with all improvements thereon. And also the one acre lot situated on the East side of said San Antonio Road in said town be and the same is hereby set apart and allotted to the Pefft William Biles: And it is further ordered that all the right title and claim of all the Defendants in this suit to wit: Thomas E Cater and the said minor Defendants hereinbefore named in and to said three

June 27th, 1878.

pieces and parcels of land here allotted to said Pleff. be and the same is hereby divested out of said Defts and vested absolutely in said Pleff. William Biles, and it is further ordered that a writ of possession do issue directed to the Sheriff of Travis County requiring him to place said Pleff. Biles in possession of said lots and pieces of land and property herein decreed to him, And it is further ordered by the Court that the Pleff Biles pay one half of the Costs of this suit, for which execution shall issue and it is further ordered by the Court that the Defts Thomas E Cater, Eliza M. Cater Maggie Cater, Lulie V Cater. Emma Cater, and Thomas Scrivener Cater pay the other one half of the Costs of this suit for which execution shall issue against all of said Defendants. It is further ordered that the sum of $35.00 be allowed George F Pendexter Esqr. as Special Guardian of said Minor Defendants for services in this suit to be taxed and collected as other Costs herein. 1/9

General Continuance

It is now ordered by the Court that all Civil Cases not otherwise disposed of, do stand Continued until the next term of this Court. 5/-

The foregoing minutes having been read in open Court examined and found Correct. It is now ordered that the same stand as part of the minutes of the present term of this Court. and it is further ordered that this Court stand now adjourned until the next regular term thereof 5/-

E B Turner

Judge of the 16th Judicial District of
The State of Texas. 5/3

5/10

October 14th 1878.

The State of Texas } Be it remembered that at a term of the District
County of Travis } Court of Travis County, begun and held at the Court-
house thereof in the City of Austin, on Monday the 14th day of October A.D.
1878,- the same being the time fixed by the Constitution of the State for
the meeting of said Court, & the Hon. E. B. Turner Judge of the
16th Judicial District presiding, and D. Hallmann, clerk of said
Court & Dennis Corrin, Sheriff of said County being present,- the following
proceedings were had to wit:

Dennis Corrin Sheriff of Travis County & his deputies Jno. P. Kirk & Grooms Lee
were sworn by the Court as the law requires.

Leander Brown having been legally
summoned to serve as jury Commissioners of this Court,
were by the Court empannelled sworn & charged according to law as
such jury Commissioners & retired upon a discharge of their duties
It was ordered by the Court that the jury Docket be set for the
28th day of October & the Criminal Docket for the 4th day of Novem-
ber 1878.

1443 Ruthrauff & Miller vs. Travis County. Upon motion it was
ordered that Plff have leave to file supplemental petition.

5134 N. N. Turner Guard & next friend &c. vs. H. & T. C. R R Co. Upon
motion it was ordered that N. N. Turner be & he is hereby appointed
Special guardian for Jesse Turner, the minor plaintiff in this cause
& it was further ordered that the said N. N. Turner give bond & se-
curity in the amount of $400= four hundred dollars as such guardian.

5135 N. N. Turner Guard & next friend &c. vs. H. & T. C. R R Co.
Upon motion it was ordered by the Court, that N. N. Turner be
& he is hereby appointed special guardian for Nellie Turner
the minor plaintiff in this cause, & it was further ordered that
said N. N. Turner enter into bond & security in the amount of
($400=) four hundred dollars for the faithful performance of his
duties as such guardian.

5139 N. N. Turner Guard & next friend &c vs. H. & T. C. R R Co
Upon motion it was ordered that N. N. Turner be & he is here-
by appointed Special guardian for Esbetta Turner the minor
plaintiff in this Cause, and it was further ordered by the Court
that the said N. N. Turner give bond for $400= four hundred
dollars conditioned as the law directs for the faithfull performance
of his duties as such guardian.

×5162 B. F. Avery & Sons vs. John A. Webb & Bro. Dismissed at
cost of Defendants as per agreement on file, costs taxed to
defendants.

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+ 4242. ✓ Jesse Earl vs. Frances Earl. Now on this the 14th day of October 1878. came on this cause to be tried and the parties by their Attorneys also came and announced ready for trial. and a Jury being waived and the matters of fact as well as of law having been submitted to the Court. the Court after considering the same and the evidence. finds the facts alleged in the Plaintiffs Petition to be true, It is therefore ordered and decreed by the Court that the divorce prayed for in the Plaintiffs Petition, be, and it is hereby granted and that the bonds of matrimony heretofore existing between the said Plaintiff Jesse Earl and the said Defendant Frances Earl be and the same are hereby Cancelled dissolved and annulled. and that the said Plaintiff and his sureties on his cost bond to wit Mike Fowler & Clark Fowler, pay all costs in this behalf for which Executions may issue. + 5

And Court adjourned till tomorrow morning at 9 oclock.

October 15th 1878.

Court met pursuant to adjournment present same as yesterday Whereupon the following proceedings were had to wit.

Ex Parte C. N. Tuerk. Declaration of Intention to become a citizen

The State of Texas. County of Travis. C. N. Tuerk being duly sworn according to law in the District Court of said County doth declare that he was born in the year A.D. 1847 in the Kingdom of Prussia whence he emigrated in the year 1873 to the United States of America and has selected the State of Texas as the place of his intended settlement, And he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate State or Sovereignty whatsoever and particularly to William the first. King of Prussia of whom he was a subject. C. N. Tuerk

× 5

Sworn to and Subscribed before me this 15th day of October 1878. in open Court. E. Wallmann Clk

The cases 5137 of Francisco Cuellar vs The State of Texas & 5139 of Sabas Fuentes et al vs The State of Texas were tried & submitted to the Court & were by the Court held under advisement.

And Court adjourned till to morrow morning 9 o'clock.

October 16th 1878.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

5115 Maggie Turner et al. vs Houston and Texas Central Railway Company. And now at this day the above entitled and numbered cause being called for trial the Plaintiff Maggie Turner joined herein by her husband N N Turner appeared by her attorneys B F Church & John Dowell, and the Defendant The Houston and Texas Central Railway Company appeared by its Attorneys Hancock West & North and thereupon both parties announced themselves ready for trial, and neither party having demanded a Jury the Court proceeded to try said cause without a Jury, and it appearing to the Court that said Plaintiff has agreed to receive and said Defendant has agreed to pay the sum of Twelve Hundred Dollars in full satisfaction of the matters and things set forth in Plaintiffs Petition, it is considered adjudged and decreed by the Court that the Plaintiff Maggie Turner do have and recover of and from the Defendant, The Houston and Texas Central Railway Company the sum of One Thousand Two Hundred Dollars together with all the costs in this behalf expended for which let execution issue.

5134 Jesse Turner by Guardian vs. Houston & Texas Central Railway Company. And now at this day the above entitled and numbered cause being called for trial the Plaintiff Jesse Turner who sues by his father and natural Guardian N.N. Turner appeared by his attorneys B.F. Church & John Dowell and the Defendant the Houston & Texas Central Railway Company appeared by its attorneys Hancock West & North, and it appearing that said N N Turner was duly appointed by an order heretofore herein entered the special guardian of said Jesse Turner a minor and it appearing that in accordance with said order said N N Turner has duly qualified and given bond with the approval of the Clerk with John Dowell B F Church, W P Rutledge, H.S. Crump, and T.W. Nolen as sureties for the sum of Four Hundred Dollars conditioned as the law requires, thereupon both parties announced themselves ready for trial, and neither party having demanded a Jury the Court proceeded to try said cause without a Jury, and it appearing to the Court that said

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N.N. Turner as special guardian of said Plaintiff has agreed to receive on behalf of said Plaintiff, and said Defendant has agreed to pay the sum of Three Hundred Dollars in full satisfaction of the matters and things set forth in Plaintiffs Petition, it is considered adjudged and decreed by the Court that said N.N. Turner as the special guardian of said minor Plff Jesse Turner do have and recover of and from the Defendant the Houston and Texas Central Railway Company the sum of Three Hundred Dollars together with all the costs in this behalf expended for which let execution issue.

5135. Nellie Turner by guardian vs Houston & Texas Central Railway Company. And now at this day the above entitled and numbered cause being called for trial the Plaintiff Nellie Turner, who sues by her father and natural guardian N.N. Turner appeared by her Attorneys B.F. Church & John Dowell and the Defendant the Houston and Texas Central Railway Company appeared by its Attys Hancock West & North, And it appearing that said N.N. Turner was duly appointed by an Order heretofore herein entered, the special guardian of said Nellie Turner a minor, and it appearing that in accordance with said order said N N Turner has duly qualified and given bonds with the approval of the Clerk with John Dowell, B.F. Church, W.P. Rutledge, N S Crump and John Miller as sureties for the sum of Four Hundred Dollars conditioned as the law requires, thereupon both parties announced themselves ready for trial, and neither party having demanded a Jury the Court proceeded to try said Cause without a Jury and it appearing to the Court that said N N Turner as special Guardian of said Plaintiff has agreed to receive on behalf of said Plaintiff and said Defendant has agreed to pay the sum of Two Hundred and Fifty Dollars in full satisfaction of the matters and things set forth in Plaintiffs petition it is considered adjudged and decreed by the Court that said N N Turner as the special guardian of said minor Plaintiff Nellie Turner do have and recover of and from the Defendant the Houston & Texas Central Railway Company the sum of Two Hundred and fifty Dollars together with all the costs in this behalf expended for which let execution issue

Returned to this office Oct 16 1878
Church & Dowell

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5139. Estella Turner by guardian vs Houston & Texas Central Railway Company. And now at this day the above entitled and numbered cause being called for trial the Plaintiff Estella Turner who sues by her father and natural guardian N.N. Turner appeared by her attys B.F. Church & John Dowell and the Defendant the Houston and Texas Central Railway Company appeared by its Attorneys Hancock West & North and it appearing that said N.N. Turner was duly appointed by an order heretofore herein entered the special guardian of said Estella Turner a minor, and it appearing that in accordance with said order said N N Turner has duly qualified and given bond with the approval of the Clerk with John Dowell B.F. Church, W.P. Rutledge A & S Crump and T. Matis on as sureties for the sum of Four Hundred Dollars conditioned as the law requires, thereupon both parties announced themselves ready for trial, and neither party having demanded a Jury the Court proceeded to try said cause without a Jury, and it appearing to the Court that said N.N. Turner as special guardian of said Plaintiff has agreed to receive on behalf of said Plaintiff, and said Defendant has agreed to pay the sum of Two Hundred and Fifty Dollars in full satisfaction of the matters and things set forth in Plaintiffs Petition it is considered adjudged and decreed by the Court, that said N N Turner as the special guardian of said minor Plaintiff Estella Turner do have and recover of and from the Defendant the Houston and Texas Central Railway Company the sum of Two Hundred & Fifty Dollars together with all the costs in this behalf expended for which let execution issue.

Pr. Cert. issued 16th Oct 1878

3720 Geo W. Paschal vs. Central Rail Road Company & Austin City. Continued for want of prosecution.

3933 E.A. Hicks vs. James S. Gillett. The death of A.C. Townes, guardian at litem of minor defendants, having been suggested to the Court, it was ordered by the Court that R.H. Ward be & he is hereby appointed guardian at litem for the minor defendants in this suit in place of A.C. Townes, and it was further ordered that said Ward give bond for ($100.00) One hundred dollars for the faithful performance of his duties as such guardian.

4007 M. D. Miller vs F. M. Randell & Emanuel Nolda. Continued for service.

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4044. W. M. Walton & N. G. Shelley vs Ed Creary & Ed Randle City of Austin, Francis B. Foster & T. B. Sneed Garnishee. This cause having been disposed of as against the Defendants on a former term and the garnishment proceedings having been settled, it is ordered that this cause be dismissed.

4375. Jesse J. Northcutt et als. vs Clement R Johns et als. On this day came the parties by their attornies and announced themselves ready for trial, and having waived a Jury said Cause was submitted to the Court upon the law and the facts the Court after hearing the evidence and argument of Counsel and fully understanding the matters at issue between the parties adjudges the law and the facts to be with the plaintiffs It is therefore ordered adjudged and decreed by the Court that said Plaintiffs do have and recover of and from said Defendants fifty eight sixtyeths part of the following described tract of land situate in Travis County State of Texas, part of a league and labor Survey in the name of Henry Martin to wit: Beginning at a point on the East line of said Survey 1884 vs. N 30° E. from the S E cor of said Survey. Thence N 30° E 3768 Vs to the N E corner of said Survey Thence N 60 W 4610 vs to the NW cor of said survey. Thence S 30° W 3768 vs to a stake. Thence S 60° E 4610 to the place of beginning. and that said Defendants do have and recover of said Plaintiffs two sixtyeths of said tract of lands. It is further Ordered that said Plaintiffs have their part of said tract of land severed and set apart to them by metes & bounds and that Joseph Spence, Dennis Corwin & J E Campbell be and are hereby appointed Commissioners of partition who will proceed to divide said tract of land in accordance with this decree giving and setting apart to Plaintiffs fifty Eight sixtyeths part there of according to quality and value, and to the Defendants two sixtyeths part there of according to quality and value and make report of their actions herein under oath to the present term of this Court. It is further ordered and decreed that Plaintiffs have partition among themselves of the portion of land to be set apart to them as against Defendants in accordance with this decree and that Joseph Spence Dennis Corwin and J. E. Campbell be and are hereby appointed Commissioners to partition the same among said Plaintiffs and said Commissioners are

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ordered and directed to sever and set apart to each one of the said Plaintiffs by metes and bounds, the portion of land to which he or she is entitled. That is to say, said Commissioners will allot to to John L. Robinson, Martha J Wilburn, Sarah Minor, Wm L Robinson, Arrizina New, John M Robinson, Jesse J. Robinson, L. M New, Luke Wood, John R Burks, Wm Burks, Martha R Bonds, Wm Cassius Burks, Elizabeth Harris, B. F. Burks, Thomas J Burks of Comanche Co. Texas, Toliver Webb, Jesse Webb, Milford Webb, Alfred Webb, Wm Burks, C. M. Burks, Lydia Sullivan Nancy M Gossett, Angeline Sullivan, Thomas J Burks of Talladega Co Ala. John G. Smith, Wm T Smith, E A Tingle, A. Dukes, Jesse J Johnson, James M. Johnson, Frances A. Maxwell, Edwin B. Johnson, Helen H West, Julia K. Wilson, Jesse J. Northcutt, Alfred M. Northcutt, Luke S. Northcutt, John R. Northcutt, Elijah Northcutt, Eliza Brazeal, Frances Martin, and Lucy A Swindle each three hundred and thirty six, Nineteen thousand one hundred and fifty second ($\frac{336}{19152}$) part of the lands apportioned to Plaintiffs on partition between them & Defts. Said Commissioners will set apart to Joshua Marbert and Nancy Wiggins each, one hundred and sixty eight Nineteen thousand one hundred and fifty seconds ($\frac{168}{19152}$) part of Plaintiffs lands as aforesaid. To. Jesse J Webb Thomas Webb, Amanda Dodd, Peter Burks, Nannie Burks Alice Burks, Rufus Kiepatricks John Kiepatrick. Franklin Kiepatrick, Frances Butler, Lucy Northcutt daughter of Alexander Northcutt, Indiana Northcutt, Alexander Northcutt, Lucy Northcutt daughter of Wm Northcutt, and Thomas Northcutt, each one hundred and twelve, nineteen thousand one hundred and fifty second ($\frac{112}{19152}$) part of Plffs share, To R E Burks Mary C. Burks, Martha J. Burks and Narcissa J Burks, each eighty four. Nineteen thousand one hundred and fifty seconds, $\frac{84}{19152}$ part of Plffs share. To Angeline Knight, Wyatt M. Snow, Benjamin Snow Catherine Duncan, Sarah Singleton and Elizabeth Phillipse Taylor H Hollingsworth, Josephine Hollingsworth, Thomas Hollingsworth, Mary Hollingsworth, Susan F. Gidley, and Wm L. Hollingsworth, each fifty six nineteen thousand one hundred and fifty second $\frac{56}{19152}$ part of Plffs share To Martha E. Chambers, James S. Burks, Thomas J Burks of

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Scott Co. Missi, Mary E. McDuffy Margaret L. Burks, Wm M. Burks, and Emma Burks each forty eight nineteen thousand one hundred and fifty second (48/19152) part of Pltffs share, To John P. Harris, A.J. Harris, Martha R. Pounds Fannie Harris, Emma A Smith, Homer Harris, James H. Webb Alfred M Webb, Robert S. Webb, Clinton Webb, Sarah Fowler, Catherine Hook, Mary Arnold and Carrie Grogan each forty two nineteen thousand one hundred & fifty second (42/19152) part of Pltffs share, To Thomas B. Harris, James Harris, Mans Harris and Willie Harris each twenty one nineteen thousand One hundred and fifty second (21/19152) part of Pltffs share, as aforesaid according to quality and value thereof. If said Commissioners cannot partition said land equitably among said Plaintiffs without the sale of said land they will so report. It is further ordered that Defts pay all costs herein incurred up to the time of the rendition of this Judgment for which execution may issue, And that Plaintiffs pay fifty eight sixtieths part of the cost of partition, and Defendants two sixtieths part of the costs of partition, for which execution may issue.

4503 W. E. Risher & wife vs. Gustave M. Brass & wife. This cause having been settled between the parties as per agreement on file & the costs having been paid, this cause is dismissed.

4556 C. S. West Exectr vs. F. M Hanks et al Continued to make parties.

4557 C. S. West Exectr vs F. M. Hanks. Continued to make parties

4558 C. S. West Exectr vs. F. M. Hanks. Continued to make parties.

4591 Amalie Herzog &c vs. H. & T. C. R R. Co. It is ordered that this cause be dismissed for want of prosecution and that the plaintiffs Amalie Herzog & her husband G. Herzog and Amalie Hall & her husband J. W. Hall pay all costs of this proceeding for which execution may issue in behalf of officers of Court.

4626 S. Jacobs & Beckhardt vs. F. Claus & Co. Continued by operation of law.

4815 Charles Krohn vs. Thomas F. Purnell. Upon motion it is ordered that Plff have leave to file first supplemental petition

4815 Charles Krohn vs. Thomas F. Purnell. Continued by Defendant

4831 Mrs. Mary Duffau vs. Milton Wallace & John Comar. Upon motion it is ordered that defendant have leave to file first amended original answer.

4848 Bettie C. Watson vs. Archer & Wilde. The plaintiff not

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having complied with the rule for cost, entered on a previous term of this Court, it is now ordered that this cause be dismissed & that the plaintiff Bettie L. Watson pay all costs in this behalf incurred for which execution may issue.

4941 Wm Hudson vs. L. R. Johns & Co. Upon motion it is ordered that plaintiff have leave to file first supplemental petition.

4943 Ruthrauff & Miller vs. Travis County. Upon motion it was ordered that plaintiffs have leave to file first supplemental petition. (entered on page 103)

5103 Paul Pressler vs. Carl Schaeffer et al. Continued generally.

5122 Bates Reed & Cooley vs. S. Longini. This day comes Messrs Sheeks & Sneed and announced to the Court that they have withdrawn as Attorneys for Plaintiff in this cause & file their statement showing their reason for such withdrawal.

× 4831 Mrs Mary Duffau vs. Milton Wallace & John Donner. This day came the parties to this suit the plaintiff by S. H. Posey & the defendant by R. H. Ward and both parties announced ready for trial. And neither party having demanded a jury the cause was submitted to the Court. And it appearing to the Court after hearing the pleadings and a part of the evidence, that this suit had been brought by T. B. Wheeler without the authority of Mrs Mary Duffau, the person named as plaintiff herein, It was ordered by the Court that this cause be dismissed, and that T. B. Wheeler pay all costs in this behalf expended, for which execution may issue in behalf of officers of Court.

And Court adjourned till to morrow morning 9 o'clk.

October 17th 1878

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

4876 A. E. Davidson vs. James Davidson. Upon motion it was ordered that Plff have leave to substitute the lost original petition.

× 4876 A. E. Davidson vs. James Davidson. It was ordered by the Court that this cause be dismissed, and that the plaintiff A. E. Davidson pay all cost in this behalf expended for which execution may issue.

4940 Lucy Robinson vs. G. W. Erwin. Upon motion of Plff's Attorney it was ordered that this suit be dismissed as to Deft S. A. Posey, & be continued as to the other defendant.

4975 T. L. Wren vs. Edmond Green. Upon motion it was ordered that Deft have leave to amend, and cause was continued by the Plff.

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5024 S. M. Baker vs. Nicholas Jeroloman. Continued for service.

×5037 M. C. Hamilton vs. J. & J. A. Blanton. Upon motion of Pffs Attorneys it was ordered that this cause be dismissed & it was further ordered that the plaintiff M. C. Hamilton pay all costs of this proceeding, for which execution may issue.

×5068 F. Bendrat vs Francisco Alderete, Susan Alderete & B. C. Stavely. This cause having been regularly called for trial and no counsel appearing for plaintiff to prosecute this suit, it was upon the request of Defendant Stavely ordered that this cause be dismissed and that the plaintiff F. Bendrat & his surety on his cost bond F. Ruehse pay all costs in this behalf expended for which execution may issue.

5069 Benj. J. Collins vs. Fred W. Chandler et als. Continued by operation of law.

5077 George N. Hopkins vs. Anna C. & S. C. Vineyard. Upon motion it was ordered that Pff have leave to file 1st supplemental petition. And Court adjourned till tomorrow morning at 9 Oclock.

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Court met pursuant to adjournment. Present same as Yesterday. Whereupon the following proceedings were had to wit:

5167 Robert F. Campbell vs. W. B. P. Gaines & W. A. A. Miller.

(Except as to W. A. A. Miller see page 5?)

This day came the Plaintiff by his attorney and the said Defendants W. B. P. Gaines & W. A. A. Miller having failed to appear and answer in this behalf, but wholly ..... made default after being duly cited to appear. Wherefore the said Robert F. Campbell ought to recover against the said W. B. P. Gaines & W. A. A. Miller his damages by occasion of the premises, and it appearing to the Court that the Cause of Action is liquidated and proven by an instrument of writing it is ordered that the Clerk do assess the damages sustained by said Plaintiff and the said Clerk now here having assessed the Damages aforesaid at the sum of Thirteen hundred and thirty two & 64/100 Dollars United States Currency due by the Defendant W. B. P. Gaines. It is therefore Considered by the Court that the said Plaintiff do have and recover of the said Defts W. B. P. Gaines the sum of Thirteen Hundred thirty two & 64/100 Dollars United States Currency with interest thereon at the rate of ten per centum per annum, and that he

(Ent. Cath. Trec. Nov. 1878 Vol. 1 of Jdgs Minutes Dec. 4th 1878 – W. A. A. Campbell – Gaines & Miller)

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recover of the Defts Gaines & Miller his costs in this behalf expended. It is further ordered that execution issue in favor of the Officers of Court against each party respectively for the costs by him in this behalf incurred. And it further appearing to the Court that the note sued on in this Case and set out in Plaintiffs Petition was given to secure the payment of the purchase money for the following described tract of land to wit: Forty Eight & one half acres of land out of the J Decker League of land in Travis County Texas and known as Survey No Six of the S W Goodrich estate. And it is ordered adjudged and decreed that the vendors lien upon the above described tract of land be and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County, Commanding him the said Sheriff to seize and sell the above described tract of land as under execution and that he apply the proceeds thereof to the payment and satisfaction of the said sum of Thirteen Hundred thirty two & 64/100 Dollars United States Currency together with all interest that may be due thereon, and the Costs of this suit: And if the said land shall sell for more than sufficient to pay off and satisfy said sum of money, then the said Sheriff is hereby directed to pay over the excess to the Defendant Miller But if the said land shall not sell for enough to pay off and satisfy this Judgment then the Clerk of this Court is directed to issue execution for the balance unpaid against the Defendant W B Gaines,

Tribute of the Bar

At a meeting of the members of the Bar of this city held at the Federal Court Room, the following action was had and the following resolutions were adopted, in respect to the memory of Alfred E. Townes, deceased.

The Meeting convened by calling Maj. A M Jackson to the Chair and Mr A P Wooldridge was unanimously Secretary.

Upon motion of Judge A. W. Terrell, the President of the meeting appointed the following named gentlemen a Committee to draft suitable resolutions commemorative of the virtues of the deceased, and expressive of our sympathy with his afflicted family: Judge A W Terrell Col J P C Whitehead, T. S. Maxey and E T Moore Esqrs. and Gov. E. J. Davis. During the retirement of the Committee

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in the preparation of their resolutions Mr Gardner Ruggles an intimate personal friend of the deceased Both here and during his stay at the University extolled in earnest and eloquent language the many high traits of Character and the learning and ability of his departed friend and Classmate. Upon motion of T.S. Maxey Esq. the following named gentlemen were appointed by the Chair, Pall bearers, and their services tendered to the bereaved family of the deceased: Mr Gardner Ruggles, Mr C.R Johns, Mr N.S. Walton, Mr Miles Hill, Mr B.S. Moore and Mr Wilson Gregg; Death has entered the 51
ranks of our Professional Brotherhood, and laid low alas! 51
too soon, one of its brightest and most promising members Alfred E Downes, whose untimely death we now deplore by the amiability of his character the modesty of his deportment, and by the integrity of his life endeared himself to all with whom he came in contact, A worthy Son of a noble sire, he bid fair to wear with grace the mantle of a father whose career in the public service has left a legacy in a spotless reputation which will ever remain a priceless treasure to the State. triumphing even over the silence of the tomb. As we stand by the bier of our deceased brother we remember and bear grateful tribute to his virtues and as a memorial of his worth to recommend the adoption of the following resolutions: Resolved: That by the sad and untimely death of Alfied E Downes. the bar has been deprived of an upright and honorable member. and the Community of a citizen whose sterling worth and native modesty endeared him to all who knew him.

Resolved: That we tender to his bereaved Kindred our heartfelt sympathy in this hour of their misfortune.

Resolved, That the members of this bar will attend as a body the funeral of our deceased brother,

Resolved. That the Secretary of this meeting furnish a Copy of this preamble and these resolutions to the family of the deceased and to each of the City papers with a request that they be published therein:

4375 J. Jesse G Northcutt et al vs C R Johns et als. On this day the report of the Commissioners appointed by the Court to partition the lands described in the decree of this

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Court in this case entered on pages 108–110 of Book N of the Minutes of this Court, in accordance with said decree coming on to be heard on motion of the Plaintiffs, said report was confirmed and Dennis Corwin was appointed a Commissioner to sell said tract of land on the first Tuesday of December 1878. if not then sold on any subsequent public sale day for land, that he sell for cash, giving notice of time & place of sale, and at the place as required by law for the sale of real estate under execution. And that he report to this Court of his acts under this order.

5118. John H Robinson & Son. vs Texas Furniture Manufacturing Co.

5184. Sarah D Wilson vs. The Texas Furniture & Manufacturing Co. William M Walton R J Hill admr of A H Parish Estate and John H Robinson & Son. On this day Oct 16th 1878 on suggestion by plaintiff in the suit No 5184. & on her motion, and it appearing to the Court that the suits are for foreclosure of the purchase money notes upon the same tract of land the purchase money notes being for separate interests in said tract. It is ordered that the said cause No 5184 Sarah D Wilson vs. The Texas Furniture & Manufacturing Company et als, be and the same is consolidated with Suit No 5118 John H Robinson & Son vs. Texas Furniture Manufacturing Co.

5136. Samuel R. Fisher, Exor. Will of E O Fisher dec'd, et al. vs H H Harris. In District Court, Travis County. Now, on this the 18th day of October, A.D. 1878, came, by their Attorneys, the Plaintiffs, Samuel R Fisher, as Executor of the will of Mrs E O Fisher, deceased, Rhoads Fisher, Annie P Harris and John W Harris, her husband, Annie F Walker and Lewis D. Walker, her husband, and announced ready for trial, and the Defendant, H H Harris, having been duly served with process as prescribed by law, and having failed to appear and answer the Plaintiffs elected to proceed with their cause ex parte before the Court, Whereupon the Court, having heard the proofs and evidence adduced by the Plaintiffs, Considered that the Defendant, H H Harris, was justly indebted to the aforesaid Plaintiffs in the sum of Nine hundred and twenty one Dollars and forty two Cents, in gold and costs, and also in the further sum of Ninety two Dollars and fourteen Cents, Attorneys fees. And it further appearing to the Court.

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that the notes sued on in this cause, bearing interest at the rate of ten per centum per annum from their date were executed and delivered by the Defendant on the 1st day of March, 1873, for the purchase money of Two Hundred and four (204) acres of land, in Ellis County, Texas, out of the Alexander de la Garza grant, sold said Defendant, Harris, by deed of even date with said notes, wherein, as in said notes, the vendors lien was expressly reserved and retained to secure the payment, principal and interest, of the notes aforesaid, which said 204 acres of land are more particularly described as follows: Beginning at a stake in the bed of Harry Prong, whence an elm, 8 ins in diameter, and a hackberry, 6 ins in diameter, bears East 8 varas; thence North, 10 East, 690 varas to a stake in the prairie, whence three locust bear South, 64 West, 38 varas; thence North, 80 West, 12 varas to John Owens South West Corner of a survey of acres; thence, with the Division line between the Fish and Townsend lands, South, 29° West, 800 varas to a line of branch; thence, with the various meanderings of said branch, to its mouth; & thence, with said Harry Prong, to the beginning. It is, therefore, Ordered, adjudged and decreed by the Court, that the Plaintiffs do have and recover of the Defendant, the said H. H. Harris, said sum of nine hundred and twenty one Dollars & forty two cents, in gold, with interest thereon from this date, at the rate of ten per centum per annum, and all costs in this behalf expended, as well as the said sum of ninety two Dollars and fourteen cents with legal interest; And that the Vendors lien, reserved as aforesaid, on & against said land to secure said purchase money notes aforesaid and interest thereon be foreclosed, and that the Clerk of this Court issue to the Sheriff, or any Constable, of said Ellis County, Texas an order of sale, Commanding him the said Officer to seize and sell as under execution the said 204 acres of land aforementioned, and apply the proceeds arising from such sale to the judgment herein rendered for the said sum of Nine hundred & twenty one Dollars and forty two cents, in gold, and interest as aforesaid, and costs. It is further ordered by

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Court, that, if the property aforesaid shall, under the sale, to be made as aforesaid, sell for more than said sum of Nine Hundred and twenty one 43/100 Dollars, in gold, and interest as aforesaid, and costs, the surplus to be paid over to the said A H Harris, Defendant, his heirs or legal representatives; but, if the property to be sold as aforesaid shall sell for less than said sum of Nine Hundred and twenty one & 43/100 Dollars, in gold, and interest as aforesaid, and costs, then that the Plffs aforesaid have execution against said A H Harris, Defendant, for the balance of said sum, interest and costs. It is further ordered, that Plaintiffs have execution for said sum of Ninety two Dollars & fourteen cents, attorneys fee as aforesaid,

5145. ✓ The State of Texas vs Grey White, B P Vivion and Charles Carter,. This cause came on this day for trial and it appearing to the Court that the Defendants Grey White B P Vivion and Charles Carter were duly served with process but failed to appear and answer and wholly made default, Wherefore the said Plaintiff, The State of Texas ought to recover her damages against said Defendants by occasion of the premises. And the pleadings and evidence of Plaintiff having been submitted to the Court and the same having been fully considered and understood, it is therefore ordered adjudged and decreed by the Court that the Plaintiff The State of Texas do have and recover of and from the said Defendants, Grey White B P Vivion and Charles Carter the sum of Two Thousand One Hundred and eighty four Dollars and three cents ($2184.03) together with her costs in this behalf expended, for all of which let execution issue

execution docket No. 5. page 44.

5166. ✓ James A Raymond & Co. vs Solomon Dorsey. This day came the Plaintiffs by their Attorneys and the said Deft having failed to appear and answer in this behalf but wholly made default Wherefore the said James A Raymond & Co. ought to recover against the said Solomon Dorsey their damages by reason of the premises, and it appearing to the Court that the cause of action is liquidated and proved by an instrument of writing it is ordered that the Clerk do now assess the damages sustained by said Plffs, and the Clerk having assessed the damages aforesaid at the sum of Two hundred &

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Forty six 50/100 Gold Dollars, and it appearing to the Court that the notes sued on bear interest at the rate of 10 per cent per annum. And it further appearing to the Court that said notes were executed on the 14th day of April 1874 to secure the payment of the purchase money for the following described tract of land, to wit, a certain tract of land in said Travis County Texas out of the subdivision of the S E ¼ about 4 miles S 10 E from the City of Austin described by metes & bounds as follows: Subdivision No of said S E ¼ of said Henry Warnell Survey Cor. Ans'd being 90 acres of the Henry Warnell Survey, Cor. Ans'd 14 acres

Beginning at a stone mound a Post oak 13 ins in dia brs N 57 W 8½ vrs as the SW corner of Subdivision No 1. on the S. line of said Warnell Survey. Thence N 30 E. across a branch 283 vs a stone mound the NW corner of No 1 and on the S line of No 6. Thence N 60 W across a branch 281 vs a stake in a deep wash or gully. an elm 18 ins in dia brs S 47 E. 25 vs. and a do 18 ins S 7½ E 41. vs. this is also the SW cor of No 6. Thence S 30 W 283 vs a stake a Mesquite 6 ins in dia brs S. 79¾ E 30 vs. and a Post oak 10 ins in dia brs N 70 E 30 vs. this corner is on the S line of the Warnell Survey. Thence S 60 E 281 vs to the place of beginning bearings marked X. It is therefore considered by the Court, that the Plaintiffs do have and recover of the said Defts said sum of Two Hundred & Forty six & 50/100 Gold Dollars principal and interest with interest thereon from this date, at the rate of 10 per cent per annum together with his costs in this behalf expended And it is further ordered adjudged and decreed by the Court that the Vendors lien as it existed upon the 14th day of April 1874. upon the above described land be, and the same is, hereby foreclosed And that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County commanding him the said Officer to seize and sell the above described tract of land as under execution and that he apply the proceeds thereof to the payment and satisfaction of the said sum of 246 50/100 Gold Dollars together with all interest that may be due thereon and the costs of this suit. and if the said land shall sell for more than enough to pay off and satisfy said sum of money then the said officer is hereby directed to pay over the excess to the Defts. But if the said land shall not sell for sufficient to pay off and satisfy this Judgment then the Clerk of this Court is directed to issue execution for the balance remaining unpaid.

5101 Martha M. Blake Admin'tx vs Stewart & Mair. Upon motion leave was granted to make Mrs. Martha M Blake party Plaintiff in this

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5122 Bates, Reed & Cooley vs. S. Longini. This cause having this day been regularly called for trial and no counsel appearing for the plaintiffs to prosecute this cause. It was ordered by the Court that this cause be dismissed and that the plaintiffs Bates Reed & Cooley & their surety on their cost bond to wit B. Melasky & Son pay all costs in this behalf ~~incurred~~, for which execution may issue against said parties in behalf of the officers of this Court.

5198 L. C. Illingsworth vs. Thos J. Pill, F. W. Chandler & J. Parrell. Upon motion it was ordered that the Defendants have leave to file an amended original answer.

5107. Montopolis Ferry Company vs Benjamin R Townsend. The application of the Plaintiff for an order of Survey coming on to be heard & considered: It is ordered that James E. Campbell County Surveyor of Travis County be and he is hereby directed to make and return into this Court a Survey and Plat of the lines of the land of the Dept B.R. Townsend which he owned out of the J C Tannehill league in Travis County at the commencement of the above entitled suit to wit on March 11th 1878. and described as follows: Beginning at the upper most Southerly Corner of a Two Thousand acre tract conveyed by Tannehill to N. Townsend. Thence S 60 E 188 varas. Thence S 87½ E. 367 a stake from which a Pecan 20 inches in diameter bears N 76½ W 9 vrs. and a Gum elastic tree 7 inches in Dia brs N 45½ E 6 vrs. Thence N 30 E. 1393 varas to a stake from which an elm 14 inches in diameter bears N 78¾ E 5 vrs. & a do 5 in Dia brs N 85° W 5¼ varas. Thence N 60 W. 896 varas to a stake from which a cedar 8 in in dia brs N 65½ E 3½ vrs. & a Do. 6 in in dia brs S 2¾ vrs. Thence S 30 W. 1533 vrs to the beginning containing 105 acres more or less. It is further ordered that said Campbell as soon as practicable do survey said land & return unto Court a plat of the same showing its location with reference to said Tannehill league & to the Colorado River. Said Surveyor is further ordered to delineate on said plat the course and direction of the public road as it approaches the Colorado River on the North bank thereof at the Montopolis Ferry in Travis County. It is further ordered that said Campbell do run & plat with reference to said Colorado River & the said Tannehill league the following described tract of land out of said league to

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wit: Beginning at the upper most Southerly Corner of said Tannehill league Thence South 60 E 155 varas Thence S 87½ E. 267 varas a stake Thence S 30 W 100 vrs more or less to the Colorado River. Thence up the Colorado River with its meanders to the place of beginning, And thereupon Court adjourned till tomorrow morning at 9 oclk.

October 19th A.D. 1878.

Court met pursuant to adjournment. present same as yesterday. For Proceedings See Sco Fa. Minutes. Ord: Court adjourned till Monday Morning at 9 oclock A.M.

October 21st A.D. 1878.

Court met pursuant to adjournment. Present same as yesterday. Whereupon the following proceedings were had to wit

5162. M. Paggi Admx. of Louis Cantoni decd vs L. Doolands. Comes now the Petitioner and it appearing to the Court that the Defendant has been duly served with process herein more than five days before the first day of the present term of this Court, and the Defendant appears not nor answers herein, but wholly makes default. It is ordered adjudged and decreed that the allegations in the petition contained be taken as true and confessed as against the Deft L. Doolands. It is therefore ordered adjudged and decreed that the Petitioner M Paggi Administrator of the estate of Louis Cantoni do have and recover from the said Defendant L. Doolands the said Property described in said Petition to wit: Lot (No 12) twelve in Block No (28) twenty eight in the city of Austin in the County of Travis in the State of Texas, together with all the improvements thereon, and that the Petitioner may have his writ of Possession for the same, And that the Petitioner may have his judgment for all costs in this behalf laid out, and expended for which execution may issue.

× 5124. Jno H Robinson Jr. vs A. S. Mair and G. B. Zimpelman

Court book No 5. page 46.

And now at this day the above entitled and numbered cause being called for trial the Plaintiff appeared by his Attorney Hancock West & North and the Defendants appeared by their Attorney N G Shelley and

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the parties, having announced themselves ready for trial and neither party having demanded a Jury the Court proceeded to try said cause without the intervention of a Jury and the Court having heard the pleadings the evidence and the arguments of Counsel and having duly considered the same, it is by the Court considered adjudged and decreed that the Plaintiff John H Robinson Jr. do have and recover of and from the Defendant A.S. Mair the sum of Three Thousand eight hundred and fifty nine 30/100 Dollars in the Gold Coin of the United States with interest thereon from the date hereof until paid at the rate of ten per centum per annum and all costs of this suit, and it further appearing that said sum of $3809.30 Gold evidenced by the note described in Plaintiffs petition, is the last instalment of purchase money due by said Defendant A.S. Mair to said Plaintiff for the hereinafter described premises heretofore purchased by said Mair from said Plaintiff, and it appearing that the Defendant George B Zimpelman has purchased said property from said A.S. Mair subsequently to the said purchase by said A.S. Mair: it is further considered adjudged and decreed that the vendors lien, in favor of said Plaintiff upon Lots Nos five, six, and forty two feet off of lot No seven, in Block No seventy seven in the City of Austin, Travis County Texas being the same property conveyed by said Plaintiff to said A.S. Mair on the 15th day of April A.D. 1876 by Deed recorded in Book 30 p. 581. of Travis County Deed records be foreclosed and that said premises be sold by the Sheriff of Travis County (in the same manner as sales under execution are made) in satisfaction of said lien, and that he pay out of the proceeds first the amount of costs in this behalf expended 2d the amount of this Judgment principal and interest, third the balance if any to said Defendant, A.S. Mair. It is further considered adjudged and decreed that execution issue against said Defendant A.S. Mair alone for the amount of this Judgment, principal interest & costs or so much thereof as may remain unsatisfied after the sale of said premises.

M C Hamilton vs Christian Wolf. Now on this day this cause coming on to be heard, whereupon appeared the

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Plaintiff and Defendant by their Attorneys respectively and announced themselves ready for trial, and the Court having heard the pleadings and evidence and having duly considered the same doth find that the facts are with the Plaintiff. It is therefore ordered adjudged and decreed that the Plaintiff M C Hamilton have & recover of the Defendant Christian Wolf the sum of Two Hundred and Seventy Seven Dollars and sixty three cents with interest from this date at the rate of one and one half (1½%) per centum per month together with all costs in this behalf expended for which execution may issue And it further appearing to the Court that the Plaintiff M C Hamilton has a vendors lien on the following described tract of land, a one third undivided interest in a tract of Two Hundred and Eighty four acres of land out of the two third league survey situate in Hays County Texas in the name of John Beckham to wit Beginning in the Bed of Onion Creek on the West boundary line of said survey it being the North West Corner of a tract sold to B. N. Rogers out of said Survey a stone mound, Thence North 3100 varas to the North West Corner of said Beckham Survey a stone mound in Prairie Thence East 580 varas to a stone mound in Prairie, Thence S 3120 to a stone mound in the bed of Onion Creek from which an elm one foot in dia brs N 27° W. 18½ vrs. a do, 15 in dia brs N 38° W 25½ vrs. Thence up the bed of Onion Creek with its meanders to the place of beginning. That said vendors lien be foreclosed and that an order of sale issue directed to the Sheriff of Hays County directing him to sell the above described ~~tract of~~ land to satisfy this Judgment. That of the proceeds of such sale he pay first the costs herein incurred and of such sale, that second that ~~that~~ he pay to Plaintiff M C Hamilton his attorneys heirs or assigns the amount due on this Judgment, and the balance if any to Defendant, his Attorneys heirs or assigns. And in case said land does not sell for enough to satisfy this Judgment and Costs that Plaintiff have execution for the balance if any.

A remand to stay execution until July 1st 1879. See papers.

October 21st 1878.

5144 (Exec. docket No 5 page 62)

See case No 5380 on page 342 of this Book & page 69 on Exec. docket No 5.

Ann Pitts vs Florence R Glenn & John W Glenn. This day came the parties by their Attorneys and waive a Jury and submit the matter in controversy as well of fact as of law to the Court and the evidence and the argument of Counsel having been heard and fully understood and it appearing to the Court that the lands mentioned and described in Plaintiffs petition to wit: two certain tracts or parcels of land lying and being situate in the County of Travis and State of Texas, one of said tracts containing 22 7/10 acres and known as lot 12 in a subdivision of 282 acres of the Chambers & league grant covering the City of Austin It being also a part of the G.W. Spears league in conflict with said grant the said 282 acres fronting on the Colorado River above and adjoining the City of Austin, Also another tract or parcel of land containing Seven (7) acres off the West or rather the North West portion of lot No one (1) of said subdivision, Beginning at the North West corner of lot No (6) five it being the South East corner of Lot No 4 of said subdivision. Thence South 30 West through Lot No One (1) to the same tract on the Colorado River. Thence N 60 W. on a line between the branch and bluff to the Johnson branch. Thence up said branch with the eastern boundary of said Lot No Two (2) to the South West corner of Lot No 4. in the bed of said branch. Thence South 60 E to the place of beginning. reserving 15 feet in the North boundary of this survey for a public road. The map and field notes of said subdivision being a record in said County of Travis showing the metes and bounds of each lot. The 22½ acres herein first described being that portion of said 282 acres bounded on the North and East by the Johnson branch. and on the South by the Colorado River and on the West by the Johnson place. the said two tracts of land being the same sold and conveyed to said C R Johns by Plaintiff by deed of 25. March 1872 are subject to a lien for the payment of the balance of principal and interest of the purchase money due thereon by the said Defendant Florence R Glenn to wit: the sum of Thirteen Hundred ninety five and 61/100 ($1395.61) Dollars and that the said amount is due and payable to the said Plaintiff Ann Pitts. It is therefore considered by the Court that the said lien be and the same

A agreement to stay execution until July 1st 1879. see paper.

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is hereby foreclosed and that the Clerk of this Court do issue an order of sale directed to the Sheriff or any Constable of said County of Travis commanding him the said Officer to seize and sell the above described tracts of land as under execution, and that he apply the proceeds thereof to the payment and satisfaction of the said sum of Thirteen hundred and ninety five and 61/100 ($1395.61/100) Dollars together with all legal interest that may accrue thereon from the date hereof and the costs of this suit, and if the said lands shall sell for more than sufficient to pay off and satisfy said sum, interest and costs of suit, then the said Officer is hereby directed to pay over the excess to the said Defendant Florence R Glenn. x 487

x 5187. Isaac Johnson vs Clora Johnson. This day came the Pff by his attorney, and at the request of the Court, William M Walton Esq an Attorney appointed by the Court, represented the Defendant and no Jury having been demanded by either party, the matter in Controversy as well of fact as of law was submitted to the Court And the evidence and argument of Counsel having been heard and fully understood, it is considered by the Court that the bonds of matrimony heretofore existing between the Plaintiff Isaac Johnson and the Deft Clora Johnson be dissolved and that the Plaintiff do have and recover of the said Defendant his costs in this behalf expended and that he have his execution

x 5130. William Green vs W. T. Clark, and now on this day this cause being regularly called for trial, came the (Exec. dock No 5 page 53) Plaintiff, by his Attorneys, Walton Green & Hill and the Defendant, although duly cited to appear and answer, came not but wholly made default. Wherefore the said Plaintiff is entitled to his damages by reason of the premises, It is therefore considered ordered adjudged and decreed by the Court, that the said Plaintiff William Green do have and recover of and from the said Defendant W. T. Clark the sum of Fifty Five thousand, one hundred and thirty three & 96/100 ($55-133.96) Dollars with interest thereon from this date at the rate of (8%) Eight per cent per annum and all costs in this behalf expended for which let

October 21st, 1878.

execution issue, And it is further ordered that execution issue against the said W S Clark for the use of the Officers of the Court,

4873. Henry Hirshfield vs W. S. Biles & wife, This day come the parties by their Attorneys, and waive a Jury and submit the matter in Controversy as well of fact as of law to the Court, and the evidence and the argument of Counsel having been heard and fully understood it is Considered by the Court that the Plaintiff Henry Hirshfield do have and recover of the Defendants W S Biles and Susan J Biles the premises described as follows, viz: Lot No four (4) in Block No one (1) in the subdivision of Out Lot No four (4) in division "A" of the outlots of the City of Austin Travis County State of Texas, that the value of said lot without any improvements is Two Hundred and Twenty five Dollars, and that the value of the use and occupation of the said lot and improvements thereon situated is Two Hundred Dollars. It is further Considered by the Court that the said Defendants had adverse possession of the said lot in good faith for more than one year next before the Commencement of this suit, and that during the time they have had such possession of said lot they have made permanent and valuable improvements thereon to the value of Six Hundred Dollars. It is therefore ordered by the Court that no writ of possession be issued in this Cause for the term of one year after the rendition of this Judgment unless the Plaintiff or his legal representatives shall pay to the Clerk of this Court for the Defendants the sum of Four Hundred Dollars the excess of the value of the said improvements over the value of the use and occupation of said premises, in which event a writ of possession may be immediately issued; And if the said Plaintiff or his legal representatives shall neglect, for the term of one year after the rendition of this Judgment, to pay the said sum of Four Hundred Dollars, and the said Defendants or their legal representatives shall within six months after the expiration of said year pay to the Clerk of this Court for said Plaintiff the sum of Two Hundred and Twenty five Dollars the value of said lot then the said

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Plaintiff shall be forever barred of his writ of pos- 51
session, and from ever having or maintaining any
action whatever against the said Defendants their 51
heirs or asigns for the said lot, and if the said Defts
or their legal representatives shall not within the said
six months pay the said sum of Two Hundred and 51
Twenty five Dollars as herein provided then the
Plaintiff may sue out his writ of possession and thereby
be restored to the possession of the said lot and
improvements thereon situated. It is further ordered
that the said Plaintiff do have and recover of the
said Defendant W. S. Biles all costs in this behalf 51
expended for which execution may issue. 51

* 1179 Jane Weakley vs. Otha T. Weakley. This day came the
Plaintiff in said cause, the Defendant having been
duly and legally cited, and having failed to appear and 51
answer and said cause having been submitted
to the Court, and it appearing to the Court from the 51
evidence 1st That the Plaintiff and Defendant were
legally married to each other on the 10th day of Novem
ber 1871. in the County of Shelby State of Illinois. 51
2nd That on the 13th day of February A D 1873 there was
born unto said Plaintiff and Defendant one child to
wit: James Earnest Weakley, 3rd That there is no 51
Community or seperate property to be disposed of. 51
4. That the allegation of abandonment on the part of Def
and that all other allegations in Plaintiffs petition 51
have been clearly proven by evidence full and
satisfactory to the Court It is Considered adjudged 51
and decreed by the Court that the prayer for divorce
in said petition be granted, that the bonds of mat
rimony between the said Jane Weakley and Otha
T Weakley be dissolved and declared null and 51
void, and that the said Jane Weakley be entrusted
with the care custody and education of the said 51
James Earnest Weakley, their child until the fur
ther order of this Court. And it is further ordered 51
by the Court that the Peff Jane Weakley pay all 51
Costs in this behalf expended and that execution
issue therefor for the use of the officers of Court:

October 21st 1878.

5101 Martha M. Blake Admtx vs. Stewart & Mair. Continued by the Plff.

5107 The Montopolis Ferry Company vs. Benjamin R. Townsend. Upon motion it was ordered that Plff have leave to file 1st amended original petition

5118 John T. Robinson & Son vs. Texas Furniture Manufacturing Company. This day it was ordered by the Court that this cause be consolidated with cause No. 5134, and that the plaintiffs in this case to wit John T. Robinson Sr & Alfred T. Robinson pay all costs in this behalf incurred, for which execution may issue in behalf of the officers of this Court against said Plffs.

5119 Amelia Rickta vs. Fannie Teague et al Continued for service.

5128 Thos C. Thompson et al. vs. W. A. Blackburn. It was this day ordered by the Court that this cause be dismissed, and that the plaintiffs pay all costs in this behalf expended.

5132 Agnes Sommers vs. Louis G. Sommers. Continued by operation of law.

5142 Margaretha Horst Dxctx vs. C. R. Johns & Co. Upon motion it was ordered that Plff have leave to file amended original petition and first supplemental petition.

5147 Charles W. Holland vs. Martha Jane Holland. Upon motion it was ordered that Plff have leave to file amended original petition and cause continued for service.

5151 G. A. Riedell vs. Travis County. Continued for service.

5171 Jacob Engell vs. Amelia F. Engell. Continued by operation of law.

5172 John F. Smith et al. vs. Susan A. Pattson et al. Continued to perfect service by operation of law.

5173 J. J. Tobin vs. J. Paul Jones. Upon motion it was ordered that both parties have leave to amend, the plaintiff to file an amended original petition and the defendant to file an amended original answer & cause continued generally.

5174 R. B. Hubbard Governor etc. vs. A. J. Ward et al. Continued for service.

5175 R. B. Hubbard Governor etc vs A. J. Ward et als. Continued for service.

5178 I. K. Morley vs. Emily A. Morley. Continued by operation of law.

5182 L. C. Illingsworth vs. John & Frank Fruit. Plff has leave to file amended original petition.

5183 James Lloyd vs. Int. & Great Northern Rail Road Company. Continued.

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5188 ✓ T. Roberts & Bro. vs. W. S. Carothers. Continued service not having been had in time.

5190 ✓ T. C. Barton vs. Reas Davidson. Continued under the rule for cost.

5192 ✓ J. P. Able vs. Henrietta Sparks et als. Continued for service.

5193 ✓ Charles R. Beaty vs. F. W. Chandler et als. Upon motion it was ordered that Plff has leave to file first supplemental petition & defendant to file original amended answer and also first supplemental answer

5194 ✓ Andrew Neill vs. West. Union Telegraph Company. Upon motion it was ordered that Plff have leave to file amended petition

5196 ✓ F. B. Foster, B. C. Ludlow & Geo. B. Zimpelman vs D. L. Cross. Continued for service.

5197 ✓ F. L. Britton vs The City of Austin. Continued for service.

5198 ✓ L. C. Illingsworth vs Thos. J. Pill, F. W. Chandler & J. Parrell. Upon motion it was ordered that plaintiff have leave to file first supplemental petition.

5200 ✓ William Earnest Rehse vs. Austin City R. R. Co. Continued for service. And Court adjourned till to morrow morning 9 o'clk.

October 22nd 1878

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5142 ✓ Margaretha Horst Exec^tx vs. C. R. Johns & Co. Upon motion it was ordered that Deft have leave to file first supplemental answer

5079 ✓ Rosina Conradi & Wm Conradi vs. Karl Schlosser. Upon motion it was ordered that the Sheriff have leave to amend his return on the citation by publication.

And Court adjourned till to morrow morning 9 o'clk.

October 23rd 1878.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

× 5079. ✓ Rosina Conradi and husband Williams Conradi vs Karl Schlosser. And now on this day this cause coming on to be heard the plaintiffs appeared in person and by Counsel and announced ready for trial and the Defendant came not but wholly made default. And it appearing to the Court that said Defendant Karl Schlosser has been duly and legally

October 23rd 1878.

served with citation in this case by publication as required by law, and it also appearing to the Court from the evidence that all the allegations in the Petition of the Plaintiffs are true and that on the 17th day of December 1873 the Defendant Karl Schlosser being the owner of the lands described in Plaintiffs petition to wit: Situated on Spring Creek in the County of Travis in the State of Texas about 15 miles N 80 W. from the City of Austin and patented to Willis Fauett as assignee of J C Dygman and conveyed by said Fauett to J F Krelle, and by the Administrator of the estate of said Krelle (A Spellman) by order of the District Court of Travis County conveyed to Karl Schlosser and conveyed by said Schlosser to William Conradi and described as follows, Beginning 1410 varas N 84° 17' W from the W corner of Survey No 534 or 169 varas N and 2797 varas W of N Medina S W corner at a stake from which a Clump of Ash bears N 24 3/4 W 11 varas, thence N 15 E 510 varas to a stone mound from which a live oak 6 in dia bears N 86° W 36 vrs thence N 70° W 900 varas to a stone mound from which a live oak 4 in dia bears S 27 3/4 W 6 varas, thence S 15° W 250 varas a branch crossing Spring Creek at 1496 varas a stone mound from which a live oak 9 in dia bears S 53 varas thence N 51 1/2 E 1340 varas to the beginning, bearings marked X. Containing one hundred and Sixty acres of land more or less. And on that day said Karl Schlosser by deed in writing conveyed said lands to William Conradi, which was duly executed and delivered, and that the full amount of the price of said lands was then paid by Wm Conradi to said Schlosser to wit $410.00 and that said Schlosser placed William Conradi in possession of said tract of lands, and that said William and Rosina Conradi have ever since that date remained in possession of said tract of lands, and have made permanent and valuable improvements thereon: And it also appearing to the Court that said deed from Karl Schlosser to William Conradi has been lost and that said William Conradi on said 17th day of December 1873 in due form and for a good and suffficient Consideration, Conveyed in writing,

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said lands to the Plaintiff Rosina Conradi and that said tract of land was at the date of the institution of this suit and still is the separate estate of the Plaintiff Rosina Conradi and that she is entitled to the remedy which she seeks in this cause It is therefore ordered adjudged and decreed by the Court that said Plaintiff Rosina Conradi do have and recover of and from said Defendant Karl Schlosser the title of said tract of land as her own seperate property and estate and that all right and title of said Karl Schlosser to said tract of land be and the same is hereby divested out of said Karl Schlosser and fully and completely vested in the said Rosina Conradi and that she be forever quieted in her title and possession of said land And it is further order that the Plaintiff Rosina and William Conradi pay all the costs of this suit for which execution shall issue,

And thereupon Court adjourned until tomorrow at 9 o'clk

October 24th A.D. 1878.

Court met pursuant to adjourment. Present same as first day Whereupon the following proceedings were had to wit:

× 5090 The State of Texas vs. James W Vaden, John A Fitch, George W Williams E J Harvey, Richard P Hopson Edward Soera, William M Shannon. This cause coming on this day for trial and none of the parties having demanded a Jury the matters in Controversy, as well of law as of fact were submitted to and tried by the Court. And the exceptions and demurrer of Defendants to Plaintiffs Petition, and the argument of Counsel thereon, being heard, it is the opinion of the Court that the law is for the Plaintiff and the said exceptions and demurrer are therefore overruled, And the pleadings of plaintiff and Defts and all the evidence in said cause having been submitted to the Court and the same having been fully considered and understood, it is ordered adjudged and decreed by the Court, That the Plaintiff - The State of Texas, do have and recover of the said Defendants James W. Vaden John A. Fitch, George W Williams E J Harvey, Richard P Hopson Edward Soera, and William

October 24th " 1878.

Mr. Shannon the sum of Ten Thousand, Three Hundred and Seventy eight and 78/100 ($10378.78) Dollars together with her costs in this behalf expended, and that execution issue therefor, And it further appearing to the Court that the Defendant James W Vaden is the principal in the official Bond sued on in this cause and the said Defendants John A Fitch, George W Williams E J Harvey Richard P Hopson Edward Socra, and William M. Shannon executed said bond as sureties, and as such sureties are entitled to the benefit of the Statute in such cases provided, It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this Judgment first upon the property of the said Defendant James W Vaden subject to execution and situate in the County of Travis before a levy shall be made upon the property of the said sureties or either of them provided so much of the property of the said James W Vaden shall be found as will be sufficient to make the amount of said execution, otherwise the levy thereof to be made on the property of the said James W Vaden, that may be found if any and upon so much of the property of the said sureties as may be necessary to make the amount of said execution. And it is further ordered and decreed by the Court, that in case said sureties or either of them shall make any payment which is applied on this Judgment, by reason of their suretyship on said Official bonds, this Judgment shall not be discharged by such payment, but shall remain in force and be prosecuted to execution for the use of said sureties or either of them making such payment, to the amount of such payment. And it is further ordered that execution may issue on behalf of the officers of this Court, against all of the Defts in this cause, for all costs in this behalf incurred. And thereupon Court adjourned until tomorrow at 9 A.M.

October 25th " 1878.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

October 25th 1878.

$198. L. C. Illingsworth vs T. J. Hill et als. On this cause the Plaintiff and Defendants appeared by their Attys. and the Defendants withdrew their amended answer filed on the 18th day of Oct 1878. and the Defts submitted to the Court their demurrer, and it is ordered and adjudged by the Court that the same be overruled. and the parties announced ready for trial, and the defendants admitted that the amount unpaid on the note sued on up to this date is one Thousand Dollars & Attorney fees to the amount of One Hundred Dollars. It is therefore ordered adjudged and decreed by the Court that the Plaintiff L. C. Illingsworth, do have and recover of the Defendants T. J. Hill, F. W. Chandler, and J. Harel One thousand Dollars with twelve per cent interest from this date until paid and the further sum of One Hundred Dollars with interest at eight per cent per annum from this date until paid and all costs of this suit for which execution may issue

(Execut for costs page 86 docket S)
$142. Margaretta Horst Exix of Louis Horst deceased vs C R Johns et als. This day the above cause coming on to be heard, came the parties by their attorneys respectively, and announced themselves ready for trial, and no Jury having been demanded, the matters of fact as well as of law were submitted to the Court. And it appearing to the Court that the Defendants C. R. Johns, O Von Rosenberg and F. Everett as partners under the firm name and style of C R Johns & Co. are justly indebted to the Plaintiff Margaretta Horst as the Executrix of Louis Horst deceased in the sum of $6738.$\frac{73}{100}$ Gold and $971.$\frac{95}{100}$ Silver, It is therefore ordered adjudged and decreed by the Court that the Plaintiff Margaretta Horst as the Executrix of the last will of Louis Horst deceased do have and recover of and from the Defendants C R Johns, O Von Rosenberg and F Everett, the sum of $6738.$\frac{73}{100}$ Gold and $971.$\frac{95}{100}$ Silver with interest thereon at the rate of Eight per cent per annum from this date, together with all costs in this behalf incurred, for which execution shall issue.

(Recd for costs of Margaretta Horst vs C R Johns et als. Appeal taken to the Supreme Court. Appeal bond $500. Appeal granted April 19th 1879. Wm Aldrich Sheriff. By Geo. Talley Deputy. Recd payment in full of this judgment & Costs of Appeal this May 28-1880. C. W. Spence Clk. By Geo. Talley Deputy. This judgment & the case of Margaretta Horst vs C R Johns et als belongs to the Supreme Court. Appeal bond $500. Appeal granted by the Clerk of this Court on the 19th day of April 1879. Wm Aldrich Sheriff. By Geo. Talley Deputy. Recd payment in full of this judgment & Costs of Appeal this May 28-1880. C. W. Spence Clk. By Geo. Talley Deputy.)

$204. Declaration of intention to become a citizen. F. Schwiening Ex Parte, The State of Texas County of Travis

October 25th 1878.

F. Schwrening, being duly sworn according to law in the District Court of said County, doth declare that he was born in the year A.D. 1831, in the Kingdom of Hanover whence he emigrated in the year 1875 to the United States of America and has selected the State of Texas as the place of his intended settlement. And he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas and renounces for ever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever, and particularly to the William the first the Emperor of Germany of whom he was a Subject.

F. Schwrening

Sworn to and subscribed before me this 25th day of October 1878. in open Court.

Seal.

E Hallmann Clerk.

4962 Sarah Love vs. George Love. Upon motion it was ordered that Pff have leave to file an amended original petition.

5193 Charles R. Beaty vs. F. W. Chandler et P. De Cordova. This cause having having been regularly called for trial on this the 21st day of October 1878 came the parties to this suit by their Attorneys & the plaintiff submitted his demurrer to the Defts pleadings to the Court, which demurrer was after the argument of counsel overruled; whereupon both parties announced ready for trial, & none of the parties having demanded a jury the matters in controversy as well of facts as of law were submitted to & tried by the Court. And the Court having heard all the pleadings, the evidence and the argument of counsel thereon, was of the opinion that the law is with the defendants. It was therefore ordered adjudged & decreed by the Court, that the plaintiff take nothing by this suit, that the defendants go hence without day, & that the plaintiff Charles R. Beaty and his surety on his cost bond to wit: D. W. Jones pay all costs in this behalf expended, for which execution may issue in behalf of the officers of this Court. to which orders & judgment the plaintiff then in open Court excepted. And Court adjourned till to morrow morning 9 o'clk.

October 26th 1878.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had:

3139 Sabas Fuentes et als vs. The State of Texas. This day came

October 26th 1878.

The parties to this suit by their attorneys and announced themselves ready for trial, and no jury having been demanded the matters in controversy as well of facts as of law were submitted to the Court. And the Court having heard all the pleadings the evidence and arguments of counsel was of the opinion that the law is with the defendants. It was therefore ordered adjudged and decreed by the Court that the plaintiffs take nothing by their suit and that they and their sureties on their cost bond to wit L. T. Raynes pay all costs in this behalf incurred, for which execution may issue in favor of the officers of this Court.

5131 John F. Jones vs. W. J. Rogers. By agreement of the parties to this suit it was this day ordered by the Court that the continuance in this case be set aside and that this cause be dismissed, and that the plaintiff John F. Jones pay all costs in this behalf incurred, for which execution may issue on behalf of the officers of this Court.

4873 Henry Kirshfeld vs. W. S. Biles et als. This day came the parties to this suit by their attorneys and the defendants submitted their motion for a new trial to the Court. And the Court after having heard said motion & the argument of counsel thereon, overruled said motion, whereupon said defendants by counsel excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5144 Ann Pitts vs. Florence R. Glenn & Jno W. Glenn. This day came the parties to this suit by their Attorneys and the defendants submitted to the Court their motion for a new trial in this behalf. And the Court after hearing such motion and the argument of counsel thereon overruled said motion, whereupon said defendants to excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5198 L. C. Illingsworth vs. Thos. J. Hill, F. W. Chandler & J. Farrell. This day came the parties to this suit by their attorneys and the defendant submitted to the Court their motion for a new trial in this behalf. And the Court after hearing said motion and the argument of counsel thereon and fully understanding the same overruled said motion, whereupon said defendants by counsel excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

October 26th 1878.

5090 The State of Texas vs. James W. Vaden et als. This day come the parties to this suit by their attorneys and the defendants by counsel submitted to the Court their motion for a new trial in this behalf and the Court after hearing said motion & fully understanding the same, overruled said motion, whereupon the defendants by counsel excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

And Court adjourned till Monday morning the 28th inst at 9 o'clk.

October 28th 1878.

4464 Alfred Smith vs. J. R. Warren. Continued by agreement.

4504 Geo. B. Zimpelman et als. Thomas Robb et al. Upon motion it was ordered that Plffs have leave to file an amended first supplemental petition & that the Defts have leave to amend their pleadings, and cause was continued to make new parties.

4699 James P. Link vs. Austin City R.R. Co. Continued.

5206 Declaration of Intention to become a citizen. The State of

Ex Parte: Texas County of Travis. Hugo Kleiner, being duly sworn

Hugo Kleiner according to law in the District Court of said County, doth declare that he was born in the year A.D. 1846 in the Kingdom of Wurtemburg, Germany whence he emigrated in the year 1868 to the United States of America and has selected the State of Texas as the place of his intended settlement, and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas and renounces forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever and particularly to the Wilhelm the first the Emperor of Germany of whom he was a subject.

Hugo Kleiner

Sworn to and subscribed before me this 29th day of October 1878. in Open Court.

Seal E. Hallmann Clerk

And thereupon Court adjourned till tomorrow at 9 o'clock A.M.

October 29th 1878.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

5208 Declaration of intention to become a citizen

Ex Parte. The State of Texas. County of Travis, Heinrich Niedich

October 29th 1878.

being duly sworn according to law, in the District Court of said County, doth declare that he was born in the year A D 1850 in the Empire of Germany, whence he emigrated in the year 1876. to the United States of America, and has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever and particularly to William the first the Emperor of Germany of whom he was a subject.

Heinrich Neidich

Sworn to and subscribed before me this 29th day of October A D 1878 in open Court

Seal

E. Hallemann Clerk

5'209. Declaration of Intention to become a citizen

The State of Texas, County of Travis, Ernst Biels being duly sworn according to law in the District Court of said County doth declare that he was born in the year 1849 in the Kingdom of Saxony, Germany whence he emigrated in the year 1874 to the United States of America, and has selected the State of Texas as the place of his intended settlement, and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince, Potentate State or Sovereignty whatsoever and particularly to the William, the first, the Emperor of Germany of whom he was a subject.

Ernst Biels

Sworn to and subscribed before me this 29th day of October 1878 in open Court

Seal

E. Hallemann Clerk

5'207. Ex Parte. William Bayer this day having made his applica in open Court to become a citizen of the United States and of the State of Texas, and the Court being satisfied from the affidavits now on file in this cause, that the applicant has resided within the United States for more than five years and in the

October 29th 1878.

State of Texas for more than one year next preceeding this his application. And that he has made his declaration of his intention to become a citizen of the United States, in the Probate Court of Cuyahoga County, Ohio. and that he is a man of good moral character and attached to the Constitution of the United States. It is therefore ordered adjudged and decreed by the Court that the said Wilhelm Bayes, be, and he is hereby declared a citizen of the United States, and of the State of Texas, and that the Clerk of this Court, do issue to him a certificate to that effect.

And thereupon Court adjourned till tomorrow at 9 o'clock A.M.

October 30th 1878.

Court met pursuant to adjournment. Present same as first day whereupon the following proceedings were had to wit:

$2.10 Ex Parte

Declaration of intention to become a citizen. The State of Texas, County of Travis. Joseph Beck being duly sworn according to law into the District Court of said County doth declare that he was born in the year 1847, in the Kingdom of Prussia, Germany, whence he emigrated in the year 1873 to the United States of America, and has selected the State of Texas as the place of his intended settlement; and he further declares that is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever, and particularly to the William, the first, the Emperor of Germany of whom he was a subject.

Joseph Beck

Sworn to and subscribed before me, this 30th day of October 1878. in open Court.

Seal

C. Hallmann Clerk

And thereupon Court adjourned till tomorrow at 9 o'clk A.M.

October 31st 1878.

Court met pursuant to adjournment. Present same as first day whereupon the following proceedings were had to wit

The State of Texas vs. J.M. Brown Nat M. Burford Thomas J. Pollard C.H. Beauchamp. W.R. Waite D. King Edwin Taylor J.M. Hanks,

$0.90 1220 words in this judgment. Record, docket No 5 page 50;

October 31st 1878.

John A Cole, M J P Sickles, Executrix &c. W C Sickles S P Crofs. Lucy A Crofs. Surviving wife &c. and E W Cullen. This cause coming on this day for trial and none of the parties having demanded a Jury, the matters in controversy as well of fact as of law were submitted to and tried by the Court, and it appearing to the Court that the Citation which was duly issued to E W Cullen Defendant in said cause has not been served the Pefft says she will not further prosecute her said suit against the said E W Cullen, And it further appearing to the Court that the said W C Sickles is the husband of the said M J P Sickles and that the said S P Crofs is the husband of the said Lucy A Crofs and that the said W C Sickles and S P Crofs are formal parties hereto, no Judgment is rendered against the said W C Sickles and S P Crofs, and it further appears to the Court, that the said M J P Sickles is the executrix of the last will and testament of J W Haynes deceased performing, and executing her duties as such executrix, under the provisions of the will of the said J W Haynes deceased, and without the aid of any Court having Jurisdiction pertaining to the estates of deceased persons, And it further appears that the said E Norton departed this life leaving surviving him, his wife the said Lucy A Crofs and a large community estate amounting to Fifteen Thousand Dollars, and as such surviving wife, the said Lucy A Crofs assumed the control and management of the said community estate of herself and her deceased husband E Norton as aforesaid, having first filed and inventory and appraisement of such property and her bond as such surviving wife as required by law And the pleadings of the parties and all the evidence in said cause having been submitted to the Court and the same having been fully considered and understood, it is ordered adjudged and decreed by the Court that the Plaintiff the State of Texas do have and recover of the said Defendants J M Brown Nat M Burford Thomas J Pollard, C A Beauchamp W H Witt D King Edwin Taylor F M Hanks, John A Cole M J P Sickles executrix of the last will and testament of J W Haynes deceased

October 31st 1876.

and Lucy A Crop surviving wife of E Norton deceased the sum of Seven thousand four hundred and Seventy five and 92/100 ($7.475.92) Dollars together with her costs in this behalf incured, and that execution issue therefor And it further appearing to the Court that the Defendant J.M. Brown, is the principal in the official bond sued on in this cause, and that the said defendants Nat M Burford Thomas J Pollard, C A Beauchamp, W A Witt, D King, Edwin Taylor, F M Hanks, John A Cole and the said J W Haynes and E Norton executed said bond as sureties, and that the said Defendants Nat M Burford, Thomas J Pollard, C A Beauchamp, W A Witt D King, Edwin Taylor, F. M Hanks, John A Cole, M.J.P. Sickles Executrix as aforesaid and Lucy A Crop surviving wife as aforesaid, are entitled to the benefit of the Statute in such cases provided, It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this judgment, first upon the property of the said J M Brown subject to execution and situated in the County of Travis before a levy shall be made upon the property of the said sureties or of the estate of J W Haynes deceased in the hands of said M J P Sickles Executrix as aforesaid or of the Community estate of the said E Norton & his said wife, now in the hands of the said Lucy A Crop surviving wife as aforesaid or either of them provided so much of the property of the said J M Brown shall be found as will be sufficient to make the amount of said executions, otherwise the levy thereof to be made on the property of the said J M. Brown that may be found, if any, and upon so much of the property of the said sureties, and of the estate of J W Haynes deceased in the hands of the said M. J. P. Sickles Executrix as aforesaid, and of the Community estate of the said E Norton, deceased and wife now in the hands of said Lucy A Crop surviving wife as aforesaid as may be necessary to make the amount of said execution. And it is further ordered and decreed by the Court, that in case said sureties, or the said M J P Sickles Executrix as aforesaid or the said Lucy A Crop surviving wife as

October 31st A.D. 1878.

aforesaid, or either of them shall make any payment which is applied on this Judgment, this Judgment shall not be discharged by such payment but shall remain in full force and be prosecuted to execution for the use of said Sureties, or the said M J P Sickles Executrix as aforesaid, or the said Lucy A Cross Surviving wife as aforesaid or either of them making such payment, to the amount of such payment. And it further appearing to the Court from the evidence that the indebtedness upon the official bond sued on in this cause is the same as that in Cause No 5109 on the Docket of this Court, wherein the said State of Texas is plaintiff and the said J M Brown et al are defendants, in which Judgment has this day been rendered in favor of the said State of Texas for said sum of Seven thousand, Four hundred and seventy five and 92/100 Dollars. It is further ordered adjudged and decreed by the Court, that any payment made on the principal or interest of the Judgment in this case shall be also applied and credited as a payment on the principal and interest of the Judgment rendered in this Cause No 5109 this however to be without prejudice to any rights or remedies of the sureties or of the said M J P Sickles Executrix as aforesaid or of the said Lucy A Cross surviving wife as aforesaid in either of said Causes against the said J M Brown principal as aforesaid or to any rights or remedies of the Sureties or of the said M J P Sickles executrix as aforesaid or of the said Lucy A Cross surviving wife as aforesaid in either of said Causes against each other for contribution it is further ordered and decreed that the officers of the Court have execution for all costs in this behalf expended.

5109. The State of Texas vs. J M Brown, William A Gaston John J Eakins and M J P Sickles Executrix &c:

Execution Docket No 5 page 50.

Abstract of Judgment

This Cause coming on this day for trial and none of the parties hereto having demanded a Jury the matters in controversy as well of law as of fact, were submitted to and tried by the Court. And it appearing to the Court that L O C Sickles is the husband of the said M J P Sickles and a

October 31st A.D. 1878.

mere formal party to this suit, no Judgment is rendered against him, And it further appears to the Court that the said M J P Sickles is executrix of the last will and testament of J W Haynes deceased performing and executing her duties as such executrix under the provisions of the will of said J W Haynes deceased and without the aid of any Court having jurisdiction pertaining to estates of deceased persons. And the pleadings of the parties and all the evidence in said cause having been submitted to the Court and the same having been fully considered and understood, it is ordered adjudged and decreed by the Court, that the plaintiff, The State of Texas do have and recover of the said Defendants J.M. Brown, William St. Lyaston, John J Eakins, and M J P Sickles, executrix of the last will and testament of J W Haynes deceased the sum of Seven thousand, Four hundred and Seventy five and 92/100 ($7.475.92) Dollars together with her costs in this behalf expended, and that execution issue therefor. And it further appearing to the Court that the Defendant J M Brown is the principal in the Official Bond sued on in this cause, and that the said Defendants William St Lyaston, John J Eakins and the said J W Haynes executed said bond as Sureties, and that the said Defendants William St Lyaston and John J Eakins, and the said Defendant M J P Sickles, Executrix &c of the will of said J W Haynes deceased are entitled to the benefit of the Statute in such cases provided. It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this Judgment, first upon the property of the said J M Brown, subject to execution and situated in the County of Travis, before a levy shall be made upon the property of the said Sureties or of the estate of the testator said J W Haynes in the hands of the said M J P Sickles, Executrix &c as aforesaid, or either of them, provided so much of the property of the said J M Brown shall be found as will be sufficient to make the amount

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of said execution, otherwise the levy thereof to be made on the property of the said J M Brown that may be found, if any, and upon so much of the property of the said Sureties and of the estate of the said testator J W Haynes in the hands of the said M J P Sickles Executrix of the said J W Haynes as aforesaid as may be necessary to make the amount of said execution, and it is further ordered and decreed by the Court that in case said Sureties, or the said M J P Sickles, Executrix as aforesaid, or either of them shall make any payment which is applied on this Judgment, this Judgment shall not be discharged by such payment but shall remain in force and be prosecuted to execution, for the use of said Sureties or the said M J P Sickles, Executrix as aforesaid or either of them making such payment to the amount of such payment. And it further appearing to the Court from the evidence that the indebtedness upon the official bond sued on in this cause is the same as that in cause No 5091 on the docket of this Court, wherein the said State of Texas is plaintiff and the said J M Brown M. J. P. Sickles Executrix &c et al are Defendants, in which, Judgment has this day been rendered in favor of the said State of Texas, for said sum of Seven Thousand, Four hundred and Seventy five and 92/100 Dollars. It is further ordered adjudged and decreed by the Court that any payment made on the principal or interest of the Judgment in this case, shall be also applied and credited as a payment on the principal and interest of the Judgment rendered in said Cause No 5091. this however to be without prejudice to any rights or remedies of the Sureties or of the said M J P Sickles executrix as aforesaid, in either of said Causes against the said J M Brown, Principal as aforesaid or to any rights or remedies of the Sureties or of the said M J P Sickles Executrix &c in either of said Causes against each other for contribution. And it is further ordered & decreed that the officers of Court have execution for all Costs

October 31st 1878.

in this behalf inquired.
And thereupon Court adjourned till tomorrow at 9 o'clock A.M.

November 1st 1878.

Court met pursuant to adjournment. Present same as 1st day.
Whereupon the following proceedings were had to wit.

5211. Declaration of intention to become a citizen. The State of Texas. County of Travis. Conrad Kleinschmidt being duly sworn states to law, in the District Court of Travis County, doth declare, that he was born in the year A.D. 1851 in the Kingdom of Prussia Germany, whence he emigrated in the year 1873 to the United States of America, and doth has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas and renounces forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever and particularly to the William the first, the emperor of Germany of whom he was a subject,

Conrad Kleinschmidt

Sworn to and subscribed before me this 1st day of November 1878. in open Court,

Seal

E. Hallmann Clerk.

5212. Declaration of intention to become a citizen. The State of Texas County of Travis. Vinzenz Faist being duly sworn according to law, in the District Court of said County, doth declare that he was born in the year A.D. 1852 in the Kingdom of Baden, Germany whence he emigrated, in the year 1874 to the United States of America and doth has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity, to every foreign Prince, Potentate State or Sovereignty whatsoever and particularly to the William the first, the Emperor of Germany of whom he was a subject,

Vinzenz Faist

Sworn to and subscribed before me this 1st day of November 1878 in open Court,

Seal

E. Hallmann Clerk

November 1st A.D. 1878.

5213. Declaration of Intention to become a Citizen
The State of Texas, County of Travis. Daniel Kelly
being duly sworn according to law, in the District
Court of said County, doth declare that he was bo
in the year A.D. 1855 in the Kingdom of Irel and
Great Britton, whence he emigrated in the year 187
to the United States of America, and has selected the St
of Texas as the place of his intended settlement and
he further declares that it is bona fide his intentio
to become a citizen of the United States and of the
State of Texas, and renounces forever all allegiance
and fidelity to every foreign, Prince, Potentate, Sta
or Sovereignty whatsoever, and particularly to the
Victoria the Queen of Great Britton of whom he wa
a subject,
Daniel Kelly.
Sworn to and Subscribed before me this 1st day of Nov
ber 1878 in open Court.
Seal
E. Hallmann Clerk

5214. Declaration of Intention to become a citizen.
The State of Texas, County of Travis, August Marwitz
being duly sworn according to law, in the District
Court of said County, doth declare that he was bo
in the year A.D. 1856 in the Kingdom of Prussia
Germany, whence he emigrated in the year 1871. t 5214
the United States of America, and has selected the Sta
of Texas as the place of his intended Settlement, an
he further declares that it is bona fide his intentio
to become a citizen of the United States and of the
State of Texas, and renounces forever all allegiance
and fidelity to every foreign Prince, Potentate, Sta
or Sovereignty whatsoever, and particularly to the
William the first the Emperor of Germany of whom
he was a subject.
Aug. Marwitz.
Sworn to and Subscribed before me this 1st day of
November 1878 in open Court,
Seal
E. Hallmann Clerk

5215. Declaration of intention to become a citizen. The
State of Texas, County of Travis, Gottlieb Neanerhwander
being duly sworn according to law in the District
Court of said County, doth declare that he was bo
in the year A.D. 1856 in the Republic of Switzerlan

November 1st A.D. 1878.

whence he emigrated in the year 1872 to the United States of America, and has selected the State of Texas as the place of his intended settlement; And he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas and renounces forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever and particularly to the Government of the Republic of Switzerland of whom he was a subject.

Gottlieb Neunschwander.

Sworn to and Subscribed before me this 1st day of Novbr 1878 in open Court.

Seal

E Kallemann Clerk

And thereupon Court adjourned till tomorrow at 9 oclk A.M

November 2d A.D. 1878.

Court met pursuant to adjournment. Present same as first day. and thereupon adjourned till Monday morning November 4th A.D. 1878. at 9 Oclock A.M.

November 4th A.D. 1878.

Court met pursuant to adjournment, Present same as first day. Whereupon the following proceedings were had to wit:

5143. The State of Texas vs. Patrick Burke, Dewitt C. Grover. Whit M. Parchman. This day this cause came on for trial and the Parties appearing by Attorneys and neither party demanding a jury, the matters in Controversy as well of law as of fact were submitted to and tried by the Court, And the evidence and argument of Counsel having been heard and fully understood, and it appearing to the Court that the claim of said Plaintiff is entitled to the following credits, and sets off, to wit: Two Hundred and eighty nine and 53/100 ($289.53) Dollars paid for assessing taxes of 1874 and Three Hundred and Sixty six and 20/100 ($366.20) Dollars for uncollected taxes on the Rolls of 1874 leaving balance due said Plaintiff of Six Hundred and fifteen and 66/100 ($615.66) Dollars. It is therefore ordered adjudged and decreed by the Court, that the said Plaintiff, The State of Texas do have and recover of and from the said Defendants, Patrick Burke Dewitt C Grover and.

November 4th 1878

White McPartchman, the sum of Six Hundred and fifteen and 66/100 ($615.66) Dollars, together with her costs in this behalf expended and that the said Plaintiff have execution. It is further ordered that execution issue for the use of the Officers of Court in conformity to law.

5223 United States of America
The State of Texas } Be it remembered, that at the District
Travis County } Court for the County of Travis aforesaid
held at the Court House thereof in the City of Austin
on the 4th day of November A D 1878. August Finna a
Native of Germany, exhibited a petition, praying
to be admitted to become a citizen of the United States
And it appearing to the Court that he had declared
on oath before the Clerk of said Court, on the day
and date aforesaid, that it was bona fide his intention
to become a citizen of the United States, and to renounce
forever all allegiance and fidelity to every foreign
Prince, Potentate, State or Sovereignty whatsoever and
particularly to the Emperor of Germany, of whom
he was a subject: And the said August Finna having
on his oath declared, and also made proof thereof by
competent testimony, to the satisfaction of the Court
that he had resided within the United States of
America, three years next preceding his arriving
at the age of twenty one years, and continued to reside
therein to the time of making his application, that
including the three years of his minority he had
resided within the limits and under the Jurisdiction
of the United States, five years and upwards; and
that during the three years next preceding it had
been bona fide his intention to become a citizen
of the United States; and it appearing, to the satisfaction of the Court
that during the said period of five he had behaved
as a person of good moral character, attached to
the principles of the Constitution of the United
States and well disposed to the good order and
happiness of the same: And the said petitioner
having declared, on oath before said Court, that
he would support the Constitution of the United
States, and that he did absolutely and entirely

November 4th " 1878.

renounce and abjure, all allegiance and fidelity to every foreign Prince, Potentate, State and Sovereignty whatever, and particularly to the Emperor of Germany of whom he was a subject. It was thereupon ordered by the Court, that the said August Finn, be, and he hereby is admitted to become a citizen of the United States, and that the Clerk of this Court, do issue to him a Certificate to that effect.

5216. Declaration of Intention to become a citizen

The State of Texas } E. L. Williams being duly sworn
County of Travis } according to law in the District Court of said County, doth declare, that he was born in the year AD 1856 in the Kingdom of England, whence he emigrated, in the year 1871. to the United States of America, and has selected the State of Texas, as the place of his intended settlement, And he further declares that it is bona fide his intention to become a citizen of the United States of America and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever and particularly to Victoria the Queen of England of whom he was a subject,

E L. Williams

Sworn to and subscribed before me this 4th day of November 1878 in open Court,

Seal

E Hallemann Clerk

5217. Declaration of intention to become a citizen.

The State of Texas } Christian Herzer being duly sworn
County of Travis } according to law in the District Court of said County, doth declare that he was born in the year AD 1848 in the Kingdom of Wurtemberg Germany whence he emigrated in the year 1872 to the United States of America, and has selected the State of Texas as the place of his intended settlement and he further declares that it is bona fide, his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever and particularly to William the first the Emperor of Germany of whom he was a subject,

Christian Herzer,

November 4th A.D. 1878.

Sworn to and subscribed before me this 4th day of November 1878 in open Court.

Seal

E. Hallmann Clerk

5218 Declaration of intention to become a citizen

The State of Texas } Oscar Lehmann being duly sworn according to law in the District Court of said County, doth declare that he was born in the year A.D. 1853 in the Kingdom of Prussia, Germany whence he emigrated in the year 1875 to the United States of America, and has selected the State of Texas as the place of his intended settlement and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever, and particularly to William the first the Emperor of Germany of whom he was a subject.

Oscar Lehmann

Sworn to and Subscribed before me this 4th day of November 1878 in open Court.

E. Hallmann Clerk

5219 Declaration of Intention to become a citizen

The State of Texas } Charles Dorbandt being duly
County of Travis } sworn according to law in the District Court of said County, doth declare that he was born in the year A.D. 1832 in the Kingdom of Denmark, whence he emigrated in the year 1872 to the United States of America and has selected the State of Texas as the place of his intended settlement and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever, and particularly to the King of Denmark of whom he was a subject.

Chas Dorbandt.

Sworn to and subscribed before me this 4th day of November 1878.

Seal

E. Hallmann
Clerk

November 4th A. 1878.

5220. Declaration of Intention to become a citizen
The State of Texas } Heinrick Wissmann being duly
County of Travis } sworn according to law in the District
Court of said County, doth declare that he was born in
the year AD 1849 in Detmoed in the Empire of Jurmany
whence he emigrated in the year 1868 to the United
States of America and has selected the State of Texas
as the place of his intended settlement: And he further
declares that it is bona fide his intention to become
a citizen of the United States, and of the State of
Texas and renounces forever all allegiance and
fidelity to every foreign Prince, Polentate, State or
Sovereignty whatsoever, and particulary to William
the first the Emperor of Germany of whom he was
a subject.
Heinrich Wissmann
Sworn to and Subscribed before me this 4th day
of November 1878. in open Court.
Seal
E Hallemann Clerk

5221. Declaration of Intention to become a citizen
The State of Texas } Gottfried Eber being duly sworn
County of Travis } according to law in the District Court
of said County doth declare that he was born in the
year AD 1848 in the Kingdom of Wurtemburg in Germa
ny, whence he emigrated in the year 1873 to the United
States of America and has selected the State of Texas
as the place of his intended settlement: and he fur=
ther declares that it is bona fide his intention to
become a citizen of the United States and of the
State of Texas, and renounces forever all allegiance
and fidelity to every foreign Prince Potentate, State
or Sovereignty whatsoever and particularly to William
the first the Emperor of Germany of whom he was a
subject.
Gotfried Eber.
Sworn to and Subscribed before me this 4th day of
November 1878 in Open Court.
Seal
E. Hallemann Clerk

5222. Declaration of Intention to become a citizen
The State of Texas } George Saunders being duly sworn
County of Travis } according to law in the District
Court of said County. doth declare that he was
born in the year AD 1829 in the Kingdom of England

November 4th " 1878.

whence he emigrated, in the year 1873 to the United States of America and has selected the State of Texas as the place of his intended settlement: And he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas and renounces forever all allegiance and fidelity to every foreign Prince Potentate State or Sovereignty whatsoever, and particularly to Victoria the Queen of England of whom he was a subject.

George Saunders.

Sworn to and Subscribed before me this 4th day of November 1878 in Open Court.

Seal

E. Hallemann Clerk.

5224. Declaration of Intention to become a citizen

The State of Texas } William McAngus being duly sworn
County of Travis } according to law in the District Court of said County doth declare that he was born in the year AD 1842 in the Kingdom of Scotland & Britain whence he emigrated in the year 1867 to the United States of America and has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas and renounces forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever and, particularly to Victoria the Queen of Gr. Britain of whom he was a subject,

William McAngus

Sworn to and subscribed before me this 4th " day of November 1878. in Open Court.

Seal

E. Hallemann Clerk.

4923. George B. Zimpelman & N. G. Shelly vs. The International and Great Northern Rail Road Company. And now on this 29th " day of October A.D. 1878. this cause coming on and being called for trial. the parties by their attorneys appeared, and announced themselves ready for trial. Whereupon the Plaintiffs general demurrer and special exceptions to Defendants Answer coming on to be heard and being considered by the Court. It is ordered that Plaintiffs general demurrer be and the same is overruled. And that plaintiffs special exceptions

November 4th " 1878.

Rec'd judgment in favor of Pltf in the sum of $5000 & Deft excepts & prays appeal to Supreme Court June 3rd 1879

to so much of the answer of Defendants, as sets up by way of defence to Plaintiffs, action, the ownership by Pltffs of property and lots in the City of Austin situated on Congress Avenue and Pecan Street, and to the enhancement of the value thereof by reason of the construction and equipment of Defts Road, be and the same is sustained and ace of that portion of Defts answer is ordered to be stricken out. Thereupon came a jury of good and lawful men of Travis County, to wit: Ab H Cook Jr. and eleven others who being duly elected tried empannelled and sworn well and truly to try the issues joined between the parties: who having heard the pleadings, evidence, argument of counsel, and received the Charge of the Court, retired to consider of their verdict, and having considered returned into Court the following verdict to wit:
"Austin Oct 29th 1878. We the Jury find for the Plaintiffs the sum of $5-75:00 Damages. Ab H Cook Jr. Foreman" It is therefore considered ordered and adjudged by the Court that the Plaintiffs, do have and recover of the International and Great Northern Rail Road Company the Defendant in the sum of Five hundred and Seventy five Dollars, damages as assessed by the Jury aforesaid together with all costs in and about this suit expended for which execution may issue &c,

$225.00 Declaration of Intention to become a citizen
The State of Texas } William Rolf being duly sworn accor-
County of Travis } ding to law, in the District Court of said County, doth declare that he was born in the year AD 1818, in the Kingdom of Scotland, Gr Britain whence he emigrated in the year AD 1866 to the United States of America, and has selected the State of Texas as the place of his intended settlement;..... + ... and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatsoever and particularly to Victoria the Queen of Gr. Brittain of whom he was a subject. William Rolf.
Sworn to and subscribed before me this 4th day of November 1878 in open Court. E Kallemann Clerk
Dead
"

November 4th " 1878.

5226. Declaration of Intention to become a Citizen

The State of Texas } Charles Johnson, being duly sworn
County of Travis } according to law in the District Court
of said County, doth declare that he was born in the
the year A D 1830. in the Kingdom of Swecden, whence
he emigrated in the year 1860 to the United States of
America and has selected the State of Texas as the
place of his intended settlement: And he further
declares that it is bona fide his intention to become
a Citizen of the United States and of the State of Texas
and renounces forever all allegiance and fidelity
to every foreign Prince, Potentate, State or Sovereignty
whatsoever, and particularly to the King of Swe
den of whom he was a Subject.

Charles Johnson.

Sworn to and subscribed before me this 4th " day of
November 1878 in open Court.

Seal E. Hallmann Clerk

5227. Declaration of Intention to become a citizen

The State of Texas } Charles Johnson, being duly sworn
County of Travis } according to law in the District Court
of said County, do declare that he was born in
the year A D 1850 in the Kingdom of Denmark whence
he emigrated in the year 1867 to the United States
of America, and has selected the State of Texas as
the place of his intended settlement: And he further
declares that it is bona fide his intention, to
become a citizen of the United States and of the
State of Texas and renounces forever, all allegiance
and fidelity to every Foreign Prince, Potentate
State or Sovereignty whatsoever and particularly
to the King of Denmark of whom he was a subject

Chas Johnson.

Sworn to and subscribed before me this 4th day
of November 1878. in open Court.

Seal E. Hallmann Clerk

5228. Declaration of Intention to become a citizen

The State of Texas } Donnald McKinzie, being duly sworn
County of Travis } according to law in the District Court
of said County, doth declare, that he was born in the
year A D 1818 in the Kingdom of Scotland &c.

November 4th " 1878.

Britain, whence he emigrated in the year 1867 to the United States of America, and has selected the State of Texas as the place of his intended settlement. And he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate State or Sovereignty whatsoever and particularly to Victoria the Queen of Gr. Britain of whom he was a subject.

Witness. H. C. Smith:

his
Donnah x McKinzie
mark

Sworn to and subscribed before me this 4th day of November A D 1878 in open Court.

Seal

E Hallmann Clerk.

5229. Declaration of intention to become a citizen.

The State of Texas } Dan Ross being duly sworn accor-
County of Travis } ding to law in the District Court of said County, doth declare that he was born in the year A.D. 1856, in the Kingdom of Scotland, Great Britain whence he emigrated in the year 1867 to the United States of America and has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever and particularly to Victoria the Queen of En Britain of whom he was a Subject.

Dan Ross.

Sworn to and Subscribed before one this 4th day of November 1878. in open Court.

Seal

E Hallmann Clerk

5230. Declaration of Intention to become a citizen

The State of Texas } William Munro, being duly sworn
County of Travis } according to law in the District Court of said County, doth declare that he was born in the year A D 1850, in the Kingdom of Scotland whence he emigrated in the year 1867, to the United States of America, and has selected the State of Texas as the place of his intended settlement: And he further declares that it is bona fide his intention to become a citizen of the United States and of the

November 4th A.D. 1878.

State of Texas and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty whatsoever and particularly to Victoria the Queen of Gr. Brittain of whom he was a subject.

William Munro.

Sworn to and subscribed before me this 4th day of November 1878 in open Court.

(Seal) E. Hallmann Clerk

5231 Declaration of Intention to become a citizen

The State of Texas } John Nokanson, being duly sworn according to law in the District Court
County of Travis } of said County, doth declare that he was born in the year A.D. 1847, in the Kingdom of Sweeden, whence he emigrated in the year 1867 to the United States of America and has selected the State of Texas as the place of his intended settlement: And he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign Prince Potentate, State or Sovereignty Whatsoever and particularly to the King of Sweeden of whom he was a subject.

John Nokanson.

Sworn to and Subscribed before me this 4th day of November 1878 in open Court.

(Seal) E. Hallmann Clerk

5203 A. L. McRae vs. Louis Cook & Mrs. Mannie Cook. This day came the plaintiff A. L. McRae into open Court and moved the Court to dismiss this case, which was accordingly done, the plaintiff having paid the costs of this proceeding.

5184 Sarah D. Wilson vs The Texas Furniture & Manufacturing Company. William M Waeton, R. J. Hill Adms of Estate of A. N. Parish, John A Robinson Senr. & Alfred A. Robinson (the last two being John A Robinson & Son.) and

& (Exec. docket No 5 page 48)

5118 John A Robinson Senr. & Alfred A Robinson. vs. The Texas Furniture & Manufacturing Co. On this day Oct 21st 1878 the said last case No 5118. John A Robinson Sen & Alfred A. Robinson vs The Texas Furniture & Manufacturing Company being called regularly on the Docket, & on suggestion by Pltffs. that the same matters were in controversy in the case above stated No 5184. Sarah D Wilson vs The Texas Furniture & Manufacturing Company

November 4th 1878.

etals and such being shown to be true on inspection of the papers, on motion of Plffs, the said cause No 5118 was consolidated with cause No 5184. but as the necessary parties had not been made in said first suit No 5118. it is ordered that all costs therein up to date of its consolidation, be taxed against the Plaintiffs therein & that the Deft. The Texas Furniture & Manufacturing Co. recover of said John A Robinson & Son all costs in said suit No 5118. up to this date. And thereafter on said day Oct 21st 1878. the said Cause No 5184 & the Consolidated cases aforesaid, being regularly reached on the docket and all the parties appearing by their attorneys, the Plff Sarah D. Wilson, by Terrell & Wacker her Attys, the Texas Furniture & Manufacturing Company by its Attorney Geo. W. Glasscock, Wm M Walton, in person, R J Hill Admr & in person, and John A Robinson & Son by Hancock, West & North, their Attorneys. And the parties announce themselves ready for trial. And thereupon the pleadings of the parties were heard, and the testimony adduced by the parties having been introduced, and argument of Counsel thereon, and the Court being fully advised as to the pleadings, testimony and the law of the case doth order adjudge and decree, 1. That the Plaintiff Sarah D Wilson, do have & recover of the Texas Furniture & Manufacturing Company, Fourteen Hundred & Fifty one, & 70/100 Dollars & that this judgment bear ten per cent interest from date, (with exception that $114.70 thereof shall not bear interest until the 4th Dec 1878) and the further sum of Sixty one & 11/100 Attorney fee on the overdue note described in the petition & all costs of suit, 2. That William M. Walton do have and recover of the Texas Furniture & Manufacturing Company, Fourteen Hundred & fifty one & 70/100 Dollars. & that this Judgment bear ten percent interest from date, (with exception that $114.70 thereof shall not bear interest until Dec 4 1878). and the further sum of Sixty one & 11/100 Atty fee on the overdue note owned by Walton. as described in the pleadings, together with all costs of suit. 3. That John A Robinson & Alfred A Robinson (the firm of John A Robinson & Son) do have and recover of the Texas Furniture & Manufacturing Company the sum of Seven

November 4th " 1878.

Hundred and Twenty five & 55/100. Dollars. this Judgment to bear ten per cent interest, and the further sum of Sixty one & 11/100 Dollars Atty fee as claimed in the pleadings and all costs of suit incurred since the consolidation of the suit, of J A Robinson & Son with the suit No. 5184. 4. That R. J. Hill the Admr of the estate of A. H. Parish dec'd do have & recover of The Texas Furniture & Manufacturing Company the sum of Seven Hundred & twenty five & 85/100 Dollars. this Judgment to bear ten per cent interest from date except that $114.20 thereof shall not bear interest before Dec 4. 1878. & all costs of suit 5. And it appearing by the pleadings & evidence that the said parties recovering herein against the Texas Furniture & Manufacturing Company, have their vendors lien as set out in the petition upon lots No. 4. 5. & 6. in Block No 5. of the City of Austin to secure the said payments, in the proportions following that is to say the Pltff Sarah D Wilson upon one third interest, the Deft Wm M Walton upon one third interest, the Defts J A Robinson & Son upon one sixth interest, and the Deft R J Hill, Admr of the estate of A H Parish dec'd, upon one sixth interest in said lots. It is therefore ordered adjudged and decreed that the said vendors lien be foreclosed and that an order of sale do issue for the sale of said lots as under execution, the proceeds of sale however to be applied after payment of costs, one third to Pltff Sarah D Wilson, one third to Wm M. Walton, one sixth to J A Robinson & Son, & one sixth to R J Hill Admr of the estate of A H Parish dec'd, and the balance if any to be paid to the said Texas Furniture & Manufacturing Company. But inasmuch as part of said purchase money is not yet due it is ordered that no order of sale or other process shall issue prior to the 10th " day of January 1879. nor shall any sale be had before the sale day in February 1879 6. It is further ordered that execution shall issue against the said Defendants, for any balance remaining unpaid on this decree in favor of the parties recovering the parties to have its benefits Jointly.

November 4th 1878.

5077. George N Aapkins. vs Anna V & S C Vineyard, On this 26th
Exec. book N-5. page 59. day of October 1878 came the parties, Pelff & Defts, by their
attornies and in person, and neither party having demanded a jury, the matters in issue between the said parties, were submitted to the Court, who after hearing the pleadings, the evidence and argument of counsel proceeded to find for the Pelff. against the Deft S. C. Vineyard the sum of Sixteen Hundred and fifteen Dollars, And that there was no cause of action against the Deft Anna V. Vineyard, It is therefore ordered Considered adjudged and decreed by the Court that the said Pelff take nothing as against said Anna V. Vineyard It is further considered, ordered, adjudged and decreed by the Court that the Pelff George N. Aapkins do have and recover of and from the Deft. S. C. Vineyard the sum of Sixteen Hundred and fifteen Dollars, with legal interest thereon from this date, And it is further ordered adjudged and decreed by the Court that said Pelff George N Aapkins do have and recover of and from said Deft S. C. Vineyard all costs in this behalf expended, for all which sums of money afore said execution may issue,
And Court adjourned till Wednesday the 6th inst 9 o'clk A.M.

November 9th 1878

5077 George N. Aapkins vs Anna V. & S. C. Vinyard. On this the 9th day of November 1878 came the parties to this suit by their Attorneys, when the plaintiff submitted his motion for a new trial of this cause to the Court, which motion was after argument of counsel by the Court overruled. The plaintiff thereupon by counsel excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

3139 Sabas Fuentes et al. vs The State of Texas. This day, both parties to this cause being present by their attorneys, the plaintiffs submitted by their counsel their motion for a new trial of this cause to the Court. And the Court after hearing the argument of counsel overruled said motion. Whereupon the plaintiff excepted to such ruling and gave notice in open Court of appeal to the Supreme Court.

4923 Chapelman & Shelley vs Int. & Gr. North. R R Co. Both parties being present in Court by their Attorneys, the defen-

November 9th 1878.

dant submitted its motion for a new trial of this cause to the Court. And the Court after hearing the argument of counsel overruled said motion. Whereupon the defendant excepted to such ruling and gave notice in open Court of appeal to the Supreme Court.

x 5149 J. Ormerods vs S E Bates and Ben Walker. This day came the parties by their attorneys, and it appearing to the Court, now here, that this Cause has been duly referred, according to the Statute in such cases made and provided, to James P. McKinney and W. G. Thomas arbitrators, and F Everett Umpire to hear & determine and that the report of said arbitrators and Umpire was filed in this Court on the second day of August 1878, which is as follows. Viz: To the Clerk of the District Court of Travis County Texas, The undersigned arbitrators and umpire, selected as such under articles of agreement made and entered into on the day of July 1878. between J. Ormerod and S.E. Bates, to which Ben Walker also became a party, which agreement is on file in the office of the District Clerk of Travis County providing for reference to said arbitrators & umpire all matters in dispute between the said Ormerod & Bates up to the 19th day of July 1878. that may have arisen between them in any way in Connection with the partnership business that had theretofore existed between them in the transportation business and its incidents including the ownership of all property held jointly by them or in which they were jointly interested beg leave to report as follows: That on the 26th day of July 1878. said arbitrators & Umpire having been duly sworn, convened at the Office of De Cordova & McKinney in Austin, and proceeded to hear the evidence adduced herein, and after a full & patient examination into the facts shown and set forth herein, have made the following awards herein, To the said S E Bates we award all the property of every description heretofore held or owned by the said Ormerods & the said Bates in their partnership business as above set forth, upon the following terms & conditions name

Judgment rendered accordingly Bill 160

November 9th 1878.

The said S. E. Bates is to pay all of the partnership Debts of the said Ormerod & Bates, amounting according to the list shown us, & agreed to by both parties $2195.81. The said S. E. Bates takes the Corn and Oat crops raised on the farm of J M Coatley. & he pays the rent of the lands to said Coatley, on which said crop was raised, amounting to $750.00 The said Bates also shall pay to said Ormerod the sum of Four Hundred and fifty Dollars, in such manner as may be satisfactory to said Ormerod or he shall pay the amount in Cash within ninety days after this award shall have been filed in the District Clerks Office, The said Bates shall pay all Costs of this arbitration including Seventy five Dollars to the Arbitrators and umpire herein, or twenty five dollars to each of them, The said Ormerod shall immediately on this award being filed in the District Clerks Office, turn over to said Bates all property held or controlled by him, that heretofore was owned or held by the firm of Ormerod & Bates aforesaid To secure the compliance with the terms & conditions of this awards, all property heretofore held or owned by said Ormerod & Bates shall be bounds in the same manner as if a Judgment and levy had been made hereunder, Jas P. McKinney, W. G. Thomas, Arbitrators, F. Everett Umpire And the objections to said award heretofore made and filed by the Defendants S. E. Bates & Ben Walker having been withdrawn, It is considered by the Court that the Defts S. E. Bates do have and recover of the said Plaintiff Jacob Ormerod all the property of every description heretofore held or owned by them in their partnership busines and the Corn and Oats raised by them on the farm of J. M. Coatley, and that the Plaintiff Jacob Ormerod do have and recover of the Defts S E Bates, all and every debt of the firm of Ormerod & Bates, amounting to Twenty nine hundred and forty five 81/100 Dollars, including Seven hundred & fifty Dollars, rent of lands to said J M Coatley, and that he have this execution for whatever

November 9th 1878

Amount of said debts he may be compelled to pay, and that said Plaintiff Jacob Ormerod recover of the said Defendant S. E. Bates the further sum of Four Hundred and Fifty Dollars with interest thereon at the rate of eight per cent per annum and that he have his execution. It is further ordered that said Plff Jacob Ormerod do have and recover of the Defendant S. E. Bates all costs in this behalf expended including Seventy Five Dollars, to the said Arbitrators and Umpire, and that execution issue in favor of the Officers of Court, and the said arbitrators and umpire therefor. It is further ordered that execution issued on this Judgment shall be levied on any or all of the property heretofore owned or held by the said Ormerod & Bates in their partnership business or any property of the said S. E. Bates,

And thereupon Court adjourned till Monday morning at 9 Oclock.

No 1777 Jac. Ormerod & S. E. Bates

For value received I do hereby assign over to Thos. Fuqua one half interest in the foregoing judgment in favor of said Ormerod & Bates and against myself and S. E. Bates for all sums of money that may be collected upon the within judgment. Witness my hand this 13th day of Nov. 1878. Jacob Ormerod

Witness Thos. Fuqua

November 11th 1878.

Court met pursuant to adjournment, Present same as first day. Whereupon the following proceedings were had to wit: (See Criminal Minutes)

And thereupon Court adjourned tile tomorrow at 9 A.M.

Ex Parte

November 12th 1878.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit: (See Criminal Minutes) And thereupon Court adjourned till tomorrow morning at 9 Oclock.

November 13th 1878.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

No 2331/2 Ex Parte

Herman Schmidt this day having made his application in open Court to become a citizen of the United States and of the State of Texas and the

November 13th 1878.

Court being satisfied from the Affidavits now on file in this cause that the applicant has resided within the United States for more than five years and in the State of Texas for more than one year next preceeding this his application, and that he has made his declaration of his intention to become a citizen of the United States, in the District Court of Travis County Texas, and that he is a man of good moral character, and attached to the Constitution of the United States, It is therefore ordered adjudged and decreed by the Court that the said Herman Schmidt, be and he is hereby declared a citizen of the United States and of the State of Texas and that the Clerk of this Court do issue to him a certificate to that effect,

And thereupon Court adjourned till tomorrow at 9 A.M.

November 19th 1878.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

J. 234. Ex Parte

William Gay having made application before the District Court of Travis County at the Fall Term thereof A.D. 1878. for a permanent license to practice as an attorney and Counsellor at law in the District and all inferior Courts in the State of Texas, and the said William Gay having produced before the Court his license issued to him by the Circuit Court of Pulaski County Arkansas, as an attorney at law and in Chancery, and having been introduced to the Court, by N.G. Shelley and R.M. Russell Esqrs. (two attys of this bar) as a man of good moral character, and the said William Gay having taken the oath as required by law. It was ordered by the Court that his name be enrolled as an attorney of this Court and that a license issue to him accordingly.

And thereupon Court adjourned till tomorrow at 9 o'clock A.M.

November 20th 1878.

November 23d 1878

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

5110. / Execution docket No. 5. page 44.

The State of Texas vs. L E Dunn Jerome G. McGown Hiram Little, Frederick Schofield, W. A. Finch R. F. Oliver, L. M Collard and Pleasant M Yell, This day this cause came on to be heard and came the parties by their Attorneys, and neither party demanding a Jury the matters in Controversy, as well of fact as of law, were submitted to and tried by the Court, And thereupon came on to be heard the Defendants plea to the jurisdiction of this Court, and the Court having considered the same it adjudged and decreed that the same be and is overruled, to which ruling the Defendants excepted, and thereupon came on to be heard the Defendants special exception to plaintiffs petition, and the Court having considered the same it is ordered and decreed that the same be and is hereby overruled, to which ruling the Defendants except, And the pleadings of the parties, and the evidence and argument of Counsel having been heard and fully understood, and considered. It is therefore ordered adjudged and decreed by the Court, that the plaintiff the State of Texas, do have and recover of and from the said Defendants, L. E Dunn, Jerome G. McGown, Hiram Little, Frederick Schofield, W. A. Finch, R F Oliver, L. M Collard, and Pleasant M Yell, the sum of Four Thousand, Eight Hundred, and fifty and 92/100 ($4850.92) Dollars with Costs of suit, and that execution issue therefor, And it further appearing to the Court that the Defendant L. E Dunn is the principal in the Official Bond sued on in this Cause, and the said Defendants Jerome G. McGown, Hiram Little Frederick Schofield W A Finch, R F Oliver, L. M. Collard, and Pleasant M. Yell, executed said bond as sureties and as such sureties are entitled to the benefit of the Statute in such cases provided. It is therefore further ordered adjudged and decreed by the

November 23d 1878.

Court that the Sheriff levy the execution issued by virtue of this Judgment, first upon the property of the said Defendant L. E. Dunn, subject to execution before a levy shall be made upon the property of the said Sureties or either of them, Provided that so much of the property of the said L. E. Dunn shall be found as will be sufficient to make the amount of said execution, otherwise the levy thereof to be made on the property of the said L. E. Dunn that may be found if any, and upon so much of the property of the said Sureties as may be necessary to make the amount of said execution, And it is further ordered and decreed by the Court, that in case said sureties or either of them shall make any payment which is applied on this Judgment by reason of their suretyship on said Official Bonds, this judgment shall not be discharged by such payment, but shall remain in force and be prosecuted to execution for the use of said Sureties, or either of them making such payment to the amount of such payment, And it is further ordered that execution may issue on behalf of the officers of this Court, against the Defendants for all costs in this behalf incurred, And thereupon the Defendants, in open Court gave notice of appeal to our Supreme Court.

5021. M A Wigfall et al. vs. The Treasurer of the State of Texas
Suit pending in the District Court of Travis County
In this cause the Hon E. B. Turner, having had some connection with this case, as Atty Genl of the State is disqualified from sitting therein. The parties here to select and agree upon the Hon A S Walker an Attorney of said Court as special Judge to try said cause according to the terms of an act of the Legislature of the State of Texas approved August 15th 1876. in such case made and provided. Done this 23d Oct 1878.

Shepard & Doom Attys for Plffs
A. H. Boone Atty Genl for Defdt.

Filed Oct 24th 1878. (signed) C. Hallemann Clk.

In pursuance of the foregoing agreement, the Hon A. S. Walker presided, on the trial of Cause No 5021 of

November 23d 1878.

5021. M. A. Wygall et al vs the Treasurer of the State of Texas.
J. B. Wygall et als. vs The Treasurer of the State of Texas
And now on this 24th day of October A D 1878, this Cause being ~~regularly~~ called, came the Plaintiffs in the above numbered and entitled cause by their Attorneys, and the State of Texas and the Treasurer of the State of Texas by her Atty General, Hon A. A. Boone and ~~the intervenors in said cause to~~ ~~wit: Reuben Clark and Fugat Clark and George W. Clark et al, and John Somerville et als and~~ announced themselves ready for trial, waived a Jury and submitted the matters in controversy as well of law as of fact to the Court, and thereupon the said Defendant by Counsel, the Attorney General, interposed her demurrer to the plaintiffs' original petition which was considered by the Court and overruled, to which ruling the Defendant excepted; and thereupon the Defendant interposed her demurrer to the plaintiffs' first supplemental petition, which was considered by the Court and the demurrer sustained so far as the plea attempted to attack the Judgment in favor of Bishop Clark, but as to the other pleas, it was overruled. The Plaintiffs then interposed their demurrer to the Defendants amended original answer, setting up the claims of other parties, and the Judgment rendered in favor of Bishop Clark et al, vs. The Treasurer of The State of Texas, which was considered by the Court, and the demurrer sustained, to which ruling the Defendant excepted,

5021. J. B. Wygall et al. vs The Treasurer of the State of Texas, This 24th day of October A D 1878 Came the plaintiffs in said Cause by their Attorneys and the State of Texas and the Treasurer of the State of Texas by her Attorney General Hon A. A. Boone and the following named Intervenors in said Cause to wit: Reuben Clark and Fugate Clark, George W Clark, Benjamin F. Clark, Eli A Clark, Arthur Storms and Martha Storms his wife, Sarah M Smith, and Robert M Smith her husband, Hannah Shudds and Benjamin Shudds her husband, Elizabeth Webber and Joseph Webber her husband, Sarah A House and Thomas

November 23d 1878.

her husband, Joshua Blocher, Emmiline Martin Wilbliam L. Martin, John Ly Martin, Joseph Martin, Fannie Martin, Rebecca E McGahey, Michael McGahey, Charles Huddleson, Jesse Martin Francis M House, Sarah J. House, William D House, John Somerville and Amanda Somerville his wife, John Blocher, and David Blocher Morrow Shields and Nancy Shields his wife, Thomas Managhand Cynthia Managh his wife, David Clark, Warren A Clark, Joseph M Clark, and Wilson A Clark, Murphy Clark, Cecelia Curtis Mary A Howell Nancy Grimes Sam Clark, Wilson Clark, Catherine Anderson, Mary Clark, Alfred Clark, Albert Clark, Thomas Clark, Puget Clark, Pamela Wampler, Benjamin Clark, Robert Clark, and Polly Swearingen, Reuben Clark Randolph Clark, Charity A. Hamond, Rachael Hughes, Chester B. Clark, Benjamin R Clark, Joseph W. Clark, John B Clark, Reuben Clark, Henry Claiborne Clark, and Puget Clark, Lucetta Clark, Eliza Elmore, and Nessie Baldwin Willy B Clark, and Kate Marbel, Henry Clark William Clark, and Braxton Clark, Nancy Bunch, David Bunch Christian Moxley Amanda J. Moxley, James A Moxley, George Clark, and Nancy Clark, Randolph Clark Bowlen Clark, Robert Clark, Eliza Thomas, Christina Williams, and Nancy J. Minicks, David Clark, W L. Clark, John P Clark, Elvira Burtis and Maria Baker Braxton Clark, Randolph Clark, Bettie Clark, and Nessie Boyce, Mary A. Williams Benjamin C Campbell Christina J Campbell, and Nessie Campbell, Mary Bonham Williams D McClure, Mills McClure, and Mary Lockhart John Bellew, William Bellew Louisa M Bellew, and Margaret, Cavitt, having failed to appear, and the said Plaintiffs and Defendant, having announced themselves ready for trial, waived a Jury, and submitted the matters in controversy as well of law as of fact to the Court, and the Court having heard the evidence and argument of Counsel and duly

(and thereafter on Nov. 25th A.D. 1878)

considered the important, matters involved, It is therefore considered by the Court, ordered, adjudged and decreed that the said Plaintiffs Joseph B Wygall Thomas B Wygall, James S. Wygall, Sarah Hagerman wife of William J Hagerman, John W Vermillion, and Orella

J. B. Wygall et al
v.
The heirs &c of The Estate of Lucy Ann Clark, deceased, being shown by the petition filed in this cause on the 10th day of Aug. A.D. 1878 to be interested in the subject matter of this suit, and it appearing by affidavit duly filed that the said heirs &c of said deceased reside out of the State of Texas, and that they cannot be served with process in this county, it is therefore ordered that they appear and answer the petition of Plaintiffs herein filed at the next regular term of this Court to be holden on the 2nd Monday in Nov. A.D. 1878, and that a copy of this order be published in some newspaper published in Wharton County, Texas, for four consecutive weeks previous to said next regular term of this Court, and that the Sheriff of Wharton County, Texas, execute this order according to law and make due return hereof as the law directs. Given under my hand this the 10th day of Aug. A.D. 1878.
S. Walton
Special Judge
Attest: J. Pollard Clk

November 23d 1878.

S. Vermillion, now Hooper, Children of Susan Vermillion deceased are the true heirs of John C. Clark, deceased and entitled to his estate, in the following shares, that is to say: The said Joseph, Thomas, James, and Sarah each one share, and the said John W. and Coreen together one share, and that the said plaintiffs do have and recover, the property, funds, and assets of the estate of the said John C Clark deceased, And it appearing to the Court that in this cause, the Supreme Court of the State has adjudicated that the suit is against the Treasurer as an officer of the Government, and not individually, and that it is substantially a suit against the State of Texas, which has been permitted to be brought under a law applicable to such a case, It is therefore considered ordered, adjudged, and decreed, that the said plaintiffs recover of the State of Texas, and of the Treasurer of the State of Texas, all the property, funds and assets of the estate of the said John C Clark deceased and all the notes, deeds, Mortgages and title papers belonging to the same, which were deposited in the Treasury of the State of Texas on the 20th day of September A D 1866. by Dennis & Whitten Administrators of the estate of the said John C Clark deceased upon Warrant No 110. (One Hundred and Ten) of that date signed by the Comptroller, W. L. Robards, And it is further ordered adjudged and decreed, that the Comptroller of the State draw his warrant upon the Treasurer for the said assets, funds, notes deeds and title papers, and that the said Treasurer deliver the same to the plaintiffs, and all sums of money that have been collected by the officers of the State or by their authority on any of the assets, notes and mortgages shall be paid over and delivered to the said plaintiffs and in all cases now pending in the District Court of Wharton County Texas on any of said notes and Mortgages by the State, the said plaintiffs are authorized to control and collect. It is further considered, ordered, adjudged and decreed that all the right title and interest of the State of Texas in and to the several tracts of land,

November 23d 1878.

owned by the said John C. Clark, deceased, at the date of his death, in the said State, be and the same is hereby released and relinquished to the said plaintiffs, and they are hereby authorized to take hold and occupy the same as the heirs of the said John C Clark, It is further ordered adjudged and decreed that the plaintiffs pay all costs of this suit, It is further ordered that the Intervenors above named take nothing by their said suit, and that the plaintiffs do have and recover of and from the said Intervenors all costs by them respectively in this behalf expended, for which execution may issue. Thereupon the Defendant, in open Court gave notice of appeal, to the Supreme Court,

Examined & approved
Nov 27th 1878 —
A. S. Walker
special Judge &c.

And thereupon Court adjourned till tomorrow at 9 AM

November 30th 1878.

Court met pursuant to adjournment Present same as first day. Whereupon the following proceedings were had to wit:

+ 5150 Ottelia A Thomas vs. George Thomas. This day came on to be heard the plaintiffs motion to set aside the Continuance heretofore entered in this cause, and it appearing to the Court, that the Defd was on the 23d day of November 1878. duly served with a notice that this motion would be heard this day, and that said Defd failed to appear and in no way made objections to said motion It was ordered by the Court, That said Continuance be, and the same is, hereby set aside, and that this Cause now stands for trial,

+ 5151 Ottelia A Thomas vs. George Thomas, On this the 30th day of November A D 1878. the above entitled and numbered Cause coming on to heard, in its regular order for trial, the Peff appeared in person and by Attorney John Dowell Esq. and the Defendant failed to appear but wholly made

November 30th 1878.

default, whereupon Plaintiff demanded a Trial of said Cause, which was ordered by the Court and a Jury being waived the matters in issue was submitted to the Court, and after hearing the pleadings evidence and argument of Counsel in the Cause the same was duly Considered by the Court, and it was ordered adjudged and decreed and is hereby ordered adjudged and decreed by the Court that the facts as stated in plaintiffs petition are true and that the bonds of matrimony heretofore existing between the plaintiff Ottelia A Thomas and the Defendant George Thomas be and are hereby dissolved, and that they no longer sustain the relation to each other as man and wife. That the Plff & her surety on her cost bond to wit Herman Grunau pay all costs of this suit for which execution may issue against said parties, And it is further ordered by the Court that the care and guardianship of the minor children William Thomas and Charles Thomas the lawful issue of the marriage of Plaintiff and Defendant be and is hereby given to the said Ottelia A. Thomas for the present, and until the further order of this Court, relating to their disposition and the said Defendant is ordered and prohibited from interfering with or in the management of them by the said Plaintiff

4978 The State of Texas vs. George Bransford et al, Continued for service.

5074 Richard Gildart et als vs J. B. Gildart et als. On this Octbr 28th 1878 came all parties to this suit by their attorneys and asked, that the Sale of the property, made in compliance with an order of this court of May 17th 1878, be set aside, because the property was sold for much less than its real value, and P. J. Waldridge the purchaser of said property agreeing thereto it was ordered and decreed by the Court that said sale be and the same is hereby set aside, and that Dennis Corbin, the commissioner of said sale, return to said purchaser the money paid by him, and it was further ordered and decreed that said property be again sold by Dennis Corbin, the Sheriff of Travis County, on the same terms as provided for in the order of this Court entered in this case on the 17th day of May 1878.

November 30th 1878.

5093 The State of Texas vs. H. H. Dickey. Continued for service on Nvbr 16/78.

5094 The State of Texas vs Thomas M. Childers et al. The motion of defendants to set aside the judgment nisi & judgment final heretofore entered in this case, having been this day considered by the Court, It was ordered that both of said judgments be set aside except as to one dollar and the costs of this proceeding, and that the State of Texas do have and recover of and from the defendants Thomas M. Childers, M. B. Rightsmith, Ben Thompson, B. Trigg, James M. Swisher & John C. Sparks the said amount of one dollar and all costs of this proceeding for which execution may issue against said parties.

5095 The State of Texas vs. Thomas Plumley. Nvbr 16th 1878. On this day came the County Attorney on behalf of the State, but the defendant Thomas Plumley came not but wholly made default. And it appearing to the Court that the said Thomas Plumley had on the 30th day of October 1877 been fined as defaulting witness in the sum of (30^{00}) Thirty dollars and that said Thomas Plumley had been duly served with a writ of Scire facias, summoning him to appear before this Court and show cause if any he had, why said judgment nisi should not be made final, and the said Thomas Plumley having as aforesaid made default, It is now ordered that said judgment be and the same is hereby made final and absolute, and that the State of Texas do have and recover of and from the said Thomas Plumley the said amount of thirty dollars as a fine and all costs of this proceeding, and that the said Thomas Plumley stand committed to the County Jail of Travis County until said fine and costs are paid, and that the clerk of this Court issue a commitment to the Sheriff of Travis County accordingly.

5096 The State of Texas vs. Perry Plumley. November 16th 1878. This day came the County Attorney on behalf of the State and moved the Court to make finaly the judgment nisi heretofore entered against Perry Plumley. And it appearing to the Court that said Perry Plumley had been fined as defaulting witness on the 30th day of October A.D. 1878 in the sum of (30^{00}) Thirty dollars and that said Perry Plumley had been duly served with a writ of Scire facias, summoning him to appear before this Court at its April term 1878 & to show cause if any he had, why said judgment nisi should not be made final against him, and that said Perry Plumley had not answered herein but had again made default, It was therefore ordered and decreed by the Court, that the said judgment nisi be and the same is hereby made final and absolute, and that the State of Texas do have and recover of and from the said Perry Plumley the said

November 30th 1878.

amount of ($30.00) Thirty dollars as a fine and all costs of this proceeding, and that the said Perry Rumley stand committed to the County Court of Travis County, and that the clerk of this Court issue to the Sheriff of Travis County a commitment accordingly.

× 5097 The State of Texas vs. M. A. Taylor. On this the 16th day of November 1878 came the County Attorney on behalf of the State and moved the Court to make final the judgment nisi heretofore entered against said M. A. Taylor. And it appearing to the Court that the said M. A. Taylor had been fined as defaulting witness in the sum of thirty dollars on the 30th day of October 1878 and it further appearing to the Court that the affidavit of said M. A. Taylor, on file with the papers of this cause, does not show sufficient reason or excuse for his non attendance as witness; It is therefore ordered adjudged and decreed by the Court that the said judgment nisi be and the same is hereby made final to the amount of ten dollars and that the balance of said judgment be hereby remitted, and that the State of Texas do have and recover of and from the said M. A. Taylor the said amount of ten dollars as a fine and all costs of this proceeding, and that the said M. A. Taylor stand committed to the County Jail of Travis County until said fine & costs are paid, and that the clerk of this Court issue to the Sheriff of Travis County a commitment accordingly.

5098 The State of Texas vs. J. M. Piper. Dismissed because the defendant can not be found in Travis County.

5099 The State of Texas vs. Ob. Stewart. Dismissed, because the defendant can not be found.

× 5182 L. C. Illingsworth vs. John & Frank Fruth. Dismissed at cost of plaintiff.

5155 The State of Texas vs. John Matt et als. Nov. 16/78 Continued for service.

5157 The State of Texas vs. John Matt et als. Novbr 16th 1878 Continued for service.

5159 The State of Texas vs John Matt et al. Nov 16th 1878 Continued for service.

× 3589. Walter Beistard vs. John J. Musgrove. This cause having been settled by the parties plaintiff and defendant, is ordered to be dismissed and it is further ordered in accordance with the agreement of the parties that the defendant John Musgrove pay ($55.00) fifty five dollars of the costs of this suit and that the plaintiff Walter Beistard pay the balance of all costs of suit, for which execution may issue against said parties.

November 30th 1878

5146 F. W. Chandler Administrator of the estate of J. b. Pierce vs. Loomis & Christian. Upon the motion of the plaintiff F. W. Chandler it was this day ordered that this cause be dismissed at the costs of said plaintiff, and that the clerk of this Court file in the County Court of Travis County a duly certified bill of costs of this suit, to be paid by said plaintiff in due course of administration.

Court adjourned till Monday the 2nd Decbr 9 o'clk A. M.

December 2nd 1878.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit.

5173 J. J. Tobin vs. J. Paul Jones. Upon motion of Peff Atty the continuance in this case was this day set aside and this case dismissed, plaintiff having paid costs of suit.

Court adjourned till to morrow morning 9 o'clk.

December 14th 1878

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

3688 W. A. Day vs. A. L. Herron & N. J. Cloud. — N. C. Edwards garnishee. Exec dock No 5 page 37. And now on this 14th day of December 1878. this cause being regularly reached on the Docket, comes the Peff by his Attorney And it appearing to the Court from the answer of the Garnishee N C Edwards, that he was and is indebted to the Deft A. L. Heron in the just and full sum of $147 69/100 Dollars, money collected by said Edwards, for said Heron, It is therefore considered by the Court, that the Peff W A Day do have and recover of and from the said N. C. Edwards, the sum of One hundred and forty seven 69/100 Dollars, for which execution may issue It is ordered by the Court that the money paid on this Judgment, shall be a credit to the extent of the payment, on the indebtedness of said Garnishee & said Deft Herron, It is further ordered that Peff pay all costs of this proceeding including this Judgment, and that all future costs accruing herein be paid by said Edwards, as directed for principal sum adjudged.

5142 Margaretha Horst Exectrx vs. C. R. Johns & Co. Both parties being present by their Attorneys the defendants by their Attys sub-

December 14th 1878.

mitted to the Court their motion for a new trial in this behalf, which motion was, after hearing the argument of counsel, by the Court overruled. And the defendants thereupon by counsel excepted to such ruling of the Court, and gave notice in open Court of appeal to the Supreme Court.

Court adjourned till to morrow morning 9 o'clk.

December 17th 1878.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

5012. ✓ Geo W. Brackenridge vs. John R. Maddox et al. The Int. & Gr. North. R. R. Co. garnishee. Upon motion leave was given to the garnishee the Int. & Gr. N. R R Co. to file an additional answer. And it appearing from said answer & by the statement of Peffs Atty, that the said garnishee has paid to the plaintiff the amount of its indebtedness to the Deffts to wit ($500.00) five hundred dollars, it was upon motion of Peffs Atty ordered that the garnishment proceeding against said Int. & Gr. N. R R Co. be dismissed.

Court adjourned till to morrow morning 9 o'clk.

December 18th 1878.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

× 3137. ✓ Francisco Cuellar et als, vs. The State of Texas. On a former day of this term of Court to wit on the 15th day of October 1878 this cause having been regularly called for trial came the parties to this suit by their Attys. and submitted the matters in controversy as well of fact as of law to the Court, no Jury having been demanded by either side, And the Court after hearing all the pleadings evidence and argument of Counsel took the case under advisement. And now on this 18th Day of December A.D. 1878. it being the opinion of the Court, that the law is with the Defendant it was ordered adjudged and decreed by the Court that the Peffs take nothing by this suit, and that the said Peffs and their Surety on their Cost Bond to wit: L. T. Haynes, pay all costs of this proceeding for which execution may issue against said parties in favor of the Officers of this Court.

× 4941. ✓ William Hudson vs L. R. Johns & Co viz: C. R. Johns

December 18th " 1878.

Exec. docket No. 5 page 4

This writ of execution issued in favor of Flavius Everett & Wm Von Rosenberg against C R Johns & Co. The amount of the judgment is $4375 and the costs of suit. Interest on the amount of the judgment is to be computed from the 18th day of December 1878. Writ returnable to the next term of this Court. Writ issued May 28th 1883 C. C. Rather D.C.

Flavius Everett & Wm Von Rosenberg In Dist Court
Travis County Fall Term AD 1878. Dec 18. 1878. And now on this day came the parties plaintiff and Defendants by their Attorneys respectively and announced themselves ready for trial and neither party having demanded a Jury, the issues both of law and fact were submitted to the Court, And the Court having heard the pleadings evidence and argument of Counsel is of the opinion, that the law on the facts in evidence is with the plaintiff, It is therefore ordered adjudged and decreed by the Court, that the Plff, William Hudson, do have and recover of the Defendants C R Johns & Co. Viz: C R Johns, F. Everett, and William Von Rosenberg the just and full sum of Four Thousand three hundred eighty five and 75/100 Dollars, in the Gold Coin of the United States of America together with 8% per annum, thereon from this day until paid together with all costs in this behalf expended for all which execution may issue,

4375.00 Jesse J. Northcutt et als vs C R Johns, et als. And now on this day the motion of Plaintiffs for leave to amend the decree of this Court in this case coming on to be heard and but appearing to the Court that the facts stated in Plaintiffs motion are true and the Defendants consenting thereto it is ordered by the Court that the decree of this Court in this case entered on October 16th " 1878 in Minute Book N. on pages 108. 110 be, at cost of Plaintiffs so amended as to read as follows, ...

4375.00 Jesse J. Northcutt et als. vs. Clement R Johns et als
On this day came the parties by their attorneys and announced themselves ready for trial and having waived a Jury said cause was submitted to the Court, upon the law and facts, the Court after hearing the evidence and argument of Counsel and fully understanding the matters at issue between the parties, adjudges the law and facts to be with plaintiffs. It is therefore ordered adjudged and decreed by the Court that the said Plaintiffs do have and recover of and from said Defendants

December 16th 1878.

fifty eights sixtieths part of the following described tract of land, situate in Travis County State of Texas part of a league and labor Survey in the name of Henry Martin to wit, Beginning at a point on the North east line of said Survey 1884 vs, N 30 E from the SE corner of said Survey, Thence N 30 E. 3768. vs to the NE Corner of said Survey, Thence N 60 W. 4600 vs to the NW corner of said Survey Thence S 30 W. 3768. vs to a stake, Thence S 60 E. 4600 to the place of beginning, and that said Defendants do have and recover of said plaintiffs two sixtyeths of said tract of land, It is further ordered that said plaintiffs do have their part of said tract of land severed and set apart to them by metes and bounds, and that Joseph Spence. Dennis Corwin and J. E. Campbell be and ~~and~~ are hereby appointed Commissioners of partition who will proceed to divide said tract of land in accordance with this decree, giving and setting apart to plaintiffs fifty eights sixtieths part thereof, according to quality and value, and to the Defendants two sixtieths part thereof according to quality and value and make report of their action herein under oath to the present term of this Court. It is further ordered and decreed that plaintiffs have partition among themselves of the portion of land to be set apart to them as against Defendants in accordance with this decree, and that Joseph Spence, Dennis Corwin and J E Campbell be and are hereby appointed Commissioners to partition the same among said plaintiffs, and said Commissioners are ordered and directed to sever and set apart to each one of the plaintiffs by metes and bounds the portion of land to which he or she is entitled That is to say: said Commissioners will allot to John L. Robinson, Martha J Wilburn, Sarah Minor William G Robinson Arvizinia New, John M Robinson, Jesse J Robinson, L. M New, Luke Woods, John R Burks, Wm C Burks, Martha R Bonds, William Cassius Burks, Elizabeth Harris B F Burks, Thomas J. Burks, of Comanche Co Texas Toliver Webb, Jesse Webb Milford Webb, Alfred Webb, Wm Burks, C M Burks, Lydia

December 18th 1878.

Sullivan Nancy M Jossett. Angeline Sullivan. Thomas J. Burks of Talledago Co. Ala, John G Smith, William T. Smith E A Dingle, A Dukes, Jesse J Johnson, James M. Johnson, Francis A Maxwell Edwin B Johnson, Helen A West, Julia K Wilson Jesse J. Northcutt, Alfred M. Northcutt, Luke S. Northcutt, John R Northcutt, Elijah Northcutt, Eliza Brazeal, Francis Martin, and Lucy A Swindle each, three hundreds and thirty six. Nineteen thousands, one hundreds, and fifty seconds (336/19152) part of the lands, apportioned to Pffs, on partition between them and Defts, Said Commissioners. will set apart to Joshua Marbet and Nancy Wiggins each one hundreds and sixty eight nineteen thousand One hundreds and fifty second (168/19152) part of Pffs' lands as aforesaid, to Jesse J Webb, Thomas Webb, Amanda Dodd, Peter Burks, Nannie Burks, Alice Burks, Rufus Kilpatrick John Kilpatrick, Franklin Kilpatrick Francis Butler, Lucy Northcutt daughter of Alexander Northcutt, and Indiana Northcutt, each one hundred and twelve Nineteen thousand, one hundred and fifty second, 112/19152 part of Pffs' Share, To Alexander Northcutt, Lucy Northcutt, daughter of Wm Northcutt Thomas Northcutt, Alfred Northcutt, R E Burks, Mary C Burks, Martha J Burks, and Narcissa Burks, each eighty four Nineteen thousand, one hundred and fifty second (84/19152) part of Pffs share, To Angeline Knight Wyatt M Snow, Benjamin Snow, Catherine Duncan, Sarah Singleton, Elizabeth Phillips, Harvey Snow, Taylor A Hollingsworth, Josephine Hollingsworth, Thomas Hollingsworth, Mary Hollingsworth, Susan F Gidley Wm L. Hollingsworth, John C. Hollingsworth, Martha E Chambers, James S. Burks, Thomas J Burks, of Scott & Missi Mary E. McDuffe, Margaret L. Burks, Wm M Burks, and Emma Burks, each forty eight, nineteen thousand one hundred, and fifty second (48/19152) part of Pffs Share, To John P Harris, A J Harris, Martha L. Bonds, Fannie Harris, Emma A Smith, Homer Harris James A Webb, Alfred M Webb, Robert D Webb Clinton Webb, Sarah Fowler, Catherine Hooks, Mary Arnold, and Carrie Grogan, each forty two Nineteen thousand, one hundred, and fifty second (42/19152) part of

December 18th 1878.

Peffs Share, To O E Mason, Lucy A Mondy Emma Renfro, Catherine Hicks, Jesse J Hicks, Matilda Crow N E Grogan, wife of David O Grogan, and Josephine Hicks each forty two, nineteen thousand one hundred and fifty second (42/19152) part of Peffs share, To Thomas B Harris James Harris Maud Harris, and Willie Harris, each twenty one, nineteen thousand, One hundred and fifty second, (21/19152) part of Peffs Share, as aforesaid according to quality and value thereof, If said Commissioners cannot partition said land equitably among said Plaintiffs without the sale of said lands they will so report. It is further ordered that Defendants pay all costs incurred herein up to the time of the rendition of this Judgment for which execution may issue, and that Peffs. pay fifty eight sixtieths part, of the costs of partition and Defendants, two sixtieths part of the costs of partition, for which execution may issue. And on further motion of the Peffs the Defts consenting thereto, it is ordered by the Court that the sale made by the Commissioner appointed by the Court to sell the property described in the decree of this Court, for the purpose of partition be confirmed and that the Commissioner make a deed to the purchaser conveying said lands, It is further ordered that the money arising from said sale be partitioned in accordance with the amended decree of this Court, in this case as above entered, It is further ordered by the Court, the parties consenting thereto in open Court that each party have leave to withdraw their respective title papers, without leaving copies thereof.

Jury Commissioners. It was this day ordered by the Court that Robt Jones, Thos Anderson and W. P. Hotchkiss be and the are hereby appointed jury commissioners for the next term of this Court and that the clerk issue a summon according

× 5082 The State of Texas vs. Mark Tiner et als. November 18th 1878.

This cause having this day been called for trial came the State by her Attorney, and the defendants Mark Tiner and Jesse Tiner came by their Attorneys Messrs Walter Green & Hill and submitted to the Court their answer to the writ of Scire facias heretofore issued and served

Exec. Docket No 5 Page 88.

December 18th 1878.

upon them, and it appearing to the Court that the said defendant Mark Tiner as principal with Frank Tiner and Jesse Tiner as securities had entered into a recognizance payable unto the State of Texas in the penal sum of ($600.00) Six hundred dollars payable jointly & severally; conditioned that the said Mark Tiner should well and truly make his personal appearance before the Honorable District Court of Travis County, at the Court house thereof in the City of Austin, on the first Monday in February A.D. 1878 and there remain from day to day and from term to term of said Court, until discharged by due course of law, to answer the State of Texas upon an indictment filed in said Court, by which indictment the said Mark Tiner is charged with murder. And that at the Fall term 1877 of said Court and on the 30th day of October 1877, the aforesaid cause being called for trial, & the defendant Mark Tiner and his sureties Frank Tiner and Jesse Tiner failing to appear, the said recognizence was declared forfeited and judgment nisi entered of record against them. And it further appearing to the Court that writ of Scire facias had been properly issued against each of said sureties, notifying them to be and appear at the Spring term 1878 of said Court and show cause why said judgment nisi should not be made final and that proper service thereof was had upon the said Jesse Tiner but not upon Frank Tiner, who had not been found by the Sheriff, and the Court being of the opinion that the said answer of Mark Tiner and Jesse Tiner does not show sufficient reason to set aside the aforesaid judgment nisi. It was therefore ordered adjudged and decreed by the Court, that the said judgment nisi be and the same is hereby made final and absolute against said Mark Tiner and Jesse Tiner, and that the same be dismissed as to Frank Tiner, and that the State of Texas do have and recover of and from the said Mark Tiner as principal and Jesse Tiner as security the sum of ($600.00) Six hundred dollars jointly and severally together with all costs of this suit, for which execution may issue. And thereupon the said defendants Mark Tiner & Jesse Tiner excepted to such judgment and gave notice in open Court of appeal to the Court of Appeals.

And Court adjourned till to morrow morning 9 o'clk.

December 19th 1878.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had, to wit:

4233. The State of Texas vs Dick McLaren et als. This cause having been by the Court of Appeals reversed and dismissed, is now dropped from the docket of this Court.

December 19th 1878.

5236 James D. Sheeks having made application to this Court for li
to practice as attorney & counsellor at law, and having filed the ce
ficate as to his moral character, as required by law, and the committe
appointed by this Court to examine said Applicant as to his legal qualifi
tion, having examined said applicant and having reported to this
Court that the said James D. Sheeks is well and fully qualified
practice as Atty & counsellor at law, It was this day ordered by
the Court that the said James D. Sheeks be and he is hereby admitt
to practice as counsellor and attorney at law in all District and
ior Courts of this State, and that the clerk of this Court issue to hi
licence accordingly.

And Court adjourned till to morrow morning 9 o'clk.

December 20th 1878

Court met according to adjournment. Present same as first day
Whereupon the following proceedings were had to wit.

× 5243 Mrs W. J. Jones, Mrs E. B. Ely v husband S. F. Ely v N. B. Jones, vs Fran
N. Dolling and Charles N. Dolling

This cause being called for trial on this the 20th day of December 1878
and the plaintiffs by their attorney having announced themselves ready
for trial, and it appearing to the Court that the defendants by a State
ment in writing dated November 1878 and endorsed on the Petition
filed in this cause and signed by each of them, have waived service
of citation and copy of petition and consented that Judgment for the
amount due from them to the plaintiffs as stated and the relief as
prayed for in plaintiffs petition may be recovered against them
defendants at this term of Court at any time after the 9th day of
the present month December 1878, and that the justness of the de
sued for in this cause has been sworn to by the attorney of plaintiffs
And it appearing to the Court after hearing and considering the
plaintiffs petition and evidence introduced that the defendants
indebted to plaintiffs in the sum of One thousand two hundred and
forty eight & 43/100 ($1248 43/100) dollars the same being the balance and
interest and on a certain promissory note executed by defendants
on the 15th day of October 1877 and drawing 8 percent per annum
interest and that said note was given for the purchase money of
and the vendors lien is held to secure payment of the amount
due thereon on all of the following described property to wit
a certain tract of land situated in Llano County Texas sold by
said Jones v wife on the 8th day of October 1877 to wit, a tract or
parcel of land with all improvements thereon, known as survey

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No 15, situated in Llano County Texas on the head waters of Honey Cruk, a tributary of the Llano river about 7 miles S 10 E from the town of Llano, Beginning at the S. E cor of Sur No 773 granted to S. D Hunt thence S 10 W 911 vs to the S. W. Corner of Sur, No. 238, thence N. 80 W 1000 vs, thence N. 10 E 911 vs to the South line of said No 773, thence with said line 1000 varas to the place of beginning. And a tract or parcel of land with all improvements thereon containing 320 acres, situated in said Llano County and patented to W H Jones, assignee of the T. W. N. R R. Co by patent No 373 vol 7 issued July 13 - 1877. Beginning at a Stone 250 varas N. 80 W from the S W Cor of W H Jones preemption Survey 80 I in dia bears due S 500 varas, thence S 10 W 930 vs to a Stnd a p. 018 in, brs due N. 20 vs adog in brs N. 71 E 7 varas, thence S 80 E at 125 vs cross So br of Honey Cruk at 900 varas a Stnd on E. bdy line of survey No 1 granted to Comanche Creek Co surveying in brs N 16 W 52 varas a group of 5 small Elms brs S 21 W 72 vs, thence N. 10 E with said line 950 vrs to the N. W Cor of Sd Sur No 1 S. brs N 72 E 12 varas do N. 86 E 15 vs. Thence N. 8 W with the E. line of No 238 vsd preemption at 1900 vs the beginning, bearings marked H. And a tract or parcel of land and improvements thereon situated in said Llano county and known as Survey No 3 of 320 acres made by virtue of Land Scrip No 478 issued to the Texas Pac R R Co by J J Groos, Com. Genl Land office June 22 1877. Beginning at the S. E Corner of Sur No 1 for T. & N. G. R R Co at a Stnd on the W bdy line of Survey No 1 for the G. C & S F Co on E 7 vs brs S 16 W 52 vs a group of 5 small elms brs S 21 W 72 vs thence S. 8 W 1300 vs to a Stone mound for the S. E corner of this Sur, thence N. 80 W 1180 vs to a Stnd on the E bdy line of State Sur No 2 for a cor of this survey, thence with said line N. 10 E 780 vs to its N. E Cor, thence N. 75 W with N bdy line of sd Survey 850 varas to a Stnd, thence N 10 E 1150 vs to the N W Corner Sur No 1 of S. E Cor of No 2 thence with S bdy line of Survey No 1, 1900 varas to the beginning bearings marked H. Also all the common or Stock Sheep owned on the 8th day of October 1877 by said Jones and wife the same being in number about 1000 head, thirteen head of merino bucks, all of the stock of cattle owned at said date by said Jones and wife and branded with H E D on the left side and also one bro horse wagon and harness for two horses. And it appearing to the Court that defendants are indebted to the plaintiffs in the sum of five hundred and fifty five 55/100 dollars ($555 55/100) the same being the amount principal and interest due on a certain promissory note executed by defendants on the 19th day of February 1878 and drawing 12 per cent per annum interest and the said amount of money due on said note is secured by a lien created and

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existing on all of the above described property.
It is therefore considered and adjudged by the Court that the plaintiffs Mrs M. J. Jones, Mrs E. B. Ely & husband S. F. Ely and A. B. Jones do have and recover of and from the defendants Frank N Dolling and Charles N Dolling the sum of one thousand eight hundred and three 42/100, dollars ($1803 48/100, the same being the aggregate amount due on said two notes with interest on said two notes on said sum of one thousand two hundred and forty eight & 43/100 dollars at the rate of 8 per cent per annum from this date until paid and interest on the said sum of five hundred and fifty five & 00 dollars at the rate of 12 percent per annum from this date until paid together with all costs in this behalf expended. And it is ordered adjudged and decreed by the Court that said above described liens on all of said property as the same existed at the time of the execution of each of said promissory notes be and the same are hereby foreclosed, and that the clerk of this Court do issue an order of sale directed to the Sheriff or any Constable of Llano County Texas commanding him the said officer to seize and sell as under Execution all of the hereinbefore described tracts of land and other property and apply the proceeds thereof to the payment and satisfaction of said sum of one thousand eight hundred and three 48/100 dollars and interest thereon as above stated and if said property shall sell for more than sufficient to pay off and satisfy said sum of money and interest thereon and costs of suit, then said officer is hereby directed to pay over the excess to the defendants but if said property shall not sell for enough to pay off & satisfy this Judgment then the Clerk of this Court is directed to issue execution for the balance unpaid

5245 ↓ F. Everett for the use of Galen Cror vs John W Brown

This day came the Plaintiff F. Everett suing for the use of Galen Cror in person and by attorney and the defendant John W. Brown in his own proper person comes and says that he cannot deny the action of said Everett but that he is justly indebted to him in the sum of Four hundred and fifty one 1/100 Dollars ($451 1/100) and that the promissory note the basis of this suit was executed by him the said Brown on the 1st day of January 1874 and was given in just payment of the purchase money for the following described tract of land to wit, Situated in the County of Bastrop about sixteen miles North East of the town of Bastrop about six miles N. E of the town of Bastrop in the East of the Colorado River, on the waters of Sandy Creek a tributary of the Colorado

Exon Dock. No 5 Page 48.

December 20th 1878.

on the East side of said Creek and being a part of the original Wm Goodwin Survey and being discribed and bounded as follows, . Beginning on the East side of Sandy Creek at the mouth of Martins Hollow meandering the same being the South boundary line up said hollow to where the original line crosses, thence East 60 with said Survey 1120 varas to the South East corner of said Survey, thence S.30 E 114 varas a Stake from which a Post oak marked X bears Dear S 37½ E 2 varas thence with 60 W 1220 varas to the East bank of Sandy Creek a Stake from which a post oak bears North one vara, thence down Sandy Creek with its meanders to the place of beginning. Containing one hundred and sixty acres more or less. It is therefore ordered adjudged and decreed by the Court that the said F. Everett for the use of Galm Bros do have and recover of and from the said defendant John W Brown the sum of Four hundred and fifty one 10/100, with interest thereon at the rate of 10 & ten per cent per annum and all costs of this Suit. And it is further ordered adjudged & decreed by the Court, that the vendors lien as it existed on the 1st day of January 1874 upon the aforedescribed tract of land be and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff or any Constable of Bastrop County, Commanding him the said officer to seize advertise and sell the above discribed tract of land as under Execution and that he apply the proceeds thereof to the payment and Satisfaction of the said sum of four hundred and fifty one 10/100 dollars together with all interest that may be due thereon and the costs of this Suit. And if the said land shall sell for more than sufficient to pay off said sums of money the said officer is hereby directed to pay over the excess to the defendant; but if the said land shall not sell for enough to pay off and Satisfy this Judgment, then the Clerk of this Court is directed to issue Execution for the balance remaining unpaid

4177 Cora E Shepherd & Wm O Shepherd vs John A Conner Juliet G Hicks & husband Evander A Hicks, Martha J Fahey & David A Conner, Carrie F Cotton & husband Bud Cotton, Nina B McDowell & husband A M McDowell, Pearl Conner (whose special Guardian is S A Posey) Orlando Caldwell, J B Wheeler trustee, Mrs R J Cloud & E J Moore Trustee, Wm Fragier and E J Moore Trustee, Charles G Jones & Thomas A Purnell & Joseph Nanell Trustees, vs M L Hamilton, Ch G Jones Elizabeth McSpies Frederick Kissam & Joseph Sales,

Dec 20th 1878 Galm Bros vs J Everett

This 2nd Jany 1879

December 20th 1878.

(Spies Kiss and & Co) A McDowell Intervenors, On this 20th day of Dec 1878. Came the said Parties Plaintiffs Defendants and Intervenors, by their Attorneys, and the minor, Pearl Conner who was duly served with Citation, by her special guardian T A Posey Esq. and announce themselves ready for trial, and the death of O Fahey an original Defendant, joined with his wife being suggested, the suit as to him abates, The Intervenor M C Hamilton, had withdrawn his petition for intervention at a former term, And the pleadings and evidence adduced by the parties being heard by the Court, and after argument of Counsel and the Court being fully advised of the on matters in controversy, doth order adjudge and decree, 1st That all interest of the Deft T B Wheeler, who was trustee at filing of the suit, is held by the Deft Orlando Caldwell and the Intervenors, Spies Kiss and & Co, 2nd That all the interest had by E T Moore Trustee, Mrs R J Cloud, & Wm Frazier and by Joseph Harrell & and Thos A Runnels Trustees, has passed to & is vested in the Defendant Charles G Jones, 3rd That all the interest of the Defendants Martha J Fahey & Carrie D Cotton and husband Bud Cotton, has been purchased pending suit by A McDowell, and that he holds such interest in fee, 4th That lots No 4 in Block No 3 of Conners addition claimed by the Deft Orlando Caldwell having been conveyed, by John A Conner to Peff Cora E Shepherd, prior to the death of the said Mrs Salina A Conner, the said lot is vested in her as against the said Orlando Caldwell, & all the other parties & is not taken into the partition 5th That the lots No 1. 2. 3. 4. 5. 6. 7 & 8. in Block 61. & lots 1 & 8 in Block No 62. in City of Austin & claimed as a homestead by the Defendant John Conner the Surviving husband, & by the Defendant Charles G Jones, appearing from the testimony to have been the homestead of the family, the same is not subject to partition, and so far as Plaintiffs seek partition of said Homestead; during the life of said John A Conner, their suit is refused and Plaintiffs take nothing in this proceeding for

Wrong - Prop Deer shld cross bus
Prod Dest on Miss Wales
Interest

December 20th 1878.

partition as to said homestead, 6 That pending this suit certain lots included in the petition and mortgaged to M L Hamilton, have been partitioned by former decree of this Court, said lots so partitioned are as follows, Lot 7 in Block No 43. Austin City lot, lots 4, 5, & 6. in Bl No 2. of Conners addition lots 7 & 8 in Block No 3. of Conners addition lots 1. 2, 3, 4, & 5. in Block No 4. of Conners Addition said addition being of lot No 1. in Div A. of Austin City outlots, said lots so partitioned to be omitted from this decree, 7 And it appearing that the Deft David N Conner, has received advancements chargeable to him of the estate sought to be partitioned of the amount of $3250.00 Said sum is charged to him and he is not to receive in partition until his coparceners, have made up to them in partition each an amount equal to said sum, 8 By consent of parties all conveyances of property heretofore made by Deft John N Conner to any of said Coparceners, other than David N Conner as aforesaid are not advancements, to be charged to them, and no note of them is to be taken, in this partition, 9 And it appearing that the Deft, John N Conner, had incumbered his interest to William Nelson, being ½ of same, in lots 1. 13, & 14 in Bl No 2 of Conners addition, in lots 1. 2, 3, 4 & 5 in Bl 3. of same, & in lot No 11. in Bl. No 4. of sd Conners addition, and that said Nelson, having foreclosed said interest & became the purchaser and in his suit No 4105. Nelson vs Hicks et al, in this Court the obtained partition thereof, the partition & confirmation thereof, appearing in Book L p 601 of Minutes, & said lots being partitioned among the parties, owning them will not be considered in this partition, 10 That Deft John N Conners, half interest, in the following lots to wit; lots 13 & 14. in Bl No 1 of Conners Addition Lots 3. 7. 8. 15. 16. 17. & 18. in Block 2 of same, lot No 13 in Block No 3 of same, and in lots No 7 & 8 in Bl No 4. of said Conners Addition is owned by Deft Orlando Caldwell, 11 That Deft John N. Conner's half interest, in lots No 9. 10. 11. & 12 in Bl No 2 of Conners.

December 20th A.D. 1878.

Addition is owned by Intervenors, Spies Kissam
12 That said Defl John N Conners interest in lots No 9
in Block No 4 of Conners addition is owned by D
Charles G Jones, 13 And that save as recited herein
John N Conner, owns one half interest in the p
erty described in the petition, 14 That the following
lots & parcels of land are subject to partition, L
13 & 14 in Block No 1. Conners Addition, Lots No 2, 3,
8. 9. 10. 11. 12. 15. 16. 17. & 18. in Block No 2. of said Conners
Addition Lots No. 6. 10. 11. & 12. in Bl No 3 of said Conn
addition Lots No 7. 8. 9. & 10. in Bl No 4 of said Conners add
tion. Said Conners Addition being out Lot No 1. of
Division A. of Austin City Out lots, and of Record in
Land Records of Travis County, 15 That one half interest
in said lots belongs to and to be allotted in partition
to said Defl John N Conner & his vendees as
herein recited, said part of Conner to be assigned
in favor of his vendees as to his 1/2 interest wherever
he has conveyed the same, 16 That the remaining
half interest be divided among the said heirs of
Mrs Selina A Conner dec'd, in equal shares But
partition the Commissioners here after appointed
shall appraise the property and allot in equal
shares, one sixth of 1/2 interest to each of said
Coparceners, except D. N. Conner, to the amount
of $328 1/2 advanced to D N Conner, after partition
to that amount he is to take equally in said
partition, and so that is, each to take 1/7 after the
other six have been made equal in partition
to David N Conner. (More specifically) 17 That Pleff
Cora E Shepherd take one sixth until her share
equals the advancement to said D N Conner and
1/7 in all above that, 18 That Defl Juliet G Sticks take
a like amount, 19 That Nina B McDowell take a
like amount, 20 That Pearl Conner take a like
amount, 21 That A. McDowell as purchaser take
a like amount as share of Defl Martha J Fahey
& a like amount as share of Carrie F Cotton, 22 That
after his Coparceners, have received an amount
equal to his advancement rec'd ($328.00) David
N Conner to take 1/7 of the remainder, 23 That in said

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partition Orlando Caldwell, take 1/2 interest in lots 13 & 14. in Bl No 1. lots. 3. 7. 8. 15. 16. 17. & 18. in Bl. No 2 lot 12 in Bl No 3. & lots 7 & 8. in Bl No 4. of Conners addition, 24 That Elizabeth M Spies Frederick Kissam & Joseph Gales, take half interest in lots 9. 10. 11 & 12. in Bl. No 2. in Conners Addition. 25 That Charles G Jones, take half interest in lots 9 & 10. in Bl No 4. Conners, Addition. 26 It is further ordered that Dennis Corwin, A Musgrove, & N E Beatty be and they are appointed Commissioners to make partition under this decree, (Said Commissioners to appraise all of said property, and taking one half shall add thereto the advancement to D N Conner, and divide the amount among the seven children of the deceased, in the partition, D N Conner to take nothing until the other six have shares equal to his advancement ($3280.00) Report to be made to the next term of this Court, Ordered that Costs be taxed against parties taking in this partition in proportion to their interest in the partition.

5 0 2 11. J. L. Love vs. Amelia G Love. This day came the Pelff by his Atty & Geo. F. Pendexter. Esq an Atty of this Court, appeared on behalf of the Deft, he having been heretofore appointed by the Court, to represent said Defendant, who had not answered to the Citation duly served upon her, And no Jury having been demanded, the Court proceeded to hear the pleadings and evidence and being of the opinion that the plaintiff is entitled to the relief prayed for in his petition and that the Deft is not a proper person, to have the custody of children, the Court ordered adjudged and decreed that a divorce be granted to said plaintiff and that the bonds of matrimony heretofore existing between said Pelff J. L. Love and the Deft Amelia G Love, be and the same are hereby dissolved and that the Pelff J. L. Love have the exclusive custody and care of the Children of the said J. L. Love and Amelia G Love, until the further order of this Court, And it was further ordered by the Court, that the said Pelff J. L. Love pay all costs of this proceeding for which execution may issue

December 20th 1878.

3137. Francisco Cuellar vs The State of Texas. This day came the parties to this suit by their Attorney and the Plff. Francisco Cuellar by his Attys, submitted to the Court his motion for a new trial in this behalf, which motion, after the argument of Counsel being heard thereon, was by the Court overruled, To which ruling of the Court, the Plff then and there excepted and gave notice in open Court of Appeal to the Supreme Court,

4941. Wm. Hudson vs C. R. Johns & Co. This day came the parties to this suit by their Attorneys respectively and the Defts by their Attys, submitted to the Court their motion for a new trial in this behalf which motion after being duly argued by Counsel was by the Court overruled. To which ruling of the Court, the Defts then and there excepted and gave notice in open Court of Appeal to the Supreme Court,

And thereupon Court adjourned till tomorrow at 9 o'

December 21st 1878.

Court met pursuant to adjournment. Present same as yesterday. Whereupon the following proceedings were had to wit

5070. The State of Texas, vs William F. Ferguson. Henry Woodruff Bendy. Elijah A. Ferguson and Elizabeth A. Ferguson. This cause coming on this day for trial and none of the parties having demanded a Jury the matters in controversy as well of law as of fact were submitted to and tried by the Court, And the pleadings of Plaintiff and Defendants having been heard, and all the evidence in said cause having been submitted to the Court, and the same having been fully considered and understood, it is ordered adjudged and decreed by the Court that the Plff - The State of Texas, do have and recover of and from the said Defendants William F. Ferguson, Henry Woodruff Bendy, Elijah A. Ferguson and Elizabeth A. Ferguson, The sum of Two thousand Four hundred and forty two and 46/100 ($2442 46) Dollars together with her costs in this behalf expended and that execution

(Exec. docket No 5 page 62)

No 6. 1880. On this day the within judgment is by agreement of parties cancelled, held for naught, and set aside, and the same is hereby declared satisfied and discharged.
Robert Brackenridge
Attys for Plff

#6070.

5124

December 21st 1878.

issue therefor, And it further appearing to the Court that the Defendant William F Ferguson, is the principal in the official Bonds sued on in this cause, and the said Defendants Henry Woodruff Bendy, Elijah A Ferguson and Elizabeth A Ferguson, executed said Bond as sureties and as such Sureties are entitled to the benefit of the Statute in such cases provided, It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this Judgment, first upon the property of the said William F Ferguson, subject to execution & situate in the County of Travis, before a levy shall be made upon the property of the said Sureties or either of them, provided so much of the property of the said William F Ferguson shall be found as will be sufficient to make the amount of said execution, otherwise the levy thereof to be made on the property of the said William F Ferguson, that may be found if any, and upon so much of the property of the said Sureties as may be necessary to make the amount of said execution And it is further ordered and decreed by the Court that in case said Sureties or either of them shall make any payment which is applied on this Judgment by reason of their suretyship on said Official Bond, this Judgment shall not be discharged by such payment, but shall remain in force and be prosecuted to execution for the use of said Sureties or either of them making such payment, to the amount of such payment, And it is further ordered that execution may issue on behalf of the Officers of this Court against all of the Defendants in this cause for all costs in this behalf incurred,

$2 46/

James G Spillard — Ex Parte. James G Spillard having presented to the Court his application for a license to practice as an Attorney and Counsellor at law in this, and all inferior Courts of the State of Texas, and having produced before the Court his License, issued by the Supreme Court of Illinois, to practice as an attorney and Coun

December 21st 1878.

seller at law in the Supreme and all inferior Courts of the said State of Illinois, and having produced also, satisfactory evidence of his good moral character and honorable deportment. It is therefore ordered that his name be enrolled as an Attorney and Counsellor at law of this Court, and that he is hereby entitled to practice as an Atty and Counsellor at law in this and all inferior Courts of the State of Texas, and that the Clerk of this Court do issue to him his certificate accordingly.

5241 John Didelot, Wm Keys & C. W White. Arbitration suit. This day came on to be heard the motion of C. W White that the arbitrators award filed with the papers of this cause be entered of record and be made the judgment of the Court, and it appearing to the Court that said award was made during the present term of this Court, it was ordered by the Court that said motion be continued until the next term of this Court. 502

4873 Henry Hirschfeld vs W. S. Biles. Upon motion of Defts Atty it was ordered that the original deed of trust from D. M Wilson to Mrs Mary Duffour - R B Wheeler trustee, be sent up to the Supreme Court with the record in this case as an exhibit.

Court adjourned till to Morrday morning the 23rd at 9 oclk.

December the 23rd 1878.

Court met according to adjournment & adjourned till to morrow morning 9 oclk.

December the 24th 1878.

Court met according to adjournment Present same as first day whereupon the following proceedings were had to wit:

× 5196 F. B. Foster, B. C. Ludlow & Geo B. Zimpelman vs. Dr Cross. Dismissed at request of plffs and at their costs.

Court adjourned till the 26th inst. at 9 oclk A M.

December the 26th 1878.

Court met according to adjournment. Present same as first and after transacting some business on the criminal docket, Court adjourned till to morrow morning 9 oclk.

December 27th 1878

Court met according to adjournment. Present same as first day

December 27th 1878.

Whereupon the following proceedings were had to wit:
It is now ordered by the Court that all civil cases, not otherwise disposed of be continued until the next regular term of this Court.
The forgoing minutes having been read in open Court examined and found correct, It is now ordered that the same stand as part of the minutes of the present term of this Court, and it is further ordered that this Court stand now adjourned until the next regular term thereof.

E B Turner
Judge 16th Dist. Texas

5121. State of Texas } In Chambers, at Vacation
Travis County } ss. Order and Decree of Hon. A.S. Walker Special Judge
J B Wygall et als vs. The Treasurer of the State of Texas
Be it remembered that upon this 10th day of January A D 1879, Come Warren St Clark and others and having filed their petition alledging that the decree heretofore rendered in this cause was incorrect for the reason that the petitioners names appeared in said decree wrongfully in this, that said petitioners had never been made parties to said suit or proceedings, and praying that said decree might be modified and reformed and said Mistake Corrected by the elimination of the names of said petitioners from said decree. And the Attorneys of record who represented said plaintiffs, J B Wygall et als, and the Attorney General of the State who represented the Defendant in said suit, having waived notice and Consented in writing that said decree might be changed as prayed, and admitting that said decree was incorrect in manner and form as stated, all of which is shown by the Exhibits Attached to said petition, And from the foregoing and from personal inspection of the records, papers and pleadings in this cause the Court is fully satisfied that said petitioners were improperly and wrongfully put in said decree, and their names never should have appeared therein, It is therefore Ordered adjudged and decreed that the judgment and Decree heretofore rendered in this cause upon

the 25th day of November AD 1878. be changed & refor
and corrected by striking out the following na
persons, to wit: Commencing after the name o
David Clark, in the ninth line of page 165 of
Book N. of said records with Warren H. Clark w
with the following named persons are to be str
en out from said decree, namely, Joseph M. Cla
Wilson H Clark, Murphy Clark, Cecelia Curtis, Ma
A Howell Nancy Grimes Sam. Clark, Wilson Cle
Catherine Anderson, Mary Clark, Alfred Clark, Al
Clark, Thomas Clark, Puget Clark, Pamala Wampl
Benjamine Clark, Robert Clark, Polly Swaringon, R
bin Clark, Randoeph Clark, Charity K. Hammond 491
Raichael Hughes, Chester B. Clark, Benjamin R. Clar
Joseph W. Clark, John B. Clark, Rubin Clark, Alexa 510
Claborn Clark, Puget Clark, Lucetta Clark, Ely
Elmare, Nessa Baldwin, Willey B Clark, Kate Ma 52
Henry Clark, William Clark, Braxton Clark, N
Bunch, David Bunch, Christina Moxley, Amand
J Moxley, James H. Moxley, George Clark, Nancy
Clark, Randolph Clark, Bowlin Clark, Robert Cl
Eliza Thomas, Christina Williams, Nancy J. Minks
David Clark, W. L. Clark, John P. Clark, Elvira Bu
Mariah Baker, Braxton Clark, Randolph Clark, Bett
Clark, Nessie Boyce, Mary A Williams, Benjamin C. 451
Campbell, Christena Campbell, Nessie Campbell
Mary Bonham, William D. McClure, Mills McClur
Mary Lockhart, John Ballew, William Ballew Lou 446
M Ballew, Margaret Carruth, and ending with
Margaret Carruth, that all persons named in
said decree from David Clark as stated, are
eliminated and Stricken out from said dec
and said decree will stand as corrected,
January 10th 1879

A. S. Walker,
Special Judge &c.

May 5th 1879.

The State of Texas } Be it remembered that at a term of the Hon.
Travis County } District Court of Travis County begun and held
at the Court house thereof at the City of Austin on the 5th day of May
A.D. 1879. that being the first Monday of said month and the time
fixed by law for the meeting of said Court and the Hon. E. B.
Turner Judge of the 16th Judicial District presiding, and C Hall
mann, clerk of said court and Dennis Corwin the Sheriff of said
County being present, the following proceedings were had to wit:
It was ordered by the court that the civil jury docket, (of those cases now at issue) be set for
to day, that the criminal docket be set for the 19th day of this month
and that the jury civil docket for the next October term of this
court be set for the 2nd Monday of said term.

4918 B. U. Stavely vs. Joseph Pealor. It was ordered that plaintiff
have leave to file a first supplemental petition.

5060 J. D. Morgan vs. John M. Hartson. It was ordered that Susan
A. Hartson have leave to intervene in this case.

5237 Thomas B. Jourdan & wife vs. Geo B. Zimpelman. It was or-
dered upon motion that plaintiffs have leave to file first supplem-
ental petition.

Court adjourned until to morrow morning 9 o'clk.

May 6th 1879.

Court met according to adjournment. Present same as yes-
terday. Whereupon the following proceedings were had to wit:

45114. Geo. B. Zimpelman vs. Thos Robb et al. Upon motion it was
ordered that plaintiff have leave to file 2nd amended supplemental
petition.

May 6th 7th & 8th 1879.

4464. Alfred Smith vs. J K Warren alias Dick Warren. On the
6th day of May 1879 this cause having been regularly called
for trial, came the parties to this suit in person and
by their Attorneys, and announced themselves ready
for trial, And thereupon came a Jury of twelve good
and lawful men of Travis County consisting of Aug
F Otto, foreman and eleven others, who were duly tried
empannelled and sworn according to law, and heard
the pleadings and the evidence in this cause, whereup
on the Court adjourned till 9 o'clock A M of the 7th day
of May, And the Court having met at said day & hour
and all the parties being present as on yesterday the
trial of this cause was resumed, the Jury heard the
argument of Counsel and the Charge of the Court and

May 6th & 8th 1879.

retired to consider of their verdict. And thereupon the same day the Jury returned into open Court and presented to the Court the following verdict, to wit: "We the Jury find a corner for the Brown Survey on the top of the first hill Aug F. Otto Foreman." Which Verdict the Court declined to accept as a verdict in this case, and the Court then ordered said Jury to again retire and resume the consideration of the Cause, Whereupon the Court adjourned until 9 o'clock A.M. to day the 8th. of May 1879. And the Court having met according to adjournment, said Jury returned again into open Court at five o'clock this evening and stated to the Court that they were unable to agree upon a verdict in this Cause, Thereupon the Court discharged said Jury from a further consideration of this Cause and ordered that a mistrial be entered herein & Cause Continued

On this 8th day of May A.D. 1879. it was ordered by the Court, that the Jury trial docket of all Civil appearance Cases be set for Monday the 12th inst. and that parties desiring a Jury trial in any of the appearance cases be & they are hereby required to pay the Jury fund to the Clerk of this Court before 9 o'clock A.M. of said 12th day of May 1879.

And thereupon Court adjourned till tomorrow 9 o'clock A.M.

May 9th 1879.

Court met pursuant to adjournment present same as first day. whereupon the following proceedings were had to wit:

5191. Fanny C. Bibb & Richard H. L. Bibb vs T. T. Pendley & George B. Zimpelman. And now on this the 9th day of May 1879 being the 5th day of this term of this Court, this cause being regularly called came the plaintiffs by their Attys. and ask for final Judgment by default in this cause, and it appearing to the Court that the defendants herein T. T. Pendley and George B. Zimpelman have been duly and legally cited to appear and answer the petition of the plaintiffs herein, and that said defendants have wholly failed to appear and plead within the time prescribed by law and have made default. And it appearing

May 27th 1880. For value rec'd this Judgment is transferred to J. W. Burgin by Judgment in favor R. F. Campbell & for his benefit. This 6th day of April 1881. Witness my hand as Clerk of said Court. Jas. R. Hart Clk. By Burgin

Exec. dock No 5 page 58.

X 5191

X 521

to the Court that this suit is based on liquidated demands, being two promisory notes as described in the petition of Plaintiffs, and the Clerk having assessed the amounts due plaintiffs on said two promisory notes and it appearing to the Court that there is now due principal and interest on both of said notes up to this date after deducting all credits, the sum of One Thousand eight hundred and five dollars and fifty Cents in Currency and that there is also due as Attorney fees according to the terms and stipulations of said notes the sum of One Hundred and fifty dollars the same being ten per cent on the principals of said two notes It is therefore ordered adjudged and decreed by the Court that the plaintiffs Fanny C Bibb and Richard H L Bibb do have and recover of and from the defendants T T Powdley and George B. Zimpelman the sum of One thousand eight hundred and five dollars and fifty cents ($1805.50/100) in currency being the principal and interest due and unpaid to this date on the the two notes sued on and that said sum draw interest at the rate of Eighteen per cent per annum from date hereof, and it is further ordered adjudged and decreed by the Court that said plaintiffs do have and recover of and from said defendants the further sum of One Hundred and fifty dollars ($150 00) in currency by way of Attorneys fees as specified in said two Notes and promised to be paid as aforesaid in case of suit on said notes and that this last named sum of One Hundred and fifty dollars draw interest from this date at the rate of eight per cent per annum for all of which execution shall issues and it is further ordered that said defendants shall pay all the Costs in this suit expended and unpaid for which execution shall also issue.

No 3241. John Didelot, Wm Keye and C.M. White Arbitration

And now on this day this cause coming on to be heard and it appearing to the Court from the agreement of the parties in writing on file duly signed by them, that the matters involved in the arbitration and award of Arbitrators in this cause, have been fully settled and satisfied and that this cause is to be dismissed because the said matters are fully settled, each party

As to release of lien of this judgment on lots 9 & 10 Block 89 City of Austin see record of deeds in County Clerk's Office, Book 403, p. 386.

May 4th 1879.

to pay one third of the Costs. It is therefore ordered adjudged by the Court that this cause be dismissed and that John Didel & Wm Keye and C M White each pay one third of the costs in this cause for which execution shall issue

5275. (Exec. dock No 5. page 54) John T Miller vs Taylor & Spears. This day the above cause coming on to be heard came the Plaintiff by Attorney but the defendants came not and wholly made default though duly cited to answer hereto and it appearing the Court that the plaintiffs demand is liquidated and evidenced by a promisory note signed by said defendants. It is therefore ordered adjudged and decreed by the Court that the plaintiff John T. Miller do have and recover of and from the defendants D C Taylor and James Spears the sum of $123 14/100 Dollars with interest thereon from this date at the rate of Twenty five per centum per annum and the further sum of $12 24/100 Dollars as Attorneys fees as stipulated in said note to be paid with interest thereon from this date at the rate of Eight per centum per annum together with all costs in this behalf incurred for which execution shall issue.

5069 Benjamin F. Collins vs Fred W. Chandler et al. This day it was ordered by the Court that D. W. Baum be and he is hereby appointed Special guardian for the unknown heirs of J. Barbezat defts herein, and that he give bond & security for the faithful performance of his duties as such guardian in the sum of ($50.00) fifty dollars.

5121 The State of Texas vs. J. J. Strickland et al. Dismissed as per agreement of settlement on file, defendants having paid all costs of suit.

5164 Fannie Savage vs Int. & Great North. R.R. Company. Continued by agreement.

5195 F. B. Foster, B. L. Ludlow & Geo B. Zimpelman vs. D. L. Cox. Upon agreement on file it was this day ordered by the Court that this case be dismissed and that the plaintiffs pay all costs in this behalf expended for which execution may issue against them in favor of officers of court.

5238 Greenlee Block & Co vs. A. Leimer. Upon application of plaintiffs Attys this case is hereby dismissed the costs having been paid.

5239 Focke & Wilkins vs. A. Leimer. Upon application of plaintiffs Attys this case is hereby dismissed, the costs having been paid.

May 9th 1879.

5246 C. T. Garland vs. C. W. Garland. Continued for Service.

5248 Geo. B. Zimpelman vs. D. L. Cross. Upon motion of Pffs Atty this case is hereby dismissed and it was ordered that the plaintiff pay all costs in this behalf incurred and that execution may issue therefore against him in behalf of the officers of this court.

5261 Wm Brush et al. vs. P. C. Vineyard et al. Continued by agreement.

5262 Jacob Greenberg vs. Jennie Greenberg et al. This day it was ordered by the Court that Fred Carleton Esq. an attorney of this Court, be and he is hereby appointed the special guardian to represent the minor defendants in this case to wit: Jennie Greenberg, Lean Greenberg, Lena Greenberg and Edward Greenberg. and that he give bond and security to the amount of fifty dollars for the faithful discharge of his duties as such guardian.

5271 T. J. Burke vs. Carl Rut & John Lindstrom. Upon motion of Pffs attorneys it was ordered that this case be dismissed without prejudice to plaintiff and that said plaintiff have leave to withdraw the note filed herein by leaving a certified copy thereof with the papers of this case, the defendants having paid the costs of this suit.

5272 M. B. Davis vs. Letitia L. Davis. Continued by operation of law.

5273. Susan A. Partson vs. John M. Partson. Continued by operation of law.

5280 B. B. Wilkins vs. Susan E. Daniel. Upon motion of Pffs Attorney it was this day ordered that F. W. Chandler an Atty of this court, be and he is hereby appointed guardian at litem for the minor defendants in this case to wit: Ola I. Daniel George O. Daniel and Sarah Ida Bonner, and that he give bond with security to the amount of fifty dollars for the faithful performance of his duties as such guardian.

5286 Julia A. Smith vs. Mary A. Bledsoe. Upon application of plaintiffs Attys is was ordered that this case be dismissed and that the plaintiff pay all costs in this behalf expended for which execution may issue against her in behalf of the officers of this court.

5270. Robert F. Campbell vs. J. B. Weems. This day came the plaintiff by his Attorney and the said defendant having failed to appear and answer in this behalf but wholly made default. Wherefore the said Robert F. Campbell ought to recover against the said J. B. Weems his damages by occasion of the premises. and it appearing to the Court that the cause of action is liquidated and proved by an instrument of writing it is ordered that the Clerk do assess the damages sustained by said plaintiff. and the said Clerk now here having assessed the damages aforesaid at the sum of ($166.55) One

(Rec. dock No 5. page 59)

May 9th 1879.

Hundred Sixty Six & 55/100 Dollars principal and interest
($16.65) Sixteen & 65/100 Dollars Attorneys fees, And it further
appearing to the Court that said note was given to secure
the payment of the purchase money for the following
described tract of land to wit: Beginning at a charred ba
post marked X the most Southerly corner of a 33½ acre
tract owned by William and Isabella Gardner thence
South 36° 11½' W 168½ varas. thence N 54° 48' W 49 varas. thew
N 34° 10' E 306 varas. thence N 60° W. 11½ varas. thence N 34
E 137½ varas to a charred Cedar post marked X thence
S 54° 48' E 134 varas to the place of beginning containing Fo
ty Eight and two tenths (38 2/10) acres of land, being part of
the Santiago del Valle 10 League grant about three and
one half (3½) miles S.E. of the City of Austin in Travis Coun
Texas. It is therefore considered by the Court that the
plaintiff do have and recover of the said defendant & said
sum of One Hundred Sixty Six & 55/100 Dollars principal
interest with interest thereon from this date at the rate
of ten per cent per annum, and the further sum of Sixt
& 65/100 Dollars for Attorney fees with interest thereon from
this date at the rate of eight per cent per annum together
with his costs in this behalf expended, And it is
ordered adjudged and decreed by the Court that the x 51
Vendors lien upon the above described tract of land
and the same is hereby foreclosed, and it that the Clerk of
this Court do issue an order of sale directed to the
Sheriff of Travis County, commanding him the said
Sheriff to seize and sell the above described tract of
land as under execution and that he apply the proce
thereof to the payment and satisfaction of the said sum
of One Hundred Sixty Six & 55/100 Dollars and Sixteen & 65/100
Dollars, together with all interest that may be due on
said several sums of money and the costs of this suit
And if the said lands shall sell for more than sufficient
to pay off and satisfy said sums of money then the said
Sheriff is hereby directed to pay over the excess to the
defendant, but if the said land shall not sell for enough
to pay off and satisfy this Judgment then the Clerk of the
Court is directed to issue executions for the balance
remaining unpaid.

May 9th A.D. 1879.

5283. First National Bank vs. A L Autrey et al. In District Court Travis County May Term 1879. In this case on Friday the 9th of May 1879 it being default day of said Court, said cause was called and it appearing to the Court that the defts A L Autrey & A Bonner & Co which firm of A Bonner & Co is composed of A Bonner and A L Autrey, have been legally served with process in this suit, and it further appearing to the Court that the defts A. L. Autrey & A Bonner & Co, have failed to appear and demur or file any answer to said petition but wholly made default: and that the deft Harrell in his own proper person has filed his answer, It is therefore ordered adjudged and decreed by the Court that the defendants A. L. Autry & A. Bonner & Co are hereby estopped barred and precluded from filing any answer or making any defence in this suit, And thereupon Court adjourned till tomorrow morning at 9 oclock.

May 10th A.D. 1879.

Court met pursuant to adjournment. Present same as yesterday. Whereupon the following proceedings were had to wit:

5112. B. Eastham vs. Wm Weisenharn. This cause being regularly reached upon the docket, and duly called for trial on this day, the plaintiff B. Eastham came by his Attorney J. W. Robertson and the defendant William Weisenharn though duly cited according to law came not and failed to appear and answer in his behalf, but wholly made default. Whereupon it is considered and adjudged by the Court that the said B. Eastham should recover judgment against the said William Weisenharn defendant upon the several matters and causes of action as alleged and set forth in the petition filed herein, And no Jury having been demanded by either party for the trial of this Cause, and the matters of fact as well as of law being submitted to the Court, and the same being by the Court fully heard and understood, it is ordered adjudged and decreed by the Court that the plaintiff B. Eastham is now and was at the date of the filing of this suit the legal and equitable owner of the tract of land

May 10th A.D. 1879.

described in the plaintiffs petition to wit. Thirteen and a half (13½) Labors of land, situated and lying on the West side of the Colorado river in Travis County. granted to the heirs of Jacob Betts deceased on the 14th day of September 1844, Beginning on the West boundary line of League No 3. Surveyed for G.W. Glasscock Assignee, at a stake & mound. Thence S 45° W. 96 vrs to a branch Course South 20 vrs to a stake from which a Mesquitte 8 inches in diameter bears South 18 varas, another 4 incher in diameter Marked X bears S 76. W 11 varas, Thence N 45 W 3540 Varas to a branch Course North east 5400 Varas to a stake from which a Mesquit 8 inches in diameter bears N. 3 W. 40 Varas. another 6 inches in diameter bears N 60 E. 50 vrs Thence N 45 E. 2500 varas to a stake from which a hackberry 4 inches in diameter bears N 30 E. 20 vrs another 6 inches in diameter bears N 30 W. 25 varas Thence S 45 E. 5400 Varas to the beginning. And it appearing further to the Court from the evidence that the said plaintiff B Eastham is now and was at and before the filing of this suit the legal and equitable owner of said tract of land as above described by virtue of the following patents, deeds, Conveyances titles and evidences of title to wit: 1. Patent from the State of Texas to the heirs of Jacob Betts deceased for said 13½ labors of land dated September 14th 1844 No 194. Vol 6. - 2 - Deeds from C D Betts and W H Rigsby to Joseph Nadler dated July 6. 1874 and recorded in Book No 27 pages 80 & 81. of Records of deeds of Travis County, the said C D Betts and W H Rigsby being proved to be the sole heirs of Jacob Betts deceased and the true patentees of said land. 3. Deed of trust or mortgage from said Joseph Nadler to said C D Betts and W H Rigsby to secure the purchase money due upon the aforesaid sale to said Joseph Nadler dated July 6th 1874 and recorded in the records of deeds of Travis County Book No 28. pages 354. 5 & 6. 4. Deed from George B Zimpelman, Substitute and acting Trustee in said deed of trust his official character as such being first fully established to the plaintiff B. Eastham, Conveying all the interest of

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Joseph Nadler in said premises, dated May 4th 1875 and recorded in records of deeds of Travis County Book No 29 pages 513-514 And it further appearing to the Court from the evidence that the said Joseph Nadler without having paid the purchase money for said tract of land and for the purpose of fraudulently and wrongfully cheating the holders and owners of the claim for the same and to evade the payment thereof, did on the 8th day of January 1875, make sign and acknowledge a certain deed or conveyance of said lands to the defendant William Meisenhain, which deed is recorded in the records of deeds of Travis County in Book No 28. pp. 247 & 248 and is in substance as follows to wit .....

"State of Texas } Know all men by these presents that
Travis County } I Joseph Nadler of the County of Travis State of Texas for and in consideration of the sum of Three Thousand Three Hundred and Fifty Gold Dollars Cash in hand paid by William Meisenhain of said County of Travis and State of Texas, the receipt of which is hereby acknowledged, I the said Joseph Nadler have this day and by these presents do grant bargain sell and convey to the said William Meisenhain the following described tract or parcel of land lying and being in the County of Travis and State of Texas, on the waters of the Colorado river about 21 miles west of Bastrop patented to the heirs of Jacob Betts on September 14th 1847 Containing thirteen and one half (13½) Labors and described as follows to wit: Beginning on the West boundary line of League No 3 Surveyed for G.W. Glasscock assignee, at a stake & mound. Thence S 45° West 960 varas to a branch, course South 25 varas to a stake from which a mesquit 8 inches in diameter bears South 18 varas, another four inches in diameter marked X bears S 76. West 10 varas Thence N 45° West 3540 varas to a branch, course North to East 5400 varas to a stake from which a mesquit 8 inches in diameter bears N 3 W 40 varas another 6 inches in diameter bears North 60 E. 50 varas Thence N 45 E 2000 varas to a stake from which a hackberry 4 inches in diameter bears N 30 E 20 varas

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another 6 inches in diameter bears North 80 West 25 varas. Thence S 45 E 5400 varas to the beginning. It being the same tract of land conveyed by Ed Betts and M. H. Rigsby to said Joseph Nadler on the 6th day of July 1874 by deed recorded in Book K 27 page 80 & 81. of the records of Deeds of Travis County Texas. To have and to hold all and singular the premises above described with all the hereditaments and appurtenances belonging or in any wise appertaining unto the said William Meisenharn his heirs and assigns in fee simple forever, and I the said Joseph Nadler for myself my heirs executors and administrators do hereby covenant to warrant and forever defend the title to the above land to said William Meisenharn and his heirs against the lawful claims of any and all persons whomsoever. In testimony whereof I the said Joseph Nadler have hereto set my name at the City of Austin this the 8th day of January 1875. (Signed) Joseph Nadler. "And it further appearing to the Court from the evidence that the aforesaid deed from said Joseph Nadler to said William Meisenharn was made wholly without consideration and for the fraudulent purposes aforesaid and that the same has been spread upon the records of deeds of Travis County in Book No 28. pages 247 & 248. and that the same is a cloud upon the superior legal and equitable title of the said B Eastham preventing and obstructing him in the use enjoyment and sale of his said property in such manner as he could and would otherwise do. It is therefore Considered ordered adjudged and decreed by the Court that the said deed and conveyance to said tract of lands as hereinbefore described from the said Joseph Nadler to the defendant William Meisenharn dated the 8th day of January 1875 and recorded in Book No 28 pages 247 & 248. on the 21st day of January 1875 be and the same is hereby cancelled annulled vacated and held for naught. And it is further ordered adjudged and decreed by the Court that all title both in law and equity, both real and apparent vested in the said William

May 10th A.D. 1879.

Weisenhaun by virtue of said deed, be and the same is hereby divested out of the said William Weisenhaun and of all persons claiming under or through him since the 22d day of March 1878. and the same is hereby invested in the said plaintiff P Easthaun. And it is further ordered adjudged and decreed by the Court that the said P. Easthaun be and he is hereby forever quieted in his title and possession of said tract of land and that said William Weisenhaun shall at once make acknowledge and deliver to said P. Easthaun a full conveyance and release of all title and claim to said land, and further that the said William Weisenhaun and all persons claiming under or through him since the 22nd day of March 1878. be and they are hereby perpetually enjoined from selling, transfering encumbering or in any manner claiming using occupying or in any manner asserting title or claim to said land or any part thereof. It is further ordered and adjudged that the plaintiff do have and recover of and from said defendant all his costs in this behalf expended for which execution may issue. It is further ordered that a statement of the facts proven on the trial of this cause be filed in the record of the case and the same has been accordingly done and duly approved by the Court and made a part of the final record of this cause.

5172. John P. Smith et al vs. John M Hartson et al. ss. This day came the plaintiffs by their Attorneys and the defendant Susan A Hartson and the defendant John M Hartson having been duly cited, failed to appear judgment by default was taken as to him, and the said plaintiffs John P Smith, Sydney P. Brown, and his wife Caroline A Brown, and Robert F Mathews and his wife Mary E. Mathews and the said defendant Susan A Hartson waive a Jury and submit the matters in controversy of fact as well as of law to the Court and the evidence having been heard and understood and it appearing to the satisfaction of the Court that the plaintiffs John P. Smith, Caroline A. Brown wife of

May 10th 1879.

Sydney P. Brown and Mary E Mathews wife of Robert F Mathews and the defendant Susan A Hartson wife of John M Hartson are the children and sole surviving heirs at law of Elizabeth B Smith deceased who died seized in fee simple of the following described real property to wit Lots Nos 10. 11. & 12 in Block No 1 in Austin Travis County Texas with the improvements thereon situated, also a certain brick house on the front half of lot No 1. in Block No 7½ in the City of Austin aforesaid, also lots Nos. 14. 19. 20. 26 & 27 in Division "A" of the out lots of the City of Austin Texas said lots 14. 19 & 20 being in cultivation and lots Nos 26 & 27 being uncultivated woodland. Also 10 acres of land known as lot No 17 in a subdivision of the 320 acre Chambers Survey about 4 miles from the City of Austin in the County and State aforesaid. That the said Elizabeth B Smith deceased died intestate, that all the debts against her estate have been paid, and that there has been no administration upon the same and it further appearing to the satisfaction of the Court that each and all of said heirs aforesaid are equally interested in said estate to wit: that the said John F Smith plaintiff is entitled to one fourth of said property and that the said Caroline A Brown plaintiff wife of Sydney P. Brown, is entitled to one fourth of said property, and that the said Mary E Mathews, plaintiff wife of Robert F Mathews is entitled to one fourth of said property, and that the defendant Susan A Hartson wife of John M Hartson is entitled to one fourth of said property as the sole surviving heirs of the said Elizabeth B. Smith deceased and it further appearing to the satisfaction of the Court that it is to the interest of the parties aforesaid that said property be partitioned among at them according to their respective interests it is therefore ordered adjudged and decreed that said property be partitioned, and that J. B. Headspeth, J. N. Preston and W. S. Hotchkiss are appointed by the Court as Commissioners to partition the same, and they are hereby ordered to set apart to John F Smith Plaintiff as his interest therein one fourth according to value of said property

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and to Caroline A Brown plaintiff, wife of Sydney P. Brown one fourth according to value of said property, and to Mary E Mathews plaintiff wife of Robert F Mathews, one fourth according to value of said property, and to the defendant Susan A Hartson wife of John M Hartson one fourth, according to value of said property, and to make a report of their action to the Court for confirmation or rejection at as early a day as practicable.
And thereupon Court adjourned til Monday May 12th 1879. at 9 oclock A.M.

May 12th 1879.

Court met pursuant to adjournment present as on first day whereupon the following proceedings were had to wit

J.D. Morgan vs John M. Hartson & Susan A Hartson Intervenor

On this 12th day of May AD 1879. This cause coming on to be heard and Plaintiff and Intervenor both appearing by Counsel and announced ready for trial, the defendant does not appear but wholly makes default, and a Jury being waived the matter was submitted to the Court, The plaintiff read in evidence the following described notes purporting to be executed by J.M. Hartson Viz: "$100.00 Twelve months after date I promise to pay J.D. Morgan the sum of One Hundred Dollars bearing ten per cent per annum from date from date until paid, for value received in lands, the same being a balance of purchase money due on a certain tract of land, deeded by said Morgan to John Hartson, adjoining the A Nebyin Survey and bearing even date with this note this December the 7th AD 1876 (Signed) J.M. Hartson"

The other of said notes reads as follows ..... "$100/." One day after date I promise to pay J.D Morgan or order the Sum of One Hundred $100/ Dollars for value received in lands, the same being a balance of purchase money due and unpaid on a certain tract of land deeded by said J.D. Morgan to John Hartson adjoining the A Nebyin Survey and bearing even date with this note, this note to bear ten per cent per annum from date until paid. This December the 7th AD 1877. Signed J.M. Hartson"

Witness: Plff then introduced R.S. Young who

$1060.
Exec. book No 5 page 54.

May 12th 1879.

testified: That he wrote both the above notes and that they both were intended to bear the same date with the deed to John Hartson from James D. Morgan and Catherine E. Morgan dated the 7th day of December 1876 and acknowledged and acknowledged for record same day and that said notes were given as part of the purchase money of the land described in plaintiffs petition, Pltff then introduced said deed which is substantially as follows:

"The State of Texas } Know all men by these presents
County of Travis } that we James D Morgan and Catherine E. Morgan of the above named County and State for and in consideration of the sum of four hundred dollars to us in hand paid and to be paid by John Hartson of said County and State the receipt of which is hereby acknowledged have bargained sold and conveyed, and do by these presents bargain sell and convey unto said John Hartson his heirs and assigns a certain tract or parcel of land lying and being in Travis County Texas described as follows Viz: On Bartons Creek on the waters of the same about 9½ miles N 86° W from the City of Austin. Beginning at N W Cor of Survey No 600 made for A Nebyin and better described by letters patent issued on the first day of December A D 1876. No 109 in Vol 5. Containing One hundred & sixty. 160 acres Preemption which is made a part and parcel of this deed. unto the said John Hartson his heirs and assigns forever, and we the said James D Morgan and Catherine E Morgan his wife do bind ourselves our heirs and legal representatives to warrant and defend the title of the said land with all its appurtenances unto the said Hartson his heirs and assigns against all lawful claims to the same or any part thereof. For the balance of the purchase money the said Hartson has executed to us his promisory note bearing even date with this deed, for the sum of One Hundred Dollars bearing ten per cent interest per annum from date until paid and due twelve months after date for which we hereby retain a lien on said land. in testimony whereof we hereunto set our hands and seals. using

May 12th 1879.

Scroll for Seal this December the 7th in the year of
our Lords Hundred and Seventy Six
Signed J D Morgan Seal
Mathern her X mark Morgan Seal

Said above deed was duly authenticated for record
7th day of Dec 1876. and recorded 8th day of December
1877 in Travis County Clerks Office, Plff then introduced
himself as a witness and stated that he was the owner
of the two notes above described and that they were
unpaid except $20.00 Twenty Dollars the first years
interest, and were given as part of the purchase money
of the land described in the above deed, and described
in the petition, and that they both were intended
to bear date December 7th 1876. and not Dec 7th 1877.
but that the December 7th 1877. appearing as the date of
one of the notes was a mistake. That the trade in the
Sale of the land was that Hartson Deft should pay all
the money down cash except one Hundred Dollars
but after making the deed and one note Deft Hartson
"fooled around" and finally gave the other note.
That Intervenor at & before the purchase of the land was
the wife of Deft J M Hartson & had some children
by him and that J M Hartson abandoned Intervenor
about one year ago leaving her in destitute circumstances
Wherefore by reason of the premises Plff sought to recover
It is therefore ordered adjudged and decreed by the
Court that plaintiff J D. Morgan do have and recover
of and from Deft J. M. Hartson the sum of two hun-
dred and Twenty eight 60/100 $228 60/100. the same being
amount of principal and interest due upon said
two notes and all cost and this Judgment shall
bear ten per cent interest per annum from date of
rendition, and that the vendors lien for the Satis-
faction of this Judgment be and the same is hereby
foreclosed upon the following described tract of
land. lying in Travis County Texas on Bartons Creek
or the waters of the same, about 9½ miles N 86 W.
from the City of Austin. Beginning at N W corner
of Survey No 600 made for A Nebgin and better
described by letters patent issued on the 1st day
of December A D 1876. No 109 in Vol 5. Containing One

May 12th 1879.

Hundred and Sixty acres, preemption, and that an order of sale do issue for that purpose, and if said tract of land should sell for more than enough for the satisfaction of this Judgment and interest and costs that the Sheriff is hereby directed to pay the bal (if any) over to Mrs Susan A. Hatson the intervenor, and if said land should not sell for enough to pay off & discharge this Judgment & cost then that P. H. Morgan have his execution against defendant J. M. Hatson for balance remaining unpaid.

James E. Boulding Exor vs. L. B. Giles et als. Now on this the 13th day of May A.D. 1879, this cause coming on for trial, came the plaintiff by his Attorney, and the defendants L. B. Giles, B. C. Giles, A. C. Hill, J. T. Gregg and John T. Haynes also by their Attorneys, and both parties having announced ready for trial the Jury demanded in said cause was waived, and the matters in controversy in said cause as well of law as of fact submitted to the Court, by whom having been heard and fully understood & the pleadings and evidence in said cause it is ordered adjudged and decreed by the Court that the said plaintiff do have and recover of and from the said defendants, L. B. Giles B. C. Giles, A. C. Hill, J. T. Gregg and John T. Haynes or either of them the sum of Two Thousand and Forty six dollars in gold with interest at the rate of Twenty four per centum per annum until paid, together with all costs in this behalf expended and incurred for all of which execution may issue and it further appearing that the defendants A. C. Hill J. T. Gregg and John T. Haynes executed the note described in plaintiffs petition as securities for the defendants L. B. Giles and B. C. Giles, it is further considered adjudged and decreed that execution shall be first levied upon property of L. B. & B. C. Giles if any there be in Travis County, and should this judgment be paid and discharged by the said Sureties they shall have process and execution over against said defendants L. B. Giles and B. C. Giles and also against such as their Co-Sureties as may fail to pay to such sureties as may pay the same or any

$ 5117.

Exec. Book No 5 page

Rec'd Nov 17th 1879
Hayne and Austin on
A. C. Hill and John T. Haynes
for the sum of $5117.50 bal
Gardner for
Atty.

Rec'd of L. B. Giles $1200 on
his Pro Rata of dollars
in full satisfaction of
this Judgment.
December 20th 1882.
J. T. Haynes
A. C. Hill

May 12th 1879.

part thereof for their Contributory share, It is further ordered that execution issue in favor of the Officers of this Court against each of the parties above named for the Costs respectively incurred by them.
And thereupon Court adjourned till tomorrow morning at 9 o'clk

May 13th 1879.

Court met pursuant to adjournment present same as yesterday. Whereupon the following proceedings were had to wit:

5133. Agnes Sommers Vs Louis G Sommers. In Dist Court Travis Co. This day came the plaintiff by her Attorneys, and the Deft having been duly served according to law failed to appear and answer but wholly made default. Whereupon J T Oatman an Atty of this Court was appointed to represent said defendant thereupon both parties announced themselves ready for trial, and no Jury having been demanded by either party the matter in controversy as well of fact as of law was submitted to the Court, and after hearing the pleadings, the evidence and the argument of Counsel, and the same being fully understood, it is considered ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the plaintiff Agnes Sommers and the defendant Louis G Sommers be and they are hereby dissolved. It is further ordered by the Court that the plaintiff Agnes Sommers pay all costs of this suit, for which Execution may issue against her and her sureties on her Cost Bond.

5242. Annie Fletcher Vs. William Fletcher. This day came the plaintiff by her Attorneys and the defendant having accepted service of Citation and acknowledged himself a party in Court according to law and being represented by W F M Watton Esq. an attorney appointed by the Court, both parties announced themselves ready for trial, and no Jury having been demanded by either party the matter in controversy as well of fact as of law was submitted to the Court and the pleadings, the evidence and the argument of Counsel having been heard and fully understood it is considered ordered adjudged and decreed by the Court

May 13th 1879.

that the bonds of matrimony heretofore existing between the plaintiff Annie Fletcher and the Deft William Fletcher be and they are hereby dissolved ~~And it is further.~~ And it is further ordered adjudged and decreed that the custody and education of Landon Fletcher the child of said plaintiff and Deft be and are hereby given to the said plaintiff Annie Fletcher the mother of said child until the further order of this Court. It is further ordered that the plaintiff pay all costs of this suit for which execution may issue

52[illegible]54. Matilda C Ohlson vs O. Ohlson. This day this cause being regularly called for trial came the plaintiff by her Attorneys but the Defendant came not though duly cited to answer hereto, whereupon the Court appointed Scott Robertson Esq a practicing Attorney of this Court to represent the said defendant in this behalf. Whereupon the parties announced ready for trial, and no Jury having been demanded and the matters of fact as well as of law having been submitted to the Court and the Court having heard the pleadings evidence and argument of Counsel and being fully advised thereon It is therefore considered ordered adjudged and decreed by the Court that the bonds of matrimony now heretofore existing between plaintiff Matilda C. Ohlson and defendant O Ohlson be and the same are hereby annulled and dissolved, and that the Officers of Court do have and recover of and from the plaintiff all costs in this behalf expended for which execution may issue.

4943 Ruthrauff & Miller vs Travis County. On the 12th day of May 1879 it was ordered upon motion of plffs attorney that Plff have leave to file first supplemental petition.

4943 Ruthrauff & Miller vs Travis County. Upon motion of Defts Atty it was ordered on the 12th day of May that Defendant have leave to file first supplemental answer, and cause continued on the docket

52[illegible]5 Thomas Freeman vs. Unknown heirs and legal representatives of C. P. Rammel decd Continued by operation of law.

5284 Loomis & Christian vs Charles Lemke et ux. Plff has leave to file first amended original petition.

May 13th 1879.

4880 Margaret Boatner vs. Geo Glasscock et al. May 12th 1879 By agreement this case is stricken from the jury trial docket and the same resumes its place on the docket of non jury cases.

4929 Thomas J. Pilgrim vs. John D. McCall et als. No counsel appearing for the plaintiff, upon suggestion of Defts Atty this case is continued.

4930 W. B. Brush vs. James B. Barron. No counsel appearing for plaintiff this cause is ordered to be continued as upon suggestion of Defts Attorney.

4932 W. B. Brush vs. James B. Barron. No counsel appearing for plaintiff, this cause is upon suggestion of Defts Attorney continued.

4939 Gustave A. Riedell vs. Jas J. Walker. May 12th 1879. This cause having been this day regularly called for trial and no counsel appearing for plaintiff it was ordered by the court upon the motion of Defendants Attorneys that this cause be and the same is hereby dismissed, and it was further ordered that the plaintiff Gustave A. Riedell and his sureties R. W. Rutherford and A. Blumeke pay all costs in this behalf expended for which execution may issue against them in favor of the officers of this court.

1953 Albert J. Roberts vs Bracket Harbett. Passed by consent.

5171 The State of Texas vs. Christian Stratman et al. Set for trial for Thursday the 15th inst. at 9 A. M.

5114 R. M. Castleman vs. C. R. Johns et al. Passed by consent.

5116 Mrs. J. Sophie Markley vs. Joseph Walle. Passed.

5174 R. B. Hubbard Governor &c. vs. A. J. Ward et als. Continued generally.

5176 R. B. Hubbard Governor &c. vs. A. J. Ward et al. Continued generally.

5183 James Lloyd vs Int. & Great R.R. Co. Passed, counsel suggesting that there is a suit now pending in the Supreme Court on same point.

5186 Mary McGowan vs. Geo. B. Zimpelman. This case is passed until the 16th inst. It was ordered by the Court that R. H. Ward Esq. an attorney of this court be & he is hereby appointed to prosecute this place as attorney for the plaintiff.

4935 Carleton & Robertson vs. Bingham Trigg. Set for Friday the 16th 1879.

5138 S R Fisher, Exor &c. vs. Samuel Dimpson & C. H. West and G. R. West

Order of Sale for 446.66 + Bill of Costs attached Ex docket page 59

Execution for atty fees 446.66 clerks 1.65 Ex. page 59.

In District Court of Travis County, May Term, 1879.

This the 9th day of May, 1879, came the plaintiff by his Attys and the defendants Samuel Dimpson & C. H. West, a married woman, and her husband, G. R. West having been cited as prescribed by law, to answer the petition of Plff herein filed and having failed to appear and answer but wholly made default. Whereupon the said plaintiff

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as Executor of the will of Mrs E. O. Fisher, deceased do
ought to recover against the said Samuel Timpson
and the said G R West but not against the said G R
West, a married woman as aforesaid, his damages
by occasion of the premises; and it appearing to the C
that the cause of action is liquidated and proved
by an instrument of writing it is ordered that the
Clerk do assess, as against the said Samuel Timpson
and the said G R West, the damages sustained by pla
tiff. And the Clerk now here having assessed the dam
aforesaid at the sum of Four Hundred and forty six
68/100 Dollars principal and interest due at the date hereof
on the instrument of writing sued upon, and at the
Forty four 66/100 Dollars, being an Attorney's fee of ten
per centum of the amount of the principal and
interest due on the instrument aforesaid at the
date hereof and specially provided for in the face
of the aforesaid instrument, it is therefore, Considered
by the Court that said plaintiff, as Executor of the
last will of Mrs E. O. Fisher, deceased, do have and
recover of the defendants, Samuel Timpson and G R
West, the said sum of Four hundred and forty six
68/100 Dollars with interest thereon, from the date hereof
at the rate of ten per centum per annum, together
with all costs in this behalf expended, and further
that said plaintiff, in the capacity aforesaid do have
and recover of the defendants last named the said
sum of Forty four 66/100 Dollars, Attorneys fees, with interest
from date hereof, at the rate of Eight per centum per
annum. And it further appearing to the Court that
the instrument aforesaid was executed on the
thirtieth day of August A. 1877, to secure the payment
of the purchase money for the following described
land, out of the Jno D S Varnelman League in the
County of Lee State of Texas Beginning at the West
corner of A T Teagues tract a stake on the N W line
of Varnelman Survey from which a post oak bears
N 76½ E 96/100 varas thence South 45 East 733 3/10 varas
to said Teagues South corner from which a blaz
Jack bears S 54 E. 248/100 varas another N 4½ W 13 69/100 v
Thence S 45 W 769/10 vs to a stake from which a po

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Oak Bro N 55 W 7¾ varas, black Jack Bro N. 33 E. 10 9/10 vrs. thence N 45 W. 783 3/10 varas to a stake in the NW. line of the said Dunelman Survey, from which a post oak Bro N 45 E. 2 vrs. thence N 45 E. 769 9/10 vrs. to the beginning containing one hundred acres, It is ordered adjudged and decreed by the Court that the Vendor's lien as it existed upon the 30th day of August 1877. upon the above described tract of land be and the same is hereby foreclosed and that the Clerk of this Court do, in conformity with the law & practice of this Court, issue an order of sale directed to the Sheriff or any Constable of Lee County, commanding him the said officer to seize and sell the above described tract of land as under execution and that he apply the proceeds thereof to the payment and satisfaction of the said sum of Four Hundred and forty six 68/100 Dollars together with all interest that may be due thereon & Costs of this suit, and if said land shall sell for more than sufficient to pay off and satisfy said sum of Four Hundred & forty six 68/100 Dollars and interest and costs, then the officer is hereby directed to pay over to the defendants aforesaid the excess, but if said land shall not sell for enough to satisfy and pay off said judgment for Four Hundred and forty six & 68/100 Dollars, and interest and costs then the Clerk of the Court is directed to issue execution for the balance remaining unpaid It is further ordered that execution issue in favor of plaintiff for the sum of forty four, & 66/100 Dollars. Attorneys fee as aforesaid and that execution issue for the use of the Officers of Court for the Costs herein incurred

And thereupon Court adjourned until 8 to Morrow at 9 AM

May 14th 1879

Court met pursuant to adjournment, present same as yesterday Whereupon the following proceedings were had to wit:

1953. A S Roberts vs Crockett Harbott. And now on this day came the parties to the above by their Attys and before announcing themselves ready for trial on the issues of fact to be tried by the Jury heretofore

May 14th 1879.

demanded by the Pefft in this cause, the general a
special exceptions of the defendant to the plaintiffs o
inal petition came on to be heard, and after argu
it is ordered by the Court that the Demurrer of the
Defts be overruled except so much of the same as re
to the non Joinder of parties, and as to the demurre
sustained, because it appears from the face of the
petition that R J Freeman is a necessary party to th
petition & is not joined in the same & it is ordere
that the said Pefft have leave to amend his petitio
and to make the said Freeman a party defendant he
It is further ordered that the said cause by the cons
of all parties be stricken from the Jury trial docket
and to be placed on the docket of cases to be tried
without a Jury, & it is further ordered that the Pltff pay
the costs of this order & the Clerk is directed to tax
same against the said plaintiffs

Court adjourned till to morrow morning 9 o'clk AM.

May 15th 1879

Court met according to adjournment. Present same as first day
Whereupon the following proceedings were had viz:

5205 Edw. W. Shands vs. Milton Wallace. Upon motion of Pefft's Atty
it was ordered that the plaintiff have leave to file first amended
original petetion.

5269 Caroline Caldwell vs. Walter Caldwell. Upon motion of pltff's Atty
it was ordered that the plaintiff have leave to file first amended
original answer.

5280 B. B. Wilkins vs. Susan E. Daniel et al. Upon motion of pltff Atty
it was ordered that the plaintiff have leave to file first supplemental
petition.

Court adjourned until to morrow morning 9 o'clk.

May 16th 1879.

See criminal Minute book "I" Court adjourned till
to morrow morning 9 o'clk.

× 4504. Geo B Zimpelman et als. vs. Thomas Robb et als. And now
on this 17th day of May A D 1879. this cause being called
for trial the defendants Emmy Taylor and Thomas Robb asked and
obtained leave to file a trial amendment to their pleadings and
Thereupon both parties appeared the plaintiffs Geo B. Zimpelman

May 16th 1879.

and Lucy A. Briggs administratrix of the estate of W. W. Briggs, dec'd by their attorneys J. D. Rector and Carleton & Robertson. and the defendants Emzy Taylor, Thomas Robb and J. J. Dimmitt by their attorneys Hancock, West & North and thereupon both parties announced themselves ready for trial, and thereupon came a jury of twelve good and lawful men composed of E. W. Deison and eleven others duly empannelled and sworn, and proceeded to hear the evidence in said cause, and after having heard the pleadings, the evidence, the argument of counsel and the charge of the Court the said jury retired to deliberate upon their verdict and after due deliberation and on the twelfth day of May A.D. 1879 returned their verdict in words and figures substantially as follows to wit: "We the jury find for defendants E. W. Deison foreman" Filed May 12th 1879 D. Pallmann clerk". It is therefore ordered, adjudged and decreed that the said plaintiffs George B. Empeopman and Lucy A. Briggs administratrix of the estate of W. W. Briggs, deceased, take nothing by their said suit; that the defendants Emzy Taylor, Thomas Robb, and J. J. Dimmitt, go hence without day and recover from the said plaintiffs all their costs in this behalf expended for which let execution issue against the plaintiff G. B. Empeopman and to be paid in due course of administration by said plaintiff Lucy A. Briggs as administratrix as aforesaid, it is further ordered that execution may issue in favor of the officers of court against each of the parties hereto for costs respectively incurred by them, except as to the plaintiff Lucy A. Briggs administratrix &c. by whom they are to be paid in due course of administration

Court adjourned until to morrow morning 9 o'clock.

May 17th 1879

The Hon. D. B. Turner being sick. The Sheriff of Travis County announced the adjournment of this Court until Monday the 19th inst 9 A.M.

May 19th 1879.

Court met according to adjournment. Present as on first day.

Whereupon the following proceedings were had to wit:

3136 Roberto Garcia et al. vs. The State of Texas. Continued by agreement.

3140 Eubaka Gonzales vs. The State of Texas. Continued by agreement.

3187 Juan Vela Gutierrez vs. The State of Texas. Continued by agreement.

3189 Manuel Bustamente vs The State of Texas. Continued by agreement.

3190 Manuel Ramirez vs. The State of Texas. Continued by agreement.

3191 Pedro Gaitierres vs. The State of Texas. Continued by agreement.

May 19th 1879.

3192 Gabriel Zargs et al vs. The State of Texas. Continued by agreement.
3196 Julian Zapatan vs The State of Texas. Continued by agreement.
3202 A Candaleria Ramirez vs. The State of Texas. Continued by consent.
3361 Trinidad Villareal vs. The State of Texas. Continued by agreement.
3362 Victoria Guerra vs The State of Texas. Continued by agreement.
3364 Segaphio Zarza vs. The State of Texas. Continued by agreement.
3365 Salvador Cardenas vs. The State of Texas Continued by agreement
3366 Juan Rodriguez Sais vs. The State of Texas. Continued by agreement.

Court adjourned until to morrow morning 9 oclk.

May 20th 21st 22nd 23rd 1879. For the proceedings of these days see Crim. Minute Book A.

May 24th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

4795 John C. Duval et al. vs. Robert Creuzbaur. Upon motion of the defendants Attorney, it was ordered that the defendant have leave to file first supplemental answer.

4929 Thomas J. Pilgrim vs. John D. McCall et al. The death of the Plaintiff Thomas J Pilgrim having been suggested to the Court leave was given by the Court to make his legal representatives parties to this suit.

5283 First National Bank of Austin vs. N. L. Autry et al. In District Court of Travis County May term 1879. In this case appeared the plaintiff by attorney and the defendant Joseph Parrell in his own proper person, and it appearing to the Court that at a previous day of this term a judgment by default had been entered against the defts N. L. Autry and A. Bonner & Co said firm of A. Bonner & Co being composed of A. Bonner and N. L. Autry and it appearing to the Court that the defendant Joseph Parrell is only bound as endorser & security for the defendants N. L. Autry & A. Bonner & Co and it further appearing to the satisfaction of the Court that this suit is brought upon a liquidated demand. It is therefore ordered adjudged and decreed by the Court that the plaintiff, the First National Bank of Austin, do have and recover of and from the defendants N. L. Autry and the firm of A. Bonner & Co (which said company is composed of A. Bonner & N. L. Autry) as principal, and the defendant Joseph Parrell as endorser and security, for the sum of $2223.00 for its principal debt and interest up to this date with eight per cent interest per annum from this date until paid, together with all costs of this suit, for which execution may issue. And it is

Exec. Book. No. 5. page 55.

May 24th 1879.

further ordered adjudged and decreed by the Court that the defendant Joseph Farrell, have judgment over against the defendants A. L. Autry and the firm of A. Bonner & Co. which firm is composed of A. Bonner & A. L. Autry - and that in the event that the defendant Farrell shall be compelled to pay this judgment or any part thereof, then the clerk of this court is hereby required to issue execution in favor of the said Farrell against the said A. L. Autry & A. Bonner & Co. for such amount as the Sheriffs return may show that said Farrell may have paid.

Court adjourned until Monday the 26th inst. 9 A.M.

May 26th 1879.

Court met according to adjournment. Present same as first day.

Thereupon the following proceedings were had to wit:

5293. William Radam. Ex parte.

Be it remembered, that at the District Court for the county of Travis, State of Texas, held at the court-house thereof, in the city of Austin, on the 26th day of May A.D. 1879, William Radam, a native of Germany, exhibited a petition, praying to be admitted to become a citizen of the United States; and it appearing to the court that he had declared on oath before the Clerk of the United States District Court in and for the Western District of Texas, on the 17th day of March A.D. 1876, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatsoever, and particularly to the Emperor of Germany, of whom he was at that time a subject; and the said William Radam having on oath declared, and also made proof thereof, agreeable to law, to the satisfaction of the court, that he has resided one year and upwards within the State of Texas, and within the United States of America upwards of five years, both periods immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and having declared on oath before the said court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign

May 26th 1879.

prince, potentate, state and sovereignty whatsoever, and particularly to the Emperor of Germany, of whom he was before a subject; and having in all respects complied with the laws in regard to naturalization: Thereupon the said Court admitted the said William Radam to become a citizen of the United States, and ordered all the proceedings aforesaid to be entered in the records of said court.

5294 A. Messer. Ex parte

Be it remembered, that at the District Court for the county of Travis, State of Texas, held at the court house thereof in the city of Austin, on the 26th day of May A.D. 1879 - A. Messer, a native of Germany, exhibited a petition, praying to be admitted to become a citizen of the United States, and it appearing to the court that he had declared on oath, before the Clerk of the United States Dist. Court for the Western Dist. of Texas, about the year 1872, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatsoever, and particularly to the Emperor of Germany, of whom he was at that time a subject; and the said A. Messer having on oath declared, and also made proof thereof, agreeable to law, to the satisfaction of the court, that he has resided one year and upwards within the State of Texas, and within the United States of America upwards of five years, both periods immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character; attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and having declared on oath before this court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state and sovereignty whatsoever and particularly to the Emperor of Germany, of whom he was before a subject; and having in all respects complied with the laws in regard to naturalization: Thereupon the said Court admitted the said A. Messer to become a citizen of the United States, and ordered all the proceed

May 26th 1879.

inge aforesaid to be entered in the records of said court.

5295 ✓ Adolf Varnhagen Ex parte - Be it remembered, that at the District Court for the county of Travis, State of Texas, held at the court house thereof, in the city of Austin on the 26th day of May A.D. 1879 - Adolf Varnhagen, a native of Germany, exhibited a petition, praying to be admitted to become a citizen of the United States; and it appearing to the court that he had declared on oath before the clerk of the County Court for the County of Burnet on the 25th day of November 1869, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatsoever, and particularly to the Emperor of Germany, of whom he was at that time a subject: and the said Adolf Varnhagen having on oath declared, and also made proof thereof, agreeable to law, to the satisfaction of the court, that he had resided one year and upwards within the State of Texas, and within the United States of America upwards of five years, both periods immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and having declared on oath before this court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state and sovereignty whatsoever, and particularly to the Emperor of Germany, of whom he was before a subject; and having in all respects complied with the laws in regard to naturalization: Thereupon the said Court admitted the said - Adolf Varnhagen to become a citizen of the United States, and ordered all the proceedings aforesaid to be entered in the records of said court.

Court adjourned till to morrow morning.

May 31st 1879

Court met at 9. o'clk A.M. on this 31st day of May 1879. Present same as first day. Whereupon the following proceedings were had

4504. Geo. B. Linspelman et als. vs Thos Rabb et als. This parties to this suit being this day present by their attorneys, the plaintiffs attorneys submitted to the Court their motion for a new trial in this behalf, which motion was after due consideration by the Court overruled, the plaintiffs then excepted to such ruling and gave notice in open Court of appeal to the Supreme Court.

5112 B. Eastham vs. Wm Weisenhorn. Upon Pipps motion, it was ordered that plaintiff have leave to withdraw the title papers in this case on the condition that he leave certified copies of the same with the clerk of this court.

4929 Thomas J. Pilgrim vs John D. McCall. May 24/1879 The Plaintiffs motion to set aside the continuance heretofore entered in this case, coming on to be heard, and it appearing to the Court that the defendants Attorney had due notice of this motion, It was ordered by the Court that the order of continuance entered in this cause on the 12th day of this month, be and the same is hereby set aside and vacated.

June 7th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

5172. John F. Smith et al vs Guion A. Norton et al - District Court Travis County Texas May Term 1879 Be it remembered that now at this term of the Court came on to be heard the motion of petitioners to confirm the report of the commissioners appointed to partition the property hereinafter described towit: Lots Nos 10 11 & 12 in Block 53 Austin Texas & the improvements thereon situated, also a certain brick house on the front half of Lot No. 1. in Block No 12 Austin Texas. - also out Lots Nos. 18. 19. 20. 26. & 27 in Division "A". of the out lots of the City of Austin Texas. - Lots 18, 19, & 20 being in cultivation & 26 & 27 woodland. Also ten acres of land known as Lot No. 17 in the sub-division of 320 acres of land known as the Chambers survey about four miles from the City of Austin Texas all of said property being in Travis County Texas and

the same being in all respects satisfactory it is ordered adjudged and decreed that said report her in all respects confirmed and in further conformity to said report the said John F. Smith is hereby invested with all the right title and interest of the estate of Elizabeth B. Smith free from all claims of his co-heirs parties to this suit in and to the following property towit: The Brick house fencing cistern &c situated on Lot No 1. in Block 73 in the City of Austin also lot No 1 according to the plat therewith being the east half of Lot No IX in Division "A" and a portion of out lot No 19 in Division "A" with metes and bounds as follows viz: Beginning at the South East corner of said Lot No IX - Thence westwardly 333½ feet to a stake - Thence in a northerly direction parallel with the east line of said Lot 776 feet to a stake - Thence Eastward parallel with the south line of said Lot 333½ feet to the east line of said Lot No IX - Thence with said East line 776 feet to the beginning containing 5¾ acres - And wood lot No 2 according to said plat it being the south half of Out Lot No 36 containing five acres. The said Susan A. Horton is hereby invested with all the right title and interest of the estate of Elizabeth B. Smith free from all claims of her Co heirs, parties to this suit, in and to the following property to wit Lot No 12 in Block No 103 in the City of Austin with frame house stable and fence and improved lot No. 3. according to said plat being the remainder of out lot No 19 in Division "A" containing 8¾ acres and unimproved wood lot No 1. being the south half of out lot No. 37 Division "A" containing 5 acres. The said Mary E. Matthews is hereby invested with all the right title and interest of the estate of Elizabeth B. Smith deceased, free from all claims of her Co-heirs parties to this suit in and to the following described property to wit: Lot No.

(Eleven) in Block No 53 in the City of Austin Texas with six feet added on the East side from Lot No 10. with brick house, cistern & fence and improved lot No 2 according to said plat being the west half of out lot No IX in Division "A" and part of out lot No 19 composing the following mates and bounds. Beginning at the South East corner of out lot No. 13 owned by Dr J.M. Litten. Thence with his east line Northward 776 feet Thence Eastward parallel with the south boundary of out Lot No. 14, 322½ feet to John F. Smiths N.W. Corner, Thence southward with Smiths west boundary 776 feet to the south line of Lot No. IX. Thence westward with said south boundary 322½ fee to the beginning containing 5¾ acres. And unimproved or wood lot No 3. being the north half of out lot No 26 in Division "A" and also ten acres of land known as lot No. 19 a subdivision of the 320 acres Chambers survey about four miles from the City of Austin County and State aforesaid. The said Caroline A. Brown is hereby invested with all the right title and interest of the estate of Elizabeth B. Smith deceased free from all claims of her Co heirs, parties to this suit in and to the following described property, to wit: Lot No 10 in block No. 53. in the City of Austin less six feet from the West side with box house kitchen well & fence and improved lot No 4 of said plat being all of out lot No 10 less amount appropriated by railroad being 8¾ acres with box house and well, and improved or wood lot No 4 it being the north half of out lot No 27 in division "A". It is further ordered adjudged and decreed that the Commissioners report aforesaid together with this decree be recorded in accordance with law and that the respective parties plaintiff and defendant pay all costs in this behalf expended according to their respective interests to which they are entitled

4926 Rust & Linkins vs. The Houston & Texas Central Railway
Exc. docket No. 5 pag. 6
Company. May 15th 1879. And now on this day came
the parties by their attorneys the Plff by Walton
Green & Hill and the deft. by Geo Goldthwaite Esq.
& announced ready for trial and thereupon came
on to be heard the exceptions of deft to Plffs petition
and the same being heard & fully understood
by the Court the said exceptions were sustained
so far as to require the plaintiffs to specify
what amount of cotton was shipped by them
over defendants line of railway that belonged
to them in their own right & to exclude from
the bill of particulars all amounts of cotton
which belonged to others & in which they plaintiffs
had no interest & overruled the remainder of
said exceptions, and thereupon by leave of the
Court the plaintiffs filed their trial amendment
conforming their pleadings to the ruling of the
Court & thereupon came a jury of twelve good
& lawful men viz B. H. Luckett Foreman & eleven
others who being duly selected impannelled and
sworn - who after hearing the evidence & argu-
ment of Counsel & charge of the Court, retired
to consider of their verdict and after due
consideration returned into Court their verdict
as follows: We the Jury find for the plaintiffs
Rust & Linkins in the sum of $1099 5/100 /B.
H. Luckett Foreman of the Jury. It is therefore
here and now ordered adjudged and decreed
by the Court that the plaintiffs R. T. Rust
and J H Linkins under their firm name
of Rust & Linkins do have and recover of the
defendant The Houston & Texas Central Railway
Company the sum of One thousand ninety nine
& 5/100 Dollars with legal interest thereon from
this day until the same shall be paid together
with the costs in this behalf laid out & ex-
pended save the cost of the order for plffs
trial amendment which is charged to the plffs
for all of which execution may issue.

June 21st 1879

Court met pursuant to adjournment present same as first day and the following proceedings were had towit:

No. 5285

C. M. Hitchcock vs August Weilbocher

June 21st 1879.

This day came the plaintiff by his Attorneys and the said defendant having failed to appear and answer in their behalf but wholly made default, wherefore the said C.M. Hitchcock ought to recover against the said August Weilbocher his damages by occasion of the premises: And it appearing to the Court that the cause of action is liquidated and proven by an instrument of writing it is ordered that the Clerk do assess the damages sustained by the plaintiff: And the said Clerk now here having assessed the damages aforesaid at the sum of three hundred and fifty three dollars and eighty cents, and twenty nine dollars Attorneys fees: And it appearing to the Court that the notes sued on bears interest at the rate of ten per cent per annum: and were executed on the 12th day of April 877 to secure the payment of the purchase money for lot No. One in block No. 49 Division D of the City of Austin Travis County Texas. It is therefore considered by the Court that the plaintiff do have and recover of the said defendant the sum of three hundred and fifty three dollars and eighty cents principal and interest with interest thereon from the date at the rate of ten per cent per annum and the further sum of Twenty Nine dollars Attorneys fees with 8 per cent per annum interest together with his costs in this behalf expended: And it is ordered adjudged and decreed by the Court that the vendors lien as it existed on the 12th day of April 877 upon the above described lot of land be and the same is hereby foreclosed and that the Clerk of this Court do issue an order of sale directed to the Sheriff or any constable of

Rec'd September 2nd 1880 at 9 o'clock A.M. Request of August Weilbocher in favor of this Judgment Foy & Pope Att'ys for Plff

Received Austin June 14th 1879 of August Weilbocher one hundred and seventy five dollars in full of this account for attorneys fees on this judgment and that no execution shall issue or order of sale issue until one year from this date. Foy & Pope Att'ys for Plff

No. 152

June 21st A. D. 1879.

Travis County commanding him the said Officer to seize and sell the above described lot as under execution and that he apply the proceeds thereof to the payment and satisfaction of the said sum of $353.80/100 together with the sum of $39. Attorney fees and all interest that may be due thereon and the costs of this suit and if the said land shall sell for more than sufficient to pay off and satisfy said sums of money then the said officer is hereby directed to pay over the excess to the defendant, but if the said land should not sell for enough to pay off and satisfy this judgment then the Clerk of this Court is directed to issue execution for the balance remaining unpaid.

C. M. Hitchcock vs. Y. Herzog

This day came the Plff by his attorney and the defendant having failed to appear and answer in this behalf but wholly made default wherefore the said C. M. Hitchcock ought to recover against the said Y. Herzog his damages by occasion of the premises: and it appearing to the Court that the cause of action is liquadated and proven by an instrument of writing it is ordered that the Clerk do assess the damages sustained by said Plff and the said Clerk now here having assessed the damages aforesaid at the sum of Ninety one dollars and forty cents and Seven Dollars and fifty cents Attorneys fees, and it appearing to the Court that the note sued on bears interest at the rate of ten per cent per annum and was executed on the 12th day of April 1877 to secure the payment of the purchase money for lot No. 6 block No. 50 Division "D" of the City of Austin Travis County Texas. It is therefore considered by the Court that the plaintiff do have and recover of the said defendant the sum of Ninety One Dollars and forty cent principal and interest with interest thereon

No 10290 Received Austin Texas Feb 11th 1880 of G. Herzog in full of this judgment S. R. Posey atty C. M. Hitchcock

June 21st A.D. 1879.

from this date at the rate of ten per c
per annum and the further sum of o
dollars and fifty cents Attorney fees wit
eight per cent per annum interest togeth
with his costs in this behalf expended.
And it is further ordered and decreed
the Court that the vendors lein as it ex hi
on the 12th day of April 1877 upon the abov
described lot or tract of land be and the
same is hereby foreclosed: and that the
Clerk of this Court do issue an order of
sale directed to the Sheriff or any Constab
of Travis County commanding him the Sa
Officer to seize and sell the above described
lot as under execution and that he apply
the proceeds thereof to the payment and
satisfaction of the said sum of $91.00/100 to-
gether with the sum of $7.50/100 Attorney fees
and all interest that may be due there
and the costs of this suit, and if the
said land shall sell for more than suf
ficient to pay off and satisfy said sum
of money then the said Officer is hereby
directed to pay over the excess to the de
fendant: but if the said land shall not
sell for enough to pay off and satisfy
this judgment then the Clerk of this Court
is directed to issue execution for the bal
remaining unpaid.

Court adjourned until Monday the 23rd 1879, 9 o'clk A.M.

June 24th 1879.

Court met according to adjournment. Present same as first
day. Whereupon the following among other proceedings were had to wit:

× 5297 × Wm D. Forehand vs Alice Forehand

The above styled cause coming on to be tried
the parties appeared by their Attorney and
announced ready for trial, waived a jury
& submitted the matter in issue to the
Court, upon the written testimony on file
in this cause, which was taken before Jame

511
Exec. docket No.

Plff's Judgment entered Novr 17th 1879 by Dep Clerk

E. Decton a Notary Public of Travis County Texas.
by consent of the parties - It appearing to the Court
from the said testimony that, the allegations
in plaintiffs petition are true & that the
parties in this cause & wife and that the de-
feudant Alice Forehand did voluntarily
leave the bed and board of plaintiff Wm
O. Forehand for the space of three years, an-
terior to the commencement of this suit, with
the intention of abandonment. It is therefore
Considered ordered adjudged and decreed
by the Court that the bonds of matrimony heretofore
existing between the said William O & Alice
Forehand be and the same is hereby dessolved
and the said parties are hereby restored
to all their rights as single persons.
It is further ordered by the Court that plaintiff
pay all costs in this cause expended for
which execution may issue.

James B. Baildin's Exec^r vs. L. B. Giles et al.

Exe. dock. No. 5, p. 55.

Now on this the 17th day of May A.D. 1879. this
Cause coming on for trial, came the plaintiff
by his Attorney and the defendants L. B. Giles
B. C. Giles, A. C. Hill, J. T. Gregg, and John T.
Hayes also by their Attorneys, and both parties
having announced ready for trial the Jury de-
manded in said cause was waived and the
matters in controversy in said cause as well
of law as of fact submitted to the Court by whom
having been heard and fully understood the
pleading and evidence in said cause it is
ordered adjudged and decreed by the Court
that the said plaintiff do have and recover
of and from the said defendants L. B. Giles
B. C. Giles A. C. Hill J. T. Gregg and John
T. Hayes or either of them the sum of two
thousand and forty-six Dollars in Gold
with interest at the rate of twenty four per
centum per annum until paid together with
all costs in this behalf expended for all
of which execution may issue. And it further

Nov. 17, 1879 by Jury waiver
John T. Hayes dismissed as to him
$1374.05 Balance due on judgment

appearing that the defendants D. C. Giles A. C. Nill J. T. Gregg and John T. Hayne executed the note described in plaintiffs petition as securities for the defendant L. B. Giles it is further considered adjudged and decreed that execution shall be first levied upon property of said defendant L. B. Giles if any there be in Travis County and should this judgment be paid and discharged by the said sureties, they shall have process and execution over against said defendant L. B. Giles and also against such of the co. sureties as may fail to pay to such sureties as may pay the same, or any part thereof for their contributary share. It is further ordered that execution issue in favor of the officers of this Court against each of the parties above named for the costs respectively incurred by them.

Court adjourned until to morrow morning 9 o'clk.

June 27th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings among others were had to wit:

530 ✓ Edmond D. Patterson et als. vs. Maria M. Spence. ——

It appearing to the Court that Samuel K Cowan one of the parties in this partition suit, is a minor without any legal guardian in this estate and prays for a special guardian be appointed to represent him in said Partition the premises duly considered. It is therefore ordered by the Court that S. K. P. McFall be and is hereby appointed special Guardian to attend the interest of the said Samuel K. Cowan in the partition of the land in this suit and that said Special guardian give a bond as such in the sum of One thousand dollars with one good securetie payable to and approved by the Clerk of this Court conditioned as the law directs and take the oath prescribed by law.

July 9th A.D. 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings among others were had towit:

5300 Worthy Querean Ex Parte, Having made application before the District Court of Travis County Tex. at the May Term 1879 thereof for license to practice as Attorney & Counsellor at law, and he having produced the certificate required by law showing that he is twenty one years of age and a man of good moral character, and the Court being satisfied upon examination in open Court & by the report of the examining committee of his legal qualifications. It was this day ordered by the Court that the said Worthy Querean be and he is hereby admitted and authorized to appear plead and practice as an Attorney & Counsellor at law in all District and inferior Courts of the State of Texas and it was further ordered that the Clerk of this Court issue to the said Querean license accordingly.

5299 E. R. Purnell Ex Parte, having made application before the District Court of Travis County Texas at the May Term 1879 thereof for license to practice as Attorney & Counsellor at law, and he having produced the certificate required by law showing that he is twenty one years of age and a man of good moral character, and the Court being satisfied upon examination in open Court & by the report of the examining committee of his legal qualifications. It was this day ordered by the Court that the said E. R. Purnell be and he is hereby admitted and authorized to appear plead and practice as an attorney and Counsellor at law in all District and inferior Courts of the State of Texas and it was further ordered that the Clerk of this Court issue to the said E. R. Purnell license accordingly.

5305 Joseph T. Johnson Ex Parte - Joseph T. Johnson having made application before the District Court of Travis County Texas at the May Term 1879 thereof for license to practice as Attorney &

Counsellor at law and he having produced
the certificate required by law showing th
he is twenty one years of age and a wh
of good moral character & he having furth
produced his license issued by the Distri
Court of Clermont County Ohio entitling him to practice law in the Dist. Courts of the State of Ohio and the C
having considered the same. It was the
ordered by the Court that the said Joseph
T. Johnson be & he is hereby admitted & auth
ized to appear plead and practice as a
attorney & Counsellor at law in all Distric
and Inferior Courts of The State of Texa
& it was further ordered that the Clerk
this Court issue to the said Joseph T.
Johnson license accordingly

4926. Rust & Dinkins vs. T. & T. C. R. R. Co. June 21st 1879.
This 21st day of June 1879, both parties to this suit being present by their
attorneys. The defendants attorneys submitted to the court their moti
for a new trial in this behalf, and the court after hearing the argum
ent of counsel and fully considering said motion overruled the
same, to which ruling the defendants then excepted, and gave
notice in open Court of appeal to the Supreme Court.
Court adjourned until Monday morning next 9 o'clk.

July 5th 1879

Court met according to adjournment. Present same as first day.
Whereupon the following proceedings among others were had to wit:
† 5074 Richard Gildart et al. vs. J. B. Gildart et al. Be it remembe
that now at this term of the Court came on to
be heard the motion of petitioners to confirm the
report of Dennis Corwin the commissioner
appointed by a decree of this Court to sell the
west half of lot No. 6. in Block No. 5. in the
subdivision of outlots No. 11 of the out-lots of
the City of Austin Division Z. in Travis Co.
Texas which said lot fronts on Cypress
Street and runs back about 300 feet to a
bluff on Shoal Creek having a dwelling hou
and other improvements thereon and it
appearing from the report of said Commis
sioner that he did on the 9th day of January

1879 after advertising the same according to law and the decree of this Court proceed to sell the same at public vendue at south East corner of block 10 in the City of Austin for one third cash in hand one third on a credit of six months and one third on a credit of twelve months taking notes with good security for the unpaid purchase money and taking a lien on said property for the unpaid purchase money to secure the prompt payment thereof at which time place Francis B. Foster bid the sum of six hundred dollars for said property that being the highest and best bid for the same and that said Foster has paid the sum of two hundred dollars in cash and executed his note for the balance of his said bid as aforesaid bearing interest at the rate of 8 per cent per annum and the Court being advised that said sale was legally & fairly conducted in accordance with law and the decree of this Court ordering said sale, doth now order adjudge and decree that said sale be and is in all things confirmed and that said Commissioner do make execute and deliver to said purchaser a deed to said property on his complying with the terms of said sale as directed in a former decree of this Court not to vest fully in said purchaser until all of said purchase money has been paid It is further ordered by the Court that should said purchaser refuse to pay all said purchase money in cash to wit: the sum of Six hundred dollars then the said Dennis Corwin as commissioner is hereby authorized to secure the same & execute & absolute deed to said property and the said Commissioner is directed to pay over said money to the parties in interest or their Attorneys of record reserving all costs and expenses of sale.

Court adjourned until tomorrow Morning 9 O'Clock -

July 12th 1879.

July 17th A.D. 1879.

Court met pursuant to adjournment present same as first day - Whereupon the following proceedings among others were had towit:

No 5232. Samuel R. Fisher Exectr etal vs The Texas Land and immigration company of St Louis. At this day the defendants application for removal of this cause coming on to be heard by the Court, came the plaintiffs and defendant by their respective counsel and submitted the same to the Court and the same having been duly considered it is ordered that the same be granted, the defendants surety be accepted and this cause removed to the Circuit Court of the United States in and for the Western District of Texas at Austin and that the Clerk make out the transcript and deliver the same to defendant as provided by law.

No 5301. Edmund O. Patterson etal vs Maria M. Spence, defendant. In this cause now come the plaintiffs Edmund O. Patterson and Maggie Nichol and her husband B. F. Nichol by their Attorneys Hancock Airet and North Mary McFall and her husband J. K. P. McFall by their attorneys Terrell & Walker and Samuel K. Cowan a minor by his special guardian J. K. P. McFall duly appointed sworn and sworn and also comes the defendant Maria M. Spence by her attorneys Walton Green & Hill and all the parties announced themselves ready for trial, and a jury being waived by all parties this cause was submitted to the Court on all the questions involved both of law and of fact. And thereupon on the evidence submitted the Court does find - That John S. Spence late resident of the County of Travis Texas and a citizen of the State of Texas, died in the County of

July 12th 1879.

Davidson in the State of Tennessee on the
day of August 1878 whilst temporarily absent
from his home in Travis County aforesaid,
intestate, and without leaving any child or
children or their decendents surviving him, and
without leaving any surviving father or Mother
or brothers and sisters. That the plaintiffs Edmd. D.
Patterson, Maggie A. Nichol, and Mary Mc
Fall, are the children of Isabel Patterson, for-
merly Isabel Spence, a sister of the said
John S. Spence; and the plaintiff Samuel
K. Cowan is a son, and the only surviving child
of Jennie Patterson deceased, a daughter of
Isabel Patterson aforesaid, by her husband
Saml Cowan; and that these persons con-
stitute the only survivors of the brothers
and sisters of the said John S. Spence, and
that the defendant Maria M. Spence is
the surviving wife of the said John S. Spence.
The Court does also find, that the said John
S. Spence John S. Spence left a large am-
ount of property both real and personal
in the State of Texas as follows: The following
notes bonds and other personal assets, xxxx
Pension bonds, fractional, $536.00
Pension O.K. accounts awiting action
but not yet audited or paid $1875 }
valued at 75¢ } 1406.25
Austin City Bonds 2500.00
and the following notes supposed to
be good.
Maggie Nichol & A. Patterson 116.67
Maggie Nichols & A. Patterson 133.33
Chas Lemke 300.00
N.C. Mauger note due Nov 1877 with credits 1000.00
N.C. Mauger " " Nov 18/1878 1100.00
N.C. Mauger " " Nov. 18/1879 1100.00
R. J. Sledge " " June 1/79 1000.00
Purchase money for part of Clarkson 640
in Erath Co. sold by Groesbeck & Henderson 129.00
Ed H Rodgers note due Nov 20/78 239.00

July 12th 1879

E. A. Carleton note due Dec 9/77 137.50
Don Wilson note due Apl 4/79 720.00
Charles Wolf note due Mch 27/79 1000.00
S. C. & Annie Graubrry note due Apl 8.80 1500.00
Matt Stevens note due Nov 1/77 375.00
F. Dohme note due July 21. 1878. 721.00
F. Dohme note due Feby 22 1878 1339.00
E. M. Wherlock note due Feby 22/78 1030.00
Theresa Adams note due Sept 28/77 400.00
A. S. Rector note due Sept 24/78 1525.00
Joseph Spence note due Sept 25/76 2000.00
F. Dohme note due June 18. 1879. 400.00
F. A. Patti note due June 19. 1879. 300.00
J. C. Graubrry & Annie Graubrry note due July 9/79. 400.00
John A. & M. A. Phillipps note due July 2/79 600.00
Draft of E. M. Wherlock for interest 62.75
Sophia M. Simmons note due 28 Septr 1877 500.00
A. B. Walker note due Apl. 13/77 with Credits of $103.05 }
F. A. Patti note due Apl. 8/79 379.70
L. K. Miller note due Decr 24/76 with credits Oct 20/77 $24.50 & Apl 11th/78 $24.50 } 63.16
E. A. Shands May. 13. 1878. with Surety 233.75
E. A. Shands to J. A. Benton assigned vendors lien on lots "A & B" & 16 17 & 18. in Live Oak Grove. } 336.75
Joseph Spence note due July 4. 1874. less payments made leaving bal } 1000.00
Thomas, James & Robert Spence note dec Sept 25/1880 subject to payment leaving bal due about 1500.00
E. A. White note to Robt. J. Pace dated Oct. 2/76 for $340. int. from date at 10% with payment Apl. 23. 878 $200. about 200.00
D. M. Crosthwite note to D. A. Todd date May 16/74 for $1000. secured. for about $500. 500.00
Notes supposed to be of little if of any value.
E. A. Shands dated Apl. 4/78 at 120% from demand. Security of no value. 500.00
M. P. Summerrow note to Brevard & Co assigned dated July 1st 872 barred by limitation & notice it

July 12th 1879.

would be plead. large Credits 4237.67
M E. Summerrud note dated Dec 4/72
at 10% int. number of credits endorsed
barred by limitation & party unable to pay 1500.00
J K P. McFall note Feby 16/77 at 2 yrs 12% 1275.00
besides he left a small amount of other personal
estate consisting chiefly of household and
kitchen furniture. That the said Spence left
also the following lands in the State of Texas.
1st four hundred and twenty Six 2/3 acres of land in
Archer County patented to the heirs of F. Richta
assignee of Francis A. White 25 Jany 1856 for 640 acres,
two hundred and thirteen 1/3 acres having been given
by Richta to De Cordova as a location fee.
2. Six hundred and forty acres of land in Archer
County patented to John S. Spence assignee of
Machin S. Stith on the 23d June 1871.
3d Three hundred and seventy acres of land in
Bell County patented to J. M. Reynolds assignee
of J. Reinmann on the 12th November 1846.
4th Two hundred and forty acres out of a grant
of twelve hundred and eighty acres in Bexar
County patented to Thomas Barwick which is
described in a deed from S. S. Newton
to John S. Spence dated April 27th 1860 and which
is of record in Bexar County.
5th Three hundred & twenty acres (320 00) in Bur-
leson County patented to J. De Cordova assignee
of Frederick Otto May 19th 1846 and described in
deed of M. M. Grant to John S. Spence dated 27
June 1871 & recorded in Burleson County.
6th Six hundred and forty acres in Burnett
County patented to the heirs of A. B. Travis on
the 20 October 1875 and sold to John S. Spence
by Charles E. Travis and T. G. & Mary Jane
Davidson as heirs of A. B. Travis by deeds
dated July 21. 1856. and Sept 6th 1875 and recor-
ded in Burnett County.
7th One hundred and Sixty acres in Coryelle
County patented to John S. Spence as assignee
of Thomas Freeman on the 18th August 1875. which

July 12th 1879.

land is particularly described in said patent
8th Forty Acres in Dallas County twelve miles
south 53° East from Dallas and described
in deed from N. J. Doughty to John Dowell and
from John Dowell to John S. Spence of record
in Dallas County, the said land being a part
of the Walter Anderson survey.
9th Six hundred and forty acres in Fannin
County patented to J. F. Stephens on the 20th
March 1845 and being the same land which
was sold by J. C. Kirby to John S. Spence on
the 15th March 1870 as appears by deed of that
date recorded in Fannin County.
10th One hundred and eighteen acres out of
one hundred and seventy seven acres in Nav-
ell County patented to the heirs of A. B. Travis
on the 13th August 1856 and described in deed
from Charles E. Travis August 13th 1856 and
J. G. & Mary Jane Davidson Sept 6th 1872 as
heirs of A. B. Travis - both to John S. Spence
and recorded in Cook County, fifty nine acres
out of said 177 acres having been given to
Snively as a location fee.
11th 1043 acres (one hundred and forty three acres)
part of the Thomas B. Rees two thirds of a
league and labor described in a deed from
M. M. Grant to John S. Spence dated 20th
August 1856 and recorded in Live Oak County
the same being in two tracts of which two
hundred acres abstract number 389 is in Live
Oak County and eight hundred and forty three
acres in Bee County.
12th One hundred and Ninety six acres in
Live Oak County granted to Charles Vaugant
assignee of James Hackett March 1st 1870
and described in a deed from Wm M. Gil-
liland as Attorney in fact for said Vaugant
to John S. Spence dated June 20. 1871. and re-
corded in Live Oak County.
13th Three hundred and twenty acres the headright
of James A. Thompson in Llano County

July 12th 1879.

described in a deed from Isaac M. Brown to John S. Spence dated January 13th 1863 recorded in Llano County.

1xth Three hundred and twenty acres of land in Medina County patented to John S. Spence as assignee of Saml. Matter June 17th 1875 the same being survey No 50½ in District No. 1. in Castro's Colony.

* 15th One hundred and sixty acres in Red River County, scrip, patented to John S. Spence, the same being distinguished as number Eight hundred and Eight on the abstract of land titles.

* 16th Eighty acres part of One hundred and sixty acres scrip patented to John S. Spence in Red River County and described as Number 810 in the abstract of land titles, the remainder of said tract having been sold by John S. Spence to A. Von Rosenberg Septr. 19. 1873 recorded in Red River County.

17th One hundred and sixty acres in Tarrant County patented to John S. Spence assignee of Thomas Freeman June 27th 1873.

18th Three hundred and twenty acres in Victoria County patented to F. Brichta assignee of William B. Blown June 7th 1853 and described in deed from Amelia Brichta and Francis Brichta admrs of F. Brichta to John S. Spence dated April 1st 1857 of record in Victoria County.

19th Three hundred and twenty acres in Victoria County patented to F. Brichta assignee of A. J. Dixon Sept 1x.th 1855 and described in deed from Amelia and Francis Brichta admrs of F. Brichta to John S. Spence Oct 31st 1856 and recorded in Victoria County.

20th Three hundred and twenty acres in Victoria County patented to F. Brichta assignee of Elam Luddington, Sept 14th 1855 and described in deed from Amelia and F. Brichta to John S. Spence October 31. 1856. and recorded in Victoria County.

21st Six hundred and forty acres in Victoria County

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granted to F. Brichta assignee of Henry Perry 28th January 1854 and described in a deed from Amelia x Francis Brichta admrs of F. Brichta to John S. Spence dated April 1st 1859 and recorded in Victoria County.

22d Thirteen hundred and sixteen acres out of 1476 acres in Wise County patented to the heirs of Claiborne O. Mixon on the 2d September 1856 one hundred and sixty acres out of the North West corner of said 1476 acre tract having been sold by John S. Spence in his lifetime, the said land being the tract described in a deed from John G. Gordon to John S. Spence dated 30th March 1859 and recorded in Wise County.

23d Four hundred and Eighty acres in Erath County, being part of Six hundred and forty acres patented to the heirs of James Clark son July 15th 1854 one hundred and sixty acres having been sold by John S. Spence to McLeod by his agents Groesbeck & Henderson and described in deed from Amelia x Francis Brichta admrs of F. Brichta to John S. Spence dated August 1st 1856.

24th Fifty nine acres in Travis County patented to John S. Spence assignee of McHenry Winburn April 8th 1856 and known on the abstract of land titles as number 826.

x 25th Thirty six acres in Travis County patented to John S. Spence assignee of Benjamin Allen April 25th 1861 and known on the abstract of land titles as No. 37

x 26th Ten acres in Travis County, part of the G. A. Spear league and described in a deed from M. M. Grant to John Spence dated April 10th 1856 and recorded in Travis County

x 27th Five acres part of the J. C. Tannehill league in Travis County deeded by Charles E. Peterson to John S. Spence January 28th 187? & recorded in Travis County.

x 28th Lot number three A. (3 A.) of Swisher's

July 12th 1879.

addition to the City of Austin in the County of Travis as known by the plan of said addition the same being described in a deed from R. A. Lane Guardian of Newton Givens James & Anna Lane dated June 22 1878 to John D Spence 29th One third of lot number one in Block Number Sixty Six in the City of Austin in Travis County. the same fronting twenty three feet on Pecon Stort it being the same property upon which was erected a stone store house building by Lawson W. Collins in his life time and being the same described in a deed from Charlotte J. Collins surviving wife of Lawson W. Collins to John D. Spence dated November 19th 1873 recorded in Travis County.

30th Lot number five in Block number two (Nos Blks 2) of Fosters subdivision of blocks one and two of Hailes addition to the City of Houston in Harris County described in a deed from J. E. Foster to G. N. Crozier March 18. 1876 and from G. N. Crozier to John D. Spence dated Apl 20th 1877 recorded in Harris County. all of which property was the separate property of the intestate. That the said John D. Spence also left the following real estate in Travis County Texas which was the separate property of the said John D. but which at his death was the homestead of the said John D. and his wife the said defendant Maria M. Spence and is now occupied by said defendant as a homestead viz: Out lots thirty One & thirty two in Division O. of the Govmt survey of the City of Austin in the County of Travis in the State of Texas as known by the plan of said City and out lots on file in the General Land Office of Texas at Austin which the said surviving wife is willing shall now come into partition with the remainder of said estate upon her being allowed therein her life Estate as said surviving wife

It further appearing that Maggie Nichol is

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indebted to the estate the sum of One hundred and sixteen 67/100 Dollars with interest thereon from the 15th January 187[illegible] at the rate of six per cent per annum and in the further sum of four hundred and thirty three 33/100 Dollars with interest thereon at (6%) six per cent per annum from the first day of December 1874 amounting together to this date to the sum of Six hundred and Eight five 66/100 Dollars which said sum of money is due and coming to the defendant the said Maria M Spence.

* It further appears that since the death of John S. Spence the said Maria M. has paid out of the money which was coming to her from the said estate for the benefit of the lands to be divided herein the following sums.-

Taxes on said lands for the year 1878	$184.99
To Johns & Spence their services in respect to rendering and paying said taxes	20.00
To Johns & Spence for procuring information as to the location and value of the lands embraced in this decree to aid in the partition thereof	30.00
amounting in all to the sum of two hundred and thirty nine 99/100 Dollars.	$239.99

* It further appears she has received from rents of the real estate aforesaid for which she is chargeable the sum of two hundred and thirty six and 80/100 Dollars the same being for rent of house on lot No. 1. block 66 in the City of Austin up to 31st May 1879. It is ordered and adjudged that she be Credited with the said money paid out and charged with the said money received as above stated and it is adjudged that all the other items of payments made by her since the death of John S. Spence set forth in her answer be disallowed, it being considered and adjudged that the debts therein mentioned by her as

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being paid were a charge upon the personal property which under this decree falls to her And upon the facts herein recited the Court does order adjudge and decree that the said defendant Maria M. Spence is entitled as surviving wife of John S. Spence to all the personal property left by him as aforesaid, and to one half of the real estate left by him situated in State of Texas and with the further right of occupying the homestead on lots thirty one and thirty two in division O of the out lots of the City of Austin aforesaid for and during her natural life and that the said plaintiffs as heirs of John S. Spence are each entitled to the one eighth of the realestate above mentioned in the State of Texas subject to the claim of the said surviving wife to occupy the homestead aforesaid for her natural life as aforesaid That the said defendant Maria M. Spence is entitled to claim from Maggie Nichol the said sum of six hundred and Eighty five 66/100 Dollars to be accounted by the said Maggie out of her share of the real estate that the said sum of two Hundred and thirty nine 99/100 Dollars paid out for the benefit of the landed property herein mentioned by the said Maria M. Spence shall be refunded to her by the real estate herein partitioned and that she shall be charged with the said sum of two hundred and thirty six 80/100 Dollars rent received by her or whatever sum may be so received by her from said rents up to the final decree herein. And as to the said homestead lots, being lots thirty one and thirty two in division O as aforesaid, It appearing that all the parties to this suit have asked for a partition thereof at this time without waiting for the determination of the life estate of the said Maria M. Spence as surviving wife and it appearing that the said Maria M. Spence is now

July 12th 1879

about the age of thirty five and according to the tables of Wigglesworth the value of said estate to her calculated at eight per cent per annum on the one half of said property which does not belong to her is of the value of thirty 89/100 Dollars on every hundred dollars. Therefore in the partition hereinafter decreed the Commissioners of partition are directed to set apart to the said Maria M. Spence as surviving wife the said lots thirty one and thirty two in division (at the value thereof as found by them, crediting her with the said sum of thirty 89/100 dollars in each one hundred dollars of the one half of the value of said property which is to be in charge against the remainder of the real estate herein partitioned. It is therefore considered ordered adjudged and decreed that the said Maria M. Spence shall receive out of the said Estate 1st all the personal property belonging to the said deceased of every nature whatever. Second. That she shall receive one half of the real estate in the State of Texas.

Third: That she shall receive the sum of thirty 89/100 Dollars in each One hundred dollars of one half of the value of said homestead property on lots thirty one and thirty two in division O, to be charged against the remainder of the realestate x to be taken out of the lands here dicided.

Fourth: That she shall receive from Maggie Nichols share of said estate the sum of Six hundred and Eighty five 66/100 Dollars to be taken by her out of the lands decreed to the said maggie Nichol.

Fifth: That she shall receive the sum of two hundred and thirty Nine 99/100 Dollars money paid out by her or the value of the same in lands herein divided, and shall in like manner account to the Plaintiff

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for whatever sums as rent she may have received as aforesaid. That the said Maggie Nichol shall receive one eighth of the lands of said estate here to be partitioned subject to the other provisions of this decree and in like manner the said Edmund D. Patterson, the said Paul K. Cowan and the said Mary McFall shall receive each one eighth of the said real estate subject to the other provisions of this decree. It is ordered adjudged and decreed that Ed. H. Rogers Wm Von Rosenberg and W. T. Hotchkiss all duly competent to act as such be appointed as Commissioners of partition to divide the said estate and property herein mentioned between the parties to this suit and they are authorized to call all necessary surveyors to their aid & to do all things that are necessary to enable them to arrive at the true value of said property and they shall make a fair and just devision of the same according to the rights of the parties as established by this decree, - And in as much as the said Commissioners can not by possibility visit all the lands herein mentioned, by consent of all the parties to this decree, it is ordered that they shall be authorized and empowered to take all necessary proofs to arrive at the value of the same with a view to partition. And with a view to an early partition of said lands the Commissioners are authorized to make their report at the present term of this Court. All other matters and things not herein disposed of are reserved till the coming in of said report.

4896 Joseph Able Jr. vs. B. Brown et al. June 10th 1879

Continued by agreement.

Court adjourned until Monday morning the 14th inst 9 o'clk.

July 14th 1879.

Court met according to adjournment Present Same as first day
Whereupon the following proceedings were had viz:.

*5189. M. B. McNeal vs Fannie McNeal. And now on this the 14th day of July A.D. 1879 this cause being called for trial the plaintiff appeared in person and by Attorney and the defendant though duly personally served failed to appear and thereupon no jury being demanded by the plaintiff the Court proceeded to try said cause and the Court having heard the proceedings read the evidence and the argument of Counsel and having duly considered the same and finding the material facts of plaintiffs petition to be true it is considered adjudged and decreed that the bond of matrimony heretofore existing between the said M.B. McNeal and the said Fannie McNeal be and the same are hereby dissolved and considered and held for naught. And it is further considered adjudged and decreed that said plaintiff & his surety on his cost bond viz W.H. Hayne pay all costs of this suit for which let execution issue against said parties in favor of the Officers of this Court

*5282. Pleasant Banton vs America Banton. And now on this the 14th day of July A.D. 1879 this cause being called for trial the plaintiff appeared in person and by Attorney and the defendant though duly personally served failed to appear and thereupon and thereupon no jury being demanded by the plaintiff the Court proceeded to try said cause and the Court having heard the proceeding read the evidence and the argument of Counsel and having duly considered the cause and finding the material facts of plaintiff's petition to be true it is considered adjudged and decreed that the bonds of matrimony heretofore existing between the said Pleasant Banton and the said

July 14th A.D. 1879.

America Banton be and the same are hereby
decolved and considered and held for naught.
And it is further considered adjudged and
decreed that the said plaintiff pay all costs
of this suit for which execution may issue
against said party in favor of the officers
of this Court.

× 5147 × Charles A. Holland vs Martha Jane Holland
This cause having been regularly called for trial,
the plaintiff appeared by his Attorney John B.
Rector and announced ready for trial, the
defendant came not but wholly made default.
And it appearing to the Court that the defendant
Martha Jane Holland had been duly cited ×
that the evidence in this cause discloses suf-
ficient grounds for the dissolution of the
bonds of matrimony between plaintiff and
defendant. It is therefore ordered adjudged and
decreed that the bonds of matrimony heretofore
existing between Charles A. Holland and
Martha Jane Holland be and the same
are hereby dessolved. It is further ordered
that the plaintiff pay all costs in this behalf
incured for which let execution issue

× 5178 × Stephen K. Moorley vs Emily A. Moorley. - Now on this
the 14th day of July A.D. 1879 this cause coming on
to be heard by the Court a jury not having been de-
manded and the Court having informed itself
that service of the petition × citation has been duly
had upon the defendant by publication × that a term of this
Court has since intervened; thereupon the Court
upon the allegations of plaintiffs petition × the
proofs by him adduced finds that on the 10th day
of March 1874 in the City of New Orleans Parish
of Orleans and State of Louisiana there was
solemnized between the plaintiff Stephen K.
Moorley and the defendant, then Emily A. Curry
now Emily A. Moorley a marriage, that afterwards
and until on or about the 29th day of October
1876 plff and defendant cohabited × lived together
as man × wife in the City of Austin, County of Travis,

July 14th A.D. 1879.

& State of Texas that the plaintiff Stephen K. Morley is a bona fide inhabitant of the State and County last aforesaid & had resided therein for six months next preceding the filing of this petition for divorce; and the Court from the evidence aforesaid, a statement of which is filed herewith, being satisfied that the allegations in said petition contained are true and that the prayer thereof should be granted, orders, adjudges and decrees that the bonds of matrimony existing between the plaintiff Stephen K. Morley and the defendant Emily A. Morley be dissolved annulled and for naught held that plaintiff have the care and custody education and maintenance of the child Alice Morley & further that plaintiff pay all costs in this behalf incurred for which execution may issue.
Court adjourned until tomorrow Morning 9 O'Clock

July 15th A.D. 1879.
Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had (among others) to wit:
+ 5171 Jacob Engell vs Amelia F. Engell — And now on this the 15th day of July A.D. 1879 the above entitled and numbered cause coming on to be heard for trial in its regular order and the plaintiff appearing in person and by Attorney John Howell Esqr announced ready for trial and the defendant being called + 140
for failed to appear and wholly made default although duly and legally summoned as the law directs to appear and defend this cause if any reason she had why the plaintiff should not have a decree of Divorce as prayed for in his said petition in this cause and the Court having awarded to the plaintiff a trial and ordered him to proceed in his said cause the following testimony was introduced to wit: Plaintiff and defendant

July 15th A.D. 1879.

were man and wife - they married on or about the 10th day of October 1866 in the County of Schoharie and state of New York. Defendant abandoned plaintiff in the County of Travis and State of Texas an went to State of Indiana on the 16th day of January 1875 and has not returned since and has abandoned plaintiff as his wife forever and will never return to him - plaintiff at the time of instituting this suit was a bonafide resident citizen of the County of Travis for more than six months directly preceding such and a bonafide resident citizen of the State of Texas for more than four years prior to the institution of said suit, that plaintiff had ever done his duty to defendant as a true and lawful husband and gave her no cause to so abandon him - that defendant voluntarily abandoned plaintiff - and the Court after hearing the pleading in said cause and the evidence adduced as aforesaid in support thereof it was ordered adjudged and decreed by the Court, that the bonds of matrimony heretofore existing between the plaintiff Jacob Engel and the defendant Amelia F. Engel in this cause as man & wife and as prescribed by law be and the same is hereby dissolved and cancelled and the said Jacob Engel and said Amelia F. Engel are hereby and henceforth divorced as man and wife and declared to sustain no marital relations to each other - that the plaintiff Jacob Engel pay all costs in this cause expended and execution issue to collect the same.

4962. Sarah Love vs George Love - And now on this the 15th day of July A.D. 1879 this cause being called for trial the plaintiff ~~the plaintiff~~ appeared in person and by Attorney and the defendant though duly summoned failed to appear and thereupon no jury being demanded by the plaintiff the Court proceeded to try said cause and the Court having heard the pleadings ~~read~~ the evidence and the argument of Counsel and having duly

July 15th A. D. 1879.

considered the same and finding the material facts of plaintiffs petition to be true; it is considered adjudged and decreed that the bonds of matrimony heretofore existing between the said Sarah Love and the said George Love be and the same are hereby dissolved and considered and held for naught and it is further ordered adjudged and decreed by the Court that the plaintiff Sarah Love have the exclusive care, custody, education and maintenance of the child James Love until further order of this Court. And it is further ordered adjudged and decreed that said plaintiff pay all cost in this behalf expended for which execution may issue in favor of the Officers of this Court

Court adjourned until to morrow morning 9 o'clk.

July 16th 1879

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

×5278 William Jackson vs. Sophisa Jackson. This day came the plaintiff by his attorney and announced ready for trial and the defendant, though duly cited to appear and answer in this behalf, came not, but wholly made default, whereupon the plaintiff submitted this cause to the Court, no jury having been demanded. And the Court after hearing all the pleadings and testimony, and after duly considering the same, is of the opinion, that the evidence adduced in this behalf, does not sustain the allegations in plaintiffs petition and does not authorize the divorce prayed for by plaintiff. It was therefore ordered that no divorce be granted in this cause, and that plaintiff William Jackson pay all cost of these proceedings, for which execution may issue in behalf of the officers of this Court

×5261 George Washington vs. Margaret Washington. This cause having been regularly called for trial the plaintiff appeared by his attorneys Ward & Pemberton and announced ready for trial, - the defendant came not but wholly made default and it appearing to the Court that the defendant had

July 16th

been duly cited and that the evidence in this cause discloses sufficient grounds for the dissolution of the bonds of matrimony between plaintiff and defendant. It is therefore ordered adjudged and decreed that the bonds of matrimony heretofore existing between George Washington and Margaret Washington be and the same are hereby dissolved. It is further ordered that the Plaintiff George Washington & his sureties on his cost bond viz Chas Schaeffer & Chas. Wolf pay all costs in this behalf incurred for which let execution issue against said parties.

B. B. Wilkins
vs
Susan E. Daniels et als

In this case the parties plaintiff and defendant appeared by their Counsel and F. A. Chandler guardian ad litem appointed by the Court to represent the minor defendants in this suit and submitted to the Court his general and Special Exceptions and plea to the jurisdiction of this Court both as to the plaintiff and intervenor in this cause and after hearing the pleadings and arguments of Counsel and having fully considered the case. It is the opinion of the Court that this Court has no jurisdiction of this case & that the remedy of plaintiff is in the Probate Court. It is therefore ordered adjudged and decreed by the Court that said exceptions and plea to the jurisdiction be and the same are hereby sustained and that the petition of plaintiff and intervenor in this suit be dismissed and that the defendants go hence without day and that the defendants have and recover of and from the plaintiff & intervenor the costs incurred by each, to be taxed by the Clerk. It is further ordered adjudged and decreed by the Court that F. A. Chandler the guardian be allowed the sum of fifteen dollars for his services in this case to be taxed in the bill of cost against the plaintiff B. B. Wilkins for all which execution may issue. The plaintiff by his attorney thereupon

July 16th 1879

excepted to such order & judgment of the Court & gave their notice in open Court of appeal to the Supreme Court. Court adjourned until to-morrow 9 o'clock A.M. July 17th 1879. Court met & the following proceedings were had:

No. 5235 — Mrs Sarah A. Denton vs J. R. Denton. This cause being called for trial on this the 17th day of July A.D. 1879 and it appearing to the Court that the defendant J. R. Denton on the 21st day of November 1878 by an endorsement in writing & signed by him on the petition in this cause waived service of Citation and copy of petition and accepted service of the same & the said defendant not appearing in person nor by attorney the Court appointed R. H. Ward Esq. to represent the defendant in the trial of this cause. Thereupon the plaintiff by her attorney J. F. Oatman and the defendant by his attorney R. H. Ward announced themselves ready for trial. And a jury being waived and the Court having heard the pleadings the evidence and argument of counsel and considering that the plaintiff is entitled to the relief prayed for - It is ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the said Sarah A. Denton and J. R. Denton be and are hereby dissolved and the custody and education of their Children, Rosa Lee Denton and James Floyd Denton be awarded to the plaintiff the said Sarah A. Denton and that the cost of this suit be taxed against the defendant for which execution may issue. Court adjourned until tomorrow morning 9 O'clock.

July 18th A.D. 1879.

Court met according to adjournment present same as first day. Whereupon the following proceedings were had:

5318 — The State of Texas } ss: Be it remembered that the County of Travis } District Court of the County of Travis aforesaid held at the Court House thereof

July 18th A.D. 1879.

in the City of Austin on the 18th day of July A.D. 1879. Gottlieb Goede a native of Prussia exhibited a petition praying to be admitted to become a citizen of the United States and it appearing to the Court that he had declared on oath before E.Y. Crawford Prothonotary Clerk of the Court of Common Pleas in and for the County of Penango State of Pennsylvania on the 15th day of July A.D. 1871 that it was bonafide his intention to become a citizen of the United States and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatsoever and particularly to the King of Prussia of whom he was at that time a subject and the said Gottlieb Goede, having on oath declared and also made proof thereof agreeably to law, to the satisfaction of the Court, that he had resided one year and upwards within the State of Texas and within the United States of America upwards of five years both periods immediately preceding his application and that during said period of five years he had behaved as a man of good moral character attached to the principals of the Constitution of the United States and well disposed to the good order and happiness of the same, and having declared on oath before the said Court that he would support the constitution of the United States and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate state and sovereignty whatsoever, and particularly to the King of Prussia of whom he was before a subject and having in all respects complied with the laws in regard to naturalization: Thereupon the said Court admitted the said Gottlieb Goede to become a citizen of the United States and ordered all the proceedings aforesaid to be entered in the record of said Court.

Jacob Greenberg vs Jennie Greenberg Edward Greenberg Leon Greenberg Lena Greenberg

July 18 1879

On this 16th day of July A. D. 1879. came the plaintiff Jacob Greenberg by his attorney and also the defendants Jennie Greenberg and Edward Greenberg and Leon Greenberg and Lina Greenberg by their special guardian Frederick Carleton Esqr an attorney at law of this Court and no jury having been demanded by either party the matter in controversy as well as of fact as of law having been submitted to the Court: And the evidence and argument of Counsel having been heard and it appearing to the Court that the land in controversy to wit: part of subdivision of out lot No. 35 in Division "D" and designated on the map of said subdivision as lot No 36 in Block No 35 of the out lots of the City of Austin Travis County Texas and also part of subdivision of out lot No. 35 in Division "D" and designated on the map of said subdivision as lot No. 35 in block No. 36 of the out lots of the City of Austin Travis County Texas were purchased with the seperate property of plaintiff Jacob Greenberg from Louis Hoost deceased but that the title to same was taken in the name of Rosa Greenberg deceased mother of said defendants and wife of said plff And it further appearing to the Court that the apparent claim of said defendants to said property as heirs at law of said Rosa Greenberg deceased is and constitutes a cloud upon the title of said plaintiff to said lots: It is therefore ordered adjudged and decreed by the Court that the title claim and interest of said defendants in and to the aforesaid property be and the same is hereby divested out of them and the same is hereby fully vested in the said plaintiff Jacob Greenberg as his sole and seperate property and it is further ordered adjudged

July 18th 1879.

and decreed by the Court that plaintiff and his sureties on his cost bond viz: Davis Brother pay all costs in this behalf expended for which execution may issue against said parties in favor of the officers of this Court.

5142 ~ Margareta Horst Exectx vs C. R. Johns & Co. One the 21st day of June the death of the plaintiff having been suggested to the Court, it was ordered by the Court, that James R. Johnson & Alfred Grooms the duly appointed and qualified executors of the estate of said Margareta Horst, have leave to make themselves party plaintiff to this suit. Court adjourned until to morrow morning 9 o'clk.

July 19th 1879

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

× 5176 ~ Maria Allen et al. vs. John Sauls et al. On this the 19th day of July 1879 it was, upon the motion of John Maxwell, one of the Attys for Plffs, ordered that this cause be dismissed, and it was further ordered by the Court, that the plaintiffs Maria L. Allen and her husband Wm. T. Allen and Mrs. Margaret A. Perry and her husband C. R. Perry and their surety on their cost bond viz. Phil Claiborn of Bastrop County, pay all costs in this behalf incurred, for which execution may issue in behalf of the officers of this Court against said parties.

Court adjourned until Tuesday the 22nd day of July A.D. 1879. 9 A.M.

July the 22nd 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

× 5269 ~ Caroline Caldwell vs. Walter Caldwell. And now on this 22nd day of July A.D. 1879 this cause being called for trial, the plaintiff appeared in person and by Attorney and the defendant though duly personally summoned to appear before this Court at this term and answer in this behalf, failed to appear, and thereupon no jury being demanded by the plaintiff the Court proceeded to try said cause, and the Court having heard the pleadings read, the evidence and the argument of counsel and having duly considered the same and finding the material facts of plaintiffs petition to be true, it is considered adjudged and decreed, that the bonds of matrimony heretofore existing between the said Caroline Caldwell and the said Walter

July 22nd 1879.

Caldwell be and the same are hereby dissolved and considered and held for naught. And it is further considered ordered and decreed that the said plaintiff Caroline Caldwell have the exclusive care custody and education of her child Mary E. Caldwell, born July 8th 1875, until otherwise ordered by this Court, and it is further ordered by the Court that the said plaintiff pay all costs in this behalf expended, for which execution may issue.

Court adjourned until to morrow morning 9 o'clk

July 23rd 1879.

Court met according to adjournment. Present same as first day, and thereupon Court adjourned until to morrow morning 9 o'clk

July 24th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

3815 J. H. Burditt vs John F. Green. Judgment of this court having been affirmed by the Supreme Court, this case is now dropped from the docket

4766 John D. Wende vs. August Heitman et al. The judgment of this Court having been affirmed, this case is now dropped from the docket.

4889 The State of Texas vs. Charles Saur et al. The judgment of this Court having been affirmed by the Supreme Court, this case is now dropped from the docket.

5092 The State of Texas vs. Mat W. Burney et al. The judgment of this court having been affirmed by the Supreme Court this case is now dropped from the docket.

5287 C. M. Hitchcock vs. Alexander Peddie. This day it was ordered upon the motion of S. H. Posey the attorney for plaintiff, that this cause be dismissed plaintiff having paid the costs.

5301* Edmund D. Patterson
Maggie A. Nichol and her husband B. F. Nichol
Mary McFall & her husband J. K. P. McFall and
Saml. K. Cowan by his special guardian J. K. P. McFall
vs.
Maria M. Spence
Fall and her husband

Partition of estate of John S. Spence.

This case now coming on finally to be heard, the said Edmund D. Patterson and Maggie A. Nichol and her husband B. F. Nichol appeared by their attorney Hancock West & North the said Mary McFall J. K. P. McFall appeared by Terrell & Walker, the said

Samuel K. Cowan a minor approved by his Special guardian J.K.P. McFall, and the defendant Maria M. Spence appeared by her attorneys Walton Green & Hill. And thereupon, came on to be heard the report of E.H. Rogers A. VanRozenburg and W.S. Hotchkiss the Commissioners appointed to value the land and divide the estate of John S. Spence situated in the State of Texas between the plaintiff and defendant; which said report is as follows:

Edmund O. Patterson etal } To the Honorable
vs } E. B. Turner
Maria M Spence defendant } Judge of the District Court of Travis County State of Texas. — The undersigned appointed by your Honorable Court at the present term to partition the estate of John S. Spence deceased in the following manner towit:

1st to give to Maria M. Spence a) all personal property: b) one half of the real estate in Texas; c) the sum of $30.89/100 in each one hundred dollars of one half the value of the homestead property lots No. 31 & 32 in division O. City of Austin and said homestead to be set aside to her in the partition: d) value in land for $239.99/100 money expended less money received by her at $236.80/100 counted equal $3.19/100: e) value in land for 685.66/100 amount by Maggie A. Nichol due the estate

2d Maggie A. Nichols: — (1/8) one eighth of the real estate after deducting the amounts at (e) & (d) in (1) less $685.66/100 in land valuation.

3rd Edmund O. Patterson: — (1/8) One eighth of the real estate after deducting the amounts at (e) & (d) in (1) 4th Mary McFall the same as 3.

5th Samuel K. Cowan the same as 3.

Respectfully beg leave to submit this report of their acts and doings in the premises

Valuation of real estate.

There are four tracts of land to which title in John S. Spence deceased is not

perfect and will need special attention and additional expense for their perfection; these four tracts of land we have concluded to give to the several parties as near as can be done, each his proportional share therein and we will call the same Class II nd

* Valuation of Class I st ××××

	Acres	Grantee	County	Value
	426⅔	F. A. White	Archer	213
	320	M. S. Stith	"	160
	240	Thomas Barwick	Bexar	480
	640	Mrs. W. B. Travis	Burnett	320
	160	Thomas Freeman	Coryelle	160
	40	Walter Henderson	Dallas	100
	480	James Clarkson	Erath	960
	118	Mrs W. B. Travis	Hartell	59
	1043	F. B. Reese	Bee & Liveoak	1043
	320	Jas W. Thompson	Llano	240
	320	Saml Mather	Medina	160
*	160	J. S. Spence	Red River	160
*	80	J. S. Spence	"	80 ××
	160	Thomas Freeman	Tarrant	240
	320	W. B. Blown	Victoria	240
	320	A. J. Dickson	"	240
	320	Elam Luddington	"	240
	640	Henry Perry	"	480
	59	Mc Henry Auburn	Travis	177
	36	Ben Allen	"	108
	10	G. W. Spear	"	30
	5	J. C. Tannehill	"	30
	1 68/100	lot 3 a Swishers Addition	Austin Travis	300
		⅓ of lot No. 1. Bl 66 City Austin	Travis	4000
		lots No 31 & 32 Vid. O. " "	"	6000
		lots Bl. 2 Subdivision Block		
		1 & 2 Hailys add Houston	Harris	100
				17220

* Valuation of Class II nd ××××

320	Ferdinand Reimann	Bell	960
320	Fred Otto	Burleson	320
196	James Hackitt	Live Oak	98

Contd

1316	C. O. Mixon		Wixl	3948	
				#5328	

Distribution of Value

Class I		17220	
" II		5326	
Total Value		#22546	

1st Maria M. Spence
at (b) One half the whole amount #11273.00
. (c) 30 89/100 p. C. in #3000. — 926.70
. (d) money expended 3.19
. (e) Out of Maggie A Nichols share 68566 12888 55
2nd Maggie A. Nichols (1/8 of (22546. 1220289) 68566 1900.11
3rd Edmund O. Patterson 2058578
4th Mary Mc Fall 2058578
5th Samuel K. Cowan 2058578
Total as about #22546.00

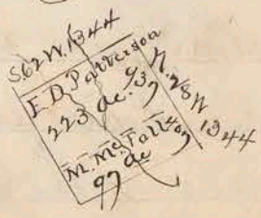
By distributing into Classes.

Class I	Class II	Total
9844 00	3044 00	12888. 55
1451 31	448 80	1900. 11
19748 8	6109 0	25857 8
19748 8	6109 0	25857 8
19748 8	6109 0	25857 8
#17220.00	#5326 00	#22546 00

Maria M. Spence
Maggie A. Nichol
Edmund O. Patterson
Mary McFall
Samuel K. Cowan

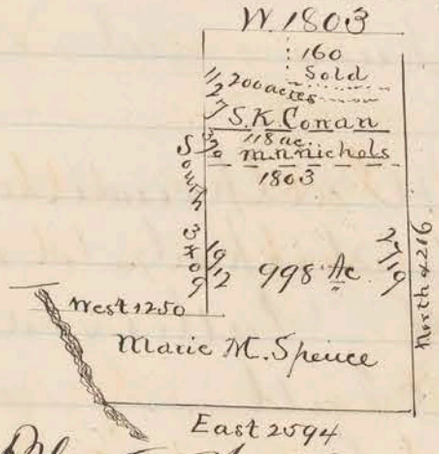
Partition.

In making this partition, your Commissioners have avoided, as much as possible cutting the several tracts into fractions, and were enabled to carry out this plan by the fact that most of the land are already in small tracts; we thought it advisable to give to each one as many whole tracts, considering quantity & quality as possible and without confining ourselves strictly to the amount in each class have given to each one, his or her portion of the better & inferior lands. The following tracts of land have been cut up; viz: 320 acres Ferdinand Reinman in Bell County.



480 acres James Clarkson in Erath County this is part

of 640 acres survey out of which 160 acres have been sold by John T. Spence. The situation of said 160 acres your Commissioners have not been able to ascertain and upon dividing the remainder of 480 acres we make a north west part of 232 acres and a south East part of 248 acres leaving the division line to be determined by the recipients. 316 acres C. D Mixon in Wise County. Out of the whole tract of 1476 acres 160 acres have been sold previously said 160 are of the N. E. Corner without particular description known to your Commissioners. We give the north part 200 acres to Samuel K. Cowan and devide the same off to contain 360 acres, said 160 acres to be excluded.



1/3 of lot No. 1. in Block No. 66 on Recon Street in the City of Austin has a rock stone house built upon it, and is not we think susceptible of partition therefore your Commissioners have ------ set the same aside in four equal undivided parts to the four heirs Maggie A. Nichols, Edmund D. Patterson, Mary Mc Fall and Samuel K. Cowan. With reference to the foregoing your Commissioners have made the following allotments:

		Class I		Class II		Total
	To Maggie A. Nichols; entitled to	1451	31	448	80	1900
	40 acres Walter Anderson in Dallas Co.	100	00			
	1/4 undivided in 1/3 lot No. 1. Bl 66 Recon St.	1000	00			
+	196 acres James Hackett in Live Oak Co.			980	00	
	320 " James Thompson in Llano Co.	340	00			
	36 " Ben Allen in Travis Co.	108				
	118 " C. D. Mixon in Wise Co.			354	00	
		#1448	00	#457	00	#1900

		Cl. I.	Cl II	Total
	The 118 acres out of C. O. Mixon described as follows: beginning 1127 varas south of the north E. corner of said survey thence south 370 varas thence West 1803 varas thence north 370 varas thence East 1803 varas to the beginning			
X	To Edmund D. Patterson entitled to 1/x undivided interest in 1/3 lot 1 Bl 66 in Pecan St.	#197.88	#610.90	#2585.78
	223 acres Ferdinand Reinman in Bell Co. beginning at the N.E. corner of the said survey thence S 28° E. 937 varas thence S. 62° W 1344 vrs thence N. 28° W. 937 varas thence N. 62 E 1344 vrs to the beginning 248 acres out of James Clarkson in Erath Co bring S.E. part of 480 acres	96.00	669.00	
	59 acres Mc Henry Winburn in Travis Co.	177.00		
X	320 acres Elam Ludlington in Victoria Co.	240.00		
		#913.00	#669.00	#2585.00
	To Mary Mc. Fall entitled to 1/x undivided interest in 1/3 lot 1 Bl. 66 on Pecan Str. Austin	#197.88	#610.90	#2585.78
		10.00		
	97 acres Ferdinand Reinman in Bell Co beginning at the South E. corner of said survey thence North 28° W. 407 vrs thence South 62° W. 1344 varas thence S. 28° E. 407 vrs thence N. 62° E. 1344 vrs to the beg—		291.00	
	240 acres Thomas Barwick in Bexar Co.	480.00		
	320 " Fred. Otto in Burleson Co.		320.	
	118 " W. B. Travis in Haskell Co.	59.00		
	160 " Thomas Freeman in Tarrant	240.00		
	10 " J. W. Spear in Travis	50.00		
	5 " J. C. Sawchill in Travis	50.00		
	lot 5 Block 2 subdivision of Bl. 1 & 2 of Hailey Addition to the City of Houston	100		
		#1979.00	#611.00	#2590.00
*	Samuel K. Cowan entitled to xxxx 1/x undivided interest in 1/3 lot 1 Bl. 66 on Pecan Str. Austin	#197.88	#610.90	#2585.78
		100.00		
	lot 3 A. Swisher Addition to City of Austin	200.00		
	232 acres of the N.W. part of 480 acres of the James Clarkson in Erath Co.	464.00		

*	80 acres J. S. Spence in Red River Co.	80.00	xxx	
	320 " A. J. Dickson in Victoria Co.	240 00		
	200 " out of the C. D. Mixon ½ league in Wise County beginning at the N. E. corner of said ½ league thence South 1127 varas thence West 1803 varas thence North 1127 varas thence east 1803 vas to the beginning exclusive of 160 acres previously sold and embraced within said limits		600 00	2584
		1984 00	600 00	2584
*	Maria M. Spence entitled to Homestead lots 31x32 Div. O. City of Austin	984 40	30x50	12888
		600 00		
	320 acres M. S. Stith in Archer Co.	160 00		
	426⅔ " A. A. White in Archer Co.	213 00		
	10x3 " J. B. Rose in Bee & Live Oak	10x3 00		
	6x0 " Mrs A. B. Travis in Burnett Co.	320 00		
	160 " Thomas Freeman in Coryell Co.	160 00		
	6x0 " J. F. Stephens in Fannin	960 00		
	320 " Sam'l Matlock in Medina	160 00		
*	160 " J. S. Spence in Red River	160	xxxx	
	320 " W. B. Blown in Victoria	240		
+	6x0 " Henry Perry "	480		
	998 " C. D. Mixon in Wise		299x00	
		9896 00	299x00	12890
	Brought over			12890

the said 998 acres of the C. D. Mixon survey is described as follows beginning at the beginning corner or lower corner of said ½ league C. D. Mixon survey thence East 2099 varas thence North 2719 varas thence West 1803 vas thence South 1912 varas thence West 1250 varas thence with the meander of the West Fork of Trinity River to the beginning.

Also the following personal property of the estate of John S. Spence deceased

Pension Bonds fractional 5576 00

Pension C. K. accounts awaiting action but not yet audited or paid #1875 valued 70 cts		1406 25
Austin City Bond		350000
And the following notes supposed to be good -		
Chas Lemppke		300 00
N. C. Munger note due Nov 1877 with Credit		1000 00
N.C. Munger note due Nov. 8. 1878.		1100 00
N.C. Munger " " Nov 18. 1879		1100 00
R. J. Sledge " " January 1st 1879		1000 00
Purchase money for part of Clarkson Estate in Erath Co. sold through Groesbeck & Henderson		179 00
Ed N. Rogers note due Nov. 20, 1878.		239 00
E.A. Carleton " " Dec 9 1877		137 50
Dan Aikson " " April 1 1879		320 00
Chas Wolf " " March 27 1879		1000 00
J.C. & Ann Granberry " " April 8, 1880		150000
Matt Stevens " " Nov. 1. 1877.		375 00
F. Dohme " " Feby 22 1878		1339 00
F. Dohme " " July 21. 1878		721.
E. M. Wheelock " " Feby. 22. 1878.		1030
Theresa Adams " " Sept 23. 1877.		400
N. A. Rector " " Sept 24 1878		1525 00
Joseph Spence " " Sept 25 1876		200000
F. Dohme " " June 18 1879		40000
F. A. Patti " " June 19. 1879.		500 00
J.C. Granberry & Ann Granberry " " Janu 1879		400 00
John A. & M a Phillips note due July 7. 1879.		600 00
Int of E. M. Wheelock for interest		62.75
Sophia M. Simons note due Sept 28 1877		500.00
W. B. Walker note due Apr. 12 1877 with credits of 103.05		300
F. A. Patti note due April 8. 1879.		379.70
L K. Miller note due Dec 14. 1876. with credits of Oct. 20 1877 - $2.50 & Apl 11. 1878 $2.06		63.16
E. W. Shands note May 13 1878 with security		258.75
E.W. Shands & J.W. Burton assigned Vendors lien on lot "A" "B". & 16 & 17 & 18 in Live Oak Grove		356 25
Joseph Spence note due July & 187X for $500 less payments made leaving balance		100000

Thomas James v Robert Spence note
due Septr. 25. 1880 subject to payment
leaving balance due about 150 00
E. A. White note to Robt J Pace dated
Oct 1878 for $300 interest from date at 10%
with payment Apl 23 1878 $200 about 300 00
O.N.C. Hoethwait note to O.A. Todd
dated May 16 187x for 1000 secured
for about 500 500 00
$3206 3

Notes supposed to be of little if of
any value
E. W. Shands dated April 4 1878 at
12% from demand security of no value 300 00
M. P. Somerow note to Dremond x6
assigned dated July 1st 1872 barred
by limitation 433 67
M. E. Somerow note dated Dec x 1872
at 10% interest number of Credits
endorsed barred by limitation 150 00
J. R. Pace Fall Fby 16 1877 at 2 yrs
12% interest 137 50
$572 67

Maria M. Spence total $3206 66

* The expenses incurred by your Commissioners
and services rendered in compliance with
Decree of your Honorable Court are as follows
Paid hackhire to visit the sundry properties
for personal inspection 8 00
Paid surveyor for showing lines &c 50
x Services 3 Commissioners at $20.00 60
$118

All of which is respectfully submitted
Austin the 18th day of July 1879
Ed. N. Rogers A. D.
Rosenbarg. A. J. Hotchkiss. Sworn to
before me this 18th day of July 1879. —
E. Hallmann Clk D.C.T.C.
And there being no objection to the said
report it is ordered adudged and decreed
that the same be and is hereby Confirmed

and it is ordered adjudged and decreed
as follows: xxxx That the share of Maggie A.
Nichol in the said Estate shall consist
Share of Maggie A. Nichol of the following property. First. The undivided
one fourth of the one third of lot no. 1. in block 66
in the City of Austin Texas, the same fronting
twenty three feet on Pecon Street and running
back to the Alley in said block, it bring the
same property upon which was erected a stone
stone house building by Lawson W. Collins in
his lifetime and bring the same described in a
deed from Charlotte J. Collins surviving wife
of Lawson W. to John T. Spence dated 19th
of November 1873 and recorded in Travis
County. Second: Forty acres of land part of
the Walter Anderson survey about twelve and
a half miles south 53° E from Dallas in
Dallas County described in a deed from
J. E. Coombs administrator of the estate of
M. M. Miller in Dallas County to James
Bentley dated Septr 1st 1871 and also described
in deed from John Powell to John T. Spence
dated 24th of April 1878 all of record in
Dallas County. Third: One hundred and
Ninety Six acres of land in Live Oak
County patented to Charles Vincent assignee
of James Hackett March 14th 1870 and de-
scribed in said patent the same being
patent #10 in Vol. 13. Bounty, and bring the
same which was deeded to John T. Spence
20th June 1871 by said Vincent by his atty
in fact William M. Gilleland. Fourth:
Three hundred and twenty acres in Llano
County patented to James A. Thompson on
the 25th September 1878 by patent No. 730
Vol. x-3d class and described therein and
being further described in deed from
Isaac M. Brown to John T. Spence dated
January 13th 1863 and recorded in Llano
County. Fifth. Thirty six acres of land
in Travis County patented to John T. Spence

Share of Edmund D Patterson

x

x

x

Third: two hundred and forty eight acres out of a tract of 640 acres in Erath County granted to the heirs of James Clarkson on the 15th July 1854 by patent No 796 Vol 6 bounty - The said two hundred and forty eight acres being the south East part of four hundred and eighty acres of said 640 acres which is owned in said grant by the estate of John J. Spence according to the configuration of the same Fourth: fifty nine acres granted to John J. Spence assignee of McHenry Wilburn in Travis County on the waters Wilburger Creek about Eighteen miles north 53° East from Austin by patent No 121 Vol 8 issued April 8th 1856. Fifth three hundred and twenty acres in Victoria County patented fourteenth September 18th 1855 to the heirs of Francis Brichta assignee of Elam Ludlington by patent No 61. Vol 8. bounty deded to John J. Spence by Amelia Brichta & Francis Brichta administrators of Francis Brichta October 31. 1856. That the share of Mary McFall in the said estate shall consist of the following property ——— First the one undivided fourth of lot No 1. in block sixty six in the City of Austin Travis County aforesaid the same fronting 75 feet on Pecan street and running back to the alley in said block it being the same property upon which was erected by Lawson A. Collins in his life time a stone store house building and being that described in a deed from Charlotte J. Collins as surving wife to John J. Spence dated 19th November 1873, Second: Ninety seven acres in Bell County patented November 12th 1856 to J.M. Reynolds assignee of Ferdinand Reinman for three hundred and twenty acres the other portion of said tract having been assigned in

Share of Mary McFall

decree to Edmund D. Patterson the tract here Assigned Orgins at the North East corner of said grant thence North 280 W. 407 varas thence south 62° West 1344 varas thence South 28° E 407 varas thence North
+ 62° E. 1344 varas. Third 240 acres in Bexar County part of the Thomas Darwick 1280 acres on the waters of the Salado about eleven miles North East of San Antonio. The said two hundred and forty acres to be taken out of one half of said tract conveyed to F. C. Nowith by Thomas Bothwick by deed dated September 25th 1850 and recorded in Bexar County in Book A. 1. pages 434 and 435 and described in deed from F. C. Nowith to A. T. Newton and from A. T. Newton to John S. Spence of record in Bexar
+ County. Fourth: Three hundred and twenty acres in Burleson County patented May 19th 1846 to J. De Cordova assignee of Frederick Otto by patent No. 11. Vol. 1. County and described in a deed from W. M. Grant to John S. Spence dated 29th June 1871 and recorded in Burleson County. Fifth: One hundred and eighteen acres part of a tract of one hundred and seventy seven acres in Haskell County granted to the heirs of W. B. Travis on the 12th of August 1856 being the same land mentioned in a deed from Charles E. Travis to John S. Spence and Thomas G. Davidson and wife to John S. Spence recorded respectively in Book x Jack Counties the remainder of said One hundred and seventy seven acres having been given to D. Tinsley as a location for Sixth: One hundred and sixty acres in Tarrant County patented to John S. Spence assignee of Thomas Freeman

June 27th 1873. by patent No. 710 Vol. 20 Scrip and situated on Marine Creek a tributary of West fork of the Trinity River about eight miles North 38 West from Fort Worth Fourth: ten acres of land in Travis County Texas. part of the G. A. Spear league described in a deed from George Land and William M. Walton to M. M. Grant dated March 1st 1856 and a deed from M. M. Grant to John S. Spence dated 10th April 1856 of record in Travis County. Eighth: Five acres part of the J. C. Tannehill league of land in Travis County, in a deed described, from Charles E. Patterson to John S. Spence dated 28th February 1872 recorded in Travis County. Ninth: Lot (No 5 in block No. 7.) of Forsters subdivision of block 172 of Baileys addition to the City of Houston in Harris County described in deed from J. E. Forster to G. N. Crozier March 18 1876. and from G. N. Crozier to John S. Spence Apl 20th 1877 recorded in Harris County.

Share of Saml R. Cowan

That the share of Samuel R. Cowan a minor shall consist of the following property: First: the one undivided fourth of lot No. 1. in block 66 in the City of Austin Travis County Texas the same fronting 23 feet on Pecan street: and running back to the alley in said Block it being the property on which Lawson A. Collis erected a stone store house building in his life time and which is described in a deed from Charlotte J. Collis surviving wife to John S. Spence dated 19th November 1873 of record in Travis County: Second: two hundred and thirty two acres out of 480 acres which remains unsold and belonging to the estate out of the 640 acres in Erath County patented to the heirs of James Clarkson 15th July 1854 by patent 296 Vol 6 County. the said two hundred and

thirty two acres being the north West part
of the said 480 acres unsold: the remainder
having been set apart in this decree to
* + Edmund O. Patterson. *Third Eighty acres
out of a tract of one hundred and sixty
acres in Red River County on Cot Creek
a tributary of Wards Creek about 1¼ miles
North 78° W. from Clarksville the said
tract having been patented to John I. Spence
on the 14th of August 1837 by Patent 582
Vol. 19 County. the remainder of said tract
having been deeded by John I. Spence
to A. Von Rosenberg xxx. Fourth: three hun-
dred and twenty acres in Victoria Co.
patented to the heirs of Francis Buchta
Assignee of A. Dixon 14th September 1835
by Patent No. 62. Vol. 8 County and conveyed
to John I. Spence by Amelia Buchta &
Francis Buchta Administrators of F. Buchta
October 31st 1856 of record in Victoria
County: Fifth two hundred acres in
Aise County out of the C. O. Mixon 1/3
× of a league patented to the heirs of C.
O. Mixon September 2, 1856 and deeded to
John I. Spence by John Y. Gordon 30th
March 1859 said 200 acres begins at the
the north east Corner of said third
league thence South 1127 varas thence West
1803 varas thence N. 1127 varas thence
east 1803 varas the said lines embra-
cing 160 acres previously sold by John
Y. Gordon out of the North east Corner
of said third league but which is
excluded in computing the quantity of
land here set apart to the said
Samuel K. Cowan. Sixth:- Lot "No 3 A"
(three A.) of Swishers addition to the City
of Austin in the County of Travis as
known by the plan of said addition
the said lot being described in a deed
from R. N. Lane guardian of Newton

Lycon Lane, James Lane and Annie Lane to John S. Spence dated January 22d 1878

Share of Maria M. Spence

That Maria M. Spence as surviving wife of John S. Spence is entitled to the following named property out of said estate xxxx First to all the personal property belonging thereto including the notes, bonds, and choses in action mentioned in the report of the said Commissioners of partition: Second: To the homestead of the said John S. Spence and the said Maria M. Spence in full property the same being lots No 31 & 32 in Section O. of the out lots adjourning the City of Austin as known by the plat of said City on file in the General Land Office of the State of Texas. Third: Six hundred and forty acres of land in Archer County on the waters of Little Witchita about 30 miles north 36° E. from Belknap patented x to John S. Spence assignee of Machin S. Slith by patent 579 Volume 38 - 3rd Class issued 20th June 1871. Fourth: Four hundred and twenty six x 2/3 acres out of a grant of 640 acres patented to the heirs of F. Brichta x assignee of Francis A White in Archer County on the waters of Little Witchita about thirty two x 1/2 miles north 35° East from Belknap as shown by patent No. 172 Vol 8. County issued 25th February 1856 213 1/3 acres of same having been given to J. De Cordova as a location fee which land was sold by the administrators of J. Bruchta to Jno. B. Costa by John B. Costa to ashford B. McGill and by ashford B. McGill to John S. Spence, the last deed being of record in Cook County. Fifth One thousand and fifty three acres partly in Live Oak and partly in Bee County being part of a grant to the heirs of Thomas Rees on the waters of Sulphur Six miles from its mouth, the said

lands having been deeded by Cathrine C. Rees, Eugene A. Smith & wife Francis A. Smith W. F. Rees. James F. Rees to Raymond Freeman & Co. by N. C. Raymond and by D.C. & P. D. Freeman to M.M. Grant and by M.M. Grant to John D. Spence the said lands being fully in said deeds. Sixth: Six hundred and forty acres of land Burnet County patented to the heirs of William B. Travis on the 20th October 1838 by patent No xxx Volume x County the same being known as survey 956 on the Waters of Mill Creek a tributary of the Lampasas and sold to John D. Spence by Charles E. Travis and Thomas G Davidson & wife as heirs of W. B. Travis by deeds which are of record in Burnett County. Seventh: One hundred and sixty acres of land in Coryelle County patented to John D. Spence assignee of Thomas Freeman by patent No 246 Volume 20 Scrip. on the 18th August 1873 the same being known as survey No 163. on Table Rock Creek a tributary of Cow-House Creek and situated about 16½ miles South 33° West from Gatesville. Eighth: Six hundred and forty acres of land in Travis County patented to J. F. Stiles on the 20th March 1845 by patent No 286 Vol 1 and described fully in said patent. Nineth: Three hundred and twenty acres of land in Medina County patented to John D. Spence assignee of Samuel Maltan by patent dated 12th June 1875 No 628 Vol xx. 3d class and known as survey No. 50½ in District No 1. Castros Colony and situated on the Waters of the Rio Hondo a branch of the Rio Frio about 10 miles south 55° West of Castroville. Tenth: One hundred and sixty

acres of land in Red River County granted to John D. Spence on the 17th May 1867 by patent x21 Volume 17 Script situated about 13½ Miles North 11 West from Clarksville and known as survey No 1192 xxxx. Eleventh three hundred and twenty acres of land in Victoria County. patented to Francis Brichta, Assignee of Wm B. Blount June 7th 1853 by patent No. 592 Volume 6 situated about 7½ miles south 77° East from Victoria and described in deed from Amelia x Francis Brichta administrators of F. Brichta to John D. Spence of record in Victoria County.

x. Twelfth: Six Hundred and forty acres of land in Victoria County patented to Francis Brichta assignee of Henry Perry on the 28th January 1854 by patent No 918 Vol 5 and situated

x about 9½ miles south 67° East from the town of Victoria and described in deed from Amelia x F. Brichta Administrators of F. Brichta to John D. Spence of record in

x° Victoria County. Thirteenth: Nine hundred and ninety Eight acres in Wise County part of a tract of one third league patented to the heirs of Elborne D. Mixon by patent dated September 2d 1856 No 537 Volume 12, 1st class it being the land which was conveyed

x by Joseph Harrell to John G. Gordon and by John G. Gordon to John D. Spence of record in Wise County, - the said 998 acres begins at the lower corner or beginning of said E. D. Mixon survey - thence East 269 4 varas. Thence North 2919 varas. thence West 1803 varas. thence south 1913 varas - thence West 1250 varas thence with the meanders of West Fork of Trinity to the beginning.* It is therefore ordered adjudged and decreed by the Court that the title to the lands and interests in lands set apart and Assigned in the report of the Commissioners of partition aforesaid and in in this decree respectively

*

July 24th 1879.

to the said Maggie A. Nichol the said Edmund D. Patterson the said Mary Mc Fall the said Saml R. Cowan a minor as heirs of John S Spence deceased and the title to the personal property, bonds and notes and the lands and interests in lands mentioned aforesaid which is set apart and assigned to Maria M. Spence as surviving wife of John S. Spence be vested absolutely in the said parties to whom said assignment or allotment is made in said report and in this decree, to be owned by them and each of them respectively in full property free from the claim or claims of any of the other parties to this decree. It is further ordered that the said Maria M. Spence and Mary McFall having received, more than the value allotted to them, in order to equalize the said values pay to Edmund D. Patterson three 7/100 Dollars and to Saml R. Cowan by his guardian J. K. P. McFall one 7/100 Dollars they having received of said property the said amounts respectively, less than the value of their shares.

It is further ordered and adjudged that Maria M. Spence, including the personal property received by her from said estate having received four fifths of the value thereof, shall pay four fifths of all the costs of this proceeding, and the remainder of the said parties shall pay the one fifth of the said costs to be equally divided between them.

5278 William Jackson vs Sophia Jackson. On this 17th day of July 1879 came the plaintiff in this cause by his attorneys and submitted to the Court his motion for a new trial in this behalf; and the Court after duly considering said motion, overruled the same, whereupon the plaintiff by his attorneys excepted to such overruling of his said motion and gave notice of appeal to the

4939 G. A. Riedell vs. J. J. Walker et al. On this 22nd day of July 1879 came the plaintiff by his Attorney P. L. Bentley Esq. and

July 24th 1879.

submitted to the Court his motion to set aside the judgment of dismissal heretofore entered in this behalf, and to reinstate this cause on the docket, and it appearing to the Court that all the defendants in this case who had answered in this behalf, had due notice of the pendency of this motion, and that none of them had filed any objections thereto, it was ordered by the Court that the said judgment of dismissal be and the same is hereby set aside, and that this case be and the same is hereby reinstated on its former place on the trial docket of this court, and that the said plaintiff pay the cost of this entry. And thereupon the said plaintiffs counsel P. L. Bentley Esq. gives notice that he withdraws from this case and has no further connection therewith.

Court adjourned until the 26th inst. 9 o'clk A. M.

July 26th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz.

5105 Ellen Kimball et al. vs Louisiana Johnson et al. Be it remembered that on this day this case came on for trial and thereupon the said plaintiffs Louisa Vigall, Ellen Kimball and Robert E. Lyles by their attorney J. T. Williamson appeared and the defendant William M. Walton in his own proper person and by his attorney R. J. Hill appeared and respectively announced ready for trial. Louisiana Johnson and her husband Absalom Johnson and Joseph and Clifton Vigal having failed to answer made default and no jury having been demanded, the matters at issue as well of law as of facts were submitted to the Court, and the Court being fully advised in the premises doth order, adjudge and decree as follows, that there be and is hereby decreed to the plaintiffs Ellen Kimball, Louisa Vigal and Robert E. Lyles and defendants Louisiana Johnson and her husband Absalom Johnson, Joseph Vigal & Clifton Vigall the following described lands to wit: 1920 acres in the County of Callahan State of Texas described as follows: Beginning at the S. E. corner of survey No. 216 a stake from which a Post Oak bears N. 56 E. 20 vrs and another bears S. 79½ W. 37½ vrs. Thence East 400 vrs to a stake for the N. E. corner of survey No. 186 from which a Post Oak bears N 30° E. 3½ vrs. and another bears S. 30° W 3½ vrs. Thence North 398 varas to the N. W corner of survey No 181. Thence East with the North line of said survey 2525 vrs to a stake and mound for the S. E. corner of this survey. Thence North at 3402 varas to a stake for the N. E. corner from which a post oak bears S. 65° E. 3 vrs and another bears N. 28° E. 4½ vrs.

and the top of East Caddo Peak bears N. 34½ W about 12 or 1300 vrs. Thence West at 2118 vrs and at 2685 vrs crossed branches 3245 vrs. to a stake in a small prairie for the N. W. corner of this survey. and the N. E. corner of survey No. 217. Thence South crossing a creek at 1737 vrs at 2285 vrs the S. E. corner of survey No. 217. Thence East 320 vrs to the N. E corner of survey No. 216 Thence South with the East line of survey No. 216 at 1515 vrs to the place of beginning. Bearings marked X. — Also 640 acres in the County of Medina State of Texas and described as follows, being survey No. 1345 in section No. 6 & situated in the County of Medinas on the waters of Black vs Jasper Flores creek a tributary of the San Miguel about 6½ miles S 25° W from Castroville. Beginning at N. W. corner of survey No. 1100 a live Oak 6 in dia bears N. 51° W 10 vrs a live Oak 8 in dia bears N. 45½ W. 12 vrs. Thence S. 86° 30' E. 524 varas to a stake a mesquite 6 in dia brs N. 66° E 23½ vrs a mesquite 8 in dia bears N. 46° E. 31½ vrs. Thence N. 787 vrs to a stake a live oak 8 in dia brs S. 80 W. 5½ vrs a live Oak 6 in dia S. 87 W 5 vrs Thence N 86½° W. 1661 vrs to a stake a live Oak brs S. 85° W 6 vrs. Thence S. 4½ W 2687 varas to a stake a live Oak 10 in dia brs N. 36° W. 4½ vrs. a live Oak 6 in dia brs N. 21° E. 29 vrs. Thence S. 84½ East 250 vrs creek 1200 varas to stake mesquite 8 in dia brs S. 42° E. 28 vrs. Thence North 4½ E 1900 varas to beginning. Bearings marked ⊜ & ⊼. and be it further decreed that all the right title and interest and claim of whatever nature kind or character of defendant William M. Walton in and to the said lands above described be and the same is hereby divested out of the said defendant Walton and confirmed to said plaintiffs and defendants above named, and be it further ordered adjudged and decreed that the following described lands be and they are hereby decreed to Wm M. Walton namely: Situated in Bexar County on the waters of the West fork of the Trinity river about ½ mile West from Decatur & Beginning at the North West corner of a survey made for A. J. Walker a post in the prairie from which a black jack bears South 24 W 177 vrs thence W 870 vrs to the South East corner of J. B. Williams preemption survey. Thence North 950 vrs to the North East corner of said preemption. Thence West 950 vrs to its north west corner, thence S 950 vrs to a post on the North line of David Moses survey. Thence N. 334 vrs to a post from which a Black Jack marked X bears North 61 East 1 vara, another bears South 30½ W 9 varas. Thence North 2820 varas to a post in the South boundary line of N. C. Dalrymples survey. Thence East 2154 varas a post from which a Post Oak bears S 89 W

July 26th 1879

75 vrs Thence South 2620 varas to the place of beginning.)— And be it further decreed that all the right title and claim and interest of whatever nature kind or character of the said plaintiffs and defendants above named in and to the last above described tract of land be and the same is hereby divested out of the said plaintiffs Ellen Kimball, Louisa Vigal & Robert D. Lyles and the defendants Louisiana Johnson & husband Absolom Johnson & Joseph Vigal and Clifton Vigal, and fully vested in and confirmed to the said Wm M. Walton, and be it further ordered & decreed that the parties respectively do have and recover of each other the said lands as herein feareed, and that each take their respective portions as described free from all claim or demand of the other. Be it further ordered adjudged and decreed that the two said tracts of land of 1920 acres in Callahan County and 640 acres in Medina County as herein decreed to said plaintiffs Ellen Kimball Louisa Vigal & Robert D Lyles and said defendants Louisiana Johnson and Joseph & Clifton Vigal be and the same is hereby ordered to be partioned and divided among them as follows to wit to said Ellen Kimball one fifth, to Louisa Vigal one fifth to Robert D. Lyles one fifth, to Louisiana Johnson, wife of Absalum Johnson one fifth, and to Joseph & Clifton Vigal, sons and heirs at law of John A. Vigal deceased, one tenth each, of said tracts of land, and that William C. Powell, Wm H. Carrin & Saml. L. Chalk are hereby appointed commissioners to divide said tract of 1920 acres in Callahan County, and that Thomas Gilbreath James Bright and Henry Moore are hereby appointed commissioners to divide said tract of 640 acres in Medina County, and that said commissioners do partition the same into five equal parts according to quantity and quality, so as to make the said shares as above directed equal in value as near as practicable and when said commissioners have partitioned the same as herein directed, they will make due report thereof to this Court for confirmation. And it is further ordered by the Court that the right title and interest of plaintiffs and defendants to the unlocated balance of certificate of 559 24/25 acres be sold by the Sheriff of Travis County, as Sheriffs sales are usually made for cash in hand and that the proceeds be disposed off as follows viz: To the payment of the costs of the partition of the lands as in this decree ordered, should there be enough for that purpose, & should there not be enough to pay the costs, then the balance of the costs shall be paid by the plaintiffs, & should there be more than

July 26th 1879.

enough, then such surplus shall be divided among the plaintiff and defendants exclusive of Wm M Walton, in the proportion that the lands have been divided among them, and that said proceeds shall be paid over to J. F. Williamson to the extent of (3/5) three fifths for the plaintiffs and the other (2/5) two fifths deposited with the clerk of this Court, subject to be paid over to whom it may concern under the orders of this Court. It is further ordered that the defendant Wm M. Walton pay all the costs of this suit up to the entry of this decree, except the costs of service by publication, for which execution may issue against said Walton.

× #5106 / A. J. Poler Assignee
vs
The Hubbard Mining Co.

This day came the parties in this cause by their Attorney & waive a jury and submit the matter in controversy as well of fact as of law to the Court. And the evidence and argument of Counsel having been heard and fully considered and it appearing to the Court that the account which plaintiff sues is just and correct but that the same is not yet due, but is to be paid out of the profits and earnings of the defendants when the same shall be earned and made by the defendants; and it further appearing that no net profits or earnings have been made or realized by the defendants this suit is dismissed at the cost of plaintiff and without prejudice to any future action in the premises on the part of said plaintiff or his assignees —.

Court adjourned until monday morning 9 o'clk.

July 28th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

The foregoing entries having been read in open Court examined and found correct, it is now ordered, that the same stand as a part of the minutes of the present term of this court, and it is further ordered that all civil business cases not otherwise disposed of, stand now continued until the next regular

July 28th 1879.

term of this Court, and it is further ordered that this court now stand adjourned until the next regular term thereof.
July 28th 1879

E B Turner
Judge 16th Judicial District of the State of Texas.

October 6th 1879.

State of Texas } Be it remembered that at a Term of the Hon
Travis County } District Court of Travis County begun and he
at the Court House thereof at the City of Austin on the 6th day of O
-ber 1879, that being the first Monday of said month and the time
by law for the meeting of said Court and the Hon E. B. Turner J
of the 16th Judicial District presiding and E. Hadlmann Clerk of
Court and Dennis Cormin Sheriff of said County being present the fo
-lowing proceedings were had to Wit.

It was this day ordered by the Court, that the first two weeks of this te
of Court be set aside for the trial of non jury civil cases, that the civ
jury docket be taken up for trial on the third Monday of this te
and that the jury fee in all civil cases in which a jury has been dem
anded, shall be paid to the clerk of this Court before 9 o'clk A. M. of
that day, and further ordered that the trial of criminal cases comm
on the 6th Monday of this term, that being the 10th day of November

✓3527 Houston & Texas Central Railway Company vs. B. M. Odom.
The judgment of this Court in this case having been affirmed
by the Supreme Court, it is ordered that this case be now
dropped from the docket.

✓4249 C. L. Compton vs. Chadwick Bayce et als. The judgment
of this Court having been affirmed by the Supreme Court, it is
now ordered that this case be now dropped from the docket

✓4900 The State of Texas vs. B. Brown et als. Continued by agreement

✓4918 B. U. Stavely vs. Joseph Pedore. Upon motion it was ordered that
defendant have leave to file first supplemental answer.

✓5101 Martha M. Blake vs. Stewart & Mair. Upon motion it was ordered
that the defendant Mair have leave to file supplemental answer.

✓5119 Amelia Brichta vs. Fannie Teague et als. Upon motion of Mess
Sheeks & Sneed Attorneys for Plaintiff, it was ordered that this ca
be dismissed and that the plaintiff Amelia Brichta pay all co
in this behalf expended, for which execution may issue.

✓5164. Fannie Savage vs. Int. & Gr. North. R. R. Co. Continued by agree

✓5183. James Lloyd vs. Int. & Gr. North. R. R. Continued by agreement

✓5240. Mc Creery & Jones vs. B. R. Johns & Co. Upon motion of Pffs Atty
it was ordered that this case be dismissed, and that the plaintiffs
Mc Creery and Jones pay all costs in this behalf incurred and that
execution may issue against said Mc Creery & Jones for such costs.

✓5246. B. T. Garland vs. B. W. Garland. Continued for service.

✓5259 Miller Bros. vs S. T. Yager. Upon motion it was ordered that
the Pffs have leave to file first amended original petition.

✓5263 J. R. Freeman vs. Wm N. Cochran. Upon motion of Pffs

October 6th 1879.

was ordered that this case be dismissed & that the plaintiff pay all costs in this behalf incurred.

5274. J. R. Ray vs. Vincent Chambers et als, Upon motion it was ordered that plaintiff have leave to file first supplemental petition.

5276 John T. Jackson for the use of W. A. Ryan vs. Rogers Williams Insurance Company. Upon motion it was ordered that plaintiff have leave to file first supplemental petition.

5277 John T. Jackson for the use of W. A. Ryan vs. The Atlantic Insurance Company. Upon motion it was ordered that Pff have leave to file 1st Supplemental petition.

And thereupon Court adjourned until 9 o'clk A. M.

October 7th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

3720 George W. Paschal vs. Central Rail Road Company & Austin City. Continued.

3868 The State of Texas vs B. T. Scaggins et als, & George Keaton garnishee. The garnishee Keaton having answered, denying any assets in his hands or any knowledge thereof, this garnishment proceeding is dismissed.

3911 The State of Texas vs. E. B. Dyer et als. No counsel appearing for the plaintiff, this cause is continued.

3933 E. A. Hicks vs. James T. Gillett et als. Continued.

3934. Chandler Carleton & Robertson vs. George W. Toney deft & W. P. De Normandie, garnishee. Passed to the heel of the docket.

4007 M. L. Miller vs F. M. Randell & Emanuel Nolda. Continued for service.

4016 F. Steusse & Son vs J. T. Jackson. Continued for want of prosecution.

4269 Sampson & Hendricks vs. S. L. Moore et als. Passed to the heel of the docket.

4557 C. T. West Exec.tr vs F. M. Parke. Continued for service on deft. Latta.

4584. Mary Dawse vs. George Dawse. Passed to the heel of the docket.

4608 H. & T. C. R. R. Co. vs Catharine P. Foran. Passed to the heel of the docket.

4610 Houston & Texas Central Rail Road company vs. M. W. Townsend. Upon motion of Messrs Pancoast, West & North Attorneys for plaintiff, it was ordered that this cause be dismissed, and that the plaintiff the Houston & Texas Central Railroad company pay all costs in this behalf incurred, for which execution may issue against the said plaintiff.

4615 T. & P. R. R. Co. vs F. W. Chandler. Passed to the heel of the docket.

October 7th 1879.

4629. C. N. Worthington vs. T. B. Wheeler Mayor and the Board of Aldermen. Continued at the request of Attorneys for Plff.

4768. E. L. Compton vs. The heirs of Henry Reinhart. This day comes B. R. Freeman the Attorney for the plaintiff in this cause and states and suggests to the Court, that the plaintiff E. L. Compton is dead, & that he the said Freeman withdraws from this case.

4780 J. S. Willings vs. Missouri R. Willings. It was this day ordered, that this case be dismissed for want of prosecution and that the plaintiff J. S. Willings pay all costs of this proceeding for which execution may issue in behalf of the officers of this Court.

4794. John B. Rector vs. Denmark Walton. Dismissed.

4795 John C. Duval et als. vs. Robert Creutzbauer. Upon motion it was ordered that plaintiff have leave to file first amended and first supplemental petition.

4815. Charles Krohn vs. Thomas F. Purnell. Continued by agreement.

4828 Bethel Coopwood & Andrew J. Carothers vs. William Alexander. Continued.

4836 M. C. Tarpiller vs. R. G. Blanton. Passed to the heel of the docket.

4896 Joseph Doty Jr. vs. B. Brown et als. Continued by agreement.

4940 Lucy Robinson vs. G. W. Erwin et als. Deft has leave to file amended original answer. Oct 6th 1879

4940 Lucy Robinson vs. G. W. Erwin et als. Oct 7th 1879. Plff has leave to file first supplemental petition.

4969 Elizabeth E. Bartholomew & C. C. Bartholomew vs

4970 W. W. & S. D. Sandford & J. & E. V. McElhiney vs. The unknown heirs of Elnathan Beebee and Horatio Key & James Neill. This case being this day called, and J. P. C. Whitehead, heretofore appointed Attorney for the defendants in this case, not being in the State, it was ordered that Messrs Carleton & Morris be and they are hereby appointed to defend this case.

4972 John T. Pampton vs. W. R. Pampton et als. Passed to the heel of the docket.

5019 Minerva Davis vs. Walker Davis. Decreed.

5036 E. Crow vs. C. R. Johns et als Peter Garnishee. Defendant has leave to file amended original answer & cause continued by agreement.

5145 Sophisa Clay vs. Henry Clay. Dismissed upon motion of Plffs Attorneys and it was ordered that the plaintiff Sophisa Clay pay all costs in this behalf expended for which execution may issue.

5049. Hattie Johnson vs. Fremont Johnson. Decreed.

5069 Benjamin F. Collins vs. Fred P. Chandler et als. Decreed.

5101. Martha M. Blake vs. Stewart & Mair. On motion of Mess

October 7th 1879.

Fulmore & Jackson Attys for Plff., their name is stricken from the docket as attorneys for plaintiff in this case; and this case being this day regularly called for trial, and the plaintiff not appearing either in person or by attorney, it was ordered that this case be dismissed for want of prosecution, and further ordered that the plaintiff Martha M. Blake pay all costs in this behalf incurred, for which execution may issue in behalf of the officers of this court.

5103 Paul Cressler vs. Carl Schaeffer et als. Upon motion it was ordered that plaintiff have leave to file 2nd supplemental petition, and further ordered that this case be passed to the heel of the docket.

5107 The Montopolis Ferry Company vs. Benjamin R. Townsend. Deft has leave to file 2nd amended original answer & cross bill.

5142 Margaretha Forst Exectx vs. C. R. Johns & Wife. Upon motion of Plffs Attorneys, the garnishment proceedings in this case were ordered to be dismissed, and it was further ordered that the costs of these proceedings be paid by the administrators of the plff. in due course of administration.

5148 Allen A. Gattis vs. Jeremiah Sheehan. Deft has leave to file 1st amended original answer.

5174. R. B. Hubbard Governor et al. A. J. Ward et als. Leave given to Defts McGill & Turman to file 1st original separate answer.

5177. The State of Texas vs. John M. Geary et al. Defts have leave to file amended original answer.

5244 A. L. McRae vs G. W. Miller et als. Continued by agreement.

5249 F. W. Chandler vs. Loomis & Christian. Defts have leave to file first amended answer.

5259. Miller Bros vs. S. T. Hager. Plff have leave to file first amended original petition. (Entered on page 276.)

5288 A. L. McRae vs. G. W. Miller & wife. Continued by agreement.

5336. The State of Texas vs. T. J. Worrell et als. Plff has leave to file amended original petition and first supplemental petition.

4445. James Monroe Swisher vs John Milton Swisher. And now on this day this cause being regularly called in its order on the docket, came on to be heard the final report and account of R. J. Hill the Commissioner heretofore appointed by this court and the same being heard and fully examined by the Court and no objection having been made thereto the same is by the Court approved and accepted and the Commissioner discharged from further liability & duty in this behalf and it is ordered that the case be dropped from the docket.

4556. C. T. West Extr. vs F. M. Hanks et als. And now at this day this cause being called for trial the plaintiff appeared by his Attorneys Hancock West & North. and the defendants J. F. Wilson & M. G. Crow though duly cited & served with process

October 7th 1879.

having failed to appear and answer herein, it is considered adjudged and decreed that the plaintiff C. S. West Exct. of R. J. Towns deceased do have and recover a judgment by default against the said defendants J. F. Wilson and M. G. Conn. and that plaintiff have his writ of inquiry. and the defendant H. C. St. Johns not having been served with process this cause is continued for service on him.

✓ 4558. C. S. West Extr. vs. F. Hanks. And now at this day this cause being called for trial. the plaintiff appeared by his attorneys Hancock West and North and the defendants Bennett Dorsey. Webb Humberson and J. J. May though duly cited and served with process having failed to appear and answer herein. it is considered adjudged and decreed that the plaintiff C. S. West Executor of R. J. Towns. deceased. do have and recover a judgment by default against the said defendants. Bennett Dorsey. Webb. Humberson and J. J. May. and that plaintiff have his writ of inquiry to be executed at some future day & the cause continued.

✓ 5051. H. & T. C. R. R. Co. vs A. H. Cook. — And now on this day this cause being called for trial the plaintiff appeared by his attorneys Hancock West & North and the defendant though duly served with process having failed to appear and answer. it is considered adjudged and decreed that the plaintiff the Houston & Texas Central Railway Company do have a judgment by default against the said defendant A. H. Cook, and thereupon the plaintiff announced ready for trial, and no Jury having been demanded the Court proceeded to try said cause & having heard the pleadings. evidence & argument of Counsel & having duly considered the same, it is considered adjudged and decreed by the Court that the Houston & Texas Central Railway Company do have and recover of & from the said A. H. Cook. the sum of one thousand Six hundred and forty one & 66/100 dollars, together with ten per cent interest thereon from the date of this judgment, besides all costs of suit, for all of which let Execution issue. Court adjourned till to morrow morning 9 o'clk. October 8th 1879. Court met according to adjournment. Present same as first day Whereupon the following proceedings were had viz:

Exec. dock 5 page 69.

✓ 5073. The State of Texas. vs. William J. Galloway. John R. Oats. Freeman T. Garner. James M. Hanner. Tom Moore. James N. McCardell. James. R. Doughty.

(Exec. No 5 page 61) This day came the plaintiff by her attorneys and the said defendants William J. Galloway. John. R. Oats. Freeman T. Garner. James. M. Hanner and James R. Doughty. they duly served with process. but having failed to appear and answer in this behalf and wholly made default, Wherefore the said plaintiff — The State of Texas ought to recover of and against the said defendants. William J. Galloway John R. Oats. Freeman. T. Garner. James. M. Hanner and James R. Doughty her damages by reason of the premises: and the said defendants Tom Moore and James N. McCardell having appeared by Attorney and neither party demanding a Jury. the matters in controversy as well of fact as of law. were submitted to and tried by the Court and the demurrer of defendants Tom Moore and James N. McCardle to the jurisdiction of the Court and their general demurrer to plaintiffs petition having

✓ 5177 (Exec. dock No page 62.)

October 8th 1879.

been duly considered. the same were by the Court overruled, to which ruling of the Court the said defendants Tom Moore and James. H. McCardell excepted, and thereupon the pleadings of the parties having been heard and the evidence submitted to the Court, and the same having been fully understood and considered, It is therefore ordered. adjudged and decreed by the Court that the plaintiff- The State of Texas. do have and recover of and from the said defendant William J. Galloway the sum of Six Thousand seven hundred and forty nine and 15/100. ($6749.15) dollars, costs of suit and interest thereon at the rate of 8% per cent per annum from date hereof, and that Execution issue therefor, And it is further ordered, adjudged and decreed by the Court that the plaintiff. The State of Texas. do have and recover of and from the said defendants John. R. Cats. Foreman. T. Garner. James. W. Hamner Tom Moore. James. A. McCardell and James R. Doughty the sum of Five Thousand Five hundred ($5500.00) dollars with interest at 8 per centum per annum from the date hereof and costs of suit. for which let execution issue.- It is further ordered adjudged and decreed by the Court that this Judgment and the Execution thereon shall be discharged and satisfied as against all of said defendants upon the payment of the said sum of Six Thousand Seven hundred and forty nine and 15/100 ($6749.15) dollars and the legal interest which may accrue thereon and costs of suit, or shall be discharged and satisfied against the said John. R. Cats. Foreman. T. Garner. James. W. Hamner Tom Moore James. A. McCardell and James. R. Doughty upon the payment by them or either of them of the said sum of Five Thousand. Five hundred ($5500.00) dollars with the legal interest which may accrue thereon and costs of suit,- It is further ordered adjudged and decreed by the Court that the officers of Court have execution for their costs.

5175 M. B. McCoy vs. Hannah B. McCoy. Placed on the heel of the docket no Attorney appearing to prosecute this case when regularly called.

5296 James W. Ward Exec't &c. vs. A. Faulkner & Eliza J. Harris. Upon motion of Messrs Terrell & Walker Attorneys for Pltffs. this case is dismissed all costs having been paid by said Pltffs.

5177. (Crim. docket No. 5 page 62.) The State of Texas vs. J. M Geary et als.. This day came the parties by their attorneys and neither party demanding a jury. the matter in controversy, as well of fact as of law. were submitted to and tried by the Court, and the evidence and argument of Counsel having been heard and fully understood. It is therefor considered adjudged and decreed by the Court that the plaintiff. The State of Texas- do have and recover of the said defendants John. M. Geary. Charles. H. Randolph and M. J. Bean the sum of Fifteen Hundred and fifty and 2/100 ($1550.02) dollars, together with costs of suit and 8 per cent interest per annum on this judgment from the date hereof for which let execution issue; and that the said plaintiff The State of Texas, do have and recover of the said defendants N. B. Evans and Thomas Ruckman the sum of Five hundred ($500.00) dollars together with costs of suit and interest on this judgment at the rate of 8. per cent per annum from date hereof, and for which

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1st Execution issue. It is further ordered adjudged and decreed that this judgment and the Execution should be discharged and satisfied as against all the defendants upon the payment of the said sum of Fifteen Hundred and fifty and 2/100 ($1550 2/100) dollars and the legal interest which may accrue thereon and costs of suit, or shall be discharged and satisfied against either of said defendants upon the payment by either of them of the amount with interest and costs of suit for which judgment is herein rendered against him. So that plaintiff shall not be entitled to recover from all the defendants any greater sum than the said sum of Fifteen Hundred and fifty & 2/100 dollars and the legal interest which may accrue thereon and costs. nor from either of the defendants any greater sum than the amount of the judgment rendered herein against him and legal interest which may accrue thereon and costs of suit, And it further appearing to the Court that the defendant John. M. Geary is the principal on the official bond sued on in this case and that the defendants N. B. Evans. Charles. W. Randolph. M. J. Bean and Thomas Ruckman executed said official bond as sureties, and as such sureties are entitled to the benefits of the Statute in such case made and provided. It is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the Execution issued by virtue of this judgment first upon the property of the said defendant John. M. Geary, subject to Execution and situate in the County of Travis before a levy shall be made upon the property of said sureties or either of them: but if the said John. M. Geary has no property in said county of Travis, subject to Execution then the levy thereof to be made upon so much of the property of the sureties as may be necessary to make the amount respectively adjudged against them herein, And it is further ordered adjudged and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond, this judgment shall not be discharged by such payment but shall remain in force and be prosecuted to Execution for the use of said sureties or either of them making such payment to the amount of such payment. It is further ordered adjudged and decreed by the Court that the officers of the Court have Execution for their costs.

Court adjourned until to morrow morning 9 o'clock.

October 9th 1879

Court met according to adjournment. Present same as yesterday. Whereupon the following proceedings were had viz:

5175 M. B. McCoy vs Hannah E. McCoy. The order heeling this case as entered on the 8th inst., is hereby set aside, and this case ordered to be

October 9th 1879.

dismissed, the death of Peff having been suggested to the Court by Mr. Joe H Stewart, the Atty for Peff.

5185 Jackson W. Brown vs. Sarah A. Brown. Continued.

5188 T. Roberts & Bro vs. W. S. Carothers. Continued.

5259 Miller Bro. vs. S. T. Yager. By agreement of parties this case is passed until after the disposition of the Jury trial docket in civil cases.

Court adjourned until to morrow morning 9 O'clock.

October 10 1879.

Court met according to adjournment. Present same as yesterday. Whereupon the following proceedings were had viz:

4830 John Chinneworth, et ale. vs B. Brown et als. This day this cause came on to be heard and the parties plaintiff appeared in open Court in person and by Attorney, and the defendants also in person and by Attorneys, and both parties plaintiff and defendants announced ready for trial and waived a jury. Thereupon both parties announced in open Court that all matters and things involved in this suit had been settled between them, and consented that a judgment be rendered for the defendants, and that one half the costs due at this date be taxed against the plaintiff and the other half against the defendants. It is therefore ordered and adjudged by the Court that the plaintiffs take nothing by this suit and that the defendants go hence without day, and that the plaintiffs pay one half the costs now due in this cause, and that the defendants pay the other half for which let Execution issue.

4896 Joseph Able Jr. vs B. Brown et als. This day this cause came on to be heard and the plaintiff appeared in open court in person and by Attorney as did also the defendants, and the plaintiff gave the Court to know and understand that he would prosecute this suit no further. Wherefore it was ordered by the Court that this cause be dismissed from the docket and that the defendants go hence without date. It is further ordered that each party pay one half the costs in this behalf incurred. They having so agreed in open Court for Which let Execution issue.

5317. Maurice Pondevelle vs Walter A. Malin. This day came the plaintiff by his Attorney, and the said defendant having failed to appear and answer in this behalf but wholly made default after being duly cited. Wherefore the said Maurice Pondevelle ought to recover against the said Walter A. Malin his damages by occasion of the premises, and it appearing to the Court that this cause of action is liquidated and proved by an instrument in writing; it is ordered that the Clerk do assess the damages sustained by said plaintiff: And the said Clerk now here having assessed the damages aforesaid at the sum of ($5541 63) Five thousand five hundred and forty one Dollars and Sixty three cents. It is therefore considered by the Court that the said plaintiff do have

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and receive of the said defendant the sum of Five thousand Five hundred and forty one dollars and Sixty three cents with interest thereon at the rate of 8% per cent per annum together with his costs in this behalf expended and that he have his Execution,

5332. The State of Texas vs Lee A Perkins et als. This day came the plaintiff by Attorney and the defendants Lee A. Perkins. James Chick and W. A. Grigsby after being duly cited as required by law having failed to appear and answer in this behalf but wholly made default. Wherefore the plaintiff ought to recover against the said defendants his damages by occasion of the premises. It is therefore ordered by the Court that the plaintiff have judgment by default against the said defendants and that he have his writ of inquiry to be Executed in the future.

5331. The State of Texas vs W. F. Egan et als. This day came the plaintiff by attorney and the defendants, W. F. Egan, A. Murphy and L. S. Fonville after being duly cited as required by law having failed to appear and answer in this behalf but wholly made default. Wherefore the plaintiff ought to recover against the said defendants his damages by occasion of the premises. It is therefore ordered by the Court that the plaintiff have judgment by default against the said defendants and that he have his writ of inquiry to be executed in the future

5329. The State of Texas vs L. L. Contchfield et als. This day came the plaintiff by attorney and the defendants L. L. Contchfield A. Norton and G. W. Vandenberg after being duly cited as required by law having failed to appear and answer in this behalf but wholly made default. Wherefore the plaintiff ought to recover against the said defendants his damages by occasion of the premises. It is therefore ordered by the Court that the plaintiff have judgment by default against the said defendants and that he have his writ of inquiry to be executed in the future

4940 Lucy Robinson et als vs. G. W. Ermin et als. This day came the parties by their Attorneys and Waive a Jury and submit the matter in controversy, as well of fact as of law to the Court: and the evidence and the argument of Counsel having been heard and fully understood. It is ordered adjudged and decreed by the Court that the plaintiff Louisa Robinson, Amanda Robinson and Robinson take nothing by their suit and that the defendant G. W. Ermin recover of the said plaintiffs all costs in this behalf expended. for which he may have his Execution. It is further ordered that Execution issue for the use of the officers of Court against each party respectively for the costs by such party in this behalf incurred.

5309. Jno. O. Johnson vs Peter H. Martin. This day came the plaintiff by his attorney and the said defendant after being duly cited according to law having failed to appear and answer in this behalf. but wholly made default. Wherefore the said Plaintiff Jno. O. Johnson ought to recover against the said defendant Peter H. Martin

October 10th 1879.

by occasion of the premises. It is therefore considered ordered, adjudged and decreed by the Court that the injunction heretofore issued in this cause be made perpetual and that the said defendant Peter St Martin his agents Servants and those holding under them, and all other persons be perpetually injoined from using the premises belonging to the said defendant to-Wit: being a part of Out Lot No 76. Division D. of the out Lots of the City of Austin Travis County Texas and bounded as follows to Wit: Beginning at the South West corner of Fritz Figures part of out Lot No 76. for the South East corner of this tract. Thence West or Westerly with the Street 74 yards for the south west corner of this Lot. Thence Northwesterly with a Street dividing this lot from Jno. C. Johnsons (Plaintiffs) part of out lot No 76. twenty yards for the north west corner of this survey. Thence Easterly about 57 yards on a line with three Black Jack trees for the North East corner of this survey. Thence South-wardly with the division line between Fritz Figures part of said out lot and this lot to the beginning with the buildings and houses thereon situated, or permitting the same to be used as a slaughter house or butchering pen. and that the said plaintiff do have and recover of the said defendant the sum of one cent as damages together with all costs in this behalf expended for which he may have his Execution,

October 11th 1879.

Court adjourned till tomorrow morning 9 Oclock. Court met according to adjournment. Present same as yesterday. Whereupon the following proceedings were had. viz

5351. Sophia Jackson vs William Jackson. This day this cause being regularly called for trial came the plaintiff by her attorneys and the defendant having accepted service of citation and acknowledged himself a party in Court according to law, and being represented by an attorney appointed by the Court. both parties announced themselves ready for trial. and no Jury having been demanded by either party the matter in controversy as well of fact as of law was submitted to the Court. and the pleadings the evidence and the argument of Counsel having been heard and fully understood. It is considered ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the plaintiff Sophia Jackson and the Defendant William Jackson be and they are hereby dissolved. And it is further ordered adjudged and decreed that the Plaintiff pay all costs of this suit for which Execution may issue.

5249 F. W. Chandler vs. Loomis & Christian. Passed to the heel of the docket.

5252 Mattie P. King vs. R. E. King. Continued for service.

5253 Jerry Oliver vs. Annie Oliver. Placed on the heel of the docket.

5255 Thomas Freeman vs. Unknown heirs and legal representatives of C. R. Rammel deceased. Placed on heel of the docket.

5256 L. L. Bondoin vs. J. T. Hamilton. Upon motion of Messrs Terrell & Walker leave was given to L. L. Woodward to intervene into this case, and this cause was then placed on the heel of the docket.

5260 Wm Brush et als. vs. L. C. Vineyard et al. Continued by agreement.

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5267 Laura F. Ormand vs. Charles F. Ormand. Placed on heel of d

5268 Louis Mereis vs. Ann Morris. Placed on heel of docket

5272 M. B. Davis vs. Lilitia L. Davis. Placed on heel of docket.

5273 Susan N. Tartson vs. John M. Tartson. Placed on heel of docket.

5281. John M. Lipscomb vs. Sadie G. Lipscomb. Upon motion of Messrs Wa & Denderter Attys for Pff, it was this day ordered that this case be dismissed, and that the plaintiff John M. Lipscomb and his sureties on his costs bond viz G. B. Lipscomb and Geo L. Fell pay all costs in this be expended, for which execution may issue against said parties in favor of the officers of this Court.

5284 Loomis & Christian vs. Charles Lepke et al. Placed on heel of docket.

5289 Maria M. Spence vs. L. Bacrer et al. Placed on heel of docket.

5292 James F. Johnson vs. W. W. Long & W. B. P. Laines. Continued by agreement.

5298 Mary Walton vs. Pete Walton. Placed on heel of docket.

5303 Rachel C. Levy and Abraham Levy vs. Geo W. Stephens. Continued by operation of law.

5307 Tulda Fasselman vs. Frank Fasselman. It was this day ordered by the Court that this case be and the same is hereby dismissed.

5310 F. W. Chandler vs Sam Friedberger. This cause being this day regularly called for trial, and no Attorney appearing for the plaintiff and the defendant asking a continuance, it was ordered by the Court that this case be now continued until the next term of this court.

5311. James P. Randle vs James M. Murphis. Placed on heel of docket.

5312 Edward Wilkerson vs. Martha Wilkerson. Continued for service.

5313 Telena Temminger vs. John Temminger. Continued.

5314 Desha Bunton et als Wm Royce. No counsel appearing when case regularly called for trial, case placed on heel of docket.

5315 Ida Doericke vs. Robert Doericke. Continued by operation of law.

5316 L. Canto vs Matilda Canto. Case placed on heel of docket, as no counsel appeared when case regularly called for trial.

5318 R. M. Wilkox et als. vs. The unknown heirs of T. Ellisan. It was this day ordered by the Court, that J. F. Burts Esq. an attorney of this Court be and he is hereby appointed to represent the defendants in this case.

5319 P. Waelfelt vs. Alfred Waelfelt. October 10th 1879. It was this day ordered that F. L. Bentley Esq. be and he is hereby appointed to represent the defendant in this case.

5329 P. Waelfelt vs Alfred Waelfelt. Octbr 11th 1879. Continued by operation of law.

5321. The State of Texas vs. W. F. Egan et als. This case having this day been regularly called for trial and no counsel appearing in this behalf

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it was ordered that this case be placed on the heel of the docket.

5323 James Lockwood vs. Frederick Jordan. Continued for service.

5324. Fannie C. Graves vs. Wm Alexander, Thomas A. Graves et als. Placed on the heel of the docket.

5326 The State of Texas vs. Sip Lacour et als. Upon motion it was ordered that all the defendants except Evans have leave to file a first original amended answer.

5326. The State of Texas vs Sip Lacour et al. This day came the plaintiff in this case by her Attorneys; and says that she will not longer prosecute this suit as to the defendant Evans, this suit is therefore dismissed as to said Sept Evans, the citation to said Evans having been returned not served.

5327 The State of Texas vs. L. J. Chambers et al. Placed on heel of docket.

5328 The State of Texas vs L. J. Chambers et al. Placed on heel of docket.

5330 The State of Texas vs. Henry Hamilton et als. Placed on heel of docket.

5333. The State of Texas vs. L. C. Dunn et als. Placed on heel of the docket.

Court adjourned till Monday morning the 13th inst 9 o'clk A.M.

October 13th 1879.

Court met according to adjournment. Present same as first day. Thereupon the following proceedings were had viz:

4608 Houston & Texas Central Rail Road Company vs. Catharine Horan. And now at this day this cause being called for trial the plaintiff appeared by his Attorneys Hancock West and Stark and the defendant appeared by his Attorney Jno. A. Green and the plaintiff announced ready for trial and the defendant having no reason for a continuance and neither party demanding a Jury the Court proceeded to try said cause, and thereupon came on to be heard the defendants demurrer to plaintiffs petition, and the same having been considered it is considered, adjudged and decreed by the Court that the same be overruled, and the defendant having failed to plead and answer to the merits, thereupon the Court having heard the pleadings the evidence and argument of Counsel, and having duly considered the same; it is considered, adjudged and decreed by the Court that the plaintiff, The Houston and Texas Central Railway Company do have and recover of and from the defendant Catherine A. Horan the sum of One thousand six hundred and seventy two 22/100 dollars, and all costs of suit; for all of which let Execution issue.

3934 Chandler Carleton & Robertson vs. George W. Honey Dept & W. P. De Normandie garnishee. Continued generally.

4584. Mary Danse vs. George Danse. Continued.

4768 E. L. Compton vs. The heirs of Henry Reinhart. This cause being on this day for the second time during the present term, regularly called for trial and no counsel appearing to prosecute this case, it is ordered

Sept. 22, 1881:- Judgment and interest having been fully paid and satisfaction of the same as thereby entered on the docket. By direction of Plaintiffs Attorneys. — Attest: C. A. Pollard Clerk By Wm. Kelly Dept.

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that this case be & the same is hereby dismissed.

4836 M. C. Hamilton vs. R. G. Blanton. The plaintiff having paid all costs of this proceeding, asked this day by his Attorneys Messrs Sm & Blackburn that this case be dismissed which is accordingly done

5069. Benjamin J. Collins vs. Fred W. Chandler et als. Upon motion it is ordered that Plff have leave to file an amended petition.

3332. The State of Texas vs Lee N. Perkins et als. This the thirtieth day of October (Exec. Book No 5 page 61) 1879. Came the plaintiff by Attorney and announced ready for trial, and the defts J. G. Crump and J. H. Boggess having heretofore answered in this cause, and the cause being regularly called for trial and judgment by default having heretofore been rendered against the defendants Lee N. Perkins, W. H. Grigsby and James Chuk with a writ of inquiry and no Jury having been demanded by any party to the suit this cause is tried by the Court. and the pleadings evidence and argument of Counsel having been heard and fully understood, it is considered, ordered, adjudged and decreed by the Court that the plaintiff the State of Texas, do have and recover of and from the said defendants Lee N. Perkins, W. H. Grigsby, J. H. Boggess, J. G. Crump, and James Chuk the sums of Three thousand two hundred and Twenty Six and 11/100 Dollars together with her costs in this behalf expended, for which Execution may issue. And it further appearing to the Court that the defendant Lee N. Perkins is the principal in the Official Bond sued on this cause, and that the said defendants W. H. Grigsby, J. H. Boggess, J. G. Crump and James Chuk executed said Bond as sureties, and as such sureties are entitled to the benefit of the Statue in such cases provided, it is therefore further ordered, adjudged and decreed by the Court that the Sheriff levy the Execution issued by virtue of this judgment first upon the property of the said Lee N. Perkins subject to Execution and situate in the County of Travis before a levy shall be made upon the property of said sureties or either of them, provided so much property of the said Lee N. Perkins subject to Execution shall be found as will be sufficient to make the amount of said Execution, otherwise the levy thereof to be made on the property of the said Lee N. Perkins that may be found if any and upon so much of the property of said sureties as may be necessary to make the amount of said Execution. And it is further ordered and decreed that in case said sureties or any of them shall make any payment which is applied on this judgment by virtue of their suretyship on said Official Bond this judgment shall not be discharged by such payment but shall remain in full force and be prosecuted to the use of said sureties or any of them making such payment to the amount of such payment. And it is further ordered that Execution may issue on behalf of the officers of this Court against all of the defendants in this cause for all costs in this behalf incurred

3336. The State of Texas vs T. J. Norrell et als. On this the 13th day of Octobe

October 13 1879.

(Execut. dock. 5 page 61)

A. D. 1879. Came the plaintiff by Attorneys and it appearing to the Court that the citation issued to the defendant R. Tanner was not been executed and the death of said defendant having been suggested, plaintiff by attorneys says she will not further prosecute this suit as to the said R. Tanner but discontinues the same as to him, and the other defendants having appeared by their attorney. both parties announced themselves ready for trial and waive a jury and submit the matters in controversy as well of fact as of law. to the Court and the pleadings evidence & argument of Counsel having been heard and fully understood it is considered ordered, adjudged and decreed by the Court, that the plaintiff the State of Texas do have and recover of and from the defendants T. J. Stovall the sum of Twelve Hundred and Sixty Eight and 77/100 Dollars together with all costs of suit for which Execution may issue: and that the said plaintiff. The State of Texas. do have and recover of the defendants W. J. Maltby. John. D. Merchant. C.W. Merchant and J. P. Flores and each of them the sum of Twelve Hundred Dollars together with costs of suit for which Execution may issue. It is further ordered, adjudged and decreed that the judgment and the Execution shall be discharged and satisfied as against all the defendants upon the payment of the said sum of Twelve Hundred and Sixty eight and 77/100 Dollars and the legal interest which may accrue thereon and costs of suit or shall be discharged and satisfied against either of said defendants upon the payment by either of them of the amount with interest and costs of suit for which judgment is herein rendered against him so the said plaintiff shall not be entitled to recover from all the defendants any greater sum than the said sum of Twelve hundred and sixty Eight and 77/100. Dollars and the legal interest which may accrue thereon and costs. nor from either of the defendants any greater sum than the amount of the judgment rendered herein against him and legal interest which may accrue thereon and costs of suit. And it further appearing to the Court, that the defendant T. J. Stovall is the principal on the Official bond sued on in this case, and that the defendants W. J. Maltby, John D. Merchant, C. W. merchant and J. P. Flores executed said official bond as sureties, and as such sureties are entitled to the benefit of the Statute in such cases made and provided, it is therefore further ordered, adjudged and decreed by the Court that the Sheriff levy the Execution issued by virtue of this Judgment first upon the property of the said defendant, T. J. Stovall subject to Execution and situate in the County of Travis. before a levy shall be made upon the property of said sureties or either of them; but if the said T. J. Stovall has not property in said County of Travis subject to execution then the levy thereof to be made upon so much of the property of the sureties as may be necessary to make the amount adjudged against them herein. And it is further ordered adjudged and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond. this judgment shall not be discharged by such payment but shall

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remain in force and be prosecuted to Execution for the use of said cred-
or either of them making such payment to the amount of such paym-
It is further ordered adjudged and decreed by the Court that the offic-
of the Court have Execution for their costs.

✓ 5274. (Execut. docket N.5 page 60.) J. R. Rayston Vs. Vincent Chambers et als. This cause being regularly call-
for trial. Come now the plaintiffs by Shuks & Sneed their attorneys, and the defe-
by their attorneys, and the parties announced themselves ready for trial and th-
cause being submitted to the Court for trial without the intervention of a Jury, t-
Court after hearing the pleadings and the evidence therein finds,

1st That there is due from the defendants Vincent Chambers. William Cha-
-bers. Anderson Chambers, and John Chambers to the plaintiffs, on the draft
sued on the sum of $2308.94. including principal and interest,

2nd That the draft sued on was given for part of the purchase money for the
real estate and property hereinafter described. which was sold and conveyed to the defendan-
by D. L. Cross and the plaintiffs herein by deed dated the 23d day of Octo-
A. D. 1878.— 3d That in addition to the draft sued on herein there are
five other promissory notes still unpaid given on the 23d day of October A. D.
by the Defendants to said D. L. Cross and the plaintiff in this cause for par-
of the purchase money of the said real estate, One of which is for the sum of
due the 23d day of October 1879. the second for the sum of $2000. due the 23d d-
of October 1880. the third for the sum of $2000. amount due October 23d 188-
the fourth for the sum of $2000. due the 23d day of October 1882. and the fif-
for the sum of $2000. due the 23d October 1883. all drawing interest at the
of 10% per annum from date till paid. said int. being payable annually. The
1st 3d 4th and 5th of said Notes are held and owned by the said D. L. Cro-
and the plaintiffs herein and the 2nd of said Notes due Oct 23d 1880. is held
Joseph L Stalle, all of which together with draft sued on herein constitute
a lien upon and to secure which the holders of said draft and notes have a ve-
lien upon the following described property to wit: The East third of out lot Numb-
forty two (42) in Division "C" of the out lots of the City of Austin, as known and d-
-signated on the map of the out lots of the City of Austin as the same appears of
in the General Land Office, and upon which portion of said Out lot stands th-
mill known as "Cross Mill," formerly known as "Matthews mill." (2.) also the
lower half of a tract of land lying above and opposite said mill, on the Ea-
bank of the Colorado river and described as follows to wit: Said tract was
deeded to James. B. Shaw and James H. Matthews by Albert. C. Horton
the first day of September 1856. and recorded in Book "N." pages 583 and 5-
The said lower half of said tract, which is herein conveyed. is described
follows. Beginning at the N.E. corner of the Hugh Dunin tract. Thence S.
E. 930 vrs. more or less, to the Colorado River. Thence up said river with
Meanders, to wit: N 89. W. 180 vrs. Thence N 74½. W. 175 varas Thence S. 68

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N 450 vs to a Willow tree 24 inches in diameter marked X from which a Cockberry 9 inches in diameter brs N 27° W 26 vs and an Elm 12 inches in diameter bears N 8 West 28 vs as both marked X. Thence S. 24 3/4 E 764 vs. to the beginning corner. And also all the rights privileges and immunities granted to David L. Cross by an Act of the Legislature of the State of Texas entitled "an act to authorize David L. Cross to construct Keep and maintain a dam across the Colorado river for milling and manufacturing purposes" passed November 21st 1871, and a lien on all machinery and improvements that the defendants have put on said real estate 4th That the said defendants have no other property subject to Execution out of which said purchase money or any part thereof can be made and a necessity therefore for the foreclosure of the Vendors lien exists as in order to make the money on this Judgment, It is therefore ordered adjudged and decreed by the Court that the plaintiffs J. R. Ray, Elvira Ray, his wife, Emma Cross and Anna Cross recover from the defendants Vincent Chambers William Chambers, Anderson Chambers and John Chambers the sum of Two thousand three hundred & 2308 94/100 Dollars and ninety four cents with interest at the rate of 8 percent per annum from this date until paid together with their costs in this behalf laid out and expended, It is further ordered, adjudged and decreed that the lien of the Vendors. D. L. Cross. J. R. Ray, Elvira Ray, Anna Cross and Emma Cross, on the property herein before described be and the same is hereby foreclosed, and it is ordered that the said property be sold by the Sheriff of Travis County as on Execution, and that an order of sale be issued accordingly, And it appearing to the Court that said D. L. Cross and the plaintiffs herein have transferred the said note for $2000. due October 23d 1880. to Joseph Stalle, and that said note is yet unpaid, it is further ordered that after the sale of said property to be made by the Sheriff as aforesaid he shall retain of the proceeds of said sale enough money, (if there be that much) to pay said note when the same becomes due, that of the residue thereof he pay the judgment herein if there be enough thereof, that he retain possession of the balance of the proceeds of said sale, after paying this judgment or enough thereof if there be that amount, to pay off said five promissory notes for $2000. each above described and hold the same until further order of this Court, That if there be any residue of the proceeds of said sale after the payment of this judgment, and retaining enough to pay off said five promissory notes of $2000 each above described as they fall due, then the Sheriff shall pay such residue to the defendants.

It is further ordered, adjudged and decreed that if said property hereinbefore described shall not sell for enough to pay off the said note held by said Stalle when the same becomes due and to satisfy this judgment for $2308.94 and costs in favor of plaintiffs, then the plaintiffs may have their Execution over against said defendants for such sum as may still be due on said judgment, together with their costs. And it further appearing to the Court that further orders

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may be necessary herein in regard to the money that may be realized on the sale of the property herein before described, and that the same shall remain under the further control of the Court, it is ordered that this cause remain and be continued on the docket of this court for that purpose— It is ordered that the deed from D. L. Cross as Guardian of the minor heirs of Barnes to the defendants, brought into Court be delivered by the Clerk of the Court to the defendants.

Court adjourned until tomorrow morning 14th inst 9 o'clock. Oct 14th 1879. Court met pursuant to adjournment. Parties came as first day, and this being no minutes of this date Court adjourned until tomorrow morning 15th inst 9 o'clock.

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Court met according to adjournment. Parties came as on first day. Whereupon the following proceedings were had viz.

✓ 5344. (Exec. Docket No. 5 page 74.) Wm J. Montgomery vs. Rudolph Krause. And now on this day comes the plaintiff and announces ready for trial, and the defendant comes not but makes default, and it appearing to the Court that defendant had been regularly served with process and had failed to answer, and that plaintiff demand was liquidated and proved by the several instruments of writing sued upon, it is considered, ordered adjudged and decreed by the Court that the Plaintiff Wm J. Montgomery do have and recover of and from the Defendant Rudolph Krause the sum of Six hundred and Sixteen (616) dollars the principal and interest due upon the notes sued upon with interest from date hereof at the rate of (12) Twelve per centum per annum, and the further sum of sixty one & 60/100 dollars. ($61 60/100) Attorneys Fee provided for in said instruments of writing with interest thereon from this date at the rate of 8 per cent per annum together with all costs in this behalf expended. And it further appearing to the Court from the evidence adduced that the promissory notes sued upon were executed upon the 2nd day of January 1878. to secure the payment of purchase money for the following described tract of land sold by said plaintiff to said defendant to wit: All that certain tract or parcel of land lying and being situated in Travis County, State of Texas, about 1 mile West of the City of Austin and being a part of the G. W. Spear survey and more particularly described as follows to wit: About 10 acres of land beginning at Charley Johnsons N. E. corner at a stone corner on the top of a bluff from which a cedar bears N. 83° W. 5 vrs Thence N. 30° E to a two acre lot formerly sold to the Baptist Church a stake & post oak corner: Thence N 60° West 333⅓ varas on a line of said Baptist Church lot to a stone mound & a walnut tree: Thence S. 30° W. 174 6/10 varas to Charley Johnsons North line: Thence with said Johnsons line to the beginning, It is therefore considered, ordered adjudged and decreed by the Court that the Vendors lien as it existed on the said 2nd day of January 1878. upon

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above discribed tract of land &c and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to any Sheriff or Constable of Travis County Commanding him the said officer to seize and sell the above discribed tract of land as under Execution and that he apply the proceeds thereof to the payment and satisfaction of the amounts herein adjudged with all interest that may accrue thereon, and of the costs of this suit. and if said land shall sell for more than sufficient to pay off and satisfy said sums of money, then the said Officer is hereby directed to pay over the excess to said defendant; but if said land shall not sell for enough to pay off and satisfy this judgment then the Clerk is directed to issue Execution for the balance remaining unpaid.

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4918.
(Docket No 5. page 60.)

B. O Slavely vs Joseph Pealove et als. This day Tuesday October 7th 1879 came the parties by their Attorneys and waive a Jury and submit the matter in controversy as well of fact as of law to the Court, and the Court having heard the demurrer and Exceptions of the Plaintiff to the defendants answer and Cross bill and the argument of Counsel thereon, it is the opinion of the Court that the law is for the plaintiff. It is therefore considered by the Court that the said demurrer and Exceptions be sustained, and that said answer and Cross bill so far as the same sets up any Claim or title to the property in question of the parties therein named, To wit: Celia Slavely, M. A Slavely, Jr A. Slavely, B. O. Slavely Jr. J. C. Slavely M. J. Slavely, Alice J. Slavely and Minnie Slavely be stricken out and held for nought, without prejudice to their rights if any they have, and it appearing to the Court that the defendant is indebted to the plaintiff in the sum of $326.50. and that the note sued on bears interest at the rate 10 per cent per annum, And it further appearing to the Court that said note was executed on the 30th day of March A. D 1877. to secure the payment of the purchase money for the following discribed tract of land, to wit: lot No 20.- in Division "O" of the out lots of the City of Austin Texas. It is therefore considered by the Court that the plaintiff do have and recover of the said defendant said sum of $326.50. principal and interest, with interest thereon from this date at the rate of 10 per cent per annum together with his costs in this behalf expended and it is ordered adjudged and decreed by the Court that the Vendors lien as established upon the 30th day of March 1877. upon the above discribed tract of land &c and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff or any Constable of Travis County Tx. Commanding him the said Officer to seize and sell the above discribed tract of land as under Execution and that he apply the proceeds thereof to the payment and satisfaction of the said sum of $326.50. together with all interest that may be due thereon, and the costs of this suit; and if the said land shall sell for more than sufficient to pay off and satisfy said sums of money then the said officer is hereby directed to pay over the excess to the defendant; but if the said land shall not sell for enough to pay off and satisfy said judgment,

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thus the Clerk of this Court is directed to issue Execution for the balance remaining unpaid as in other cases.

1320 (Exec. Book No 5 page 66.) R. J. Hill Trustee vs. T. B. Whitlow and Samuel Richards. On this the 7th day of October 1879. This cause being reached on the docket and called for trial the plaintiff came by his attorneys Walton Green and Hill and the defendant Samuel Richards by his attorneys Turner & Walker and announced ready for trial, but the defendant T. B. Whitlow though duly served by citation and with a copy of plaintiffs petition more than five days before the beginning of this present Term of Court came not, but made default. and thereupon judgment was ordered by default against said Whitlow for the sum of one hundred and seventy Dollars and seventy five cents. principal and upon plaintiffs demand which is found by the Court upon production thereof to be liquidated and because the said defendant Samuel Richards by his said Attorneys has filed his consent and agreement thereto in writing, it is further ordered adjudged and decreed, that the plaintiff have and recover of and from the said Richards the sum of seventy five dollars and that for the security thereof the plaintiff have a Mechanics lien on lots 6 and 7. Block 86. in the City of Austin Travis County Texas. and the Building thereon and it is ordered that the Clerk of this Court issue an order of sale to the Sheriff of Travis County commanding said Sheriff to make sale of said premises in the manner prescribed by law as under Execution, and that out of the proceeds of said sale to pay the said sum of Seventy five dollars - together with all costs of collection the same and enforcing said lien, but no other costs of this suit; and if the said sale shall not produce sufficient to pay the same, then that Execution issue for the remainder, And it is further ordered adjudged and decreed that plaintiff do further have and recover of and from the defendant T. B. Whitlow said sum of $170.75/100 together with all costs in this behalf expended. for which Execution may issue, but that in the event of collection of the portion of plaintiffs debt herein adjudged against said Richards, the same shall operate as a credit on the said $170.75 adjudged against said Whitlow.

Oct. 22nd 1879 Recorded & Compared

Henry Fox Dreem (Off. Pet.) in account said Clerk

vs

Richards et al

Debt & Foreclosure

Appeal from Justice Court

Travis County Texas

Oct. 15th 1879

Judgment

Affirmed

E. T. Hill Justice

Travis Co. Texas

1329. (Exec. docket No 5. page 60) The State of Texas vs L. L. Coulehfield et als, This day came on to be heard the above entitled cause upon the writ of inquiry awarded in this cause on the 10th day of October 1879. and thereupon plaintiff dismissed this cause as to the defendant. J. T. Henson who has not been served with process herein. and announced ready for trial, and a Jury being waived, plaintiff submitted the evidence to the Court, and it appearing to the Court from the evidence submitted by plaintiff that there is due plaintiff from the defendants L. L. Coulehfield, H. Horton and G. W. Vandenberg the sum of $1931.21/100 as principal, and the sum of $276.29 as interest due at this date. It is therefore considered ordered adjudged and decreed by the

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Court that the plaintiff the State of Texas do have and recover of and from the said defendants L. L. Cantrell, H. Horton and D. W. Vandeburg the sum of Two thousand two hundred and eight ($2208.00) dollars with interest thereon from this date, until paid at the rate of 8 per cent per annum and for all costs in this behalf expended for all of which Execution may issue, It further appearing that the defendants H. Horton and D. W. Vandeburg are sureties of the defendant L. L. Cantrell, it is therefore ordered by the Court that the said sureties have judgment over against said Cantrell for whatever amount they may pay upon this judgment.

5148. Allen H. Gallis vs Jeremiah Shuttan. Now on this the 10th day of October 1879, came the parties plaintiff and defendant, the plaintiff by his attorneys D. E. Thomas and Shuks and Sayd and the defendant by his attorneys Ford Carleton and J. W. Robertson and announced themselves ready for trial without the intervention of a Jury and proceeded to submit the cause to the Court, and the defendant Horan having filed his disclaimer herein the suit is dismissed as to him, Whereupon the Court after hearing the pleadings evidence and argument of counsel doth adjudge and decree, That the plaintiff Allen H. Gallis do have and recover of and from the defendant Jeremiah Shuttan, lot No 12. in block number twenty two in the City of Austin in the County of Travis and State of Texas, together with all the improvements thereon, It is further considered by the Court and it is hereby ordered adjudged and decreed that the defendant Jeremiah Shuttan do have and recover of and from the plaintiff Allen H. Gallis the sum of (three hundred and twenty five) dollars ($250.00) for (valuable) improvements placed by said defendant Jeremiah Shuttan on the aforesaid lot of ground which said sum of money is hereby declared to be a line upon the aforesaid lot of land, It is further ordered adjudged and decreed by the Court that no writ of possession shall issue in favor of said plaintiff for the said lot until such time as the said plaintiff shall pay to the said defendant Jeremiah Shuttan the said sum of (three hundred and twenty five) dollars ($250.00), and that as soon as that shall be so paid a writ of possession shall issue at once to put said plaintiff in possession of said lot, It is further ordered adjudged and decreed by the Court that no Execution or order of sale shall issue in favor of said defendant Jeremiah Shuttan until the 10th day of October 1880, but if by that date the said sum of (three hundred and twenty five) dollars ($250.00) has not been paid to the said defendant Jeremiah Shuttan by the said plaintiff Allen H. Gallis then the said lien of said defendant on said lot is hereby foreclosed and the Clerk of this Court is hereby directed on demand of the said defendant to issue an order of sale directed to the Sheriff of Travis County instructing him to proceed to levy on and sell the said lot and improvements as under Execution and out of the procede to pay off and discharge said sum of (three hundred and twenty five) ($280.00) dollars with interest from said 10th day of October

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1880. at the rate of 8 per cent per annum, and the balance of any to be returned to said plaintiff Allen H. Gallis or his attorney D. E. Thomas. It is further ordered adjudged and decreed by the Court that the said Allen H. Gallis may at any time within twelve months pay off and discharge the said sum of Three hundred and twenty five dollars ($325.00) by depositing the same with the Clerk of this Court or by paying the same to defendants attorney and when so paid plaintiff shall have his writ of possession to place him in possession of said lot. It is further ordered adjudged and decreed that the plaintiff have and recover one half from the defendant Jeremiah Shelhamer half the costs in this behalf expended and that the defendant Jeremiah Shelhamer do have and recover of and from the plaintiff one half of the costs in this behalf expended. For all which Execution may issue.

5337. C. R. Baily vs W. B. Dashiell. On this the 15th day of October 1879. came the parties by their attorneys and announce themselves ready for trial, and no Jury having been demanded by either party the same is waived and the matters in controversy as well of fact as of law are submitted to the Court, and the pleadings evidence and argument of Counsel having been heard and fully understood, it is considered ordered adjudged and decreed by the Court that the plaintiff C. R. Baily do have and recover of and from the defendant W. B. Dashiell the sum of Two thousand six hundred and two and 0/100 Dollars with interest thereon from this date at the rate of twelve per cent. per annum together with his costs in this behalf expended and that he have this Execution. It is further ordered that Execution issue in favor of the officers of Court against each party for the costs by him in this behalf incurred

(Exc. dock No 5. page 61.)

I hereby transfer this judgment in case No 5337 of C. R. Baily vs W. B. Dashiell to Paul Bell. Oct 15-1880. C. R. Baily

4972. John H. Hampton vs W. R. Hampton et als. This cause coming on to be heard on the report of the Commissioner J. H. Faulkner asking further time to make sale of the property which he was heretofore ordered to sell, it is ordered by the Court that his powers as Commissioner be continued and that he proceed to sell the land either at private or public sale as he may find practicable, on the terms heretofore ordered and report to this Court this action for approval as early as practicable.

5334. F. Carson Moore vs John C. Herring. The Central M. E. Church and S. C. Vineyard and A. W. Vineyard. And now on this the 13th day of October 1879. this cause being regularly reached on the docket and called for trial, came the plaintiff by his attorneys Walton Green and Hill and announced ready for trial and also came the defendant John C. Herring by his Attorney Osceola Archer and the defendants A. W. and S. C. Vineyard by their attorneys Shuler & Jones and also announced ready for trial, but the said defendant the Central Methodist Episcopal Church of the City of Austin, although duly served according to law, came not but wholly made default, and thereupon the said plaintiff

(Exc. dock No 5 page 62)

1016 cases

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asked a judgment by default as against said Central Methodist Episcopal Church and the same is accordingly ordered and adjudged. and plaintiffs demand being liquidated the Clerk is ordered to assess the damages and amount of the same which being done is found to be the sum of $2599.15 principal and interest of the note sued upon, and interest from this date at 10% per annum, and the Court having heard all the pleadings of plaintiff in this cause and the demurrers of said defendants A. W. and S. C. Vineyard, and J. C. Herring thereto and argument of Counsel thereon, the same are overruled, and the Court having afterwards no Jury being demanded heard all the pleadings of the parties and the evidence addduced and argument of Counsel thereon finds for the plaintiff the sum of Two thousand Five hundred and ninety nine dollars and fifteen cents ($2599.15/100) principal and interest due on the note sued on against all the defendants & apt Anna. W. Vineyard. and it being found by the Court that said note was executed on the 12th day of June A. D. 1877. as a part of the purchase money therefor the same is found and decreed by the Court as against all the defendants to be a valid and subsisting Vendors lien upon the following described lands situate in the County of Aransas State of Texas, bought by the said John C. Herring from the defendants. S. C and Anna. W. Vineyard on the 12th day of June 1877. as shown by deed of that date. the said lands being described as four thousand two hundred and fourteen acres and set out as follows. Six hundred and forty acres surveyed for J. N. Byrne by virtue of Head right Certificate number twenty two lying on Calavaras Creek. also a tract of six hundred and forty acres surveyed for M. Hewit by virtue of land scrip No 1387/1486. lying south of said Byrne survey. also one hundred and seventy six acres from the northern portion of a survey of three hundred and twenty acres in the name of M. Hewit by virtue of land scrip No 1342/1451. also Two thousand seven hundred and fifty nine acres to be taken off the northern portion of a survey for John Durst of one league and labor by virtue of Head right Certificate No 502. and lying South and East of the first named surveys. the South line of the one hundred and seventy six acres and the South line of the two thousand seven hundred and fifty nine acres being a direct line, running due East from Copanos Bay to Saint Charles Bay. and for more Complete description reference was made in the said deed to the report and Maps on file in the County Clerks office of Aransas County as made by Commissioners of partition appointed May Term of the District Court of said County 1877. and recorded in the Minutes of said Court pages 251-258. It is therefore ordered adjudged and decreed that said Vendors lien on the said lands as it existed on the said 12th day of June A. D. 1877. be and and the same is hereby foreclosed. that the plaintiff F. Carson Moore do have and recover of and from the defendants. John C. Herring. The Central Methodist Episcopal Church of the City of Austin and S. C Vineyard the sum of Two thousand Five hundred and ninety nine and 15/100 dollars ($2599.15/100) together with interest at the rate of ten percent per annum

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from this the 13th day of October 1879 until paid, and all costs in this behalf expended for which Execution may issue, and it is ordered that an order of sale be issued by the Clerk of this Court directed to the Sheriff of Aransas County State of Texas, Commanding him to make sale of the above described lands or a sufficiency thereof according to law, as under Execution to make said sum adjudged to plaintiff, and that out of the proceeds of such sale he pay all costs thereof and the amount of this judgment and the remainder if there be any to said John. C. Herring, his heirs or legal representatives, and that if the same be insufficient to satisfy this judgment for the remainder plaintiff have Execution

No 5338. Annie Robinson vs James Robinson, On this 15th day of October A.D. 1879 this cause coming on for trial, came the plaintiff Annie Robinson by her attorney and the said defendant having failed to appear and answer in this behalf but Wholly made default, said plaintiff by her attorney announced ready for trial, Whereupon a Jury having been waived, the matters and things in controversy in said cause as well of law as of fact were submitted to the Court, and the pleadings and evidence in said cause having been by the Court heard and fully understood, it is considered ordered and adjudged by the Court that the said plaintiff have judgment dissolving and annulling the bond of matrimony now existing between the said plaintiff Annie Robinson and the said defendant James Robinson and for an absolute divorce from the said defendant James Robinson and for all costs in this behalf incurred and expended, for which Execution may issue.

5352 Marshal A. Martin. Ex parte. Marshal A. Martin having made application to the District Court of Travis County at the October term 1879 thereof, for license to practice as Attorney and Counsellor at Law and he having produced to said Court the certificate required by law, showing that he is twenty one years of age and a man of good moral character and having further produced to said Court his license to practice as Attorney and Solicitor in the different Courts in Tennessee, issued to him by the Chancellor of the 8th Ch. Div of the State of Tennessee and by the Judge of the 9th Circuit of said State: It was thereupon ordered by this Court that the said Marshal A. Martin be and he is hereby admitted and authorized to appear, plead and practice as an Attorney and Counsellor at law, in all District and inferior Courts of the State of Texas. It is further ordered by the Court that these proceedings be recorded in the minutes of this Court.

5019 Minerva Davis vs. Walker Davis. October 14th 1879. Continued.

5024 S. W. Baker vs. Nicholas Jerolaman. Continued for service. Oct 14 79.

5026 James F. Wade vs. John C. Duval. October 14th 1879 Continued.

5049 Pattie Johnson vs. Fremont Johnson. Octr 14th 1879 Continued no

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counsel appearing to prosecute this case when regularly called for trial.

5065 Sheeks & Sneed vs. R.R. Booth & Wm L. Booth. Octobr 14th 1879. The death of R.R. Booth having this day been suggested to the Court, leave was given to make his representatives parties defendants to this suit, and case continued for service on such parties.

5069 Benjamin J. Collins vs. Fred W. Chandler. Octbr 14/79. Continued.

5103 Paul Pressler vs. Carl Schaeffer et als. Continued on Octbr 14/79.

5108 Emelia Norwood vs. Ed Norwood. Octbr 14/1879. No counsel appearing when case regularly called for trial, this case is continued.

5116 Mrs. Sophia J. Markley vs. Joseph Walle. Upon motion it was ordered that the plaintiff have leave to file a 2nd. amended original petition.

5151. G.A. Riedell vs. Travis County. October 14th 1879. Continued for service.

5168. Isaac Taylor vs W. S. Canally Sheriff et als. October 14th 1879. No counsel appearing, when case was called for trial, it was ordered that this case be dismissed.

5169. Geo P. Gassaway vs W. S. Canally Sheriff et als. October 14th 1879. This case having been called on this day for the second time during this term, for trial on the regular call of the docket and again no counsel appearing to prosecute the same, it was ordered by the Court that this case be and the same is now dismissed, and it was further ordered, that the plaintiff Geo. P. Gassaway and the sureties on his costs bond viz W. O. Smith and Wm F. Barlow pay all costs in this behalf incurred, for which execution may issue in behalf of the officers of this Court.

5170. W. T. Watley vs W. S. Canally Sheriff et al. This case having again been called for trial on the regular call of the docket and again no counsel appearing; it was ordered by the Court that this case be dismissed and that the plaintiff W. T. Watley pay all costs incurred in this behalf.

4963. Joseph Rossie vs John Ravy. This cause being regularly called in its (Ex Book 5 page 99) order on the docket on the 13th day of October 1879. Came the plaintiff by his attorneys Walton Green and Hill. and also came the defendant by his attorneys Messrs Hancock West and North and announced ready for trial. and thereupon the Court having heard the pleadings of the plaintiff and the defendants demurrer thereto. And argument of Counsel thereon finds the law to be with the plaintiff, and said demurrer is overruled. And no jury having been demanded the Court after hearing the pleadings of both parties, and all the evidence adduced, and argument of Counsel thereon, is of opinion that in so far as plaintiffs suit is to cancel and annul the deed from plaintiff to defendant, dated June 18th 1877. and set aside the sale therein set out, plaintiff ought not to recover. But the Court finds the fact to be as alleged by plaintiff - that the consideration to wit:

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Six Hundred Dollars. & passed in said deed was never in fact paid by defendant to plaintiff and that the defendant is justly indebted to plaintiff for the said purchase money and consideration together with eight per cent interest thereon from and since the date of said deed. And that the same constitute a valid and subsisting Vendors Lien on the West half (34½ feet) of Lot No one Block Twenty three in Outlot City Travis County Texas, It is therefore ordered adjudged and decreed by the Court that defendants title, subject to the liens hereinafter decreed be quieted as against all claims of plaintiff on account of the matters therein contained and involved & upon said purchase money, and that plaintiff Joseph Rossi do have and recover of and from defendant John Ravey the sum of Seven Hundred and Eleven Dollars and Thirty three cts to gether with interest thereon from this date at eight per cent per annum and all costs in this behalf expended, And it is further ordered adjudged and decreed that the said Vendors lien be and the same is hereby foreclosed, and it is ordered that an order of sale do issue Commanding the Sheriff of Travis County to seize and levy upon and make sale of, according to law, as under Execution the said West one half, or thirty four and one half feet off of the West side of lot number one (1) in Block Number Twenty three (23) in the city of Austin Travis County Texas, and all the improvements thereon, and out of the proceeds of sale thereof pay off and satisfy this judgment and all costs Fees and Expenses of such sale and if any remainder there be out of said proceeds that he pay over the same to defendant and in case the proceeds of said sale be not sufficient to satisfy this Judgment. plaintiff may have Execution for the remainder

5192 S. S. Hole vs. Henrietta Sparks et al. Oct 13th 1879 Upon motion leave was given to Defts Reed & Reed to file 1st amended original answer

5194. Andrew Neal vs. West Union Telegr Comp. Continued by the Defts.

5202 Mrs. Sahrah A. Peel vs. William H. Peel and Andrew Staehle. D. W. Doom Esq. an attorney of this Court, was this day appointed by the Court to represent the absent defendant.

5237 Thomas B. Jourdan & wife vs George B. Zimpelman. Continued.

5247 Ruth Ann Stewart and husband vs. S. S. Watson. Octbr 11/79 Continued for service.

5249 F. W. Chandler Admintr vs Loomis & Christian. No counsel appearing for Defts, when case regularly called for trial, this case is continued.

5250 James R. Johnson vs. David L. Cross. October 11th 1879. It was this day ordered by the Court, that this case be dismissed and that the Plaintiff James R. Johnson pay all costs in this

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behalf incurred, for which execution may issue in behalf of the officers of this Court.

52251. William Bray vs. J. D. Tullis et ux. et al. Continued

52253 Jerry Olliver vs. Annie Olliver. Oct 13th 1879. Upon request of Pffs Attorney it was this day ordered, that this case be dismissed, and that the Pff pay all costs in this behalf expended for which execution may issue in behalf of the officers of this Court.

52255. Thomas Freeman vs. Unknown heirs and legal representatives of B. P. Rammel dec'd. Oct. 13th 1879. D. W. Baum an Atty. of this Court, was this day appointed by the Court to represent the defendants in this case.

52255. Thomas Freeman vs. Unknown heirs and legal representatives of B. P. Rammel dec'd Oct. 15th 1879. Continued.

52256 J. T. Bardain vs. J. T. Hamilton. The costs of this proceeding having been paid, this case was this day dismissed upon motion of Pff. Attorneys.

52265 Hannah Taylor vs. Jeff. Taylor. Continued.

52267 Laura A. Armand vs. Charles J. Armand. Continued.

52268 Lewis Morris vs. Ann Morris. It was ordered by the Court, That this case be and the same is hereby dismissed, & that the Pff pay all costs in this behalf expended and that execution issue therefore against said plaintiff in behalf of the officers of this Court.

52272 M. B. Davis vs. Letitia L. Davis. Continued.

52273. Susan A. Hartson vs John M. Hartson. Continued.

52276 John T. Jackson for the use of W. A. Ryan vs. Roger William Insur. Company. Leave was given to Deft. to file 1st supplemental answer and cause continued.

52277 John T. Jackson for the use of W. A. Ryan vs The Atlantic Insurance Company. Leave given to Deft. to file 1st supplemental answer and cause continued.

52284. Loomis & Christian vs. Charles Lemke et al. Continued.

52289. Maria M. Spence vs. L. Bourner et als. Continued.

52298 Mary Walton vs. Pete Walton. Dismissed.

5304. Wm W. Fountain vs. John A. Johnson. Continued.

5306. R. K. Redd et als. vs. John A. Johnson Collector of Taxes. Continued.

5311. James P. Randle vs. James M. Morphis. Passed until after the State docket is disposed of.

5314. Diska Buntan et als. vs. Wm Boyce. Continued for service.

5316. L. Canto vs. Matilda Canto. Continued by operation of law.

5318 R. M. Wilcox et als. vs. Unknown heirs of J. Ellison. Continued to perfect service.

5321 The State of Texas vs. W. F. Egan et als. Continued for service on Deft Reynolds.

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5325 The State of Texas vs. Frank Rugely et. als. Continued for service.

5333 The State of Texas vs. L. B. Dunn et al. Continued for service.

5339 George W. Lagrone vs. Thomas G. McGehee. Placed on heel of docket.

5340 Herman Steinhoff vs Mary Steinhoff. It was ordered by the Court that this cause be and the same is hereby dismissed, and it is further ordered that the plaintiff Herman Steinhoff pay all costs in this behalf expended for which execution may issue in behalf of the officers of this Court.

5341 Marion M. Spence vs. Charles Lemke et al. Upon motion it was ordered that Plff have leave to file a first amended petition and cause continued for the term.

5342 Herman Steinhoff vs. Mary Steinhoff. Continued for service.

5343 Allen Bradley vs. Margaret Bradley. Continued.

5345 D. L. Paulett & Co vs. Brueggerhoff & Heidenheimer. Continued for service.

5347 Moody & Jamison vs. John Nagle. Octbr 13/79. Placed on heel of the docket.

5347 Moody & Jamison vs. John Nagle. Octbr 15th 1879. Continued.

5348 Emily Weems & husband vs George Newton. Upon motion leave was given by the Court to the Deft to file a first amended ans

5349 The Austin Home Building & Loan Association vs. Wm Kniveton & Mary Kniveton. Continued, service not being had in time for this term of Court.

5350. M. Scudder vs. Houston and Texas Central Rail Road Company. Continued, not served in time for this term of court.

5330 The State of Texas vs. Henry Hamilton et als. No return of service as yet, the case is passed to await return.

Court adjourned until to morrow morning 9 o'clk.

October the 16th 1879

Court met according to adjournment. Present same as yesterday. Whereupon the following proceedings were had viz:

5190. H. C. Barton vs Thos Davidson. This cause coming on to be heard this day before the Court without the intervention of a Jury and the matters of law and of fact having been submitted to the Court because it is the opinion of the Court that the law is with the defendant. It is ordered that the note made by Dunn to Bolton the 1st Tuesday in February 1876. be set aside void and of non effect as being in fact only a loan by the Trustee Bolton to himself. It is further ordered that in case any credits were made on the note in consequence of the said note having been made the same shall be and the same are set aside and the party at interest in said note

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to the amount not paid shall in no wise be affected by this suit; that the plaintiff take nothing by this suit but that the defendant have and recover his costs in this behalf expended from the said plaintiff H. C. Barton and the surety on his cost bond to Wit: John. B. Rector and that Execution May issue for the amount of said costs against the said plaintiff and his said surety.

5326. (Exec. dock No 5. page 75.)

The State of Texas. vs Sip Lacour et als.. On this the 16th day of October A. D. 1879. came the plaintiff by her Attorneys and the said plaintiff having discontinued this suit as to the defendant S. D. Evans who has not been served with citation and who has not answered in this cause, the other defendants answered by their Attorneys and both parties announce ready for trial and waive a Jury and submit the matters in controversy as well of fact as of law to the Court, and the pleadings evidence and argument of counsel having been heard and fully understood it is considered ordered adjudged and decreed by the Court that the said plaintiff the State of Texas, do have and recover of and from the said defendant Sip Lacour the sum of Two thousand Six hundred and twenty Six dollars and interest thereon from this date at the rate of eight per cent per annum together with costs of suit for which Execution may issue and that the said plaintiff the State of Texas, do have and recover of and from the defendants Philip Debot, C. Dewse and James G. Minter and each of them the sum of one Thousand Dollars with interest thereon from this date at the rate of eight per cent per annum together with costs of suit for which Execution may issue and that the said plaintiff the State of Texas, do have and recover of and from the defendant S. A. Hardin the sum of Three Hundred Dollars with interest thereon from this date at the rate of eight per cent per annum together with costs of suit for which Execution may issue; and that the said plaintiff the State of Texas, do have and recover of and from the Defendant W. D. Williams the sum of one Hundred Dollars with interest thereon from this date at the rate of eight per cent per annum together with costs of suit for which Execution may issue; and that the said plaintiff The State of Texas. do have and recover of and from the defendant L. C. Chambers the sum of five hundred Dollars with interest thereon from this date at the rate of eight per cent per annum together with costs of suit for which Execution may issue, It is further ordered adjudged and decreed by the Court that the judgment and Execution shall be discharged and satisfied as against all the defendants in this judgment upon the payment of the said sum of Two thousand six hundred and twenty six dollars and the legal interest which may accrue thereon and costs of suit and shall be discharged and satisfied against any one of said defendants upon the payment by him of the amount with the

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interest that may accrue thereon and costs of suit for which judgment is herein rendered against him so that the said plaintiff shall not be entitled to recover from any of said defendants any greater sum than the said sum of Two thousand six hundred and ninety six dollars and the legal interest that may accrue thereon and the costs of suit nor from any one of said defendants any greater sum than the amount of the judgment rendered herein against him. And the interest which may accrue thereon and costs of suit. And it further appearing to the Court, that the said defendant Sip Lacour is the principal on the Official Bond sued on in this case, and that the said defendants Philip Debit. S. A. Hardin W. D. Williams, C. Dunn James G. Minter and L. C. Chambers executed said official bond as sureties and as such sureties are entitled to the benefit of the Statute in such case made and provided, it is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the Execution issued by virtue of this judgment first upon the property of the said defendant Sip Lacour subject to Execution and situated in the county of Travis before a levy shall be made upon the property of said sureties or any of them. But if the said defendant Sip Lacour has no property in said County of Travis subject to Execution then the levy of Execution to be made upon so much of the property of the said sureties as may be necessary to make the amount, interest and costs adjudged against them herein, And it is further ordered adjudged and decreed by the Court that in case said sureties or any of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond, this judgment shall not be discharged by such payment but shall remain in force and be prosecuted to Execution for the use of said sureties or any of them making such payment to the amount of such payment, It is further ordered that the officers of the Court have Execution for their costs,-

Court adjourned till tomorrow morning 9 o'clock

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Court met pursuant to adjournment. Present same as Yesterday. Whereupon the following proceedings were had to wit:

5790. (Exec. Docket, No 5, page 68)

W. C. Barton vs Pleas Davidson, Ordered that the judgment entry in this case made on the 16th inst on page No 302. be set aside and held for naught as the same is incorrect and that the following be entered as the judgment of the Court in said cause,

This cause being regularly called reached upon the docket and both parties announced ready for trial. No Jury having been demanded the matters of law and fact were submitted to the Court and after hearing the plead-

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and witness in the cause. It is ordered adjudged and decreed that the plaintiff in this suit do have and recover of and from the defendant lot No 4. as discribed in plaintiffs petition. together with all costs of suit: and as to the balance of said lands Plaintiff take nothing by this suit: this judgment and decree in no wise to effect the rights of the parties to the amount due upon the note mentioned in the deed of Trust from defendant and wife to Bothe, that plaintiff have writ of possession for said lot No 4. and Execution for Costs.

4615 Houston & Texas Central Rail Road company vs. F. W. Chandler. On this the 13th day of October A.D. 1879 came the Plff by its Attorneys Mess Hancock, West & North and the defendant F. W. Chandler appeared in person and by his attorneys Messrs Walton, Green & Hill, and both parties announced ready for trial. And the General demurrer of Deft. having been consid-ered and overruled by the Court, the matters of fact as well as of law were submitted to the Court, neither party having been demanded a jury. And the Court after hearing all the pleadings the testimony and ar-gument of counsel was of the opinion that the law is with the defendant. It was thereupon ordered, adjudged and decreed by the Court, that the plaintiff take nothing by this suit, and that the defendant do have and recover of and from the said plaintiff the Houston and Texas Central Rail Road company all costs in this behalf expended, for which execution may issue against said Plff.

5331. The State of Texas vs. T. M. Bayby et als. On this cause on this day came on to be heard plaintiffs motion to strike out the defendants plea to the jurisdiction filed in this cause on the 10th day of October 1879. for the reason that the said plea was not sworn to as required by law, and the Court after hearing the argument of counsel on said motion believes that said plea to the juris-diction is defective and insufficient. Wherefore the said motion is sus-tained by the Court and said plea to the jurisdiction is stricken out.

4932 W. B. Bush vs J. B. Barron. And now on this day comes the parties to the above entitled cause by their attorneys and the general and special demurrer of the defendant to the plaintiffs petition came on to be heard and the court after hearing the argument on both sides both the matter under con-sideration and it appearing to the Court that the law is with the defendant, It is considered by the court that the general and special demurrers be sustained. and that plaintiff fails to amend. it is ordered and adjudged by the Court that the petition be dismissed and the said defendant have and recover of the plaintiff all the costs of suit. for all which Execution may issue. and thereupon the plaintiff excepts to the ruling of the Court and gave notice of appeal to the Supreme Court. Which is granted in due form of law.

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5318. Emily Weems and husband vs George Newton, This day came the parties by their attorneys, and thereupon came on to be heard the defendants general and special demurrer to the plaintiffs petition, and the argument of counsel thereon being heard, it is considered by the Court, that the defendants General demurrer be overruled, and that the special demurrer be sustained, as to that portion of the petition which sues to recover possession of the 12½ acre tract of land and the damages thereto because the same appears to be community property and it is further considered that the special demurrer be overruled as to the other grounds set forth,

4795 John C. Duval et als. vs. Robert Creuzbaur. Upon motion leave was given by the Court to Peff to file their 2nd amended and 2nd supplemental petition.

5186 Mary Mc Gowen vs. Geo. B. Zimpelman. Peff has leave to file first supplemental petition.

5324. Fannie D. Graves vs. William Alexander, Thomas A. Graves et al. All costs having been paid by the Defts Wm. Alexander & Thom. A. Graves, this case is upon the motion of plaintiffs Attorneys, ordered to be dismissed.

5335 The State of Texas vs. Joseph Cahn et als. October 13th 1879. Upon motion it was ordered that the Peff have leave to file a first supplemental petition, and the case is passed to the heel of the docket.

5335 The State of Texas vs. Joseph Cahn et als. Upon motion it was ordered that the dependents have leave to file a first supplemental answer and this case is passed and not to be taken up for trial until after the State docket is disposed of for the term.

4699 James P. Link vs. Austin City Rail Road Company. This day came the parties to this suit by their attorneys, and the dependent submitted it demurrer to Peffs petition to the Court, and the Court after having heard and considered said demurrer, overruled the same.

4930 W. B. Brush vs. James B. Barran. This day came the parties to this suit by their Attorneys, and the demurrer of Defts to plaintiffs petition having been submitted to and considered by the Court, the same was by the Court overruled.

5036 G. Brown vs. C. R. Johns et als. Defts & A. J. Peeler garnishee. Upon agreement of the parties to this suit, the garnishment proceeding in this case against A. J. Peeler were this day dismissed, and it was ordered that the plaintiff pay all costs of said garnishment; and the defendants by their counsel thereupon submitted to the Court this demurrer to Peffs petition, which demurrer was by the Court overruled.

5107. The Montopolis Ferry Company vs. Benjamin R. Townsend. This

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day the parties to this suit being present by their attorneys, the demurrer of the Defts to Plffs petition came on to be heard, and the same being fully argued by Counsel and duly considered by the Court, said demurrer was by the Court overruled.

5114. R. M. Castleman vs. C. R. Johns & Co. The parties to this cause being this day present by their attorneys, the defendants submitted to the Court their demurrer to plaintiffs petition, and the Court after duly considering said demurrer, overruled the same.

5174. R. B. Hubbard Governor &c. vs. A. J. Ward et als. This day came the Defendant J Proffered by his Attorneys Mes. Hancock Best & North, and submitted to the Court his motion to quash the service in this case as to him, which motion after being fully argued by counsel and duly considered by the Court, was by the Court overruled, and thereupon the general demurrer of the Defendants in this case to Plffs petition was submitted to the Court, and after being duly considered said general demurrer was by the Court overruled.

5176 R. B. Hubbard, Governor &c vs. A. J. Ward et als. The Defts demurrer in this case to the plaintiffs petition was this day submitted to the Court and after being duly considered, the same was by the Court overruled.

5186 Mary McGowan vs. Geo B. Zimpelman. The parties to this suit being this day present by their Attorneys. The defendants general demurrer to plaintiffs petition was submitted to the Court, duly considered and by the Court overruled, and thereupon came on to be heard the demurrer of Plff to the defendants answer, and the same having been fully argued by counsel and duly considered by the Court, said demurrer was by the Court overruled.

5192 J. S. Able vs. Henrietta Sparks et als. The parties to this case being this day present by their Attorneys, the defendants submitted to the Court their general demurrer to Plffs Petition, and the Court after duly considering said demurrer, overruled the same.

5200 William Ernst Rhese vs. Austin City Rail Road Company. The parties to this suit being this day present by their Attorneys. The Defendants demurrer to plaintiffs petition was submitted to the Court, duly considered and overruled by the Court.

5165- Ellen Kimball et als. vs Louisiana Johnson, Be it remembered that this cause came on this day to be heard on the motion to confirm Reports of Commissioners before the Hon E. B. Turner Presiding Judge of the District Court of Travis County Texas, said Commissioners having been appointed at a former term of said Court to partition and

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divide between the devisees and heirs of George Vigal Junior Dec'd and assigne the two following tracts or surveys of land which were granted to George M. Vigal Junior by the State of Texas - One hundred and twenty (120) acres located in Callahan County Texas, and the other six hundred and forty (640) acres located in Medina County Texas, the reports of said Commissioners with accompanying field notes of sub divisions and plats showing same are herewith filed and made a part of this Decree and are in the words and figures following to Wit:

State of Texas, } We the Commissioners Thomas Gilbraith, James Bright
County of Medina, } and Lonidas Moore report to the Honorable District Court of Travis County. Report as follows. We proceeded on the 17th day of September A.D. 1879. in company with O. H. Hutton Deputy Co Surveyor of Medina Co. to survey and partition survey No 1345 on the Gasper Flores or Black Creek, of 640 acres of land, and have divided and partitioned said survey to the best of our skill and ability and the annexed plat and report to us is a true and correct copy of our proceedings according to instructions. Survey No 1 for Louisa Vigal was made to contain 134 acres on account of worthless rocky and brushy hill in S.E. corner. Survey No 2. Made for Ellen Kimbrough containing 120 acres being good land and about 15 acres in cultivation. Survey No 3 made for Louisiana Johnson containing 125 acres good land, Survey No 4. made for Robert E. Lyles containing 140 1/2 acres on account of hill and rough land as shown on plat. Survey No 5. being all good land was equally divided. Survey 5 on plat of 61 1/2 acres made for Clifton Vigal. Survey No 6. containing 61 1/2 acres was made for Joseph Vigal and field notes accompanying report will show length of line and bearing of each subdivision according to No. and Quantity of acres. Thomas Galbraith. J. M. Bright Lon Moore.

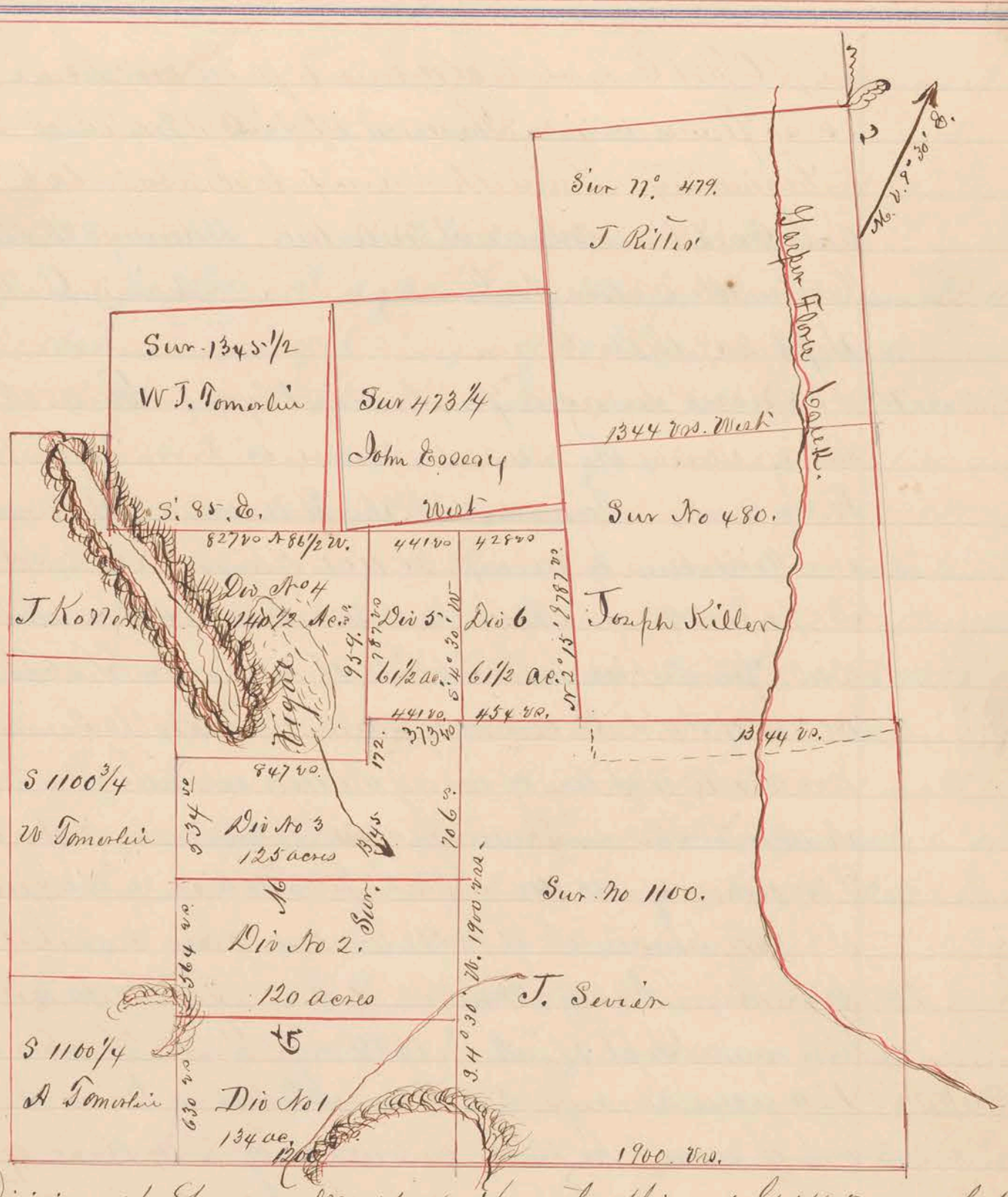
Sworn to and subscribed before me, the 22d day of September 1879.

Charles Schindemantle,
Clerk County Court Medina Co

State of Texas, } I Charles Schindemantle Clerk of the County Court
County of Medina } in and for said County do hereby certify that Thomas Galbraith, J. M. Bright and Lon Moore, all of whom are and each of whom is known to me and who are all citizens of Medina County, that each of them under oath declared to me that they had signed the foregoing instrument of Writing, but that J. M Bright at the request of Thomas Galbraith and in my presence did sign the same for said Thomas Galbraith, To certify which I hereunto set my official seal and signature at office in Castroville this the 22d day of September A.D. 1879.

Charles Schindemantle Clerk County Court Medina

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Plat of Sub Division of Survey No. 1345. for the Heirs of G. M. Vigal. Sept. 20th 1879.. O. H. Hector Surveyor.

To Messrs. Thomas Galbreath James Bright and Alonzo Moore. Commissioners appointed by the District Court of Travis County Texas, on the 11th day of August 1879. to have resurveyed and partitioned into Five (5) parts Survey No 1345. of 640 acres of land in Medina County on the Waters of Black or Harper Flores Creek in the name of G. M Vigal. I the undersigned in the capacity of Deputy Surveyor for Medina County under Wm K. Moffett County Surveyor of Medina County. proceeded on the 17th day of September 1879. to make a resurvey of said Survey No 1345. G. M Vigal. Heirs for the purpose furnished with a copy of the Original field notes thereof. and commencing at the N W. corner of Survey No 1100. found bearing to correspond, Thence S. 86 1/2 E. 532 varas - followed said old marked line, and at this distance found only the bearing tree - a mesquite 6 in dia brs N 46 E 31 1/2 varas the other not to be found. Thence North according to call and found the N E. corner 26 varas to the right or East and to run said line the course would be N 2° 15 E. Thence N 86 1/2 W. (call 661 varas) found the length to be 1696 varas to reach the distance from bearing a Live 18 inches in diameter brs S. 85 W. 6 vrs. Thence S. 4° 30' W 2687 varas to S. W corner found bearing to correspond, Thence

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S. 86½ E traced old line (field notes call for S. 84½ E) at 12[illegible]
varas found corner. Thence N 4° 30' E. 1900 varas with West line of No 1
to beginning. Find the survey to contain 644½ acres. The North [illegible]
and East lines were not marked. Bearings to corner tree defined.
Castroville Medina Co Texas. Signed O. H. Morton Dep. Co Surveyor
Sept 20th 1879.

Exhibit No 1. 134 acres Surveyed for Louisa Vigal, Field Notes of Subdivision No
out of Survey No 1345. in name of G. M. Vigal of 640 acres on Gaspar
Flores Creek, Beginning at the S. W. corner of Survey No 1345. a Stake set
on North line of survey No 1101. from which a L.O. 10 inches in dia bears
N 21 E 29 vrs. Thence N 4° 30 E. 630 vrs to a Stake set on West line of
1345. from which a Mesquite 10 in dia brs S. 86½ E 52 vrs and S 4° 30' W
170 vrs of the S. E corner of Survey No 1100¾ W Corner line Thence S. 86½ E.
1200 vrs to West line of survey No 1100. a Stake from which a L. O. 18 in dia
N 42¼ W 38 vrs. Thence S. 4° 30' W 630 varas to the S. E. corner of No 1345. Exhibit
S. W. corner of No 1100. a Stake from which a Mesquite 8 in dia brs S. 42 E
128 vrs. Thence N 86½ W. 950 vrs Cross Branch 1200. varas to the place
beginning – Brainge marked X O. Tom Gilbreath. Alonzo Moore chain Carriers
Surveyed Sept 18th A D. 1879. O. H. Morton Dept Co Surveyor

Exhibit No 2 120 acres surveyed for Ellen Kimbell, Field Notes of Sub Division No 2
out of survey No 1345. in name of G. M Vigal of 640 acres of Gaspar
Flores Creek, Beginning at the N. W. corner of Sub division No 1 a stake
from which a Mesquite 10 in dia brs S. 86½ E. 52 vrs and S 4° 30' W 172 vrs
of the S. E. corner of survey No 1100¾ W. Corner line, Thence N 4° 30' E and
East line No 1100½ and 1100¾ 564 varas to a Stake from which a L.O. 9 in
-ches in dia brs S. 59 E. 7 vrs. Thence S 86½° E 1200 vrs. to a stake set on West
line of No 1100 from which a Live oak 18 in dia brs N 83 W. 34 vrs. Thence N 4°
30' W 564 varas to a Stake set for the N. E corner of subdivision No 1 from which Exhibit
a L.O. 18 in dia brs N 42¼ W 38½ vrs. Thence N 86½ W 1200 varas to the
place of beginning, Tom Gilbreath and Alonzo Moore Chain Carriers
Beanings Marked X Surveyed Sept 18th 1879. O. H. Morton Dept Co Sur of Mc Co

Exhibit No 3. 125 acres surveyed for Louisiana Johnson, Field Notes of Sub-Division
No 3. out of survey No 1345. on Gaspar Flores creek. Beginning at the N W
corner of Sub division No 2. a Stake from which a L.O. 9 in dia brs S. 59 E 7 vrs
Thence N 4° 30' E 534 vrs with E line of No 1100¾ to a Stake from which a
L.O. 18 in dia brs S 56 E 14 vrs a L.O. 12 in dia brs S. 13½ E 21 vrs. Thence
S. 86½° E 827 varas to a Stake from which a Mesqt 14 in dia brs S. 11¼ W
38 vrs a Live O. 30 in dia brs 76¾ W 30 vrs Thence N 4° 30' E 172 vrs to a Stake
from which a Mesquite 10 in dia brs N 31 varas another 10 in dia brs S. 47½
30¼ vrs. Thence S 86½ E. 373 varas to the N W corner No 1100. a Stake
from which a L.O. 6 in dia brs N 37° W 10 vrs a L.O. 8 in dia brs N 44

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W 12 vrs. Thnce S 44° 30' W 706 vrs to a Stake from which a L.O. 18 in dia Trs N 85 E.
W 34 vrs. Thnce N 86½ W. 1200 vrs to the place of beginning, 1
Bearings Marked X. Tom Gilbreath & Alonzo Moore Chain Carriers
Surveyed Sept 18th 1879. O. H. Hester Dept Co Sur M. Co.

Exhibit No 4. 1140½ acres surveyed for Robert E. Lyles, Field Notes of Subdivision No 4. out of survey No 1345, in name of G. W Vigal of 640 acres on Gaspar Flores Creek. Beginning at the N W. corner of said No 1345, a Stake from which a L. O. 18 in dia Trs S. 85° W 6 vrs Thnce S. 86½° E 27 varas to a Stake from which a L O 6 in dia Trs S. 63½ W 17 vrs a L. O. 5 in dia Tro N 26 W 21 vrs. Thnce S. 4° 30' W 959 vrs to a Stake from which a mesquite 14 in dia Trs S 11½ W 38 vrs a L O. 30 in dia Trs S 76¾ W 36 vrs. Thnce N. 86½ W 827 vrs to a Stake from which a L O. 18 in dia Trs S. 36 E. 14 vrs a L. O. 12 in dia Trs S. 13½ E 21 vrs., Thnce N 4° 30' E 959 vrs to the place of beginning Thomas Gilbreath, Alonzo Moore Chain Carriers,
Bearings Marked X. O. Surveyed Sept 19th 1879. O. H. Hester Dept Co Sur. M. Co.

Exhibit No 5. 61½ acres, Surveyed for Clifton Vigal, Field Notes of Sub Division No 5. out of survey No 1345, in name of G. W Vigal of 640 acres on Gaspar Flores Creek Beginning at the N W corner of survey No 1100. a Stake from which a L. O. 8 in dia Trs N. 45½° W. 12 vrs a L.O. 6 in dia Trs N 51° W 10 vrs, Thnce N. 86½ W. 373 Varas to a Stake on East line of Sub Division No 4. from which a Mesq. 10 in dia Trs N 31 vrs a Mesquite 10 in dia Trs S. 47 E 30¼ Varas. Thnce N 4° 30' E 787 vrs With E line of said No 4. to a Stake from which a L.O. 6 in dia Trs S. 63½ W. 17 vrs a L. O. 5 in dia Trs N 26 W 21 vrs. Thnce S. 86½ E 441. vrs to a Stake from which a P.O. 10 in dia Trs S. 58 E 15 vrs a L. O. 5 in dia Trs N 18 E 8 vrs, Thnce S. 4 30 W 787. varas to a Stake on N line of survey No 1100. from which a Mesquite 7 in dia Trs S. 65° E 20 vrs., Thnce N. 86½ W 67 vrs to the place of Beginning. Thomas Gilbreath, Alonzo Moore Chain Carriers,
Bearings Marked. X, Surveyed Sept 19th 1879. O. H. Hester Dept Co Sur M Co.

Exhibit No 6. 61½ acres surveyed for Joseph Vigal, Field Notes of Sub Division No 6. out of Survey No 1345. in name of G. W Vigal of 640 acres on Gaspar Flores Creek. Beginning at the S. E corner of survey No 1345. on North line of No 1100 a Stake from which a Mesquite 6 in dia Trs N 46. E 31½ vrs (the Mesquite called for not to be found). Thnce N 2° 15' E 787 vrs to a Stake from which a L.O. 8 in dia Trs S. 80 W 5½ vrs a L.O. 6 in dia Trs S. 87 W. 5 vrs. Thnce N 86½ W 428. Varas to a Stake set for the N.E. corner of sub division No 5. from which a Post Oak 10 in dia Trs S. 58 E. 15 vrs a L. O. 5 in dia Trs N. 18 E. 8 varas, Thnce S. 4° 30' W 787 varas with said No 4. to a Stake from which a Mesquite 7 in dia Trs S. 65 E 20 vrs and S 86½ E 67. varas from the N W corner No 1100, Thnce S. 86½ E 1454 varas to the place of beginning. Thomas. Gilbreath & Alonzo Moore Chain Carriers.

Bearings Marked X. O. Surveyed Sept 19th A.D. 1879.
O. H. Hester Dept Co- Sur- Mexia Co.

October 17th 1879.

We the undersigned Commissioners appointed by the Honorable District Court of Travis County Texas on the 4th day of August A.D. 1879. to partition and divide according to Quantity and Quality a certain tract of land situated in Callahan County State of Texas known as the Geo. M. Vigal survey of 1920 acres between the following named parties, (Heirs at law of said John M. Vigal) to Wit: Ellen Kimball, Robert E. Lyles, Louisa Vigal, Louisiana Johnson, Joseph Vigal and Clifton Vigal, Do hereby submit this our report together with the accompanying Plat and marked Exhibit "A" which is part of same and by that it be received as such.

To Ellen Kimball We allot a certain parcel marked No 1. on said Exhibit containing 384 acres.

To Robert E. Lyles We allot a certain parcel marked No 2. on said Exhibit containing 384 acres.

To Louisa Vigal We allot a certain parcel marked No 3. on said Exhibit containing 384 acres.

To Louisiana Vigal We allot a certain parcel marked No 4 on said Exhibit containing 384 acres.

To Joseph Vigal We allot a certain parcel marked No 5. on said Exhibit containing 192 acres.

To Clifton Vigal We allot a certain parcel marked No 6. on said Exhibit containing 192 acres.

And We do hereby certify that We believe the same to be a just fair and impartial division; and that each of the four first named tracts are as nearly equal both in Quantity and Quality as is practicable so to divide, each containing 384 acres. and also the two last named tracts both in Quantity and Quality as is practicable so to divide each containing 192 acres Witness our hands and seals (using Scrolls for seals, this the day of September A. D. 1879. Wm H. Parris (seal)

Witness present

Ed S. Seay.

W. C. Powell (seal)

Sam L. Chalk (seal)

Commissioners

State of Texas

County of Callahan. Before me J. E. M. Hedley County Clerk in and for said County personally appeared the above named parties who are well known to me. Who being duly affirmed, depose and say that they believe that the above described tract of land was divided as near equal in Quantity and Quality as was practicable so to do. - Witness my hand and official seal at my office in Belle Plaine County of Callahan this Eleventh day of September A. D. 1879.

(seal)

E M Hedley C.C.C.C.Co.

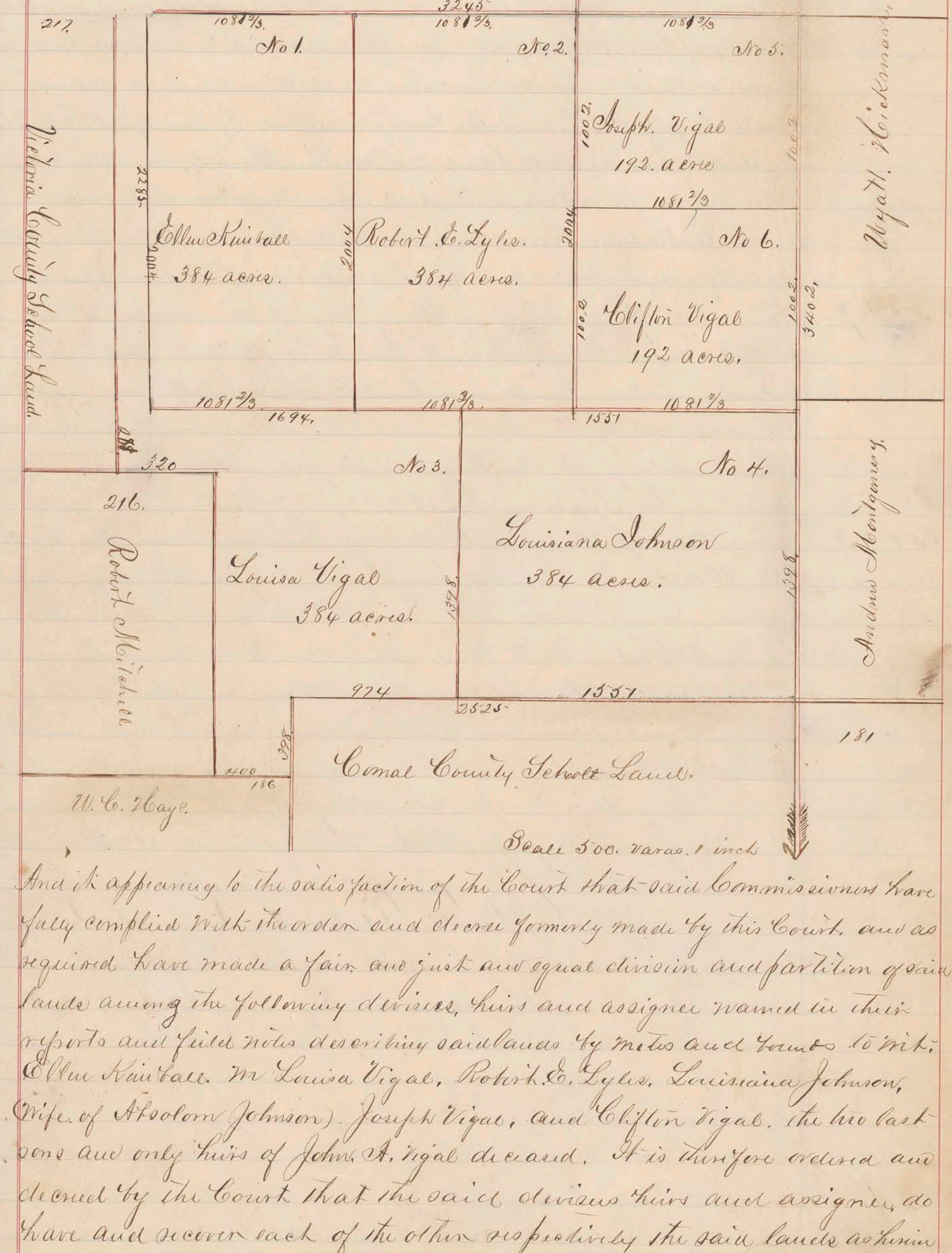
By H. R. Solomon Deputy.

October 17th 1879.

Plat of the Subdivisions of the
George M. Vigal 1920 acre Survey of Land
David Thomas.

F. C. Coulbourt

N



And it appearing to the satisfaction of the Court that said Commissioners have fully complied with the order and decree formerly made by this Court, and as required have made a fair and just and equal division and partition of said lands among the following devisees, heirs and assignee named in their reports and field notes describing said lands by metes and bounds to wit: Ellen Kimball, Louisa Vigal, Robert E. Lyles, Louisiana Johnson, (Wife of Absolom Johnson) Joseph Vigal, and Clifton Vigal, the two last sons and only heirs of John A. Vigal deceased. It is therefore ordered and decreed by the Court that the said devisees heirs and assignee, do have and recover each of the other respectively the said lands as herein described and set apart to them in said reports of Commissioners as their respective shares and portions, and that the title to each share and tract of land as set apart and allotted to each in said

October 17th 1879.

Reports of Commissioners be and the same is hereby vested in sa
their heirs and assignes respectively above named free from all
and demand of the others and divested out of all others, and it is
therefore ordered adjudged and decreed by the Court that said
ports of the Commissioners be in all things confirmed. That the acc
of Commissioners appointed to divide 1920 acres of land in Callaha
County of $40. dollars for services thus ordered be allowed and paid
of sale of land artificall described and ordered to be sold in the forme
decree to pay cost, and the Comonissioners appointed to partition an
divide the 640 acres of land in Medina County be allowed for thei
services and paid $30. dollars in same manner out of same funds
as the Callahan Commissioners, and that the balance of cost of pa
-rtition if any in this cause be paid as ordered in first decree.

5177 The State of Texas vs. J. M. Yeary et als. On this 11th day of Octob
AD 1879 came the parties to this cause by their Attorneys and the d
endants motion for a new trial in this behalf coming on to be hea
the same was by the Court overruled, whereupon the Defts excepted
to such ruling of the Court and gave notice in open Court of
appeal to the Supreme Court.

5073 The State of Texas vs. William J. Galloway et als. On this 11th day of
tober AD 1879, the Plaintiff being present by her Attorneys, came the def
endants Tom Moore and J. F. McCardell by their Attorneys Mess
Hancock West & North and submitted to the Court their motion for
a new trial in this behalf, which motion was, after being duly considere
by the Court overruled; and thereupon the said Defts Tom Moore and
J. F. McCardell excepted to such overruling of their said motion
and gave notice in open Court of Appeal to the Supreme Court.
Court adjourned until to morrow the 18th inst. 9 o'clk A. M.

October 18th 1879.

Court met according to adjournment. Present same as first day.
Whereupon the following proceedings were had viz:

5350 M. Scudder vs. Houston & Texas Central Rail Road Company. The
plaintiffs motion for alias process was this day heard and granted by the
Court and alias process awarded accordingly.

4963 Joseph Rossie vs. John Revey. The parties to this cause being this day
present by their Attorneys, the defendant submitted to the Court his motion to regard
the judgment heretofore rendered in this behalf, which motion was after being
duly considered, by the Court overruled; and thereupon the defendant
excepted to such ruling and gave notice of appeal to the Supreme Court.

4963 Joseph Rossie vs John Revey. The parties to this cause being this day

October 18th 1879.

present by their attorneys, the defendant submitted to the Court his motion for a new trial in this behalf, which motion was after being duly considered, by the Court overruled, and thereupon the defendant by his attorneys excepted to such ruling and gave notice in open Court of appeal to the Supreme Court.

4608 Houston & Texas Central Rail Road company vs. Catharine Foran. The parties to this suit being this day present by their attorneys, the defendants motion for a new trial came on to be heard, and being fully argued by counsel and by the Court duly considered, said motion was by the Court overruled, the defendant thereupon by counsel excepted to such ruling and gave notice in open Court of appeal to the Supreme Court.

5337 C. R. Beaty vs. W. B. Dashiel. The parties to this suit being this day present by their attorneys, the defendants motion for a new trial came on to be heard, and being fully argued by counsel and duly considered by the Court, said motion was by the Court overruled.

5334. F. Carson Moore vs. John C. Herring et als. Upon motion it was ordered that the defendants P. C. and A. W. Vineyard have leave to file an appended motion for a new trial in this cause.

5326 The State of Texas vs Sip Lacour et als. The parties to this cause being present on this the 15th day of October A.D. 1879. came the defendants, who have answered herein by their Atty, and move the Court, to reinstate P. L. Evans as on of the defendents in this cause and continue this cause for service on him, this case having been discontinued as to said Evans; which said motion was by the Court overruled.

5353. Fritz Klages. Ex parte. Be it remembered that on this the 18th day of October A.D. 1879, that at the District Court for the County of Travis held at the Court House thereof in the City of Austin Fritz Klages a native of Germany filed a petition, praying to be admitted to become a citizen of the United States; and it appearing to the said Court that he had declared on oath before the Clerk of said Court on the day and date aforesaid that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince potentate State or Sovereignty whatsoever, and particularly to the Emperor of Germany of whom he was a subject: and the said Fritz Klages having on his oath and also made proof thereof by competent testimony to the satisfaction of the Court that he had resided in the United States of America three years next preceding his arrival at the age of twenty one and continued to reside therein to the time of making his application, that including the three years of his minority, he had resided within the limits and under the jurisdiction of the United

October 18th 1879.

States five years and upwards, and that during the three years preceding it had time and fair his intention to become a citizen of the United States; and it appearing to the satisfaction of the Court that during the said period of five years he had behaved as a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and the said petitioner having declared on oath before said Court that he would support the Constitution of the United States and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign power, potentate, State and Sovereignty whatever, and particularly to the Emperor of Germany of whom he was before a subject: Thereupon the Court admitted the said Fritz Flages to become a citizen of the United States, and ordered all the proceedings aforesaid to be recorded in the records of said Court.

No 5021
See page 342

J. B. Wygall et als vs. The Treasurer of the State of Texas.

The presiding judge of this Court and the special judge A. P. Walker, being both disqualified to try this case, and the parties to this suit having agreed that The Hon. David Sheeks an Attorney of this court shall sit at this term of the Court as special judge for the purpose of trying and disposing of this case, — The Hon. David Sheeks this day qualified as such special judge, and having taken the bench, he called this case for trial. And thereupon, both parties to this cause being present, came on to be heard the motion of the clerk of this Court for security for costs; said motion was by the Court entertained and it was ordered by the Court that the plaintiffs in this cause be required to give security for the costs of this case, to which ruling the plaintiffs by their Attorneys Messrs Hancock, West & Hart excepted. And thereupon the said plaintiffs' Attorneys presented to the Court an affidavit of B Wygall, one of the plaintiffs in this case, alleging the inability of said Wygall and of his co-plaintiffs to pay said costs or to give security therefore; and the defendants Attorneys then submitted to the Court the clerks notice, that he would contest said affidavit, whereupon it was ordered by the Court, that this case be continued to the next term of this Court.

October 20th 1879.

Court met pursuant to adjournment. Present same as on first day.
Whereupon, the following proceedings were had viz.

No 5339. Execution docket No 5 page 63.

George W. Lagrone vs Thomas S. McGehee. This day came the plaintiff by his attorney, and the defendant Thomas S. McGehee, although duly cited as required by law having failed to appear and answer in this behalf but wholly made default, and it appearing to the Court that the cause of action is liquidated and proved by an instrument of writing, to wit a promissory note, and that there is now due on said note the sum of Eight Hundred and forty ($840.00) dollars principal and fifty five dollars and six cents, ($55.06) as interest, making total of eight hundred and ninety five and 06/100 dollars that is now due upon said note and on, and it further appearing to the Court that said note was executed on the 20th day of May 1878, to secure the payment of the purchase money for the following described tract of land, to wit: Nine hundred and Eighty nine acres and one half 989½ acres of land situated in the County of Llano in the State of Texas, being part of the headright of the defendant Thomas S. McGehee, the said 989½ acres being an undivided interest in said headright, and the same land that was deeded to the said Thomas S. McGehee by S. P. Hollingsworth on the 20th of May 1878, and being all the interest that the said S. P. Hollingsworth had in said headright at that date, It is therefore considered ordered adjudged and decreed by the Court that the plaintiff George W. Lagrone do have and recover of and from the said defendant Thomas S. McGehee the sum of Eight Hundred and Ninety Five and 06/100 ($895 06/100) dollars with interest thereon from this date, at the rate of eight per cent per annum, together with all costs in this behalf expended, and it is ordered and adjudged and decreed by the Court that the Vendors lien, as it existed on the 20th day of May 1878, upon the above described tract of land, be and the same is hereby foreclosed; and that the Clerk of this Court do issue an order of sale, directed to the Sheriff or any Constable of Llano county Texas, Commanding him the said officer to seize and sell the above described tract of land as under Execution, and that he apply the proceeds thereof to the payment and satisfaction of the said sum of $895 06/100 together with all interest that may be due thereon, and the costs of this suit; and if the said land shall sell for more than sufficient to pay off and satisfy said sum of money, then the said officer is hereby directed to pay over the excess to said defendant, but if the said land shall not sell for enough to pay off and satisfy this judgment, then the Clerk of this Court is directed to issue Execution for the balance remaining unpaid, including all costs that may be due.

No 4699 James H. Link vs. Austin City Rail Road Company. Continued by the Court.

No 4931 W. B. Brush vs. James B. Barron. Continued by agreement.

October 20th 1879.

✓ 4939. Ex. docket No 5 page 63. Gustave A. Riedell vs. Joe J. Walker et al. This case having been this day regularly called for trial and no counsel appearing to prosecute this case, it was ordered that this case be dismissed for want of prosecution, and that the plaintiff Gustave A. Riedell pay all costs in this behalf expended, for which execution may issue. Court adjourned until to morrow morning 9 oclk.

October 21st 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

✓ 5192 J. S. Able vs. Henrietta Sparks et als. Upon motion it was ordered that the defendants Reed and wife have leave to file an amendment to first amendment of original answer filed 13th of October 1879 by said Reed & wife.

Court adjourned until to morrow morning 9 oclk.

October 22nd 1879

Court met according to adjournment. Present same as first day. The trial of the case of Luttbrauf & Miller, ~~commenced on day before~~ yesterday was resumed this morning and occupied this entire day, & said trial still pending. Court adjourned until to morrow morning 9 oclk.

October 23rd 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

✓ 5192 J. S. Able vs. Henrietta Sparks et als. This day came the plaintiff J. S. Able by his Attorneys and asked that this case be dismissed; it was thereupon ordered, that this cause be dismissed and that the said plaintiff and his security on his cost bond J. Roppel pay all costs in this behalf expended and that execution may issue against said J. S. Able and J. Roppel for the amount of said costs in behalf of the officers of this courts.

5071 The State of Texas vs. Christian Stratman et al. October 18th 1879. This day comes the State by attorneys and, leave of the Court being given, files an amendment suggesting the death of the principal defendant Christian Stratman. Court adjourned until tomorrow morning 9 oclk, the trial of Luttbrauf & Miller vs Travis County still pending

October 24 1879

Court met according to agreement. Present same as first day. Whereupon the following proceedings were had viz:

October 24th 1879.

4464 Alfred Smith vs. J. K. Warren - Continued upon the affidavit of the plaintiff.

4832. D. V. Spring vs. Mary A. Eismack et als. Come now the parties herein and file in this cause the following agreement to Wit: It is agreed in the above cause for valuable consideration this day passed that in the above styled cause final judgment shall go for the defendants for the lots in suit and a decree entered divesting the plaintiffs of all title and vesting the same in the defendants, and that the defendants pay all the costs of this suit E. T. Moore and Hancock West & Storrie plaintiffs Atty's Shuks and Sneed Atty's for defendants, 19th Sept 1879.

And in accordance with the terms of said agreement, it is ordered adjudged and decreed by the Court that the plaintiff take nothing by this his suit & capt his costs. It is further ordered adjudged and decreed by the Court that the said real estate in this petition herein described to Wit: Lots No (2) two and No (3) three, Block No 158. in the City of Austin Travis County Texas be and the same is the property of the said defendants, and all title thereto is hereby divested out of the said D. V. Spring and vested in the said Mary A. Eismack and John Eismack her husband and their title as against the said D. V. Spring is forever quieted And it is further ordered that the plaintiff recover from the defendants his costs herein laid out and expended for which Execution may issue.

4943. Rutherford & Miller vs Travis County. And now come the parties to this cause and announce themselves ready for trial and thereupon the defendants demurrer to the original Petition of Plaintiffs and also defendants general demurrer and special Exceptions to plaintiffs first supplemental petition being submitted the same are by the Court overruled, and then came a Jury to wit: R. A. Rutherford and eleven others. Twelve good and lawful men of Travis County who being duly elected tried impannelled and sworn according to law, after hearing the pleadings read, the evidence and argument by counsel retired under charge of the Court to consider of their Verdict, and after deliberation returned into open Court the following verdict to Wit: "We the Jury find for the defendant. R. A. Rutherford Foreman" It is therefore ordered and adjudged that the plaintiff take nothing by this suit that defendant go hence without day and that plaintiffs pay all the costs in this suit for which execution shall issue.

4975. T. L. Brun vs Edmund Brun, This day this cause being regularly called for trial and no counsel appearing for plaintiff, the cause is continued by consent of defendant, the continuance being charged to plaintiff.

5071 The State of Texas vs Christian Stratman This day upon application of T. R. Board Administrator of defendant Stratman duly made to the Court leave is granted to make himself party to this suit.

5114. R. M Castleman vs C R. Johns & Co. And now on this day the 24th day of October 1879. came the parties plaintiff by his attorney Walton Brun

Exec. docket W. S. pages 65.

October 24th 1879.

and Hill and Jno. H. Jones, and the defendants by their Attorneys C. Shull and Sneed, Peter and Mary and H. B. Bamhart, and the said cause having been regularly reached and called in its order on the Jury Docket for trial both parties announced ready for trial, and the Court having heard the plaintiffs demurrer to defendants answer together with argument of Counsel thereon, the same was by the Court overruled, and thereupon a Jury of good and lawful men of Travis County to wit: Joe Bledsoe and Elven others duly drawn chosen, tried and impannelled and sworn according to law, and who after hearing the pleadings of the parties plaintiff and defendant and all the evidence adduced together with argument of Counsel thereon and the charge of the Court retired to consider of their Verdict and afterwards returned into open Court their Verdict as follows to wit: "We the Jury find for plaintiff $1209.00 Joe Bledsoe Foreman" It is therefore ordered adjudged and decreed by the Court that the plaintiff R. M Castleman do have and recover of and from the defendant Clement R. Johns, Flavius Everitt and William Von Rosenberg as Co partners under the firm name and style of C. R. Johns & Co the sum of Twelve Hundred and Nine Dollars, ($1209.00) together with interest thereon from the date of this Judgment at the rate of Eight per centum per annum and all costs of this suit for which Execution may issue.

This Judgment in case of R. M Castleman Vs C. R. Johns et al was transferred to me as Clerk of this Court by Hon. Chas. Clarke Judge of the 53rd District Court of Travis County Texas on the 5th day of May 1883 by virtue of the order of said Judge in which cause is filed a certified copy of said order. C. Schleicher Clerk D.C.T.C.

4177.

Cora E. Shipherd et als vs John. H. Conner et als. Come now the parties and the Intervenor Orlando Caldwell shows to the Court that on the 5th day of June 1879. the Commissioners heretofore appointed to make partition of the property described in the original petition in this cause filed their report of partition which is as follows, to wit: To the Honorable E. B. Turner Judge of the 16th Judicial District of the State of Texas. The undersigned Commissioners appointed December 20th 1878. to effect a partition of the property set out in the pleadings in cause No 4177. Cora E. Shipherd vs John H. Conner et als pending in your Honors Court, said partition to be made between the various parties to the said cause according to the interests decreed to them respectively beg leave to submit their report as follows.

After a most careful and painstaking personal survey and examination of said property we have fixed the values of certain parts of said property at the following figures to wit:

Lot No 2.	Block 2.	Div A				$35.00
" " 3	"	"	"	"		35.00
" " 7	"	"	"	"		35.00
" " 8	"	"	"	"		35.00
" " 9.	"	"	"	"		35.00
" " 10	"	"	"	"		35.00

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Lot	No 11	Block	2.	Div	A.		$35.00
"	" 12	"	"	"	"		35.00
"	" 15	"	"	"	"		100.00
"	" 16	"	"	"	"		100.00
"	" 17	"	"	"	"		100.00
"	" 18	"	"	"	"		125.00
"	" 6.	"	3.	"	"		200.00
"	" 10	"	"	"	"		200.00
"	" 11	"	"	"	"		200.00
"	" 12	"	"	"	"		250.00
"	" 7	"	4	"	"		400.00
"	" 8	"	"	"	"		400.00
"	" 9	"	"	"	"		400.00
"	" 10	"	"	"	"		500.00

Total Value of said Lots — $3255.00

We find that C. B. Caldwell is an amount in value equal to 1/2 of the Valuation fixed above on Lots 2-3-7-8-15-16-17-& 18- in Block 2. Lot 12 in Block 3. and Lots 7 & 8- in Block 4. to Wit! say — $790.00.

That Charles Jones is entitled to an amount in value equal to 1/2 of the Valuation so fixed above on Lots 9 & 10. in Block 4. to Wit! say — $450.00

That Elizabeth. M. Spies Frederick, K. Kissau and Joseph Gales. as Spies Kissau & Co. are entitled to an amount in value equal to 1/2 of the Valuation so fixed above on lots 9. 10. 11. 12 in Block 2 to wit! say — — $70.00

That John. H. Comer is entitled to an amount in value equal to 1/2 of the valuation so fixed above on Lot 2. in Block 2 and Lots 6. 10 & 11 in Block 3. to Wit! say — — — $317.50

That Cora. E. Shepherd, Julick G. Hicks, Nina. B. McDowell and Peare Comer are entitled each to 1/6 of the remainder of said property, or of the amount at which it has been valued at as above and that H. McDowell as the assignee of Martha. J. Fahey and Carrie T. Comer is entitled to the remainder 2/6 of said amount: We further find that the said C. B. Caldwell owns 1/2 of the Lots 13 and 14. in Block 1 Div A. as assignee of John. H. Comer — and that the other 1/2 interest in said Lots belongs to the heirs of Salina Comer dec'd or their assignees, That is to say that Cora E. Shepherd. Julick G. Hicks. Nina. B, McDowell and Peare Comer own each 1/6 of said 1/2 of said Lots and H. McDowell as assignee of Martha. J, Fahey and Carrie T. Comer own the remaining 2/6 of said 1/2 of said Lots. We attempted to partition all of the above set out property between the aforesaid parties to said cause. according to their several interests. but finding it impossible to do so. in such a way as to make their said several interests equal or com

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approximately equal, We concluded in the interests of all parties co=cerned to recommend that the said Lots 13 & 14 in Block 1 be Ord as the Court may direct the proceeds to be divided. 1/2 of the same to go to the said O. B. Caldwell the remaining 1/2 to be subdivided as follow 1/6 thereof to go to Cora E. Shepherd. 1/6 to Julia E. Hicks 1/6 to Nina B. McDowell 1/6 to Pearl Conner and 2/6 to H. McDowell as assigne of Martha J. Fahey and Carrie T. Conner, Also that all the re=mainder of said property except Lots 7. 8. 9. & 10 in Block 2 be so sold and the proceeds be divided as follows. Cora E. Shepherd. Julia G. Hicks. Nina B. McDowell and Pearl Conner to get each 1/6 thereof the remaining 2/6 to go to H. McDowell as the assignee of Martha J. Fahay and Carrie T. Conner, As to the said Lots 7. 8. 9. & 10 in Block 4. We have set apart the same as follows:

To O. B. Caldwell Lots 7 & 8 Block 4 with improvements Valued at — — — — — — — $800.00

To Charles Jones Lots 10 with improvements. Valued at $500.00

To John. H. Conner Lot 9. With improvements. Valued at. $400.00

As to Lots 10 & 11. in Block 2 We have set apart the same to Spies Kirsan & Co at their above fixed valuation. To wit. $70.00

In View of the fact however that the lots so set apart to the said O. B. Caldwell aggregate in value $10.00 in excess of the amount due him that the lot so set apart to Charles Jones is valued at an amount equal to $50.00 in excess of the amount due him, and that the lot so set apart to John. H. Conner is value at an amount equal to $82.00 in excess of the amount due him. We respectfully recommend that the said O. B. Caldwell. Charles Jones. and John. H. Conner be required to pay into Court said respective amounts to wit: $10.00 $50.00. and $82.00 and that lien be reserved on the Lots set apart to them as aforesaid to secure the payment of the same: and further that the amounts so to be paid into court be divided as follows: Cora. E. Shepherd. Julia G. Hicks. Nina. B. McDowell and Pearl Conner each to get 1/6 thereof, the remaining 2/6. to go to H. McDowell as the assigne of Martha J. Fahay and Carrie T. Conner; Your said Commissioners believe that $25. would be a reasonable compensation to them for their services in the matter of this partition. Wherefore they pray that the same be allowed them.

Dennis Corrin

H. L. Binley.

Sworn to and subscribed before me this 4th day of June 1879.

E. Hallmann Clk D. C. T. C.

And on the motion of said Intervenor said report is affirmed and con=firmed by the Court; It is. therefore ordered adjudged and decr

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that partition and sale of said property be made in accordance with the terms of said report: that lots seven(7) and eight(8) in Block(4) Four in Division A. of the Out Lots of the City of Austin be set apart to the intervenor Orlando Caldwell: that Lot (10) ten in said Block be set apart to Charles Jones: that Lot (9) nine in said Block be set apart to John. H. Conner: and that Lots 10 ten and eleven(11) in Block (2) two in said Division of Out Lots be set apart to Spiro Kirsan & Co: that the said parties hold said property so set apart to them each and severally: that the title to the same is divested out of and from all the other parties in this suit, and the title in fee thereto vested in the several parties to whom the same is above set apart and forever quieted in them as against all of the others parties, It is further ordered by the Court that Lots two (2) three (3) seven(7) eight(8) nine(9) twelve(12) fifteen(15) sixteen(16) seventeen (17) eighteen(18) in Block Two(2) lots thirteen(13) and fourteen(14) in Block One, and Lots six(6) ten(10) eleven(11) and twelve(12) in Block 3. all in Division A. of the out Lots of the City of Austin be sold on 24 executions by the Sheriff of Travis County for cash to the highest bidder: that of the procends of the sale of lots 13 and 14. in Block 1. one half less ten dollars. be paid to Orlando Caldwell and the balance and of the remainder one sixth be paid to Cora E. Shipherd, one sixth to Janet S. Hicks one sixth to Nina B. McDowell one sixth to Pearl Conner. two sixth to H. McDowell as the assigne of Martha J. Fahey and Carrie T. Conner that of the procends of the sale of the balance of said property herein ordered to be sold be divided as follows, to wit: 1/6 to Cora. E. Shipherd 1/6 to Janet S. Hicks 1/6 to Nina B. McDowell 1/6 to Pearl Conner and 2/6 to H. McDowell as assigne of Martha J. Fahey and Carrie T. Conner, It is further ordered that before the title to the property above set apart to said Charles Jones shall become perfect and indisputable he shall pay into Court the sum of $50. and before the title to the said John H. Conner to the property above set apart to him shall become perfect and indisputable he shall pay into Court the sum of $82.50 Which said sums of money when so paid shall be divided as follows 1/6 each to Cora. E. Shipherd. Janet S. Hicks. Pearl Conner and Nina. B. McDowell and 2/6 to H. McDowell assigne of Martha J. Fahey and Carrie T. Conner. It is further ordered that said last named distributees shall have their lien on said lot No(10) ten in Block number Four(4) for the said sum of fifty dollars, and on said lot number nine(9) in said Block for the sum of $82.50, and in case said sums of fifty and eighty two fifty. and in case said sums of money are not paid into the Court within ninety days from this time then the said distributees may have their order of sale issue against said lot or lots to satisfy such sum as may then remain

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unpaid as above specified each lot liny liable for the amount ag-
it as is above provided, said order of sale shall be issued to the Sheriff
* of Travis County and he shall sell such property as if on Execution
and pay to the said distributees Cora E. Shepherd 1/6. Juliet G. Hicks
1/6. Pearl Connor 1/6 and Nina B. McDonell 1/6. and H. McDonell
2/6 of said sums of $50-00. and $82.50. and pay the residue of the
proceeds of such sale to the said Jones and Connor or either of them
as may be in accordance with their rights in the foregoing decree of
partition, If said sums of money or any part thereof shall be paid
to the Clerk of this Court under this order, then the same shall be distri-
-buted in accordance with the foregoing order to 1/6 each, to Cora E.
Shepherd, Juliet G. Hicks, Pearl Connor, and Nina B. McDonell
and 2/6 to H. McDonell, It is further ordered that Dennis Corn
and H. L. Bailey Commissioners herein be allowed the sum of $25.
each for their services as such Commissioners to be taxed and coll-
-ected as costs herein, It is further ordered that the costs of this
proceeding be paid by the parties as nearly in proportion to their $510
respective interests in property divided as the same can be as certai-
that of said costs the parties pay as follows, Spiro Kirvan & Co 1/32. J.
H. Connor 4/32. Charles Jones 5/32. Orlando Caldwell 8/32. H. McDon
5/32. Cora E. Shepherd 2 1/4/32. Juliet G. Hicks 2 1/4/32. Pearl Connor 2 1/4/3
and Nina B. McDonell 2 1/4/32.

5186. Mary McGowan vs G. B. Zimpelman. Oct 23d And now on this day
this cause coming on to be tried the parties plaintiff and defendant
appeared in person and by Attorney and announced themselves ready for
trial. Whereupon Court adjourned until tomorrow morning at 9 o'clock
A.M. — Court duly opened regularly and the parties being present in
person and by Attorney at 9 o'clock A.M. on October 24th 1879. and the
general demurrer of defendant to plaintiffs petition, having previously
Motion day submitted and considered by the Court and overruled and
the demurrer and special exceptions of plaintiff to defendants plea to the
jurisdiction of this Court having in like manner been considered by the
Court on the day aforesaid and the same having been by the Court ov-
-ruled, Thereupon the parties submitted the following agreed State
of facts in respect to the defendants plea to the jurisdiction of this Court
to wit: It is agreed that the Statements and averments in Defendants
plea to the jurisdiction of this Court in so far as the same is affected
thereby, are true 2nd That the said J. McGowan whose property and effects
are sought to be recovered by the plaintiff in this cause died intestate
in Travis County on the 11th day of March 1877. and that the
property mentioned and described in plaintiffs petition is the

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same properly marked and described in the Inventory of the defendant G. B. Zimpelman as Administrator of the estate of James McGowan and that the administration of said estate has been opened and is being now administered on the Probate side of the Docket of the County Court of Travis County, and that said Administration has not been closed: and that there were debts existing against the said McGowan at the date of his death, and said agreed State of facts being duly considered by the Court, because it is the opinion of the Court that the law and the facts are with the defendant upon the Defendants plea to the jurisdiction of this Court and that this Court has not jurisdiction of plaintiffs said cause, It is therefore ordered and adjudged by the Court, that this cause be dismissed for want of jurisdiction and that plaintiff take nothing by her said suit, and that defendant go hence discharged, and that he recover of said plaintiff all his costs in this behalf expended for which Execution may issue and &c. To which Judgment of the Court plaintiff by her Attorney excepted and gave notice of appeal to the Supreme Court.

5107 The Mentopolis Ferry Company vs. Benjamin R. Townsend. Upon motion it is ordered that the plaintiff have leave to file its first supplemental petition.

Court adjourned until 9 o'clk to morrow morning.

October 25th 1879

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

5334. F. Larson Moore vs. John L. Herring et als. On this day the plaintiff being present by his attorneys, came the defendants P. C. Vineyard and his wife Anna W. Vineyard ~~in~~ person and by their attorneys and submitted to the Court their motion for a new trial in this behalf, and the Court after hearing said motion and the argument of counsel thereon, and having duly considered the same, overruled said motion.

5326. The State of Texas vs. Sip Lacour. The parties to this suit being this day present by their attorneys, came on to be heard the defendants motion for a new trial, and the Court after hearing and considering the same, overruled said motion; the defendants thereupon by counsel excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5272 M. B. Davis vs. L. L. Davis. The plaintiffs motion, to set aside the continuance of this cause, was this day by the Court overruled.

5192 J. S. Able vs. Henrietta Sparks et als. The plaintiff being this day present by their attorneys, came the defendants S. D. Reed & his wife

October 25th 1879.

Sallie Reed by their attorneys and moved the Court to set aside the judgment of dismissal, heretofore entered in this case upon the application of the plaintiff; and the Court after having heard said motion and the argument of counsel thereon and having duly considered the same, sustained said motion, and ordered and decreed that the aforesaid judgment of dismissal be & the same is hereby set aside and vacated, and that this case be and the same is hereby reinstated on its place of the docket of this court.

Court adjourned until Monday the 27th inst. 9 o'clk A. M.

October 27th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had:

5071 The State of Texas vs. Christian Stratman et als. By consent of the parties to this case, it is ordered that this case be withdrawn from the Jury docket, and that this case resume its place on the non-jury civil docket.

5163 Heirs of Thomas M. Baggus vs J. G. Cain et als. This day came the plaintiffs by their attorneys and asked leave of the Court to dismiss this case, it was thereupon ordered and decreed that this case be and the same is hereby dismissed and that the plaintiffs viz: Wm L. Baggus, Thomas B. Baggus, Samuel Baggus, Josephine Jacobs formerly Baggus, Sarah Greenwood formerly Baggus & her husband Hugh Greenwood, Mary Bentley and Jerema Bentley, — of Marshall County, Alabama, — John P. Baggus of Fayette Co Texas, Thos J. Baggus, Fanny C. Gross formerly Baggus of Marshal County Alabama, — Elizabeth Campbell formerly Baggus of Marshall County Alabama, — Polly Hadley formerly Baggus and her husband D. L. Hadley residents of Johnson County, Texas, R. D. Baggus, J. A. Baggus, Ann Baggus, Tom Baggus, & Charles Baggus of Grimes County Texas, and their surety on his cost bond viz: J. W. McGuire pay all costs in this behalf expended, for which execution may issue against the said parties in favor of the officers of this Court.

5192 J. L. Noble vs. Henrietta Sparks et al. Continued.

5197 F. L. Britton vs. The City of Austin. The application for a jury in this behalf, was this day withdrawn and by consent of the parties it was ordered that this case be again placed on the non-jury docket.

Sc. J. 14. State of Texas vs. Thomas Riggs. Continued for service. Oct 19th

Sc. J. 15 State of Texas vs. Thomas Riggs. Continued for service. Oct 19th

Sc. J. 16 State of Texas vs Thomas Riggs. October 18th 1879 Continued for service.

Sc. J. 18 State of Texas vs. Fannie Talbot Octr 18/1879 Dismissed.

October 27th 1879.

Thereupon Court adjourned till tomorrow morning 9 Oclock.

October 28th 1879.

Court met pursuant to adjournment. Present same as on yesterday Whereupon the following proceedings were had viz:

5337 John Colter, Ex parte. Be it remembered that at the District Court for the County of Travis aforesaid, held at the Court House thereof in the City of Austin on the 27th day of October A.D. 1879. John Colter a native of Ireland exhibited a petition praying to be admitted to become a Citizen of the United States; and it appearing to the Court that he had declared on oath before the Clerk of the Recorders Court of the City of Chicago in the County of Cook in the State of Illinois on the 1st day of August A.D. 1870. that it was bona fide his intention to become a Citizen of the United States and to renounce forever all allegiance and fidelity to any foreign prince potentate State or Sovereignty whatsoever and particularly to the Queen of Great Britain and Ireland of whom he was at that time a subject; And the said John Colter having on oath declared and also made proof thereof agreeably to law, to the satisfaction of the Court that he had resided one year and upwards within the State of Texas and within the United States of America upwards of five years. both periods immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and having declared on oath before the said Court that he would support the Constitution of the United States and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate State and Sovereignty and particularly to the Queen of Great Britain and Ireland of whom he was before a subject. and having in all respects complied with the laws in regard to naturalization: Thereupon the said Court admitted the said John Colter to become a citizen of the United States, and ordered all of the proceedings aforesaid to be entered in the records of said Court.

Thereupon Court adjourned till tomorrow morning 9 Oclock.

October 29th 1879.

Court met pursuant to adjournment. Present same as on Yesterday, Whereupon there being no minutes of this date Court adjourned till to morrow morning 9 oclock.

October 30th 1879.

Court met pursuant to adjournment, Present same as on yesterday, Whereupon the following proceedings were had. viz:

5200 William Cornish Rhine vs Austin City Rail Road Company. And.

October 30th 1879.

Now on this day came the parties plaintiff and defendant by their attorneys and announced themselves ready for trial, and thereupon came a Jury of good and lawful viz: Geo. W. Walling Foreman, and eleven others. Who being duly elected tried impannelled and sworn. Who after hearing the evidence arguments of Counsel and charge of the Court retired to consider of their verdict, and afterwards returned into open Court their verdict as follows. "We the Jury find that the plaintiff in this case contributed to his accident, but that said accident might have been prevented by proper care on part of said Railway Company, and therefore assess the damages at the sum of Two hundred dollars, Geo. W. Walling, Foreman" It is therefore ordered adjudged and decreed by the Court, that the plaintiff William Ernest Rhiel do have and recover of the defendant Austin City Rail Road Company the sum of Two thousand dollars together with all the costs in this behalf expended for which Execution may issue.

5358 Wilhelm Fuhrmann Ex parte. The State of Texas, County of Travis. Wilhelm Fuhrmann being duly sworn according to law, in the District Court of said County, doth declare that he was born in the Year A. D. 1848. in the Kingdom of Germany whence he migrated in the year 1876 to the United States of America, and has elected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounces forever all allegiance and fidelity to any foreign prince, potentate, State or Sovereignty whatsoever, and particularly to the Emperor of Germany of whom he was a subject. Signed Wilhelm Fuhrman, Sworn to and subscribed before me, this 30th day of October 1879-in open Court. E. Hellmann, Clerk.

Thereupon Court adjourned till Saturday morning November 1st 9 o'clock.

November 1st 1879.

Court met pursuant to adjournment. Present same as on first day. The time of the Court being taken up in the case of the Monopolis Ferry Company vs B. R. Townsend, No. and there being no minutes of this date Court adjourned till Monday morning 9 o'clock,

November 3rd 1879.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5359. Frederick Wilhelm Kamayer Ex parte. The State of Texas. County of Travis, Frederick Wilhelm Kamayer being duly sworn according to law in the District Court of said County doth declare that he was born in the year A. D. 1853. in the Kingdom of Prussia whence he migrated in the year 1871 to the United States of America, and has elected the State of Texas as the place of his intended settlement: and he further declares

November 3d 1879.

that it is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounces forever all allegiance and fidelity to any foreign Prince, Potentate, State and Sovereignty whatsoever and particularly to the King of Prussia, of whom he was a subject. F. Kamyer.
Sworn to and subscribed before me this the 3d day of November 1879. in open Court.
E. Hallmann Clerk.
5192. Jos. pht. J. Able

Henrietta Sparks. Florence Chumwork. John Chumwork. T. D. Reed & Sallie Reed.
And now on this day come the plaintiff Joseph J. Ables by his Attorneys R. H. Ward and George P. Pendexter, and come also the defendants T. D. Reed and Sallie Reed by their Attorneys Walton Green and Hill, and the defendants Henrietta Sparks. Florence Chumwork and John Chumwork though duly served came not and thereupon the plaintiff and defendants Reed and Reed announced ready for trial - and thereupon the plaintiff in open Court announced, that the defendants should have judgment against him - and thereupon came on to be heard, the Cross bill or bill of reconvention by the defendants T. D. Reed and Sallie Reed, against the plaintiff, and the said plaintiff Joseph J. Ables in open Court confessed, that the said defendants Reed and Reed should have the relief prayed for in their Cross bill so far, as the cancellation of the Note sued on is concerned and also as to the annulling and dissolution of the Vendors lien set up by said plaintiff on the land described in said note, It is therefore ordered adjudged and decreed by the Court that the plaintiff take nothing by his suit, and that so far as his suit is concerned that all the defendant go hence without day, and it is here and now further ordered adjudged and decreed by the Court, that the note sued on, which is in words and figures described as follows, "On or before the first day of January A. D. 1875. we or either of us promise to pay to J. J. Able or bearer the sum of Two Thousand dollars for value received of him, it being the balance of the purchase money due him for Three hundred acres of land, out of a five hundred acre tract of land known as the John Harandon tract of land and is out of the John Welch league of land and out of the South West Corner and being the South part of said Five hundred acres of land above described and is situated in Robertson County. State of Texas, and is laying and being situated on the East bank of the Brazos River and in said Robertson County and is known as the Ables place on the Brazos river. Which the Vendors lien is retained on said Three hundred acres of land for the purchase money and interest at the rate of ten per cent from date until paid this May 20th A. D. 1873. (Sgnd) Henry his x mark A Spark. Florence her x mark Ables. By Henry A his x mark Sparks. her mother
Attest. T. D. Petty. Emely Able. "

November 3rd 1879.

be and the same is hereby cancelled, and the same declared to be null and void and forever invalid in law and Equity, and that the Vendors lien set up by said plaintiff by Virtue of said Note on the land discribed therein be and the same is hereby declared to be invalid. inoperative and no lien on said land, and that said defendants Reed and Reed be forever fred from any and all incumbrance created or sought to be created by said note on the land discribed therein, It is further ordered that the defendant recover from the plaintiff and his surety on his cost bond viz: J. Koppel all the costs in this behalf expended for Which Execution may issue against said plaintiff and his said surety.

Thereupon Court adjourned till tomorrow morning 9 oclock.

November 4th 1879.

Court met pursuant to adjournment. Present same as on yesterday. — Whereupon the following proceedings were had viz:

✓ 5360. David Johanson. Ex parte. Be it remembered that at the District Court for the County of Travis aforesaid held at the Court House thereof in the City of Austin on the 4th day of November A. D. 1879. David Johanson a native of Sweden & Subject a petition praying to be admitted to become a citizen of the United States: and it appearing to the Court that he had declared on oath before the Clerk of the Circuit Court of the United States for the Western District at Austin in the County aforesaid on the 4th day of November 1872. that it was bona fide his intention to become a citizen of the United States and to renounce forever all allegiance and fidelity to any foreign prince potentate State or Sovereignty Whatsoever, and particularly to the King of Sweden of Whom he was at that time a subject: and the said David Johanson having on oath declared and also made proof thereof agreeably to law, to the satisfaction of the Court that he had resided one year and upwards within the State of Texas, and within the United States of America upwards of five years, both periods immediately preceding his application and that during said period of five years he had behaved as a man of good moral character attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the same: and having declared on oath before the said Court that he would support the Constitution of the United States and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince potentate State or Sovereignty. Whatsoever, and particularly to the King of Sweden of Whom he was before a subject: and having in all respects complied with the laws in regard to naturalization: Thereupon the said Court admitted the said David Johanson to become a citizen of the United States and ordered all the proceedings aforesaid to be entered in the records of said Court.

November 4th 1879.

Monopolis Ferry Company vs. Benjamin R. Townsend.

5107. And now on this day came the parties plaintiff and defendant by their attorneys and announced themselves ready for trial and thereupon came a Jury of twelve, Namely W.C. Denny Foreman and eleven others who being duly elected tried impannelled and sworn according to law who after hearing the evidence argument of counsel and charge of the Court retired to consider of their verdict, and after deliberation returned their verdict into Court as follows: "We the Jury find for the defendant and assess the damages at $1.00 W.C. Denny Foreman" It is therefore ordered adjudged and decreed by the Court That the injunction granted in this case in favor of the plaintiff against the defendant be and the same is hereby in all things dissolved and be no longer of any force or legal effect and that the defendant go hence without day as to the suit of the plaintiff. And it is fur=ther ordered adjudged and decreed by the Court that the defendant have and the defendant recover Judgment against the plaintiff as prayed for in his cross bill. and that the injunction granted the plaintiff against the defendant in this case be and the same is hereby fully and wholly dissolved, and that the suit of the plaintiff be and the same is hereby dismissed. And that the defendant have and recover Judgment against the plaintiff for the sum of one dollar as damages and for the costs in this behalf expended and for all which Execution may issue. And it is further ordered adjudged and decreed by the Court that the defendant as against the plaintiff its agents and employees be vested in the full and free use and enjoyment and right of dominion over and of the following tract of land. being a part of the J.C. Tannehill league and out of the South West corner of a tract of two thousand acres deeded by said Tannehill to Nathaniel Townsend. and bounded as follows. Beginning at the upper and most southerly corner of said two thousand acre tract thence S 60° E. 155 vs S. 87½° E 267 vrs a stake from which a pecan 20 in in dia bears N 76½° W 9 vrs. a Gum=tree 14 in dia bears N 45½° E 6 vrs. Thence N 30° E. 1393 vs. to a stake from which an Elm 14 in dia bears N 78¾ vs Thence N 60° W 396 vs. to a stake from which a cedar 8 in dia bears N 63½ E 3½ vs a do 6 in dia bears ~~South~~ ~~2~~¾ vs Thence S. 30° W. 1533. to the place of beginning, and that he have the writ of this Court to abate the nuisance created by the plaintiff on his said tract of land as above described. said nuisance consisting of the Ferry cable ex=tending over defendants land. and the erected Shears and buried anchor or dead man on defendants said land; and that an Injunction be and the same is hereby granted to the defendant perpetually enjoining and res=training the plaintiff, its agents employees and all persons claiming by through or under it from keeping maintaining said nuisance over in and upon defendants, This Judgment and Injunction however does not prohibit and is not in=tended to prohibit the plaintiff from erecting and maintaining its Ferry fix=tures in or upon any public road that has been established by law on

November 4th 1879

defendants said back of land. And it is ordered that all process necessary to carry this Judgment into full and complete execution is hereby ordered to issue within such time as the law permits.
Thereupon Court adjourned till to morrow Morning 9 O'clock

November 5th 1879.

Court met pursuant to adjournment. Present same as on Yesterday. Whereupon the following proceedings were had &c.

Benjamin J. Collins. .

No. 5322 vs

(Rec. dock No. 5. page 66.) James A. Chandler. Frederick W. Chandler. and Joseph Harrell.

In this cause come the parties plaintiff and defendants by their attorneys and the defendants by attorney submitted to the Court their demurrer to plaintiffs petition, which was by the Court overruled. to which ruling of the Court defendants by attorney excepted. and the parties plaintiff and defendants by attorney announced themselves ready for trial Whereupon came a Jury of good and lawful men of Travis County to wit: D. H. Walsh and eleven others who were then impannelled and sworn according to law to try the issues between the plaintiff and defendants, and who after hearing the pleadings evidence and verbal charge of the Court. a written charge being waived by the parties, and argument also being waived, retired to consider of their verdict, and coming again into open court. returned the following verdict to wit: "We the Jury find balance due on the note for $2500.00 to date the amount of $599.28 for Plaintiff. D.H. Walsh Foreman and We the Jury find the amount due on the note for $9000.00 to be to date $11.165.77. for plaintiff. D H. Walsh. Foreman" Whereupon the Plaintiff by attorney remitted in open court Three Hundred and fifty and 72/100 Dollars of the amount of $599.28. found by the Jury in their verdict to be due on the note for $2500.00 Whereupon said Verdict is approved by the Court, and it is ordered adjudged and decreed by the Court that the plaintiff Benjamin J Collins do have and recover from the defendants James A. Chandler, Frederick W. Chandler and Joseph Harrell the sum of Two Hundred and Eighty three and 96/100 with interest thereon at the rate of ten per cent per annum until paid. It is further ordered adjudged and decreed by the Court. that said plaintiff Benjamin J. Collins do have and recover from the said defendants. James A Chandler. Frederick W. Chandler and Joseph Harrell the further sum of Eleven Thousand one Hundred and Sixty five and 77/100 Dollars with interest thereon at the rate of twelve per cent per annum from this date until paid. It is further ordered adjudged and decreed by the Court that said plaintiff recover from said defendants all costs in this behalf expended. For all of which said sums of money interest & costs Execution may issue

Received from J. W. Chandler $ 550.00 five hundred & fifty dollars 96 of this the 24th day of April 1880.
B. J. Collins

Six days Extension of this judgment on this cause - Hart Clerk -

November 5th 1879.

5348 Emily Weems & husband vs. George Newton. Upon motion it was ordered that Plffs have leave to file their first supplemental petition. And the motion to require the plaintiffs to give security for costs in this cause, having been heard by the Court, it was ordered by the Court that the plaintiffs be and they are hereby required to give bond and security for the costs of this case on or before the first day of the next term of this Court, and the plaintiffs Atty, then present in Court, was notified by the Court of this order.

4935. Carleton & Robertson vs. Bingham Trigg. Continued by agreement.

Court adjourned until to morrow morning 9 o'clk.

November 6th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5342 Herman Steinhoff vs Mary Steinhoff. It appearing to the Court from the Sheriffs return of the citation in this case, that the order entered in this case on the 15th Octbr inst, on page 302 of this Record book, continuing this case "for service", — was made under misapprehension of facts, and that service had been duly had upon the defendant in this case, it was this day ordered, that the aforesaid order be set aside and that this case be now continued generally.

5174 R. B. Hubbard Governor &c. vs. A. J. Ward et als. Continued for service.

5176 R. B. Hubbard Governor &c. vs. A. J. Ward et als. Continued for service

5183 James Loyd vs. Int. & Great North. R R. Co. Continued.

5331 The State of Texas vs T. M. Bagby et als. By agreement of the parties this case is stricken from the jury docket and resumes its place on the non jury trial docket.

Court adjourned until to morrow morning 9 o'clk.

November 7th 1879.

Court met according to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

4929. Thomas J. Pilgrim vs. John D. McCall. Upon motion it was ordered that defendants have leave to file a first supplemental answer. And the defendants motion to suppress the depositions of the plaintiff and Thos Pilgrim having been heard and duly considered by the Court it was ordered by the Court, that the said depositions be suppressed. And both parties being present by their attorneys, they

Chancery docket No 5 page 63.

November 7th 1879.

announced themselves ready for the trial of this cause. And the demurrer of Defendants to Plff's petition, having been heard by the Court and duly considered, said demurrer was by the Court sustained to so much of plaintiffs petition as seeks to show the insolvency of the defendants, and thereupon leave was given to the plaintiff to file a trial amendment to his petition. And thereupon came a jury of twelve good and lawful men of Travis County consisting of James F. Shaw and eleven others who were duly tried selected empannelled and sworn according to law, Rec the pleadings in this case, the evidence and the charge of the Court and returned from their seats the following verd "We the jury find for the defendants. James H. Shaw foreman Nov 7th 1879." It was thereupon ordered adjudged and decreed by the Court that the defendants go hence without day, that the plaintiff Thomas J. Pilgrim take nothing by this suit, and that he and his sureties on his cost bond viz. Jas H. Raymond & Co., pay all costs in this behalf expended and that execution may issue therefore in behalf of the officers of this Court adjourned until to morrow morning 9 o'clk.

November 8th 1879.

Court met according to adjournment, but no proceedings on the civil docket were had, the day was occupied by hearing a case on habeas corpus, see criminal docket. Court adjourned till Monday morning 9 o'clk.

November 10th 1879.

Court met according to adjournment. Present same as first day whereupon the following proceedings were had viz.

✓ 5174 R. B. Hubbard Governor &c. vs. T. J. Ward et als. Upon motion leave was given to file an amended original petition.

Thereupon Court adjourned till tomorrow morning 9 O'clock A.M.

November 11th 1879.

Court met according to adjournment. Present came as on first day. Whereupon the following proceedings were had. viz:—

✓ 5257. James E. Boulden Exor. vs Flave Everitt & C. R. Johns et al. Now this the 11 day of November A. D. 1879. this cause having come on for trial, came the said plaintiff by his attorney, and the said defendants by their attorneys, and thereupon the said cause was dismissed by said plaintiff as to C. R. Johns and William Van Rooms two of said defendants. Whereupon a jury having been impanneled and it having

Execut. dock. No 5 pag. 65.

November 11th 1879.

agreed by the said F. Everett acting for himself in his own proper person and by his attorneys that Judgment by confession should be had in said cause against him, said F. Everett. It is therefore considered ordered adjudged and decreed by the Court that the said plaintiff do have and recover of and from said F. Everett the sum of Seven thousand one hundred and ninety two dollars and eighty six cents together with interest thereon at the rate of twelve per centum per annum from date hereof until paid, and all costs in this behalf incurred and expended, for all of which Execution may issue, and it is further ordered that Execution shall issue against both parties respectively for the amount of costs in this behalf expended, incurred in favor of the officers of Court, Thereupon Court adjourned till to morrow morning 9. oclock.

November 22nd 1879.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz.

5367. R. F. Cook Exparte. Whereas R. F. Cook having this day made application to the Honorable District Court of Travis County Texas for admission to practice as an attorney at law in the several Courts of this State, and he having produced to said Court the certificate required by law that he is twenty one years of age, and that he has a good reputation for moral character and honorable deportment, as shown by the endorsement of the following gentlemen, members of the Bar of the City of Austin Viz: J. W. Robertson. Jas. H. Burts. Joe. H. Stewart. E. T. Moore. John F. Jones and N. M. Walton and having produced a license from the State of Alabama admitting him to the practice in that State in the Circuit and Chancery Courts dated August 7th 1877. It was therefore ordered by the Court that the said R. F. Cook be and he is hereby admitted and authorized to appear plead and practice as an Attorney and Counsellor at law in all District and Inferior Courts of the State of Texas. For which this shall be his sufficient license. It is further ordered by the Court that these proceedings be spread upon the minutes of this Court.

December 2nd 1879

Court having met, the following proceedings among others were had,

5311. James P. Randle vs. James M. Morphis. Upon motion of plaintiffs attorney has leave to file first supplemental petition.

December 4th 1879

Court having met pursuant to adjournment, the following proceedings were had viz:

5116 Mrs. Sophia F. Markley vs. Joseph Walle. On this day came on to be heard the defendants motion to change the venue of this cause, supported by the affidavit of Self and three credible persons, residents of this County, showing that there exists in this County so great

December 4th 1879

prejudice against the said defendant that he cannot obtain a fair and impartial trial; It was thereupon ordered by the Court that the venue of this case be changed to the District Court of Williamson County, and that the clerk of this Court transmit all the original papers in this case and a correct and certified transcript of all the orders made in this case to the clerk of the District Court of said Williamson County.

5312 Edward Wilkerson vs. Martha Wilkerson. Upon motion of plaintiffs attorney leave was given to plaintiff to file a first amended original petition.

5314. Disha Burton et als vs Wm Bayce. Upon motion of plaintiffs attorney it was ordered that plaintiff have leave to file a first amended petition.

Court adjourned until to morrow morning 9 o'clk.

December 11th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

5327 The State of Texas vs. L. G. Chambers et al. Upon motion it is ordered that the plaintiff have leave to file a first supplemental petition.

5328 The State of Texas vs. L. G. Chambers et al. Upon motion it is ordered that the plaintiff have leave to file a first supplemental petition.

5327. The State of Texas vs. L. G. Chambers et al. This day comes the plaintiff by her attorneys and dismisses this suit, the defendants having paid all the costs. 5206

5328 The State of Texas vs L. G. Chambers et al. This day came the plaintiff by her attorneys and dismisses this suit, the defendants having paid all costs of this proceedings.

Court adjourned until to morrow morning

December 16th 1879.

5335 The State of Texas vs. Joseph Cahn et al. Upon motion it was ordered that the defendant have leave to file a first amended answer.

Court adjourned until to morrow morning 9 o'clk.

December 18th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz: 514

4970 W. B. Sandford, Susan D. Sandford his wife, John McChesney & E. V. McChesney his wife, vs. The unknown heirs of

(Exec. dock No 5 page 811)

December 18th 1879.

Elnathan Beebe, & vs the unknown heirs of Horatio Keys and the unknown heirs of James O. Neal.— Now on this day came the parties to this suit by their attorneys and having announced ready for trial and no jury being demanded, the matters of fact as well of law were submitted to the Court. And after hearing all the pleadings and the evidence the same having been submitted without argument, the Court is of the opinion that the law and the evidence is with the defendant and that plaintiff ought not to recover. It is therefore ordered adjudged and decreed by the Court that the plaintiffs W. M. Sanford and Susan E. Sanford his wife, and John Mc Chesney and E. V. Mc Chesney his wife, take nothing by this their suit, that said defendants be discharged and go hence without day and that said plaintiffs pay all the costs of this suit, for which execution may issue against them. It is further ordered, adjudged and decreed by the Court that a fee of twenty five dollars be and the same is hereby allowed to J. P. C. Whitehead the attorney appointed by this Court to represent the defendants herein and that the said sum of twenty five dollars be taxed as a part of the costs in this cause and that said J. P. C. Whitehead do have and recover of the said plaintiffs the said sum of twenty five dollars and for which execution may issue in his favor. The plaintiffs thereupon excepted to such jiudgment and gave notice in open Court of appeal to the Supreme Court.

5200 William Earnest Ochse vs. Austin City Rail Road Company. December 17th 1879. Both parties to this suit being this day present by their attorneys, the defendants motion for a new trial came on to be heard and was fully argued by counsel and by the Court duly considered. It was thereupon ordered and adjudged by the Court, that the judgment, heretofore rendered in this cause be and the same is hereby set aside and vacated, and that a new trial be awarded to the defendant.

Court adjourned until to morrow Morning 9 o'clk

December 19th 1879

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had. viz.:

5148 Allen P. Watts vs Jeremiah Sheehan. And now on this day the motion of the plaintiff for a new trial and to reform the judgment heretofore rendered and entered in this cause at a former day

of this term of this Court coming on to be heard and said motion being duly considered and fully understood by the Court it is ordered by the Court that the motion for a new trial be overruled and it is further ordered adjudged and decreed by the Court that said judgment heretofore rendered in this cause be set aside and that ~~that~~ said judgment be reformed and that the following judgment be now here rendered and entered in this cause as the final judgment of this Court herein towit:

No. 5748
(Exec. docket No. 5 page 83)

Allen H. Gattis vs Jeremiah Sheehan. Now on this day came the parties plaintiff and defendant the plaintiff by his attorney O. E. Thomas and Sheeks & Reed and the defendant by his attorneys Fred Carleton and J. A. Robertson and announced themselves ready for trial without the intervention of a jury and proceeded to submit the cause to the Court and defendant Horan having filed his disclaimer herein the suit is dismissed as to him. Whereupon the Court after hearing the pleading evidence and argument of Counsel doth adjudge and decree that the plaintiff Allen H. Gattis do have and recover of and from the defendant Jeremiah Sheehan Lot Number 12 in Block Number Seventy two in the City of Austin in the County of Travis and State of Texas together with all the improvements thereon. It is further considered by the Court and it is hereby ordered adjudged and decreed that the defendant Jeremiah Sheehan do have and recover of and from the plaintiff Allen H. Gattis the sum of Four Hundred and fifty dollars for valuable improvements placed by said defendant Jeremiah Sheehan on the aforesaid lot of ground which said sum of money is hereby declared to be a lien upon the aforesaid lot of land.

It is further ordered adjudged and decreed by the Court that no writ of possession do issue in favor of said plaintiff for the said

lot until such time as the said plaintiff shall pay to the said Defendant Jeremiah Sheehan the said sum of two hundred and fifty Dollars and that as soon as that shall be so paid a writ of possession shall issue at and to put said plaintiff in possession of said Lot.
It is further ordered adjudged and decreed by the Court that no Execution or Order of sale shall issue in favor of said Defendant Jeremiah Sheehan until the 10th day of October 1880 but if by that date the said sum of two hundred and fifty dollars has not been paid to the said Defendant Jeremiah Sheehan by the said plaintiff Allen N. Gattis, then the said lien of said defendant on said lot is hereby foreclosed and the Clerk of the Court is hereby directed on demand of the said Defendant to issue an order of sale directed to the Sheriff of Travis County instructing him to proceed to levy on and sell the said lot and improvements as under execution and out of the proceeds to pay off and discharge said sum of two hundred and fifty dollars with interest from said 10th day of October 1880 at the rate of eight per cent per annum and the balance if any to be returned to said plaintiff Allen N. Gattis or his Attorney O.E. Thomas. It is further ordered adjudged and decreed by the Court that the said Allen N. Gattis may at any time within twelve months pay off and discharge the said sum of two hundred and fifty Dollars by depositing the same with the Clerk of this Court or by paying the same to defendants attorney; and when so paid plaintiff shall have his writ of possession to place him in possession of said lot. It is further ordered adjudged and decreed that the plaintiff have and recover one half from the defendant Jeremiah Sheehan one half of the Costs in this behalf expended and that the defendant Jeremiah Sheehan do have and recover of and from the plaintiff one half

of the costs in this behalf expended for all which exception may issue.

✓ #177 Cora E. Shepherd x husband } And now on this the
vs } 26th day of December
John H. Conner etals } A. D. 1879 Coming on
to be heard the motion filed herein on the 8th day of December A. D. 879 by Cora E. Shepherd and her husband W. A. Shepherd and Juliet Hicks and her husband Ed Hicks and Nina D. McDowell and her husband N. McDowell and Martha J. Fahey and Carrie T. Conner and ~~xxxx~~ Nettie C. and Pearl Conner by her guardian Adlitem J. Posey and it appearing that all parties interested said motion all now here before the Court. It is therefore considered by the Court that said motion be and the same is hereby granted. And it is further considered ordered adjudged and decreed by the Court that Messrs H. K. Bentley and Chas Corwin be and they are hereby reappointed Commissioners for the purposes herein contained in the decree and order. That said Commissioners are hereby authorized and required to proceed at the earliest convenience to divide and set a part (if it can in the judgment of said Commissioners be done as hereinafter directed the following described property towit: Lots 2. 3. 7. 8. 9. 12. 15. 16. 17. & 18 in Block 52 and Lots 6. 10. 11. and 12 in Block 3 in the City of Austin Travis County Texas; and said Commissioners will set a part as aforesaid as follows viz: 53

To Cora E. Shepherd 1/6 One sixth
" Juliet F. Hicks (6) " "
" Nina D. McDowell " " "
" Pearl Conner " " "
" N. McDowell as assignee of Walter J. Fahey Carrie T. Conner (3/6) two sixths. And said Commissioners will make their report at the next term of this Court. And this decree shall not affect the decree heretofore made upon the report of Commissioners in so far as the interest of Spencer Kirkam & Co and O. B. Caldwell and Chas Jones is concerned. 49

December 26th 1879.

5365. William Walker. Ex parte} Be it remembered that at the District Court for the County of Travis aforesaid, held at the Court House thereof in the City of Austin on the 21st day of November A.D. 1879. William Walker a native of Great Britain exhibited a petition praying to be admitted to become a citizen of the United States: and it appearing to the Court that he had declared on oath before the Clerk of the Court of Common Pleas for the City and County of New York, on the 6th day of January 1871. that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince potentate State or sovereignty whatsoever and particularly the Queen of Great Britain and Ireland of whom he was at that time a subject, and the said William Walker having on oath declared and also made proof thereof agreeably to law, to the satisfaction of the Court, that he has resided one year and upwards within the State of Texas, and within the United States of America upwards of five years both periods immediately preceding his application and that during said period of five years he had behaved as a man of good moral character attached to the principals of the Constitution of the United States and well disposed to the good order and happiness of the same: and having declared on oath before the said Court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince potentate State or Sovereignty whatsoever and particularly to the Queen of Great Britain and Ireland of whom he was before a subject: and having in all respects complied with the laws in regard to Naturalization, Thereupon the Court admitted the said William Walker to become a citizen of the United States and ordered all the proceedings aforesaid to be entered on the records of said Court.

5265 Hannah Taylor vs. Jeff Taylor. Decbr 24th 1879. Upon motion of Pltff Atty. it was ordered that the plaintiff have leave to file a first amended original petition.

5331. The State of Texas vs. T. M. Bagby et als. Decbr 26th 1879. Upon motion of Defendants Bagby and Ellis it was ordered, that the said Defts Bagby have leave to file a first amended plea to jurisdiction and first amended answer.

4943. Ruthrauf & Miller vs. Travis County. On this day, both parties being present by their attorneys, the Plaintiffs' motion for a new trial in this behalf, came on to be heard and was after due consideration by the Court overruled. The plaintiffs thereupon by their attorneys excepted and gave then in open Court notice of appeal to the Supreme Court.

5114 R. M. Castleman vs C. R Johns & Co. Decbr 26th 1879. On this day, both parties being present by their attorneys, the defendants motion for a new trial in this behalf, came on to be heard and was after due consideration by the Court overruled. The defen-

December 26th 1879.

dant thereupon excepted and gave them in open Court notice of appeal to the Supreme Court

✓ 5273 S. A. Hartson vs. John M. Hartson. The plaintiffs motion to set aside the order of continuance heretofore entered in this case, was this day by the Court overruled.

Court adjourned until to morrow morning 9 o'clk.

December 27th 1879.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

✓ 5380 (Exec. dock No 5 page 69) Ann Pitts vs. Florence R. Glenn & John W. Glenn. And now on this 27th day of December A.D. 1879. came the said parties by their attorneys and submitted the plaintiffs claim to the Court and the defendants consent that a judgment may be rendered herein against the original judgment of this Court in case No 3744. wherein the same parties were to. Which was rendered by this Court on the 21st of October 1878, for the amount now due on said ✓ 5 Judgment with all costs, It is therefore considered by the Court adjudged and decreed that the plaintiff Ann Pitts recover of and from the defendants Florence R. Glenn and John W. Glenn the sum of Fifteen hundred and forty dollars and sixty cents being the amount of principal interest and costs now due on said original Judgment in case No 3744. with legal interest thereon from the date of this judgment until paid and the costs of this suit to be taxed, and it is further ordered adjudged and decreed that the lands mentioned and described in said original Judgment in case No 3744. To wit: two certain tracts or parcels of land lying and situated in the County of Travis and State of Texas, one of said tracts containing 22½ acres and known as Lot 12 in a Subdivision of 252 acres of the Chambers 8 League Grant covering the City of Austin, It being also a part of the G. W. Spears League in conflict with said Grant, the said 252 acres fronting on the Colorado River above and adjoining the City of Austin, Also another tract or parcel of land containing 7. acres off the west or north the North West portion of lot No one of said subdivision, Beginning at the North West corner of lot No (5) five, it being the South East corner of lot No (4) of said Subdivision, Thence South 30° West through lot No one to the Colorado River, Thence North 60° West on the line between the beach and bluff to the Johnson Branch, Thence up said Branch to the Eastern boundary of said lot no two to the South West corner of lot No 4 in the bed of said Branch, Thence East 60° East to the place of beginning, reserving 15 feet on the North boundary of this survey for a Public Road, The Map and field notes of said subdivision being of record in said County of Travis, showing the metes and bounds of each lot. The 22½ acres herein first described being that portion of said 252 acres, bounded on the North and East by the Johnson Branch and on the South by the Colorado River and on the West by the Johnson place, the said two tracts of land, being the same sold and conveyed to C. R. Johns by the plaintiff by Deed of 25th March 1872, and subject to a lien for the payment of the balance

December 26th 1879.

of Principal and interest of the purchase money due thereon by the said defendant Florence R. Glenn to Wit: the said sum of Fifteen hundred and forty dollars and sixty one, the amount now due said Ann Pitts on said original Judgment No 5744. be and the same are decreed to be subject to the vendors lien for the payment of this judgment and that said lien be and the same is hereby foreclosed and that an order of sale be issued from this Court directed to the Sheriff of Travis County Commanding him to seize and sell the said described tracts of land as under execution and that he apply the proceeds of said sale to the payment of said debt here adjudged to the plaintiff with legal interest thereon that may accrue from the date of this judgment and all costs of this judgment and the execution thereof, and if the said land shall sell for more than sufficient to pay off this judgment and all the costs that have or may accrue thereon the excess shall be paid to the defendant Florence. R. Glenn.

October 18th 1879

5021. J. B. Wygall vs The Treasurer of the State of Texas. The above entitled and numbered cause being duly called in its regular order on the docket of this Court and the Hon E. B. Turner the presiding Judge thereof, being disqualified from trying the same by reason of the fact that he had been of Counsel of the same, and the Hon A. J. Walker who had formerly been special judge in said cause being also now disqualified from trying the same, the parties Plaintiff and defendant in open Court and in writing thereupon agreed that the Hon David Shuks should try said cause as Special Judge, and thereupon the oath required by law was duly administered to the said David Shuks and he then proceeded to call said cause for trial. And thereupon the Clerk of the Court moved that the plaintiffs be required to give an additional cost bond. Which motion after due argument and after due consideration was sustained by the court, and thereupon the plaintiffs made oath of their inability to give bond or to pay the costs as required in such cases by law, and prayed for leave to proceed with the case, and thereupon the Clerk of said Court in open Court gave notice in writing of his purpose to contest such motion based on said affidavit; and thereupon the Court in order to give said Clerk an opportunity to contest said affidavit adjourned said cause until the next term.

David Shuks
Special Judge -

5373. Angelina L. Townsend vs. R. G. Miller. Dec 27/79 The plaintiff having paid all cost of this case, it was this day ordered upon the motion of plaintiffs Attorneys, that this case be and the same is hereby dismissed.

S.C.J. 55
cr. No 5920 The State of Texas vs. Dan Bustard et als: On this 27th day of December 1879 came the defendants in this case viz Dan Bustard the principal and William Bustard and Hiram Ward the sureties, by their attorneys and submitting

December 27th 1879.

their answer and the affidavit of said Dan Bustard, and asked the Court to set aside the judgment nisi entered against them on the 3rd day Decbr 1879 in the criminal case No 5920. And it appearing to the Court that the said defendant Dan Bustard had voluntarily come into the Court room shortly after the forfeiture of his bond and that he is now in custody; It was ordered by the Court that the aforesaid judgment nisi be remitted except the sum of ($10=) Ten dollars, and that the State of Texas do have and recover of and from the said Dan Bustard as principal and of the said William Bustard and Piram Ward as sureties the said sum of ten dollars and all costs of this proceeding, for which execution may issue against said parties. /51

Court adjourned until Monday the 29th inst 9 o'clk A M

December 29th 1879 No proceedings had on the civil docket, and Court adjourned until to morrow morning 9 o'clk /526

December 30th 1879.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had viz:

/4970 W. M. & P. C. Sandford & D. & E. C. McChimney vs. The unknown heirs of Elnathan Beebee and of Horatio Keys & of James Mills. On this day, both parties to this suit being present by their attorneys, the plaintiffs' motion for a new trial in this behalf came on to be heard, and being fully argued by counsel, and duly considered by the Court, said motion was by the Court overruled. The plaintiffs thereupon excepted to such ruling and gave them in open Court notice of appeal to the Supreme Court.

Court adjourned until to morrow morning 9 o'clk.

December 31st 1879.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had viz:

/5174. R. B. Hubbard Governor et c. vs. A. J. Ward et als. Upon motion it was ordered that the defendant Nathan Patton have leave to file a first amended answer.

/5176. R. B. Hubbard Governor et al vs A. J. Ward et als. Upon motion it was ordered that the defendant Nathan Patton have leave to file a first amended answer.

/5107 Montapolis Ferry Company vs Benjamin R. Townsend. On this day, both parties to this cause being present by their Attorneys

December 31st 1879.

came on to be heard the plaintiffs motion for a new trial in this behalf and after being fully argued by counsel and duly considered by the Court said motion was by the Court overruled. The plaintiff by counsel then excepted and in open Court gave notice of appeal to the Supreme Court. And this term of Court being about to expire, it was upon motion ordered that the parties to this case have ten days after the adjournment of this term of Court to present a statement of fact in this case.

5197 F. L. Britton vs. The City of Austin. Both parties to this cause being present, the defendants demurrer to plaintiffs petition was this day submitted to the Court, and being fully argued by counsel and duly considered by the Court, said demurrer was by the Court overruled, to which ruling the defendant then and there by counsel excepted.

5264. Clara Green vs Herman Green, On this the 15th day of October A. D. 1879. Comes now the plaintiff by Shuks and Sneed her Attorney, and the defendant having failed to appear, and it being shown to the court that the defendant has been duly served with process, the Court appoints J. H. Burts a practicing Attorney in this Court to defend this cause and the parties announce themselves ready for trial, And after hearing the evidence the Court finds that the allegations in plffs petition are true. It is therefore ordered adjudged and decreed by the Court that the bonds of Matrimony heretofore existing between said Clara Green and the defendant Herman Green be forever dissolved and set at nought, that the said Clara be forever and she is hereby forever divorced from the said Herman Green. It is further ordered that the said Clara Green have the custody control and guardianship of the minor children named in said petition, to wit: Herman Green, Clara Green Washington Green, Louisa Green, Ida Green and Hedwick Green until the majority of each one, and the said Herman Green is hereby enjoined and restrained forever from interfering with her in that regard. It is further ordered that this decree shall in no manner affect the rights of said petitioner or any persons holding under a conveyance from her to any of the property described in said petition. But this decree is made without prejudice to any such persons or their rights. It is further ordered that a fee of $20. be allowed the said Attorney J. H. Burts to be taxed and collected as costs in this suit. And that the plff recover her costs in this behalf laid out and expended for which she may have execution.

Court adjourned until the 2nd day of January A. D. 1880

January 2nd 1880

Court met according to adjournment. No proceedings had on the civil docket. Court adjourned until to morrow morning 9 o'clk.

January the 3rd A.D. 1880.

Court met according to adjournment. Present same as first day.
Whereupon the following proceedings were had viz:
It was this day ordered by the Court that all civil cases not otherwise disposed of, be and the same are now continued until the next regular term of this Court.
The foregoing entries having been read in open Court examined and found correct, it is now ordered that the same stand as a part of the minutes of the present term of this Court, and that this Court stand now adjourned until the next regular term thereof.
January the 3rd A.D. 1880

E. B. Turner
Judge 16th Judicial District of the State of Texas.

January the 5th 1881.

The State of Texas } Be it remembered that at a term of the
County of Travis } Dan. District Court of Travis County, begun
and held at the Court House thereof at the City of Austin on the
fifth day of January A.D. 1880, that being the first Monday of
said month and the time fixed by law for the meeting of said
Court, and the Hon. E. B. Turner, Judge of the 16th Judicial
District presiding and E. Hallmann, clerk of said Court
and Dennis Corrin Sheriff of said County being present, the
following proceedings were had viz:

3330 F. W. Hamig vs. N. Hanson. It was this day ordered by the
Court that this case be and the same is hereby dismissed for want
of prosecution and that the plaintiff F. W. Hamig pay all
costs in this behalf incurred, for which execution may issue
in behalf of the officers of this Court.

3911 The State of Texas vs. E. B. Dyer et al. It was this day ordered
by the Court, that this case be and the same is hereby dismissed
for want of prosecution, and that the officers of this Court
do have and recover of and from the plaintiff all costs in this
behalf incurred.

3933 E. A. Hicks vs. James S. Gillett et als. It was this day
ordered by the Court, that this case be and the same is
hereby dismissed for want of prosecution, and that the
plaintiff E. A. Hicks and the sureties on his cost bond to wit J.
W. Wilson and Jas M. Swisher pay all costs in this behalf expended,
for which execution may issue in behalf of the officers of this Court.

3934. Chandler Carleton & Robertson vs. George W. Honey, W. P. de Normandie Gar-
nishee. Continued.

4007. M. L. Miller vs. F. M. Randell and Emanuel Nolda. Continued
for service.

4259 Sampson & Hendricks vs. P. C. Moore et als. On this day it was
ordered by the Court that this case be and the same is hereby
dismissed for want of prosecution, and that the plaintiffs George
W. Sampson and Ben F. Hendricks pay all costs in this behalf
expended and incurred, for which execution may issue in behalf of
the officers of this Court against said plaintiffs.

4556 C. S. West Exec'r vs. F. M. Hanks et al. Continued to make parties
and to perfect service.

4557 C. S. West Exc'r vs. F. M. Hanks et al. Continued to make parties
and to perfect service.

4558 C. S. West Exec'r vs. F. M. Hanks et al. Continued to make
parties and to perfect service.

January 5th 1881.

✓4584. Mary Dowse vs. George Dowse. It was this day ordered by the Court, that this case be and the same is hereby dismissed and that the plaintiff and her surety on her costs bond viz: W. A. P. Miller pay all costs in this behalf expended, for which execution may issue in favor of the officers of this Court against said plaintiff and against her said surety.

✓4626 S. Jacobs and Burkhart vs F. Glaus & Co. Continued for service.

✓4629 C. N. Worthington vs. T. B. Wheeler and the board of aldermen. It was this day ordered by the Court, that this case be and the same is hereby dismissed and that the plaintiff C. N. Worthington and his sureties on his cost bond to wit: C. C. Worthington and D. W. Jones pay all costs in this behalf incurred, for which execution may issue on behalf of the officers of this Court.

✓4674. The Republic Life Insurance Company vs. E. W. Shands et als. Come now
Exec. doc N. No 5 page 70. the parties, and this cause being regularly called for trial, announce themselves ready for trial, and this cause is submitted to the Court for trial without the intervention of a jury, and the Court after hearing and considering the pleadings and the evidence and after hearing the argument of counsel finds for the plaintiff as against the defendants E. W. Shands and Nat P. Jackson in the sum of $423.00 four hundred and twenty three dollars principal with interest thereon at the rate of (8) eight per cent per annum from the first day of January AD 1874 the sum of $203.00 two hundred and three dollars. And the Court further finds against the plaintiff as to the defendants A. P. Blocker and A. M. Jackson. It is therefore ordered adjudged and decreed by the Court that the plaintiff the Republic Life Insurance Company of Chicago, do have and recover of and from the said defendants E. W. Shands and Nat P. Jackson the sum of ($423.00) four hundred and twenty three dollars principal with interest on the same from January 1st 1874 at the rate of 8 per cent per annum $203.00 two hundred and three dollars, making a total of ($626.00) six hundred and twenty six dollars with interest on the last named amount at (8) eight per cent per annum from this date until paid, together with the costs and accruing costs. And it is further ordered and adjudged that the said plaintiff recover nothing from the said defendants A P. Blocker and A. M. Jackson, and that the said A. P. Blocker and A. M. Jackson recover from the said plaintiff all costs incurred by making them parties to this suit.

✓4901 The State of Texas vs. B. Brown et al. Continued general.

✓4969. Elizabeth C. Bartholomew & C. C. Bartholomew vs. David W. White and Anna White. The judgment of this Court in this case

January 5th 1881.

affirmed by the Supreme Court, this case is now stricken from the docket.

5024. S. W. Baker vs. Nicholas Jervolesson. Continued for service.

5185. Jackson W. Browne vs Sarah A. Brown. It was this day ordered by the Court that this case be and the same is hereby dismissed, and that the plaintiff Jackson W. Browne and the sureties on his costs bond to wit: R. E. Rife and Wm H. Morris pay all costs in this behalf incurred for which execution may issue in favor of the officers of this Court against said plaintiff and his said sureties.

5246. C. F. Garland vs. C. W. Garland. Continued for service.

5247 Ruth a Ann Stewart & husband vs. J. L. Watson. Continued for service

5252 Mattie P. King vs. R. E. King. Continued for service.

5354. J. H. Kirkpatrick vs. M. A. O. Moore et als. Upon motion of Pffs. Attorney this case was this day dismissed at cost of Pff.

Court adjourned until to morrow morning 9 o'clk.

January 6th 1881.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

5103. Paul Pressler vs. Carl Schaeffer et ux. This cause coming on to be heard (Chc. docket N=5. page 70.) the parties announced themselves ready for trial and the matters of law as well as of facts being submitted to the Court the Court doth find= 1st Plaintiff has no lien. 2nd That because of the coverture of defendant Annie Schaffer at the date of the making of the contract sued on she is not bound by the same, 3d That defendant Carl Schaffer is indebted to the plaintiff Paul Pressler in the sum of $2363.00 as the amount of principal and interest due on the contract sued to this date after allowing all proper credits. It is therefore ordered adjudged and decreed by the Court that the plaintiff Paul Pressler do have and recover of and from defendant Carl Schaffer said sum of Two thousand three hundred and sixty three dollars ($2363) to bear interest at the rate of 12 per cent per annum from date hereof to gether with all costs of this suit for which execution shall issue, and that defendant Annie Schaffer be hence discharged and that the lien claimed by plaintiff be refused,

5341 Maria M (Spence) Kirby et al vs Charles Limke et alx, And now on this (Chc. docket N:5 page 68) the 6th day of January 1880. came this cause by regular call of the docket for trial, and suggestion being made to the Court that since the institution of this suit the original plaintiff Maria M. Spence has intermarried with J. C. Kirby leave is given said J. C. Kirby to become party plaintiff herein and join in the plaintiffs first amended original petition here - now filed - and thereupon

January 6th 1880.

Came Jeffs by this counsel Walton Green & Hill and announced ready for trial, and also came the defendant Chas Lemke by his original answer herein filed, by his counsel, but the said Loomis & Christian defendants although duly cited came not but wholly made default, and thereupon on demand of plaintiffs judgment by default is rendered in favor of plaintiff against defendants Simon Loomis and Edward Christian under their firm name of Loomis & Christian, and neither party having demanded a jury the Court proceeded to trial of this cause, and having heard the pleadings of the parties and the evidence adduced and argument of counsel thereon finds for the plaintiff the debt sued for, and it is therefore ordered adjudged and decreed that the plaintiff Maria M. Kirby do have and recover of and from the defendant Chas Lemke the sum of Three hundred and Fifty four dollars and seventy five cents ($354.75) principal and interest of the note sued on together with interest from this date at ten per centum per annum and the further sum of Thirty dollars as the attorneys fee stipulated in said note, together with eight per centum per annum interest thereon from this date, and all costs of this suit; and the Court having found from the evidence that the note sued upon was given for part of the purchase money for the following tracts of land viz. Lots Numbers Four (4), Eleven (11) Twelve (12) and Thirteen (13) in Block Number Eight (8) in Swisher's addition to the City of Austin in Travis County Texas, purchased by said Lemke on the 27th day of March 1877. and that the same is a Vendors lien upon and against said land, it is further adjudged and decreed that said plaintiff has a valid and subsisting Vendors lien against said lots of land prior to all claims of & as against all the parties defendants for said sum of $354.75 and interest and costs of this suit; and that the same be and the said Vendors lien as it attaches on the 27th day of March A D 1877. be and the same is foreclosed, and it is ordered that the Clerk of this Court issue an order of sale directed to the Sheriff of Travis County directing him to make sale of said property as the law directs for the satisfaction of said lien, and that out of the proceeds of said sale he pay first the portion of this judgment constituting a lien with interest & costs and the remainder he pay over to defendant Lemke or such person as is entitled thereto, and if such sale bring not enough to satisfy the same that execution do issue for the balance, and for said Thirty Dollars allowed for it is ordered that execution do issue as in other cases, and it is also ordered that for the costs of making them parties hereto execution may issue against said Loomis & Christian

✓ 3-259 (Exc. dock N: 5 page 67)

Miller Bros. vs. S. T. Hayar. And now on this the 6th day of January A.D. 1880, came on this cause by regular call of the docket for trial, and thereupon came the parties by their counsel, the plaintiffs by Walton Green & Hill and the defendants by Starke & Smith, and both parties having announced

3-28 Exc. dock. 5 page

January 6th 1880

ready for trial, and neither party having demanded a jury, the Court proceeded to trial of the case, and having heard all the pleadings and evidence of both parties with argument of Counsel thereon finds for the plaintiff. it is therefore ordered adjudged and decreed that the plaintiff- J.Z. Miller as surviving partner of the Copartnership firm of "Miller Bros" lately composed of J.Z. Miller and W.A. Miller do have and recover of and from the defendant S.T. Hagar the sum of Five hundred and eighty Eight dollars and thirty five cents ($588 35/100) and interest thereon from this date at eight per centum per annum and all costs in this behalf expended, and the Court having found the said sum to be due upon two promissory notes and one, dated on the 8th day of November 1877 and given for the purchase money due by the said defendant for the following described land to Wit: One hundred and sixty acres of land lying in the County of Travis & Blanco and State of Texas being shown as survey No 653. made for R. T Condon by John E. Campbell July 22nd 1874 being the amount to which said Condon was entitled by virtue of his preemption affidavit dated 18th of May 1874, and situated on Fall or Little Cypress Creek a tributary of Perdinales River. Beginning S No. E 33 vrs from S. W. corner of survey No made for Mrs Warren by Reid from which a Live Oak 8 in Dia brs N 21 W 22 vrs Thence S 5 E. 950 varas a stone mound from which a Live oak 12 in dia brs N 8 E. 14 varas Thence S 85 W 950 varas corner on South side Cypress or Fall creek, Thence N 5 W. 605 Road 950 varas, a stone mound for corner from which a Live oak 6 in dia brs N 36. W 28 vrs do S 82 W 39 vars, Thence N 85 E 950 varas to beginning the same having been by patent No 308. Vol 8. dated Janry 31st 1879. patented to S. T Hagar as the assignee of said R. T Condon, purchased by said defendant on said 8th day of November 1877. from the payee of said note and that the same constitutes a valid and subsisting vendors lien upon and against said land in favor of plaintiff herein and it is further ordered adjudged and decreed that said vendors lien upon said land as it exists on the 8th day of Nov 1877. be and the same is hereby foreclosed, and it is ordered that the Clerk of this court do issue in due course of law and order of sale directed to the Sheriff of the proper County ordering a sale of said property above described for the satisfaction of this judgment and lien according to law, and that out of the proceeds of such sale this judgment interest & costs be first paid and that the remainder if any be paid over to defendant; and in case said property shall not sell for sufficient to satisfy this judgment that execution shall issue for the remainder unsatisfied as in other cases. It is further ordered that that the plaintiff has have to Withdraw the original patent filed in this cause on leaving a certified copy.

5-284

Lonnis & Christians Vs Chas Linke, This day January 6th 1880 this Cause coming on to be heard and the Matters herein at issue

see docket 5 page 11.

January 6th 1880

being submitted to the Court, and both parties appearing by Counsel, and the Court having heard the evidence and the argument of Counsel. It is the Judgment of the Court that Plffs S. Loomis & Ed Christian ought to recover of the defendant Chas Lamke by reason of the premises, and that Plffs ought not to recover as against the wife Mrs M Lamke. It is therefore ordered adjudged and decreed that Plffs S. Loomis and Ed Christian do have and recover of and from the defd Chas Lamke the sum of Three Hundred and Seventy Three ($373.00) Dollars, Principal and interest due upon said Writing obligatory and that said sum of Three hundred and seventy three ($373.00) Dollars bear interest from the date hereof at the rate of twelve per cent per annum and the further sum of Thirty seven 30/100 Dollars as atty fees with interest at the legal rate for all of which and for cost of execution shall issue, and it is further the opinion and judgment of the Court that under the pleadings and the testimony and the law governing this case that Plffs have no Mechanics lien upon the land and premises described and set forth in the pleadings which Plffs except to and give notice of appeal to our Supreme Court.

4815 Charles Krohn vs. Thomas F. Purnell. Continued.

4953 Albert S. Roberts vs. Crocket Parbert. Continued.

5019. Minerva Davis vs. Walker Davis. It was this day ordered by the Court that this case be and the same is hereby dismissed for want of prosecution and that the said plaintiff Minerva Davis pay all costs in this behalf incurred, for which execution may issue in favor of the officers of this Court.

5049. Pattie Johnson vs. Fremont Johnson. It was this day ordered by the Court that this case be and the same is hereby dismissed for want of prosecution and that the said plaintiff Pattie Johnson pay all costs of this proceedings for which execution may issue on behalf of the officers of this Court.

5065 Sheeks & Sneed vs. R. R. Booth & W. L. Booth. Continued to make parties and for service.

5069 Benjamin J. Collins vs. Fred W. Chandler et als. This case being this day regularly called for trial, and no counsel appearing for the plaintiff it was upon the motion of Fred Carleton, one of the attorneys for the defendant ordered by the Court, that this case be and the same is hereby dismissed for want of prosecution and it was further ordered that the plaintiff Benjamin J. Collins pay all costs in this behalf incurred, for which execution may issue in favor of the officers of Court.

5108 Emily Norwood vs. Ed Norwood. It was this day ordered by the Court that this case be and the same is hereby dismissed, and that the plaintiff Emily Norwood pay all costs in this behalf expended for which execution may issue on behalf of the officers of this

January 6th 1881.

5164 Fannie Savage vs. Int. & Great North. R.R. Company. Continued.
5183 James Loyd vs. Int. & Great North. R.R Company Continued by agreement.
5188 Roberts B. Bro vs W. S. Carothers, and now at this day this cause being called for trial the parties appeared by their respective attys, and the plaintiffs having announced ready for trial and the defendant showing no cause for further delay, and neither party demanding a jury, the Court proceeded to try said cause without the intervention of a Jury, And the Court having heard the pleadings the evidence and the argument of Counsel and having duly considered the same, it is considered ordered adjudged and decreed by the Court that the plaintiffs Hiram Roberts, Jorge Roberts and Abram Roberts, Who are trading under their firm name of H. Roberts and Bros do have and recover of and from the defendant W. S. Carothers the sum of One thousand and Sixty four dollars and forty three cents together with all costs of this suit and interest on said sum of ($1064 43/100) at the rate of eight per centum per annum from this date for all of which let Execution issue.
Pd Rec No 5:p 76. for costs.
5197 F. L. Britton vs. The City of Austin, Placed on bell docket.
5249 F. W. Chandler Admin[str] vs. Loomis & Christian. Continued.
5251 William Bray vs T. E. Tullis et al. Continued.
5260. William Brush et als. P. C. Vineyard et al. Continued by agreement.
5267 Laura F. Ormond vs. Charles J. Ormond. Continued.
5276 John T. Jackson for use of W. H. Ryan vs. Roger Williams Ins Co. Continued.
5277 John T. Jackson for use of W. H. Ryan vs. The Atlantic Ins Co - Continued.
5288 F. L. McRae vs. G. W. Miller & wife. Continued.
5292 James F. Johnson vs. W. W. Lang et al. No counsel appearing for the plaintiff, this case is continued.
5303. Rachel C. Levy et al. vs. Geo. W. Stephens. Messrs Walton Green & Hill enter their appearance for deft, and this case is continued by agreement.
5311. James P. Randle vs. James M. Markis. Placed on bell docket
5312. Edward Wilkerson vs Martha Wilkerson. Continued by operation of law.
5313 Helena Penninger vs. John Penninger. Continued.
5347 Moody & Jamison vs. John Nagle. Def has leave to amend original petition.
5362 John B. Rector vs. George Rumpel. Upon plaintiffs motion it was this day ordered that this case be and the same is hereby dismissed, and further ordered that the plaintiff John B. Rector pay all costs in this behalf expended for which execution may issue in favor of the officers of this Court.
5377 George B. Burke vs. Wm Steele et als. Upon motion of plaintiffs Attorney this case was this day dismissed at costs of the Plaintiff.

Court adjourned until to morrow morning 9 o'clk.

January 7th 1880.

Court met according to adjournment. Present same as first day.
Thereupon the following proceedings were had viz:

#5244. A. L. McRae vs. J. W. Miller et al. Continued.

#5310 F. W. Chandler vs. Sam Friedberger. And now on this 7th day of January
(Exec. docket 5 page 71.) A.D. 1880 this cause being called for trial the plaintiff and the defendant announced ready for trial, and thereupon the defendants demurrer to so much of plaintiffs pleadings as set forth the loss of employment of plaintiff by other parties were sustained, and the defendants other demurrers were overruled, to which rulings the parties respectively excepted. And thereupon the Court proceeded with the trial of said cause, neither party having demanded a jury, and after hearing the pleadings, the evidence and argument of counsel and duly considering the same, it is considered ordered adjudged and decreed by the Court, that the plaintiff take nothing by his suit and that the defendant go hence without day as to such suit and it is further considered that said defendant Samuel Friedberger by way of reconvention do have and recover of and from said plaintiff Fred. W. Chandler the sum of One thousand one hundred and two 75/100 dollars with interest thereon at the rate of ten per cent per annum from this seventh day of January 1880 besides all costs of this suit for all of which let execution issue.

#5026 James H. Wade vs John C. Duval. On this the 6th day
(Exec. docket No 5 page 81.) of January 1880, this cause being regularly called for trial is by the parties submitted to the Court for trial without the intervention of a jury and the Court after hearing the pleadings and evidence does find. 1st That there is due to the Plff. from the defendant the sum of ($528.58) Five hundred and twenty Eight and 58/100 Dollars the amount of the principal and interest of the note sued on. 2nd That the plaintiff has a lien on the land described in the petition. It is therefore ordered and adjudged that the Plaintiff James H. Wade recover from the defendant James C. Duval the sum of ($528.58) Five Hundred and twenty eight and 58/100 Dollars with interest at the rate of (10%) ten per cent per annum from date with his costs for which execution shall issue.

#5345. D. L. Ranlett & Co vs. Brueggerhoff & Heidenheimer. It was this day ordered that the defendant Brueggerhoff have leave to file first amended demurrer and cross bill, and plaintiff have leave to file 1st supp

January 8th.

ental petition. Court adjourned until to morrow morning 9 o'clk

January 8th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5345. D. L. Rankett vs. Brueggerhoff & Heidenheimer. Continued by agreement.

5347. Moody & Jamison
to
John Nagle

(Jud. dock No 5 page 81)

January 8th 1880

This day came the parties by their Attorneys and thus came on to be heard the demurrer & exceptions to the petition and the argument of Counsel thereon being heard it is the opinion of the Court that the law is for the plaintiffs. It is therefor ordered by the Court that the demurrer and exceptions of defendant be overruled. Thereupon the parties by their Attorneys appeared in open Court and waive a jury and submit the matter in controversy as well of fact as of law to the Court and the evidence and argument of Counsel having been heard and fully understood it is considered ordered and adjudged by the Court that the said plaintiffs Moody & Jamison do have and recover of said defendant John Nagle the sum of ($2109.$^{55}_{100}$) Two thousand One hundred and Nine and $^{55}_{100}$ Dollars with interest thereon at the rate of ten per cent per annum together with their costs in this behalf expended and that they have their execution. It is further ordered that execution issue in favor of the officers of Court against each party respectively for the costs by them in this behalf incurred.

Court adjourned until to morrow morning 9 o'clk.

January 9th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had:

5353 Sampson Heidenheimer and D. T. Ayers vs Robert Gilmore Left & G. C. & Santa Fe R.R. Co. Garnishee. Upon motion it is ordered that John C. Ross & Co have leave to intervene into this suit.

5375 The State of Texas vs. W. B. Middleton et als. Continued for service.

5379 James F. Pope vs. A. S. Cook & Alf Smith. The costs of this suit having been paid, it was this day upon motion of Pope's attorneys, ordered that this

January 9th 1881.

suit be and the same is hereby dismissed.

5381 James B. Boulding Exec^tr vs. L. B. Giles & als. Continued for ser

5386 Ed Christian vs. A. W. Caldwell et al als. Continued for Service

5388 Eugene L. Bartholomew vs Fritz Tegener & ux. Continued for servi

5361 John F. Jones Now on this the ninth (9) d
(Exec. docket No 5 page 68)

vs

James Herring

of January A.D. 1880 Came
Plaintiff in the above caus
in person and by Attorney and the Deft c
not, but wholly made default And it ap
pearing to the Court that the instrument
upon in this cause is a promissory note
a liquidated demand and was given to secu
the purchase money of and now holds an
retains the vendors lien upon the following
described tract piece or parcel of land lyi
and being situated in Wood County Texas,
And being 145 One hundred and forty fiv
acres & being a part of the Samuel Burk
survey And a part of a 400 acre tract set aside
to John F. Jones by a decree of the District Cour
ith and for said Wood County at the fall term
thereof A.D. 1871 which said decree is of record in
H. pages 790 & 791 &c of record within and fo 5361
said Wood County and beginning 84 varas S
of the N.E. Corner of a survey of 160 acres set
apart to D.V. Stinson on East of Dry C
from which a Spanish Oak bears N. 45° W 1
Thence North 627 vrs to a from which a R. O
bears West 16½ varas. Thence east with the
boundary line of Stroud's tract 1030 varas
Corner on the E.B. Line of said J.F. Jones tra
of land from which a Hickory bears N. 5° W 9½
vrs. Thence South at 1057 vrs to the S.E. Corner
of said J.F. Jones 400 acre tract on the bank
of Dry Creek. Thence with the meanderings
down said Creek 1165 varas to the beginning.
Wherefore the plaintiff John F. Jones ought to
recover by reason of the premises. It is therefo
ordered adjudged and decreed that the pltff
John F. Jones do have and recover of and from
Defendant James Herring the sum of

Fifteen ($1500.00) hundred Dollars in specie Principal and interest due upon said promisory note and that this amount shall bear ten per cent interest from the date of rendition of this judgment. And it is further ordered adjudged and decreed that the vendors lien existing upon said above fully described tract of land shall be and the same is hereby foreclosed for the payment of the above amount of fifteen hundred Dollars and all interest and cost. And it is further ordered adjudged and decreed by the Court that Execution Order of Sale do issue for the sale of the above described tract of land. And that if the same shall not sell for enough to satisfy and pay off this judgment interest & cost of suit then and in that event that execution do issue for the balance remaining unpaid as in ordinary cases & if said property and land shall sell for more than enough to pay off & satisfy this judgment interest and cost of suit then the balance after so discharging this judgment & cost shall be paid to Deft

5364 — Exec. dock No 5 page 67

The State of Texas } On this the 9th day of January
vs } A.D. 1880 came the plaintiff
Frank Rugeley Etal } by Attorney and the said plaintiff having discontinued this suit as to the defendant Jacob Straus who is dead and has not been served with citation announced herself ready for trial as to the other defendants and the other defendants Frank Rugeley, O. Walcott and Francis E. Jones after having been duly served with citations according to law and having failed to appear and answer in this behalf but wholly made default wherefore plaintiff the State of Texas ought to recover against the said Defendants her damages occasioned by the premises and no jury having been demanded by any party to this suit this case is tried by the Court without a jury and the pleadings evidence and argument of Counsel having been heard and fully understood

Received in the case of the
State of Texas vs Frank Rugeley et al No 5364 the sum of Four
hundred and fifty five 45/100 Dollars. D. M. Dodson
Atty for Plaintiff

it is considered ordered adjudged and
decreed by the Court that the plaintiff the
State of Texas do have and recover of and
from the said defendants Frank Rugeley
O. Walcott and Francis E. Jones the sum of
Two thousand and Ninety six & 6/100 Dollars
gether with her costs in this behalf expend
for which execution may issue. And it fur
appearing to the Court that the def't Frank
Rugeley is the principal in the official bon
sued on in this cause and that the said
defendants O. Walcott and Francis E. Jones
executed said bond as sureties and as
sureties are entitled to the benefit of the
Statute in such cases provided. It is there
further ordered adjudged and decreed by Court that
the Sheriff levy the execution issued by virtue of
this judgment first upon the property of the said
Frank Rugeley subject to execution & situate in
the County of Travis before a levy shall be made
upon the property of said Sureties or either of
them provided so much property of the said Frank
Rugeley in said County & subject to execution
shall be found as will be sufficient to make
the amount of said execution, otherwise the
levy thereof to be made on the property of the
said Frank Rugeley that may be found if any
upon so much of the property of said Sureties
as may be necessary to make the amount of
said execution. And it is further ordered
judged and decreed that in case said Sureties
or any of them shall make any payment which
is applied on this judgment by reason of their
suretyship on said official bond this judgment
shall not be discharged by such payment but
shall remain in full force and be prosecuted
to execution for the use of said Sureties or any
of them making such payment to the amount
of said payment. And it is further ordered
that execution may issue on behalf of the
Officers of this Court against the defendants for

all costs in this behalf incurred.

5376 Houghton v Robinson / C. E. Robinson

Rec. docket No 5 page 61.

And now on this the 9th day of Jany 1880 this cause being regularly reached upon the docket come the plaintiffs by their Attorney and announced themselves ready for trial and it appearing to the Court that the Defendant had been regularly cited to answer herein and it further appearing that said Deft had filed with the papers of said cause a confession of judgment for the amount due upon the several promissory notes sued upon & for a foreclosure of the vendors lien upon the land described in the deed from F. M. White to C. E. Robenson (the Deft) which was also filed with said Confession And it further appearing to the Court that there is due upon said promissory notes the sum of Five Hundred and Seventy five dollars ($575.00) at that said notes bear interest at the rate of twelve perct. per annum and provided for ten per cent Attorneys fees upon the whole amount due. It is therefore considered ordered adjudged and decreed by the Court that the plaintiffs John H. Noughton and John H Robinson do have and recover of and from the Defendant C. E. Robenson the said sum of five hundred and seventy five dollars with 12 per cent interest from date hereof and the sum of fifty seven & 50/100 dollars Attys and all costs in this behalf expended. And it is further ordered adjudged and decreed that the vendors lien held by said Plffs be and the same is hereby foreclosed upon the land described in plaintiffs petition & the deed from said F. M. White to said Defendant & for which said promissory notes were executed which said land is more particulary described as follows towit. All those two certain lots or parcels of land situated in the town of Bluffton, in the County of Llano and State of Texas and which are described as follows: 1st part of survey No. 191 to Francis Gross by him sold T. H. Davis and by said Davis to the said F. M. White said part of said

survey so sold is bounded as follows: Beginning at a stake & Muskut stump the N.E. Corner of lot No - Sold by T.H. Davis to John D. Pankey - Thence N 75 vrs to a stake. Thence west 93 7/8 vrs to a stake. Thence South 75 varas. Thence East 93 7/8 varas to the place of beginning being the same lot on which the residence & hotel building of said Deft is situated.

The other 2d of said lots is more particularly described as follows a part of Survey No. 191. granted to A. Hammendorf and by him sold to T. H. Davis by him sold to A.D. Pankey said part of said survey so sold is bounded as follows. Beginning at a post 37½ varas North of the South West corner of a survey sold by T.H. Davis to H.A. Chadwick and on West boundary line of same survey Thence North 75 varas. Thence West 75 varas. Thence South 75 varas. Thence East 75 varas to the place of beginning said lot on which the line is foreclosed being a part of said part of said survey & beginning at the South West Corner of same. Thence North 100 feet. Thence East 30 feet thence South 100 feet thence West 30 feet to the beginning & being the same lot sold & conveyed by A.J. Tyggin to Richard Arnold by deed recorded in Llano County in Book E p 188 & 189 & by said Arnold to said White and by said White to the Deft which deeds are reffered to for fuller description and being the same on which the ten pin Alley & Saloon in Bluffton is situated. It is further ordered adjudged and decreed that an Order of Sale do issue to the Sheriff or any Constable of Llano County State of Texas directing him to seize and sell the said two lots or parcels of land with all improvement and appertenances as under execution in satisfaction of this judgment, and if the proceeds of such Sale or Sales be insufficient to satisfy the judgment then to make the money or any balance thereof remaining unpaid out of any other property of the Deft as in case of ordinary Execution. Thereupon court adjourned till tomorrow morning 9 o'clock A.

331

Rec. No. 5 pg.

532

Received May 31, 1880 on the
Replevy of Goods from Wade
and Mintz same & 141.00 dollars

January 10th 1880

Court met pursuant to adjournment. Present same as on first day, and this being no business transacted of this date, Court adjourned till Monday morning the 12th inst. 9 O'clock A.M.

January 12th 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had to-wit:

5314. Desha Bunkin vs Wm Bayer. Upon motion of Pltff attorney it was this day ordered that this cause be and the same is hereby dismissed, and it is further ordered that the plaintiff Desha Bunkin pay all costs in this behalf expended for which Execution may issue in behalf of the officers of the Court.

Rec'd No 5314. Page No 5 page 71.

5325. The State of Texas vs. Frank Rugeley et als. On this the 12th day of January A.D. 1880. came the State of Texas plaintiff by her attorney, and the said plaintiff having this continued this suit as to the defendant G. Bayer who has not been served with citation and who has not answered in this cause, announced herself ready for trial as to the other defendants, and the other defendants, Frank Rugeley & Frank and John Mathews after having been duly served with citations according to law having failed to appear and answer in this behalf but wholly made default. Wherefore the said plaintiff ought to recover of the said defendants her damages by occasion of the premises, and no Jury having been demanded by any party to this suit this cause is tried by the Court without a Jury and the pleadings evidence and argument of counsel having been heard and fully understood it is considered ordered adjudged and decreed by the Court that the said plaintiff the State of Texas, do have and recover of and from the said defendants Frank Rugeley & G. Frank the sum of one thousand eight hundred and Sixty Dollars together with all costs of suit for which Execution may issue, and that the said plaintiff the State of Texas do have and recover of and from the said defendant John Mathews the sum of One thousand five hundred Dollars together with costs of suit for which Execution may issue. It is further ordered adjudged and decreed by the Court that this judgment and Execution thereon shall be discharged and satisfied as against all the defendants in this judgment upon the payment of the said sum of One thousand eight hundred and Sixty Dollars and the legal interest which may accrue thereon and costs of suit and shall be discharged and satisfied as against any one of said defendants upon the payment by him of the amount with the interest that may accrue thereon and costs of suit for which judgment is herein rendered against him so that the said plaintiff shall not be entitled to recover from any of said defendants any greater sum than the said sum of One thousand eight-

Rec'd No 5325. Page No 5 page 71. The State of Texas vs. Frank Rugeley et al Amount of the sum of One thousand eight hundred and Sixty dollars and 14/100 dollars ($1860.14) with interest thereon at the rate of ten per cent per annum from the 21st day of May A.D. 1879 from G. Bayer on judgment in Case No 5318 State vs. Frank Rugeley et al amount in this judgment $1860.14 Interest from May 21st 1879 to 12th January 1880 (242 days) $106.25 Total $1966.39 Costs of suit in behalf of the State of Texas $15.00 Total $1981.39 Costs of suit in behalf of the plaintiff having been remitted by Attorney for State

January 12th 1880.

hundred and Sixty Dollars and the legal interest that may accrue thereon and costs of suit, nor from any one of said defendants any greater sum than the amount of the judgment rendered herein against and the interest which may accrue thereon and costs of suit.

And it further appearing to the Court that the said defendant Frank Rugeley is the principal in the Official Bond sued on in this case, and that the said defendants L Frang and John Mathews executed said Official Bond as sureties and as such sureties are entitled to the benefit of the Statute in such cases made and provided, it is therefore further ordered adjudged and decreed by the Court that the Sheriff issue Execution issued by virtue of this judgment first upon the property of the said defendant Frank Rugeley subject to Execution and situate in the County of Travis before a levy shall be made upon the property of the said sureties or either of them: But if the said defendant Frank Rugeley has not property in said County of Travis subject to execution then the levy of Execution to be made upon so much of the property of said sureties as may be necessary to make the amount ordered and costs adjudged against them herein, And it is further ordered adjudged and decreed by the Court that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond this Judgment shall not be discharged by such payment but shall remain in full force and be prosecuted to Execution for the use of said sureties or any of them making such payment to the amount of such payment, It is further ordered that the officers of the Court have Execution for their costs.

5369. Loomis & Christian vs W. W. Puckett. Upon motion it was ordered that Plaintiff have leave to file 1st Supplemental petition, Thereupon Court adjourned till tomorrow morning 9 o'clock.

January 13th 1880

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had to wit:

5265. Hannah Taylor vs Jeff. Taylor. And now on this the 13th day of January A.D. 1880. Came the parties by their attorneys and defendant having waived his demurrer to plaintiffs amended original petition both parties announced themselves ready for trial, and no jury having been demanded by either party this cause is tried by the Court, and the pleadings evidence and argument of counsel having been heard and fully understood the Court finds that the material allegations in plaintiffs amended original petition as to the marriage between plaintiff Hannah Taylor

January 13th 1880

and defendant Jefferson Taylor and the abandonment of said plaintiff by the said defendant and his living in adultery with another woman, one Jane Miller, and as to residence and citizenship of the plaintiff and defendant are true, it is therefore considered ordered adjudged and decreed by the court that the bonds of matrimony heretofore existing between the plaintiff Hannah Taylor and the defendant Jefferson Taylor be and they are hereby dissolved, And it is further ordered adjudged and decreed that the custody and education of the children of said marriage, Anna and Isabella be and are hereby given to the said Plaintiff Hannah Taylor the mother of said children. It is further ordered that plaintiff do have and recover of and from the said defendant her costs in this behalf expended for which execution may issue, Whereupon Court adjourned till tomorrow morning 9 O'clock

January 14th 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5355 Sampson Heidenheimer et als vs Robert Gilmore — And now at this day
Exec. Docket 5. page 69. this cause being called for trial, the plaintiffs appeared by his attorneys and announced ready for trial, and the defendant though duly cited having failed to appear and answer, and a judgment by default having heretofore been rendered against him, and the court having heard plaintiffs petition and the evidence adduced in his behalf, and having duly considered the same, it is ordered adjudged and decreed by the court that said judgment by default be made final and that the plaintiffs Sampson Heidenheimer and T. D. Ayres do have and recover of and from the defendant Robert Gilmore the sum of Nineteen hundred and eight thirty one and $^{00}/_{100}$ Dollars together with all costs of suit for which let execution issue, and thereupon came on to be heard the answer of the Gulf Colorado and Santa Fe Railroad Company to the writ of Garnishment issued in said cause, and also came on to be heard the plea in intervention of John O. Ross and J. H. Burnett under their firm name of Jno. O. Ross & Co. and the answer of said Garnishee not being controverted and the Court having heard the evidence of the intervenors it is further ordered adjudged and decreed by the Court that said Garnishee do pay to said intervenors and the same is hereby adjudged to them the sum of Eleven hundred and forty $^{0}/_{100}$ Dollars. It is further considered and adjudged that the intervenors and Garnishee go hence without day and recover of and from the plaintiff all their costs in this behalf expended. It is also further considered and adjudged that said Garnishee do have and recover of and from the plaintiffs herein the sum of Fifty Dollars being the reasonable value of the fee

January 14th 1880

and Expenses incurred by said Garnishee in this matter. For all of which let Execution issue in favor of the parties respectively.

✓5335 The State of Texas vs. Joseph Cahn et als. January 5th 1880 Upon motion it is ordered that the plaintiff have leave to file first supplemental petition.

Court adjourned until to morrow morning 9 o'clk.

January 15th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

✓5316. L. Canto vs. Matilda Canto. Continued.

✓5369. Loomis & Christian vs. W. W. Puckett. Upon motion it is ordered that the defendant have leave to file first supplemental answer.

✓5304. Wm W. Fontaine vs Jno. O. Johnson Collector of Taxes. Now on this the 15th day of January A. D. 1880. came the parties by their attorneys, and thus Came on to be heard the demurrer of defendant to plaintiffs original petition on the ground that this Court has no jurisdiction of the subject matter of this suit, and the said petition and, the said demurrer and the argument of Counsel having been heard and fully understood it is considered by the Court that the law is for the plaintiff, it is therefore ordered by the Court, that the said demurrer be and the same is hereby overruled, And thereupon both parties announced themselves ready for trial and ✓5348
waived a Jury and submit the matters in controversy as well of fact as of law to the Court and the pleadings evidence and argument of ✓5369
Counsel having been heard and fully understood it is considered ordered
adjudged and decreed by the Court that the plaintiff Wm W. Fontaine ✓5382
take nothing by this suit, that the injunction heretofore issued in this
cause be and the same is hereby dissolved set aside and held for ✓5331
naught, and that the defendant Jno. O. Johnson do have and recover
of and from the plaintiff Wm W. Fontaine all costs in this behalf expended
and that he have his Execution, It is further ordered that Executions
issue in favor of the officers of the Court against each of said parties
respectively for the costs by him in this behalf incurred, To which
judgment of the Court plaintiff then and there excepted and in open ✓5273
Court gave notice of appeal to the Supreme Court.

✓5306. R. A. Riddet als vs Jno. O. Johnson Collector of Taxes, And now on this the 15th day of January A. D. 1880. came the parties by their attorneys and then came on to be heard the demurrer of defendant to plaintiffs original petition on the ground that this Court has no jurisdiction of the subject matter of this suit, and the said petition and the said demurrer and the argument of Counsel having been heard and fully understood it is considered by the Court that the law is for the plaintiff, it is therefore

January 15th 1880.

ordered by the Court that the said demurrer be and the same is hereby over=
=ruled, And thereupon both parties announced themselves ready for trial
and waive a jury and submit the matters in controversy as well of fact
as of law to the Court and the pleadings evidence and argument of Counsel
having been heard and fully understood it is considered ordered adjudged
and decreed by the Court that the plaintiffs Rebecca K. Reid and George C. Reid
take nothing by this suit; that the injunction heretofore issued in this cause
be and the same is hereby dissolved set aside and held for naught and
that the defendant Jno. O. Johnson do have and recover of and from the
Plaintiffs Rebecca K. Reid and George C. Reid his costs in this behalf
expended and that he have his Execution. It is further ordered that
Execution issue in favor of the officers of Court against each of said
parties respectively for the costs by such parties in this behalf incurred.
To which judgment of the Court plaintiffs then and there excepted and
in open Court gave notice of appeal to the Supreme Court.
Thereupon Court adjourned till to morrow morning 9 o'clock A.M.

January 16th 1880.

Court met pursuant to adjournment. Present same as on Yesterday
Whereupon the following proceedings were had to wit:
5348 Emily Weems vs Wm Reed to George Naylor. Upon motion it is ordered that the
defendant have leave to file first Supplemental answer.
5369 Loomis & Christian vs W W Puckett. Upon motion it is ordered that Plaintiff
have leave to file 2nd Supplemental petition
5382 A. Dyches for the use of McDaniel & Co. vs East Texas Fire Insurance Co. Upon
motion Plff has leave to file first Supplemental petition
5331 The State of Texas vs T. M Bagby et al. Upon motion Plff has leave to file second
Supplemental petition, Thereupon Court adjourned till tomorrow morning 9 a.m.

January 17th 1880.

Court met pursuant to adjournment. Present same as on first day
Whereupon the following proceedings were had viz.
5273. Susan A. Harlson vs John M. Harlson. Upon motion David Shanks Esq was
appointed by the Court to represent the defendant and cause continued.
Thereupon court adjourned till Monday morning 9 o'clock A M.

January 19th 1880

Court met pursuant to adjournment. Present same as on first day
Whereupon the following proceedings were had. viz:
4464. Alfred Smith vs J K. Warren alias Dick Warren. Upon motion this cause is
set for Monday January 26th 1880. - 1st Case.

January 19th 1880

✓ 4699	James. H. Link vs Austin City R. R. Co. upon motion this cause is set for Monday 26th January 1880.
✓ 4930	W. B. Bush. vs James. D. Barton — Continued
✓ 4935	Carleton & Robinson vs B. Trigg — Continued
✓ 4975	T. L Wooten vs Edmund Jones, No counsel appearing for Plaintiff it ordered that this cause be continued
✓ 5036	G. Crow vs C. R. Johns et als, upon motion this cause is set for Monday the 26th January 1880.
✓ 5174	R. B. Hubbard Governor &c. vs A. J. Ward et al, No counsel appearing for Plaintiff this cause is continued
✓ 5176	R. B. Hubbard Governor &c vs A. J Ward et als, No counsel appearing for Plaintiff this cause is continued
✓ 5183	James Lloyd vs Int and Gr. N. R. R. Co. — Continued,
✓ 5200.	William Emil Rhin vs Austin City R. R. Co., This cause is set upon motion for Monday February 2nd 1880,
✓ 5237.	Thomas. B. Jourdan and Wife vs George. B. Simpelman, upon motion this cause is set for Monday 26th January 1880,
✓ 5331	The State of Texas, vs T. M. Bagby et als, upon motion Plaintiff has leave to file 3d supplemental petition and cause set for trial Monday 26th January 1880.
✓ 5348	Emily Weems and husband vs George Newton, upon motion this cause is set for Monday next 26th January 1880.
✓ 5350	M Scudder vs 26 and T. C. R. R. Co. upon motion this cause is set for 3d Febry 1880.
✓ 5387.	First National Bank of Austin vs Sam Hamilton et als, upon motion this cause is set for Monday February 2nd 1880.
✓ 5335.	The State of Texas vs Joseph Cahn et als. And now on this the 19th day of January A. D. 1880, came the parties by their Attorneys and thus come on to be heard the defendants demurrer to the plaintiffs original petition on the ground that it appears from said petition that this suit is not commenced in the proper County and the argument of counsel thereon being heard it is the opinion of the Court that the law is for the plaintiff, it is therefore ordered by the Court that said demurrer be overruled, And thus came on to be heard the Plaintiffs general and special demurrers to the defendants plea of personal privilege to be sued in the County of defendants residence to the jurisdiction of the Court and the argument of counsel thereon being heard it is the opinion of the Court that the law is for the plaintiff, it is therefore ordered by the Court that said demurrers be sustained and that said plea to the jurisdiction of the Court be overruled, And thus came on to be heard the defendants general and special demurrers to the plaintiffs original petition and plaintiffs amended first supplemental petition and the argument of counsel thereon being heard it is the opinion of the Court that the law is for the plaintiffs, it is therefore ordered by the Court that said

January 19th 1880.

be overruled. And then came on to be heard the plaintiffs demurrer to defendants amended original answer & first amended answer on the ground that said answer is not properly indorsed as required by the rules of this court and the argument of counsel thereon being heard it is the opinion of the court that the law is for the defendants, it is therefore ordered by the court that said demurrer be overruled, And then came on to be heard the plaintiffs General and special demurrers to that part of said answer in which defendants deny that the bond sued on by plaintiff was granted by them, and the argument of counsel thereon being heard, it is the opinion of the court that the law is for the plaintiff, it is therefore ordered by the court that said demurrers be sustained, And then came on to be heard plaintiffs demurrer to that part of said answer in which defendants plead a former suit and an accounting and settlement between plaintiff and defendants and the argument of counsel thereon being heard it is the opinion of the court that the law is for the defendants, it is therefore ordered by the court that said demurrer be overruled, And then came on to be heard the plaintiffs demurrer to that part of said answer in which defendants set up offsets against the plaintiff, and the argument of counsel thereon being heard, it is the opinion of the court that the law is for the defendants, it is therefore ordered by the court that the said demurrer be overruled, And then came on to be heard the plaintiffs demurrer to that part of said answer in which the defendants Rigan Villemore, Westhoff and Rahm plead that defendant Joseph Cahn was solvent from the year 1876. to the first of January 1878. and for a short time thereafter and that he became insolvent about the 1st day of August 1879. and is now insolvent and that by reason of the negligence of plaintiff in prosecuting her claim against the said Joseph Cahn and the other defendants as his sureties the said sureties are released from liability for the same and for to, and the argument of counsel thereon being heard it is the opinion of the court that the law is for the defendants, it is therefore ordered by the court that said demurrer be overruled, And thereupon both parties announced themselves ready for trial and waive a jury and submit the matters in controversy as well of fact as of law to the court and the pleadings, evidence and argument of counsel having been heard and fully understood it is considered ordered adjudged and decreed by the court that the plaintiff the State of Texas do have and recover of and from the defendants Joseph Cahn, Wm Westhoff, Cosimir Villemore A. Rahm and D. H. Rigan the sum of Three Thousand Six hundred Dollars together with all costs in this behalf expended for which execution may issue, And it further appearing to the court that the defendant Joseph Cahn is the principal in the official bond sued on in this cause, and that the said defendants Wm Westhoff, Cosimir

January 19th 1880

Villiamus, A. Rahm and D. H. Regan executed said bond as sureties and as such sureties are entitled to the benefit of the Statute in such cases provided. It is ordered further ordered adjudged and decreed by the Court that the Sheriff levy the Execution issued by virtue of this judgment first upon the property of the said Joseph Cahn subject to Execution and situate in the county of Travis before a levy shall be made upon the property of said sureties or either of them, provided no property of the said Joseph Cahn subject to Execution shall be found or will be sufficient to make the amount of said Execution, otherwise the levy thereof to be made on the property of the said Joseph Cahn that may be found if any and upon so much of the property of said sureties as may be necessary to make the amount of said Execution, And it is further ordered adjudged and decreed that in case said sureties or any of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond this judgment shall not be discharged by such payment but shall remain in full force and be prosecuted to Execution for the use of said sureties or any of them making such payment to the amount of such payment. And it is further ordered that Execution may issue on behalf of the officers of this Court for all costs in this behalf incurred.

Thereupon Court adjourned till tomorrow morning 9 o'clock A.M.

#177

January 20th 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5333. The State of Texas vs L. E. Dann et als. Upon motion Plaintiff has leave to file amended original and first supplemental petition and cause continued generally.

5394. Sam. P. Wilson Ex parte, Sam. P. Wilson having this day made application to the District Court of Travis County for license to practice as attorney and counsellor at law, and he having produced to said Court the certificate required by law, showing that he is twenty one years of age and a man of good moral character, and honorable deportment it is ordered by the Court that Thos. E. Snead, Fred Carleton and D. W. Doom Esqrs. be appointed to examine said Wilson touching his qualifications on Friday the 23d January A D 1880.

W P Zimmerman

Court adjourned until the 21st day of January 1880 9 o'clk A.M.

January 21st 1880.

Court met according to adjournment. Present same as first day, and no business having been done on the civil docket Court adjourned until to morrow morning 9 o'clk.

January 22nd 1880.

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

#177 Cora E. Shepherd et als vs John H. Conner et als, And now on this the 22nd day of January A.D. 1880, came on this cause to be heard on the amended final report of the Commissioners heretofore appointed by this Court, and all parties at interest herein appearing by Attorneys; And it appearing to the Court that there are no objections on file to said amended report, and that the same has been in all things fairly and justly made, It is therefore ordered adjudged and decreed by the Court that the same be and is hereby in all things approved and confirmed, It is further ordered adjudged and decreed by the Court that Cora E. Shepherd do have and recover of and from Nina B. McDowell, Juliet E. Hicks, Pearl Conner and H. McDowell as the assignee of Martha J. Fahey and Carrie T. Conner all of lots Two (2) and Fifteen (15) and Sixteen (16) in Block two (2) in the City of Austin, Travis County Texas, as better and more fully described in the hereinafter copy of plat made by said Comrs. for which she may have her writ of possession, + And it is further ordered adjudged and decreed by the Court that Nina B. McDowell do have and recover of and from Cora E. Shepherd, Juliet E. Hicks Pearl Conner and H. McDowell as the assignee of Martha J. Fahey and Carrie T. Conner all of Lots Seven (7) in Block No (2) two and Lot No (12) twelve in Block No (3) Three in the City of Austin Travis County Texas as better and more fully described in the hereinafter copy of Plat made by said Comrs. for which she may have her writ of possession, + It is further ordered adjudged and decreed by the Court that Juliet E. Hicks do have and recover of and from Cora E. Shepherd, Nina B. McDowell, Pearl Conner and H. McDowell as the assignee of Martha J. Fahey and Carrie T. Conner all of lots twelve (12) in Block two (2) and Lot (6) Six in Block (3) Three in the City of Austin Travis County Texas as better and more fully described in the hereinafter copy of Plat made by said Comrs. for which she may have her writ of possession, + It is further ordered adjudged and decreed by the Court that-Pearl Conner do have and recover of and from Cora E. Shepherd, Nina B. McDowell, Juliet E. Hicks and H. McDowell as the assignee of Martha J. Fahey and Carrie T. Conner all of lots three (3) Seventeen (17) and Eighteen (18) in Block two (2) in the City of Austin Travis County Texas, as better and more fully described in the hereinafter copy of Plat made by said Comrs for which she may have her writ of possession, + It is further ordered adjudged and decreed by the Court that H. McDowell as the assignee of Martha J. Fahey and Carrie T. Conner do have and recover of and from Cora E. Shepherd, Nina B. McDowell, Juliet E. Hicks and Pearl Conner all of lots Eight (8) and Nine (9) in Block two (2) and lots ten (10) and Eleven (11) in Block

January 22nd 1880

Three (3) in the city of Austin Travis County Texas as Tillie and more fully discribed in the hereinafter copy of Plat made by said Comrs. for which he may have his writ of possession, That the Map or Plat made by said Comrs in this cause in this said amended report is adopted by the Court in this cause and in all things confirmed,

Blocks Nos 1. 2. 3. 4. Out Lot No 1. Division A. Conners addition to City of Austin Texas.

N.

Exhibit "A" Comrs report.

Block 4.

1	16	15	14.
2			
3			
4.			
5			
6			
7 $400. Caldwell.			
8. $400. Caldwell			
9 $400. Conner.			
10 $500. Jones.	11	12	13.

Block. 5.—

					Julia E. Hicks $200.00 X.
1	2	3	4	5	

12 Nina B. McDowell $350.00 X.
11 $200.00 H. McDowell X
10 H McDowell $200.00 X
9
8
7

Main East Avenue

Pecan Street

16											
17											
18											
19											
20.											

15

14 X 16 ½ Acres

13. 1X16 ½ Acres

Block 1.

1	2	3	4	5	6	7	8	9	10	11	12.

Block

1	2	3	4	5	6	7	8	9	10	11	12

13.

14

15 X Cora E. Shufford $100.00.

16 X Cora E. Shufford $100.00

17 X. Pearl Conner $100.00

18 Pearl Conner $125.00

Block

$33. Pearl Conner 3

$33. Cora E. Shufford 1

$33. Nina B. McDowell X 5

$33. H. McDowell X 9

$33. Phio. Hearn & Co. 10

$33. Phio. Hearn & Co. 11

$33. Austin Co. Bank 12

Exhibit B. 10?

Comrs Report.

Dennis Comrs Report. Fahy 5th

Pine Street

S.

Houston and Texas Central R.R.

It is further ordered adjudged and decreed by the Court that Cora E. Shufford do have and recover of and from Pearl Conner the sum of Twelve 50/100 ($12 50/100) Dollars, and that the same be paid by her guardian in due course of administration or by the Sheriff of this Court if he should have funds in his hands belonging to said Pearl according to law in this cause, It is further ordered adjudged and decreed by the Court that Julia E Hicks do have and recover of and from Nina B. McDowell the sum of Twelve 50/100 ($12.50) Dollars for which Execution may issue, It is further ordered adjudged and decreed by the Court that H. McDowell the assignee of Martha J. Fahy and Carrie T. Conner do have and recover of and from Nina B. McDowell the

January 22nd 1880.

sum of Twenty five $25.00 Dollars, It is further ordered that T.A. Posey Guardian ad Litim for the minor Pearl Conner be allowed the sum of Fifty Dollars for his services as Attorney in representing the interest of said minor in this cause, and that the same be paid by the adult parties hereto as other costs,
It is further ordered that said Comm'r H.L. Bailey and Dennis Lorenzo be allowed the sum of Ten $10.00 Dollars for their services in the matter of their said amended report filed January 5th 1880. to be paid by the parties mentioned in this decree according to several interests, & exept that Pearl shall pay no costs.
And it is further ordered that the parties at interest in the amended report matter, shall pay each his prorata costs, & exept that Pearl Conner shall pay no costs for all of which Execution may issue.

No 2276. John. T. Jackson for the use of W. A. Ryan vs Roger Williams Insurance Company,
And now at this day this cause being called for trial, the parties appeared by their attorneys, and it appearing to the Court that the matters in controversy in this suit have been compromised and settled by the parties and that the defendant has paid all costs of this suit, it is ordered by the Court that this cause be dismissed and stricken from the docket,

No 2277 John. T. Jackson for the use of W. A. Ryan vs The Atlantic Insurance Company
And now at this day this cause being called for trial, the parties appeared by their attorneys and it appearing to the Court that the matters in Controversy in this suit have been compromised and settled by the parties and that the defendant has paid all costs of this suit it is ordered by the Court that this cause be dismissed and stricken from the docket.

No 5071 The State of Texas vs Christian Stratman, Alexander Kerr, John C. Mitchell
(Exc. docket No 5 page 65) David Hirsch, Thomas H. Rohilly, F. Hudgins, Phillip Vogel, J.C. Williams James D. Freeman, W.G. Pillus Fred. H. Voss & A.B. Dunlap, This day came the Plaintiff by her attorneys and it appearing to the Court that the said defendants Thomas H. Rohilly, F Hudgins, Phillip Vogel and Fred. H. Voss, have not been served with process, the plaintiff says she will not further prosecute her said suit against said defendants, Thomas H. Rohilly, F Hudgins, Phillip Vogel and Fred. H. Voss, And it further appearing to the court that the said defendant Christian Stratman, who is the principal in the official bond sued upon in this suit, has departed this life after the institution of this suit and the administration upon his estate has been granted to T. R. Baird in the County of Fort Bend in said State of Texas, and that said Baird has duly qualified as such administrator, and upon the application of said Baird he is made a party defendant to this suit as administrator as aforesaid, and the said defendants, T. R. Baird, administrator as aforesaid Alexander Kerr, John C. Mitchell, David Hirsch, J.C. Williams James D. Freeman, W.G. Pillus and A.B. Dunlap having appeared by their attorney, and neither party demanding a Jury, the matters in con-

January 22nd 1880.

=hearay as well of fact as of law were submitted to and tried by the Court, and the evidence and arguments of counsel having been heard and fully considered and understood, It is therefore ordered adjudged and decreed by the Court that the Plaintiff the State of Texas, do have and recover of and from the said defendants T. R. Beard, Administrator of the estate of Christian Stratman, deceased, Alexander Kerr, John C. Mitchell, David Hirsch, J. C. Williams, James D. Freeman, W. J. Pettus and N. B. Dunlary the sum of Five Thousand Eight Hundred and Sixty one and 33/100 ($5861 33/) dollars, with interest thereon from the date hereof at the rate of eight per cent per annum together with costs of suit for all which let execution issue except as to the defendant T. R. Beard, administrator as aforesaid, and as to the said Beard it is ordered and adjudged that this judgment be certified to the County Court of Fort Bend county sitting in Probate matters to be paid in due course of administration of the estate of said Stratman deceased, And it further appearing to the Court that the said defendants, Alexander Kerr, John C. Mitchell, David Hirsch, J. C. Williams, James D. Freeman, W. J. Pettus and N. B. Dunlary executed the bond sued upon in this case as sureties, It is further ordered adjudged and decreed that in case said sureties or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond, this judgment shall not be discharged by such payment, but shall remain in force for the use of such surety and shall be considered as assigned to such surety, together with all the rights of the plaintiff thereunder, to the extent of the payment thereon made by such surety and interest thereon, And it is further ordered adjudged and decreed that the officers of Court have execution for their costs.

Court thereupon adjourned until tomorrow morning 9 o'clock.

January 23d 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5315. Ida Donicke vs Robert Donicke. Comes now the plaintiff and this cause being called for trial, and it appearing that the defendant herein has been served by publication of citation according to law in a paper "The Texas Capitol" a Weekly Newspaper of General circulation published in the County of Travis and the State of Texas for four weeks successively before the first day of the October Term 1879, of this Court and the defendant fails to appear, the Court does appoint James H. Burts an attorney in this court to defend the same, and the parties announced themselves ready for trial, And the Court after hearing the evidence does find that

January 23d 1880.

the allegations in the original petition are true, It is therefore ordered adjudged and decreed, that the bonds of matrimony between the said Ida Daricke and Robert Daricke heretofore existing be forever dissolved, and that the Plff Ida Daricke be forever divorced from said Robert Daricke, That she have the guardianship and control of the persons of said minor children Norma C. A. Daricke and Paula F. L. Daricke, and that defendant be restrained from interfering with her in said guardianship and the control of said minor children. That James. H. Burts be allowed a fee of $25. for defending this cause to be taxed as costs against plff. and that Plff recover all of her costs from defendant for which she may have her execution, And the Court now approves and files a statement of the evidence in this cause and makes it a part of the record.

No 5343. Allen Bradley vs Margaret Bradley, And now at this day this cause being called for trial, and it appearing that the defendant herein has been duly served by citation according to law, but failed to appear, And the Court after hearing the evidence does find that the allegation in the original petition of. to wit: adultery to be true, It is therefore ordered adjudged and decreed that the bonds of matrimony heretofore existing between Allen Bradley and Margaret Bradley be and the same are forever dissolved, and that the Plaintiff the said Allen Bradley be forever divorced from said Margaret Bradley, And it is further ordered by the Court that the Plaintiff the said Allen Bradley pay all costs in this behalf expended

Sc. f. No 14. The State of Texas vs Thomas Riggs. January 9th 1880. It appearing from the Sheriff's return on the writ of Sc. facias, that the defendant cannot be found, it is ordered that this case be dismissed.

Sc. f. No 15 The State of Texas vs. Thomas Riggs. January 9th 1880. It appearing that service cannot be had on the defendant, this case is ordered to be dismissed.

Sc. fac No 16 The State of Texas vs. Thomas Riggs. January 9th 1880. It appearing that defendant cannot be found it is ordered that this case be dismissed.

Sc. fac No 21 The State of Texas vs. Reuben Murphy et al January 9th 1880. Continued for service and alias writs of scire facias ordered to issue against the sureties of the defendant Murphy.

Sc. fac. No 23 The State of Texas vs. Charles Cannon et als. January 9th 1880. It was ordered that this case be continued for service, and that alias writs of Scire facias be issued summoning the sureties of the said defendant Charles Cannon to appear and answer in this behalf on the first Monday in May A.D 1880.

Sc. f. No 43 The State of Texas vs. J. M. Holland. January 9th 1880 Continued for service, and alias writ of scire facias ordered to be issued.

Sc. f. No 44. The State of Texas vs. R. P. Edmonson. January 9th 1880 Dismissed, because defendant cannot be found.

Sc. f. No 45 The State of Texas vs. Wilson Pope. January 9th 1880. Defendant not

found, cause dismissed.

Sc. f. N= 46. The State of Texas vs. G. W. White. January 9th 1880. The defendants answer being heard by the Court and deemed sufficient, it is ordered that this case be dismissed and that the defendant go hence without day.

Sc. f. N= 1. The State of Texas vs. George Cranford et al. January 20th 1880. This case being this day called for trial, came the State by her County Attorney and announced ready for trial and the defendants G. W. Lacy and W. C. Franklin came by their attorneys and announced ready for trial. The plaintiff thereupon dismissed this case as to the defendant F. M. Lacy he having not been served with a writ of Scire facias in this case. And it appearing to the Court that the said G. W. Lacy and W. C. Franklin heretofore entered into an appearance bond as sureties for George Cranford conditioned that said Cranford should make his personal appearance before the Dist. District Court of Travis County on the first Monday in October A.D. 1875 and there remain until discharged by due course of law then and there to answer the State of Texas upon a bill of indictment, in said Court pending, wherein said Cranford was charged with murder. And it further appearing to the Court, that said appearance bond had been forfeited on the 28th day of May A.D. 1877, and that judgment nisi had on that day been entered against said Cranford and his aforesaid sureties for the sum of ($2000=) two thousand dollars, and the Court having heard the answer of the said sureties G. W. Lacy and W. C. Franklin and the evidence by them introduced, It was ordered adjudged and decreed by the Court, that the said judgment nisi be made final and absolute to the extent of ten dollars against the principal George Cranford and his sureties G. W. Lacy and W. C. Franklin, that therefore the State of Texas do have and recover of and from the said George Cranford as principal and G. W. Lacy and W. C. Franklin as sureties the said sum of ($10=) ten dollars and all costs of this prosecution for all of which execution may issue.

Sc. f. N= 4 (5324) (Exe docket N= 5 page 71) The State of Texas vs Wm Poe et als. January 20th 1880. On this day came the parties to this cause by their attorneys and announced ready for trial. And it appearing to the Court that the defendant Wm Poe as principal with Wm M. Poe and S. D. Meeks as sureties did on the 6th day of July 1878 enter into an appearance bond, conditioned that the said Wm Poe should on the 14th day of October 1878 make his personal appearance before the District Court of Travis County, to answer to an indictment then pending against him for theft of a gelding and mare, numbered N= 5324 on the docket of this Court; and it further appearing that on the 11th day of November A.D. 1878 said bond was by this

Court forfeited and judgment nisi entered against said parties, principal & sureties for the amount set out in said bond to wit: for the sum of three hundred dollars; and the pleadings and affidavits of the defendants being read and duly considered by the Court; it was ordered adjudged and decreed by the Court, that said judgment nisi be and the same is herby made final and absolute for the sum of one dollar, that the balance of said judgment nisi be hereby set asside, that therefore the State of Texas do have and recover of and from the said defendant Wm Poe as principal and from the said Wm M. Poe and P. D. Meeks as Sureties the said sum of one dollar and all costs of this proceeding for which execution may issue.

S. J. No 5 (5325) (Fee dock No 5 page 12) The State of Texas vs. Wm Poe et als. January 20th 1880. This cause being this day called for trial, came the parties thereto by their attorneys and announced ready for trial. And it appearing to the Court that the defendant Wm Poe as principal with Wm M. Poe and P. D. Meeks as sureties did on the 6th day of July A.D. 1878 did enter into an appearance bond, conditioned that the said Wm Poe should on the 14th day of October 1878 make his personal appearance before this Court to answer to an indictment then pending against him for the theft of a golding and a mare, numbered 5325 on the docket of this Court, and it further appearing to the Court that on the 11th day of November A.D. 1878 said bond was by this Court declared forfeited and judgment nisi entered against said parties, principal and sureties for the amount set out in said bond viz: for the sum of three hundred dollars, and the pleadings and affidavits of the defendants having been summitted to and duly considered by the Court, it was ordered adjudged and decreed by the Court, that said judgment nisi be and the same is hereby made final and absolute to the amount of one dollar, and that the balance of said judgment nisi be and the same is herby set aside, and that therefore the State of Texas do have and recover of and from the said defendant Wm Poe as principal and from the said Wm M. Poe and P. D. Meeks as sureties the said sum of (1) One dollar and all costs of this proceeding for all of which executions may issue.

S. J. No 5 (5365) (Fee dock No 5 page 13) The State of Texas vs. Wm Poe et als. January 20th 1880. On this day, this cause having been called for trial, came all the parties to this cause by their attorneys and announced ready for trial. And it appearing to the Court that the defendant Wm Poe as principal with Wm M. Poe and P. D. Meeks as sureties did on the 6th day of July 1878 enter into an appearance bond, conditioned

that the said Wm Poe should make his personal appearance before this Court on the 14th day of October A.D. 1878 and there remain from day to day and from term to term until discharged by due course of law, then and there to answer the State of Texas upon an indictment then pending against him in this Court against him, charging him with having committed the crime of theft of two work oxen, said indictment being numbered 5365 on the docket of this Court, and it appearing to the Court that on the 11th day of November 1878 said appearance bond had been by this Court declared forfeited and that judgment nisi had been entered against the aforesaid parties principal and sureties for the amount of said bond viz for the sum of four hundred dollars, and the pleadings and affidavits of the defendants having been read to and been duly considered by the Court, it was considered ordered adjudged and decreed by the Court that the aforesaid judgment nisi be and the same is hereby made final and absolute to the amount of one dollar, and that the State of Texas do have and recover of and from the said William Poe as principal and from the said Wm M. Poe and P. D. Meeks as sureties the said sum of one dollar and all costs of this proceeding, for which executions may issue and, that the balance of said judgment nisi be and the same is hereby set aside.

Sc. f. 26. The State of Texas vs Joshua Teague. Dismissed.

Sc. f. 31 The State of Texas vs. John P. Conner et al. Principal defendant being dead, this case is dismissed.

Sc. f. 31. The State of Texas vs. John P. Conner et als. Principal defendant being dead, this case is dismissed.

Sc. f. 32 The State of Texas vs. John P. Conner et al. January 20th 1880. Principal defendant being dead this case is dismissed.

Sc. f. 33 The State of Texas vs. John P. Conner et al. January 20th 1880 Principal defendant being dead this case is dismissed, January 20th 1880.

Sc f 34. (Over. dock No 5 page 12) The State of Texas vs Wm Poe et als. This cause having this day been called for trial, came the County Attorney on behalf of the State and announced ready for trial, and came also the defendants W. M. Poe and C. R. Puckett sureties on the defendants Wm Poe's appearance bond who had been duly served with writs of Scire facias in this case by their attorneys and announced ready for trial, but the defendant Wm Poe came not. And it appearing to the Court that the defendant Wm Poe as principal with W. M. Poe and C. R. Puckett as sureties did on the 7th day of January A.D. 1879. enter into an appearance bond conditioned that the said Wm Poe should personally appear before the Honorable District Court of Travis County on the 21st day of April

1879. and then remain from day to day and from term to term until discharged by due course of law, then and there to answer the State of Texas to an indictment pending against him in this said Court, being numbered 5365. on the docket of this Court in which said indictment he the said Wm Poe was charged with having on or before the 15th day of January A. D. 1878. committed the crime of theft of two work Oxen, And it further appearing to the Court that on the 19th day of may A.D. 1879. said cause No 5365. having been called for trial and the said Wm Poe then failing to appear, the said appearance bond was by this Court declared forfeited and judgment nisi entered of record against said Wm Poe as principal and against the said W.M. Poe and L. R. Puckett for the amount stipulated in said bond to wit for the sum of $300.00 three hundred dollars, And the Court having heard all the pleadings evidence and argument of counsel thereon. having duly considered the same, did order adjudge and decree that the aforesaid judgment nisi be and the same is hereby made final and absolute, and that the State of Texas do have and recover of and from the said W.M. Poe as principal, and from the said W.M. Poe and L. R Puckett the aforesaid sum of $300.00 three hundred dollars together with all costs of this suit for which execution may issue.

Sat Jany 31 80

St. v. No 38
(Gen. docket No 5. page 76.)

The State of Texas vs. James Morrow et al. January 20th 1880. This case having this day been called for trial, came the County Attorney on behalf of the State and announced ready for trial, but the defendant James Morrow came not but wholly made default, and the defendants William Thomas, Edwin Coleman, W. W. Tandy & G. W. Doolittle the sureties of the defendant James Morrow, came by their attorneys Messrs Chandler & McGregor and announced ready for trial. And it appearing to the Court that the defendant James Morrow as principal with the said William Thomas, Edwin Coleman, W. W. Tandy & G. W. Doolittle as sureties did on the 1st day of July A.D. 1878 enter into an appearance bond, conditioned that the said James Morrow should personally appear before the District Court of Travis County on the 14th day of October A.D. 1878 and there remain from day to day and from term to term until discharged by due course of law, then and there to answer the State of Texas to an indictment then pending against him in this said Court, being numbered 5527 on the docket of this Court, in which said indictment the said James Morrow is charged with falsely making a certain false and forged instrument in writing affecting an interest in lands in the State of Texas, to wit a certain power of attorney from one James Woods to one L. D. Ford dated on the 24th day of March A.D. 1873 without lawful authority & with the intent to defraud, and also in the same indictment with knowingly uttering, publishing and using as true a certain false and forged

instrument in writing to wit the aforesaid false and forged power of attorney on the 20th day of December A.D. 1873 with the intent to defraud, and which said appearance bond was approved by the Sheriff of Travis County on the 22th day of July A.D. 1878; and it further appearing to the Court that, on the 9th day of July A.D. 1879 the said cause No 5527 having been called for trial and the said James Morrow then failing to appear, the said appearance bund was declared forfeited and that judgment nisi was then entered of record against said James Morrow as principal and against the said William Thomas, Edwin Coleman, W. W. Tandy & G. W. Doolittle as sureties for the amount stipulated in said bond to wit for the sum of (2000^{00}) two thousand dollars and the Court then having heard the pleadings and evidence of the defendants and the argument of counsel and having duly considered the same, did order, adjudge and decree that the said judgment nisi be and the same is hereby made final and absolute, and that the State of Texas do have and recover of and from the said James Morrow as principal and from the said William Thomas, Edwin Coleman, W. W. Tandy and G. W. Doolittle the said sum of (2000^{00}) two thousand dollars and all costs of this proceeding for which execution may issue. And thereupon the said William Thomas, Edwin Coleman, W. W. Tandy and G. W. Doolittle by their attorneys excepted to said judgment and gave notice in open Court notice of appeal.

Sc. J. No. 29. The State of Texas vs. James Morrow et als. January 20th A.D. 1880. This cause having this day been called for trial, came the County Attorney in behalf of the State and announced ready for trial, but the defendant James Morrow came not but again made wholly default, and the defendants J. R. Benbow, A. Adams, A. J. Neal, T. R. Rice, W. F. Jeffries, J. B. Cook, L. R. Morrow, the sureties of the said defendant James Morrow, came by their attorney and announced ready for trial. And it appearing to the Court that the said defendant James Morrow as principal with the said J. R. Benbow, A. Adams, A. J. Neal, T. R. Rice, W. F. Jeffries, J. B. Cook, L. R. Morrow, as sureties did on the first day of July A.D. 1878 enter into an appearance bond, conditioned that the said James Morrow should personally appear before the District Court of Travis County on the 14th day of October A.D. 1878 and there remain from day to day and from term to term until discharged by due course of law then and there to answer the State of Texas upon a bill of indictment then pending against him in this said Court, being numbered 5523 on the docket on this Court, in which

Satisfied & full. See exn. docket R. No 5.

said indictment the said James Morrow is charged with fully making a certain false and forged instrument in writing affecting an interest in lands in the State of Texas, to wit: a deed of conveyance for land from one Henry Jones to one James Morrow, dated on the 5th day of September A.D. 1873 without lawful authority & with the intent to defraud, and also in the same indictment with knowingly uttering publishing & using as true a certain false and forged instrument in writing to wit: the aforesaid false and forged deed of conveyance on the 3rd day of October A.D. 1873 with the intent to defraud, and which said appearance bond was by the Sheriff of Travis County approved on the 24th day of July 1878; and it further appearing to the Court that, on the 9th day of July A.D. 1879 the said cause No. 5528 having been called for trial and the said James Morrow then failing to appear - the said appearance bond was declared forfeited, and that judgment nisi was then entered of record against said James Morrow as principal and against the said J. R. Benbow, A. Adams, A. J. Neal, T. R. Rice, W. F. Jeffries, J. B. Cook & S. R Morrow the sureties of the said defendant James Morrow for the amount stipulated in said bond to wit for the sum of ($2000 cy) two thousand dollars; and the Court having heard the pleadings and evidence of the defendants and the argument of counsel, and having duly considered the same, did order adjudge and decree that the said judgment nisi be and the same is hereby made final and absolute and that the State of Texas do have and recover of and from the said James Morrow as principal and from the said J. R. Benbow, A. Adams, A. J. Neal, T. R. Rice, W. F. Jeffries, J. B. Cook, S. R. Morrow as sureties the said sum of ($2000 cy) two thousand dollars and all costs of this proceeding for which execution may issue. And thereupon the said J R Benbow A. Adams, A. J. Neal, T R Rice, W F Jeffries, J. R. Cook, S. R Morrow excepted to such judgment and gave notice in open Court of appeal.

Se. J. 35. The State of Texas vs. Samuel Peacock et al. Continued.

Se. J. 37 The State of Texas vs. Samuel Peacock et al. January 20th 1880. This cause having this day been called for trial, came the County Attorney on behalf of the State and announced ready for trial, but the defendant Samuel Peacock came not but again made wholly default and the defendants T. C. Leaverton, Sarah A. Bird & James F. Bird the sureties of the said Samuel Peacock came by their attorneys and announced ready for trial. And it appearing to the Court that the said defendant Samuel Peacock as principal with the said T. C. Leaverton, Sarah A. Bird and James F. Bird as sureties did on the 26th day of August A.D. 1878 enter into an appearance bond, conditioned, that the said Samuel Peacock should personally appear before the

Dist. District Court of Travis County on the 14th day of October A.D. 1878 and there remain from day to day and from term to term until discharged by due course of law then and there to answer the State of Texas upon a bill of indictment then pending in this said Court against him the said Samuel Peacock, being numbered 5405 on the docket of this Court, in which said indictment the said Samuel Peacock is charged with committing on the 1st day of October A.D. 1876 the crime of falsly making a certain false and forged instrument in writing affecting an interest in lands in the State of Texas, to wit a deed of conveyance from one Wilhelm Brandt to one David Swively of a certain valid land certificate No 281 for 320 acres of land in the State of Texas and also a deed of conveyance of certain lands in said State of Texas located by virtue of said certificate, and which said instrument in writing purports to bear date on the 17th day of October A.D. 1853, with the intent to defraud, and in which said indictment the said Samuel Peacock is further charged with having knowingly uttered as true the said instrument in writing on the 24th day of January A.D. 1877 in the County of San Saba in the State of Texas by causing the same to be filed and to be recorded in a certain office of record to wit in the office of the Clerk of the County Court of said San Saba County with the intention to defraud, and which said appearence bond was approved by the Sheriff of Travis on the 9th day of October A.D. 1878 and it further appearing to the Court that on the 18th day of June A.D. 1879 - the said cause No 5405 having been called for trial and the said Samuel Peacock then failing to appear - the said appearance bond was by this Court declared forfeited, and that judgment nisi was then entered of record against said Samuel Peacock as principal and against said P. C. Leaverton, Sarah A. Bird and James F. Bird as sureties for the amount stipulated in said bond to wit for the sum of ($500.00) five hundred dollars, and the said defendants now waiving the reading of their answers and pleadings; It was now ordered adjudged and decreed by the Court that the said judgment nisi be and the same is hereby made final and absolute to the amount of $250.00 two hundred and fifty dollars and that the balance of said judgment nisi be & is hereby set aside, and that therefore the State of Texas do have and recover of and from the said Samuel Peacock as principal and from the said P. C. Leaverton, Sarah A. Bird and James F. Bird as sureties the said sum of ($250.00) two hundred and fifty dollars and all costs of this proceeding for which execution may issue.

Sc. f. 36 The State of Texas vs John F. Conner et als. January 20th 1880. The

principal defendant John P Conner being dead, this suit is dismissed.

Sc. f. No 40. The State of Texas vs. D. F. McGinnis et al. The recognizance in this case being defective, the judgment nisi herein before rendered is set aside and this case dismissed.

Sc. f. No 41 The State of Texas vs D. F. McGinnis et al. The recognizance in this case being defective, the judgment nisi heretofore rendered in this case is set aside and this case dismissed.

Sc. f. No 42. The State of Texas vs. Bill Phillips. January 21st 1880. This cause being
(Exc. dock No 5 page 12) this day called for trial came the County Attorney on behalf of the State and the defendants came by their attorneys and both parties announced themselves ready for trial. And it appearing to the Court that the said Bill Phillips as principal did on the 6th day of January A.D. 1879 with Thomas S Martin, M. B Clements and A. P. Blocker as sureties enter into an appearance bond, conditioned that the said Bill Phillips should make his personal appearance before the District Court of Travis County on the 21st day of April A.D. 1879 and there remain from day to day and from term to term then and there to answer the State of Texas upon a bill of indictment then pending in this said Court against the said Bill Phillips in which the said Bill Phillips was charged with an assault to kill and murder, and it further appearing to the Court that on the 9th day of July said cause against said Bill Phillips was called for trial and that the said Bill Phillips then failed to appear and made default and that judgment nisi was then entered of record against said Bill Phillips as principal and against said A. P. Blocker, Thomas S. Martin and M. B. Clements as sureties for the amount stipulated in said bond viz.: for the sum of ($350—) three hundred and fifty dollars; and the Court now having heard the pleadings of the defendants and it appearing to the Court that the said cause against said Bill Phillips had been during the October term 1879 of this Court been dismissed; it was now ordered adjudged & decreed by the Court that the said judgment nisi be set aside except as to one dollar and that it be and is hereby made final and absolute as to one dollar against all the aforesaid defendants, that therefore the State of Texas do have and recover of and from the said Bill Phillips as principal and from the said A. P. Blocker, Thomas S. Martin and M. B. Clements the said sum of one dollar and all costs of this proceeding for which execution may issue.

Sc. f. 56. The State of Texas vs. T. G. T. Kendall et al. The answer of the principal defendant to the writ of Sc. Facias, being this day submitted to the Court and deemed sufficient excuse for said Kendall's non appearance as witness, it was ordered by the Court

that the judgment nisi heretofore rendered in this case be set aside and vacated, and that this case be & is hereby dismissed.

5331 The State of Texas vs. T. M. Bagley et al. By consent of parties it was this day ordered that this case be withdrawn from the jury docket and that the same be set for trial on the 31st day of this month.

5194 Andrew Neal vs. Western Union Telegraph Company. January 22nd 1880.
On the 14th day of January 1880. this cause came on to be heard, the parties announced themselves ready for trial, and no jury having been demanded the matters in issue were submitted to the court and defendants demurrers to the petition and first supplemental petition of plaintiff being submitted and argued and fully understood, it is ordered by the court that said demurrers be overruled to which ruling of the court defendant excepted, and thereupon the court having heard the allegations and the evidence of the respective parties and argument of counsel of the parties took the case under advisement until the 22nd day of January 1880. & to. And on the 22nd day of January 1880. the Court having fully considered the cause on its merits and being of opinion that the plaintiff shall recover from the defendant the sum of Seventeen hundred and fifty dollars as his damages herein, It is therefore ordered adjudged and decreed by the court that the plaintiff Andrew Neal do have and recover of and from the Western Union Telegraph Company a body politic and corporate the defendant herein, the sum of Seventeen hundred and fifty dollars as his the plaintiffs damages, and all the costs of this suit for which Execution shall issue. And thereupon the said defendant excepted to said judgment and gave notice in open Court of Appeal to the Supreme Court. Court thereupon adjourned till tomorrow morning 9 o'clock.

January 24th 1880.

Court met pursuant to adjournment. Present same as on first day Whereupon the following proceedings were had viz:

5335 The State of Texas vs Joseph Cahn et als, This day came the parties to this cause by their Attorneys, and the defts by their Attorneys submitted to the Court their motion for a new trial in this behalf, And the Court having heard said motion and duly considered the same overruled said motion. Whereupon the Defendants by Attorneys excepted to such ruling and gave them in open Court notice of Appeal to the Supreme Court.

Sci Fa 38. The State of Texas vs James Morrow et als, This day came the defendants who had answered herein by their Attorneys and submitted to the Court their motion for a new trial in this behalf, And the Court having heard said motion and having duly considered the same overruled said motion, The said defendants thereupon excepted to

January 24th 1880

such ruling and gave him in open Court notice of appeal.

Je. f. 39. The State of Texas vs James Morrow et ux. This day came the defendants who had entered herein, by their attorneys and submitted to the Court their motion for a new trial in this behalf: And the Court having heard said motion and having duly considered the same, overruled said motion, the said defendants thereupon excepted to such ruling and gave him in open Court notice of appeal,

Je f 24. The State of Texas vs G. M. Turner et ux, This case having this day been called for trial, came the parties thereto by their attorneys and announced ready for trial, And the Court having heard the pleadings and being thereby informed that the principal defendant G. M. Turner on whose forfeited appearance bond this Scire facias case is based, is again in custody of the Sheriff of Travis County awaiting his trial, did order adjudge and decree that the judgment nisi heretofore rendered in this behalf be set aside and vacated except as to one dollar, and that the said judgment nisi be and is hereby made final and absolute as to one dollar against all the defendants principal and sureties, and that therefor the State of Texas do have and recover of and from the said G. M. Turner as principal and from G. S. Turner and B. F. Dunn as sureties the said sum of one dollar and all costs of this proceeding and thereupon the said surety G. S. Turner paid to the Sheriff said money, thereby fully discharging this judgment.

Je f 25. The State of Texas vs G. M. Turner et als, This case having this day been called for trial, came the parties thereto by their attorneys and announced ready for trial, And the Court having heard the pleading and being thereby informed that the principal defendant G. M. Turner on whose forfeited appearance bond this Scire facias case is based, is again in custody of the Sheriff of Travis County awaiting his trial, did order adjudge and decree that the judgment nisi heretofore rendered in this behalf be set aside and vacated except as to one dollar, and that the said judgment nisi be and is hereby made final and absolute as to one dollar against all the defendants principal and sureties, and that therefor the State of Texas do have and recover of and from the said G. M. Turner as principal and from G. S. Turner and B. F. Dunn as sureties the said sum of one dollar and all costs of this proceeding, and thereupon the said surety G. S. Turner paid to the Sheriff said money, thereby fully discharging this judgment.

A 5347. Moody and Jamison vs John Nagle. This day came the parties to this cause by their attorneys, and the deft by his attorney submitted to the Court his motion for a new trial in this behalf. And the Court having heard said motion and duly considered the same, overruled said motion. Whereupon defendant by attorney excepted to such ruling, and gave him in open Court notice of Appeal to the Supreme Court,

January 24th 1880.

Thereupon Court adjourned till Monday morning 9 Oclock. J

January 26th 1880.

Court met pursuant to adjournment. Present same as on first day
Whereupon the following proceedings were had, viz:

5394. Sam. R. Wilson Ex parte. Sam. R. Wilson having made applica
before the District Court of Travis County Texas, at the January term
1880. thereof for license to practice as an Attorney and Counsellor at law, a
having produced the certificate required by law that he is twenty one y
of age and a man of good moral character and honorable deportment
and the Court being satisfied upon examination in open Court, and by the
report of the examining Committee of his legal qualification, It was
thereupon this day ordered by the Court that the said Sam. R. Wilson b
and he is hereby admitted and authorized to appear plead and prac
tice as an attorney and Counsellor at law in all District and inferior
Courts of the State of Texas. It is further ordered that the Clerk
issue him license as prescribed by law.

Thereupon Court adjourned till tomorrow morning 9 oclock.

January 27th 1880.

Court met pursuant to adjournment. Present same as on first day
Whereupon the following proceeding were had viz:

4464 Alfred Smith vs J. K. Warren alias Dick Warren. This cause having
(See docket No 5 page 74.) this day been regularly called for trial, came the parties thereto in person
and by their attorneys and announced ready for trial, And thereupon came
a jury of twelve good and lawful men of Travis County, duly elected em
-panneled and sworn according to law, heard the pleadings and evidence
of both parties and the argument of Counsel and being duly charged
by the Court as to the law in this case, retired for consideration, And
thereupon said jury returned into open Court the following verdict to wit
"Austin January 27th 1880. We the Jury find for the defendant, W. H. Caldwell
Foreman" Said verdict was then read in open Court and the jury then
asked whether that was their verdict, answered in the affirmative, Said
verdict was thereupon approved by the Court and ordered to be recorded
And it was thereupon ordered adjudged and decreed by the Court
that the plaintiff Alfred Smith take nothing by this suit, and that
the defendant J. K. Warren be quieted in his title and possession
of the land in controversy in this suit; and that the said plaintiff
Alfred Smith pay all costs in this behalf incurred for which execution
may issue against him,

Court adjourned until to morrow morning.

January 28th 1880

Court met according to adjournment. Present same as first day.
And Court adjourned until to morrow morning 9 o'clk the case No 5348
of Emily Weems & husband vs. George Newton pending before the jury.

January 29th 1880.

Court met according to adjournment. Present same as first day. Whereupon
the following proceedings were had:

5387 First National Bank vs. Sam Hamilton et als. Upon motion it was order-
ed that Plff have leave to file first supplemental petition.

4699. James P. Link vs. Austin City Rail Road Company. January 27th 1880 con-
tinued by the defendant. The case of Weems vs Newton still pending
Court adjourned until to morrow morning 9 o'clk.

January 30th 1880.

Court met according to adjournment. Present same as first day.
Whereupon the following proceedings were had.

5205 Edward W. Hands vs. Milton Wallace. Upon motion leave was given
to the plaintiff to substitute the papers in this cause, the same appear-
ing to have been lost.

Upon motion of D. T. Moore County Attorney for leave to file information
& proceedings in quo warranto against J. C. De Gress mayor of the city
of Austin, it was ordered by the Court, that said application of the
County Attorney will be heard by this Court on Saturday the 7th of
February A.D. 1880, the attorneys of said De Gress being present & notified
by the Court of this order. Pending the case of Weems vs New-
ton, Court adjourned until to morrow morning 9 o'clk

January 31st 1880.

Court met according to adjournment. Present same as
first day. The argument of the case of Weems vs Newton taking up
the whole day. Court adjourned pending said case, until 9 o'clk
next Monday the 2nd of February inst.

February 2nd 1880.

Court met according to adjournment Present same as first day
Whereupon the following proceedings were had viz:

Sc. f. No 28 The State of Texas vs. George Droste et al. The appearance bond, on
which this scire facias suit was based, being defective, it was this
day ordered, that the judgment nisi heretofore rendered in
this case be set aside and vacated, and that this case be dismissed.

No. Jac. No 29. The State of Texas vs. George Droste et als. The appearance bond of the defendant George Droste, on which this scire facias suit was based, being found defective, it was ordered by the Court that the judgment nisi heretofore entered in this case, be and the same is hereby set aside and vacated, and that this case be & is hereby dismissed.

5211. William Ernest Rheese vs. Austin City R.R. Company. Continued by the defendant.

5384. Eckhom Dress & Co. vs. J. Weinberger & Co. Upon motion of Plffs Attorneys it was ordered that the plaintiffs have leave to file a trial amendment.

Court adjourned until to morrow morning 9 o'clk.

February 3rd 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5351. M. Scudder vs. Houston & Texas Central Railway Company. The parties to this suit being this day present by their attorneys the plaintiffs objections to the depositions of defendants witnesses, taken in this case, were by the Court sustained and said depositions suppressed and it was thereupon ordered at the instance of the plaintiff that this cause be continued until next term.

5332. X. Dyches for the use of McDannell & Co. Continued generally.

5387 First National Bank of Austin vs. Sam Hamilton et als. Upon motion it was ordered that defendant Sam Hamilton have leave to file first amended answer.

5255. Thomas Freman vs Mathom Sims as legal Representatives of L. P. Rowe deceased. On the 6th day of January A.D. 1880. this cause coming on to be in its regular order the Plaintiff appeared by his attorney John Dowell Esq and the defendants appeared by their attorney appointed by the Court D. Wade Esq and both parties announced ready for trial, and a Jury not being demanded the cause stood for trial before the Court. Whereupon the plaintiff by his said attorney introduced in evidence after having read the pleadings the following evidence viz:

1. Certified Copy of Patent from the State of Texas to the Heirs of Willis A. Farris as follows. No 232. Vol 12. In the name of the State of Texas, To all to whom these presents shall come, Know Ye. J. E. M. Pease Governor of the State aforesaid by virtue of the power vested in me by law, and in accordance with the laws of said State in such case made and provided do by these presents grant to the Heirs of Willis A. Farris deceased their heirs or assigns forever Fourteen $\frac{265\,200}{1000000}$ labors of land situated, and described as follows, to wit Cooke County on the Waters of Little Wichita about 6 5 m

Feby 3d 1880.

S. 84° W. from Gainsville by virtue of certificate No 2707/2510 issued by the Commissioner of the Genral Land Office on the 15th day of April 1852. Beginning at Hiram Williams S. E. corner thence South 1137 varas to a stake on the North line of survey No 3226. 268 varas East of its N. W. corner. Thence East with Peters Colony line 3734 varas to a stake the N. E. corner of same survey No 3222 and S. W. corner of No 3233. Thence North 3800 varas to a stake from which a Post Oak bears N 45° E. 8 varas another bears S 25° E. 10 varas, Thence West 3734 varas to a stake on said Williams East line from which a Post Oak bears S 73° E. 12 varas another bears N 48° W 15 varas, Thence South with said line 2663 varas to the place of beginning, Bearings marked X. Hereby relinquishing to them the said heirs of Willis A. Farris dcd and their heirs or assigns forever all the right and title in and to said land heretofore held and possessed by the said State, and I do hereby issue this Letter Patent for the same, In testimony whereof I have caused the great seal of the State to be affixed as well as seal of the Genral Land office, Done at the City of Austin on the Fourteenth day of August in the year of Our Lord one Thousand Eight Hundred and Fifty Five. E. M. Pease Governor. J. Crosby, Commissioner of the Genral Land Office, [L. S.], Genral Land Office Austin 8th December 1875. I. J. Groce Commissioner of the Genral Land Office of the State of Texas, hereby certify that the foregoing is a true and correct copy from the Record Kept in this office, In testimony Whereof I hereunto set my hand and affix the impress of the seal of said office the date last above written J. J. Groce Commissioner Genral Land Office, [L. S.], With the following indorsements on the back, Copy No 232, Vol 12. The heirs of Willis A. Farris, Filed 8th Fanuin 1st Class, Filed July 6th 1877. Recorded July 9th 1877. J. W. Alexander C. C. by W. L. Jett Deputy. The State of Texas, County of Clay, I. J. W. Alexander Clerk of the County Court in and for said County do hereby certify that the within Patent was filed for record in my office on the 6th day of July A. D. 1877. and duly recorded July 9th A. D. 1877. In testimony Whereof I hereunto set my hand and affix the impress of my Official seal at office in Henrietta this 9th day of July A. D. 1877. J. W. Alexander Clerk, By W. L. Jett Deputy, [L. S.]

5,255. Thomas Freeman vs Mahon his and Legal Representatives of C. P. Rommel Filed October 13th 1879. E. Hallmann Clk.

2. Certified Copy of Transfer and deed of Willis A. Farris, Head Right-Certificate No 2707/2510 by David G. Perles Administrator to Wm H. Stubblefield as follows. The State of Texas. County of Austin. } This instrument of conveyance Witnesseth that I David G. Perles. Administrator of the estate of Willis A. Farris deceased by virtue and authority of a decree of the Honorable the Probate Court of Austin County at the April Term thereof in the year of Our Lord One Thousand Eight Hundred and Fifty Two did on the first Tuesday and the Fourth day of May A. D 1852, at the Court House door of Austin County after having posted up Notices thereof at three public places in the County of Austin one of them being at the Court

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House door and the other two at two other public places in said County of Austin for more than twenty days before the day of sale offered the Head-right Certificate of the said Willis A. Farris, being certificate No 2407 2610. for one League and Labor of land to the highest and best bidder on a credit of twelve months and William H. Stubblefield having become the highest and best bidder for Seven Hundred dollars, and having secured the said David Y. Portis Administrator as aforesaid in the payment thereof to his entire satisfaction, these are therefore to witness, that I the said David Y. Portis for and in consideration of the aforesaid sum of Seven Hundred dollars have transferred assigned and delivered the said Certificate to the said Stubblefield his heirs, Executors, Administrators and assigns to guther with all the rights issues thereto belonging to have and to hold forever free from the claim or claims of any and all persons claiming or to claim the same by through or under the said Willis A. Farris his heirs or administrators, In testimony whereof I have hereunto set my hand and affixed my seal for seal this the twenty-day of May in the Year of Our Lord one Thousand Eight Hundred and Fifty Two.

In presence of Witness. — David Y. Portis (Seal)

Isaac. Fisenden. A. Jessmine. — Administrator of the estate of Willis A. Farris

The State of Texas, County of Austin } Personally appeared before me the undersigned Joseph Dishields a Notary Public in and for the county and State aforesaid David Y. Portis Administrator of the estate of Willis A. Farris to me well known who declared that he had signed his name to the foregoing deed and affixed his seal as a seal thereto, for the uses and purposes therein contained and delivered the same to William H. Stubblefield in the presence of the Witnesses thereto signing the same, and who signing the same at his request, In testimony whereof I have hereto signed my name and affixed my Notarial seal at San Felipe this the 10th day of May A. D. 1852.

Joseph Dishields, Notary Public Austin Co. (L.S.). Recorded Sept 23d 1853 J. E. Hughes, C. C. C. C. in the back of which are the following indorsements Willis A. Farris by David Y. Portis Admr. To W. H. Stubblefield Deed filed for record July 21st 1877. J. W. Alexander C. C. by W. L. Jill Dep'ty, The State of Texas, County of Clay. I J W. Alexander Clerk of the County Court within and for the County and State aforesaid do hereby certify that the within and foregoing instrument of writing with its certificate of authentication was filed for Registration in my office on the 21st day of July A. D 1877. 10 A. M. and duly recorded the 21st July A. D. 1877. at 2 P. M. in the Records of Clay County in Book D. page 172. Witness my hand and the seal of the County Court of said County at office Henrietta the date last above written, J. W. Alexander Clerk County Court Clay County Texas by W. L. Jill Deputy Clerk. The State of Texas, County of Cooke, I hereby certify that the above and foregoing writing is a true and correct copy

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from the record of a trans for of Certificates from David Y. Portis Admor of estate of Willis A. Farris to Wm H. Stubblefield dated May 10th A. D. 1852. as appears in Book 3. page 349 & 350. Records of Cook County Texas, To Certify which I hereto set my hand and affix my seal of Office in Gainsville Texas this 14th day of June A. D. 1877. E. F. Burch Clerk County Court Cook County Texas. (L.S) on the back of which said instrument is the further endorsements 5255. Thomas Fruman to Mckinn Heirs of C. P. Rommel ded. Filed October 13th 1879. E. Hallemann clk,

3. Certified Copy of Deed from W. H. Stubblefield to Phil. M. Curry conveying Willis A. Farris Head Right-Certificate No 2570/2407 viz: The State of Texas, County of Austin? Know all men by these Presents that William H. Stubblefield of the County and State aforesaid for and in consideration of the sum of Four Hundred and Eighteen Dollars cash to me in hand paid at and ere the signing and sealing of these presents the receipt of which is hereby acknowledged, I have granted, given transferred to Phil. M. Curry the Head Right-Land Certificate of Willis A. Farris for One League and Labor of Land it being Certificate No. 2410/2407 and being the same purchased by me of David Portis by deed of Con= =Veyance dated the (10) tenth day of may A. D. One Thousand Eight Hundred and Fifty Two. To have and to hold the said Land Certificate to him the said Curry his heirs and assigns forever, and I do hereby bind myself my heirs and Executors to warrant & forever defend unto the said Curry his heirs and assigns the title to the said Land Certificate free from all the claims or claims of all persons whomsoever, In testimony Whereof I have hereunto set my hand and seal using Scrawl for seal this the (17) seventeenth day of may A. D. One Thousand Eight Hundred and Fifty two. W. H. Stub= =blefield (L.S), The State of Texas, County of Austin? Before me William Bradbury Chief Justice of said County personally appeared Wm H. Stub= =blefield whose name appears to the foregoing instrument bearing date the 17th day of May A. D. 1852. and acknowledged that he had executed the same and declared that he had signed sealed and delivered the same for the purpose and consideration therein set forth and contained, To certify Which I have hereunto set my name and the seal of the County Court at Bellville the 31st day of May A. D. 1852. William Bradbury Chief Justice A. C. Recorded Sept 23d 1857. J. C. Hughes. Clerk. C. C. C. C. The State of Texas, County of Cooke? I hereby certify that the above and foregoing writing is a true and correct copy from the Record of a transfer of Certificate from Wm H. Stubblefield to Phil. M. Curry dated May 31st A. D. 1852. as appears on Book 3. page 348 & 349. Records of Cooke County Texas, To certify Which I hereto set my hand and affix my seal of office at office in Gainsville Texas. this 14th day of June A. D. 1877. E. F. Burch Clerk County Court Cooke County Texas (L.S.)

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The State of Texas. County of Clay } I. J. W. Alexander Clk of th
County Court in and for the County and State do hereby cetify that t
above instrumnit of writing with its certificate of authentication was fi
for record in my office on the 21st day of July A. D 1877. and duly rec
same day in Book D. page 2. records of Clay County. Witness my ha
and official seal at office in Henrietta the 21st day of July A. D. 1877. J.
Alexander Co Clk By W. L. Jth Deputy (L. S.) on back of which are the
following indorsements, W. H. Stubblefield to Phil M. Curry. Deed. Fi
for record July 21st 1877. J. W. Alexander Co Clk. Recorded July 21st 1877
in Book D. Page 2. J. W. Alexander C. C. By W. L. Jth. Deputy. 5255-
Thomas Freeman vs Unknown heirs of C. P. Rommel Filed October 13th 187
E. Hellemann Clk,

H. Certified Copy of Deed from Phil. M. Curry to Ch. Ph. Rommel convey
Head Right certificate No 2707/25-10. in name of Willis A. Farris viz: The Sta
of Texas County of Travis } Know all men by these Presents. I Phil. M
Curry of the County of Austin State aforesaid for and in consideration
Five Hundred and Eighteen Dollars to me in hand paid at and o
the sealing and signing of these Presents the receipt- whereof is hereby
acknowledged have granted, given, transferred, and delivered to Ch. Ph.
Rommel the Head right Certificate of Willis A Farris for one League
and Labor of Land it being certificate No 2707/25-10 and being the same
purchased by W. H. Stubblefield of David Y. Portis by deed of conveyance
dated the 10th day of May A. D 1852. and from said Stubblefield to
me as per deed herewith, to have and to hold the said certificate to him
the said Ch. Ph Rommel his heirs and assigns forever. and I do hereby
bind myself my heirs and Executors to Warrant and defend forever to
the said Ch. Ph Rommel his heirs and assigns the title to the said land
Certificate free from the claim or claims of all persons whomsoever,
In testimony whereof I have hereunto set my hand and seal (using
scrole for seal) this the Eighteenth day of June A. D. one Thousand Eight
Hundred and Fifty two. Phil. M. Curry (seal) Witness Wm A Timsans
Adolph King } The State of Texas. County of Travis, } Personally appeared
before me Phin Decordova a Notary Public duly appointed for and in
Travis County Adolph King the subscribing Witness to the within deed
to me well introduced and who on oath declare that he saw P. M. Curry
signe the within deed and delivered the same for the consideration purpose
and uses therein contained and that he the said Adolph King signed
the same as a witness at his request, In testimony whereof I have
granted these presents at my office in the City of Austin under my
signature and affixed thereto my seal of Office this 8th day of June
A. D. 1853. Phin DeCordova, N. P. T. C. Recorded Sept 23d A. D. 1857

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J. E. Hughes Clerk C. C. C. C. The State of Texas. County of Cooke } I hereby certify that the above and foregoing writing is a true and correct copy from the record of a transfer of Certificate to Ch. Ph. Rommel dated June 18th 1852. as appears on Book B. page 347 - 348, Records of Cooke County Texas. To certify which I hereto set my hand and affix my seal of Office at Office in Gainsville Texas this 14th day of June A.D. 1877. E. F. Burch Clerk County Court Cooke County Texas. (L.S.) The State of Texas County of Clay } I. J. W. Alexander Clerk of the County Court within and for the County and State aforesaid do hereby certify that the within and foregoing instrument of writing with its Certificate of authentication was filed for Registration in my office on the 21st day of July A.D. 1877. 10 a m. and duly recorded July 21st A.D. 1877. at 2½ P.m. in records of Clay County in Book D. Page 3. Witness my hand and seal of the County Court at office Henrietta the date last above written, J. W. Alexander Clerk County Court Clay County Texas. by W. L. Jett Deputy. (Seal) on the back of which are the following indorsements, Phil. M. Carey to Ch. Ph Rommel - Deed. Filed for record July 21st 1877. J. W. Alexander C.C. Recorded July 21st 1877. J. W. Alexander C.C. By W. L. Jett Deputy 5-255. Thomas Freeman vs unknown Heirs of C. P. Rommel, Filed October 13th 1879. E. Hallmann Clerk.

5th Inventory of Property by Administrator and valued by appraisers in Estate of Theodore Miller so far as same related to interest of Theodore Miller died in Willis A. Farris Head Right Certificate No 2402 2510. and land located by virtue of the same viz: Inventory of the Estate of Theodor Miller decd 3. one Third interest in a League and Labor in the name of the heirs of Willis A. Farris located by Theodor Miller by Virtue of Certificate No 2402 2510 for Phillip Rommel in Cook Land District $400.00. We the undersigned appraisers do solemnly swear that the above appraisement is true to the best of our knowledge and belief. H. Wilke Jos. Martin Ph. Rommel.. Sworn to and subscribed before me January 24th 1857. John B. Costa. Chief Justice Travis Co. Charles W. Pressler being duly sworn says that the above and foregoing is a true and perfect inventory of all of the property and claims of the Estate of Theodor Miller decd that has come to his knowledge. Chas. W. Pressler. Sworn to and subscribed before me January 24th 1857. John B. Costa Chief Justice Travis Co. on the back of which is the following endorsement, No 228. Estate of Theodor Miller decd, Inventory filed January 26th 1857. Jas. M. Swisher Clk C. C. T. C. by Aug Schmartz Dep Clk.

Receipt of John. T. Allen for miling of a road from C. P. Rommel to Theodor Miller paid by C W. Pressler Admr Estate Theodor Miller dec Viz Chas. W. Pressler Admr Estate of Theodor Miller decd. 1857. To John. T. Allen Dr. July 2. To making Title from Rommel to Miller $3.00 Rec payment John. T. Allen. Filed January 1st 1861. J. T. McLaurin Clerk C. C. T. C.

7. Deposition of Witness A. O. Horne, Int No 1. Are you acquainted

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with the parties to this suit." Answer to Int No 1. I know Thomas Frame and know P. C. Rommel, Int No 2. State if you know on C. P. Rommel, When did you know him?" Where is he now?" Is he dead or alive?" Answer to Int No 2. I know C. P. Rommel at the City of Austin Travis County Texas. I do not know where he is now, I do not know whether he is dead or alive. Int 3. State when said C. P. Rommel was when last heard from,
Ans to Int No 3. I last heard from C. P. Rommel by letter dated at Junction City Kansas I believe in the year of 1860 or 1861. Int No 4. When you last heard from C. P. Rommel what was the character of the information and what was said C. P. Rommel. Ans to Int 4. The last information I had from C. P. Rommel was by letter as stated in answer to the 3d Interrogatory the letter of C P Rommel and the memoranda kept at the period mentioned with my papers at Austin since I can only answer in general terms from memory. He spoke in his letter of the business prospects &c..
Int No 5. State when said C.P. Rommel left Travis County Texas, Who did he leave as agent for him?" How long did you act for him? and Why did you cease to do so?" Ans to Int No 5. C. P. Rommel left me in charge of some business matters for him. He left Travis County in 1858. or 1859. I think I acted about 18 months or two years. The War of 1861. cut off communications and I ceased to act. Int No 6. State what your information is as to whether said C.P. Rommel is dead and about what time did he die?" Ans to Int No 6. I believe C.P. Rommel to be dead from the fact that none of his friends and acquaintances so far as I know have heard anything from him for the last eighteen years, Mrs Rev Josiah Whipple formerly wife of Francis Dietrich deceased told me some several years since that the friends of C. P. Rommel in Germany had not heard anything from him for a long time while and were making inquiry about him. If Rommel is dead my impression is that he died during the War. Int No 7. State if you know who are the heirs and Legal Representatives of said C. P. Rommel deceased
Ans to Int 7. I do not know. I understand he had relatives in Germany and the children of Francis Dietrich deceased who now live in Travis County Texas, are distant relatives of Rommel I believe,
Int No 8. State anything else you may know going to show that C. P. Rommel is dead and was dead on the first day of January A.D. 1870
Ans to Int No 8. I do not recollect anything in addition to Statements already made,— Cross Int No 1, If you in answer to the second direct Interrogatory you say that C. P. Rommel is alive. State how you know that fact?" Ans to Cross Int No 1, I have not said so. Cross Int No 2, If in answer to the second direct Interrogatory You say that C. P. Rommel is dead, State how you know the fact?"
Ans to Cross Int No 2, Fully answered in my answers to direct

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Interrogatories, 1ccors Int No 3. If you State that C. P. Rommel was dead on the 24th day of January A.D. 1879. State how you know that Jack's
Ans to 1ccors Int No 3. Answered in the answer to direct-Interrogatories, A. O. Horne, Sworn to and subscribed before me the 23d day of October A.D. 1879. Geo R. Darhiel Clk D. C. B. Co.

8 Deposition of Thomas Freeman the Plaintiff as follows.
Int No 1. State if you are the Plaintiff in this cause and the owner of the land therein sued for? Ans to Int No 1. I am the Plaintiff in the above named cause No 5255, the name of the land sued for is known as the Willis A. Farris survey now in Clay County formerly Cooke Co Texas. Int No 2. State if you know C. W. Pressler of Austin City Texas? State if you ever purchased any land from him, if so how much? Ans to Int 2. I know C. W. Pressler of Austin city and State of Texas, about the year 1857 or 8. I purchased at Administrators sale of C. W. Pressler Admr. of the estate of Theo Miller 1506. acres of land as above described. Interrogatory No 3. State if you know C. P. Rommel the defendant in this cause, When did you know him. Is he dead or alive? What is your last information as to his death? Ans to Int No 3. I have known C. P. Rommel the defendant but was not personally acquainted with him, I have seen him at Austin at the Genl. Land office. I believe him to be dead not having been heard from since 1860. his former agent A Horne of Austin informed me of that fact, and that Rommel was a careful man, and had other property besides the 1506. acres in question but nothing had been done with it- no attention given it- since the date above mentioned. I made inquiries of many others who knew Rommel, all believed him dead, since this suit; Int No 4. State if you know the heirs and legal representatives of said C. P. Rommel, Ans to Int 4. I do not know any of the heirs or legal representatives of the said C. P. Rommel dec'd; Int No 5. State if you know any thing of the existence of a deed from said C. P. Rommel to Theodore Miller conveying the land you bought from said C. W Pressler administrator of said Miller's estate; State if said deed was acknowledged, State if you know the name of the officer taking the acknowledgement? State fully when and where you saw said deed and all of the circumstances attending it? was it before or after you purchased said land? Ans to Int 5. Somewhere about the year 1857 or 8, I saw posted on the Court House door the advertisment for the sale by C. W. Pressler Admr of the estate of Theodore Miller dec'd, some days before said sale I made examination of the Probate office of Travis County to look into the title to said land but if my memory serves me right did not find the papers there, I then went to C. W. Pressler House and there found them, I am positive I saw a deed from C. P. Rommel to Theo. Miller conveying 1506. acres out of a league in the name of

the heirs of Willis A. Farris. The deed discribed the land conveyed as for services in locating the above mentioned league for said Rommel, I also position this deed above mentioned was acknowledged before a Notary Public and had his seal on the same, I cannot be certain who the N was, as the fact of its being acknowledged is all I distinctly but am under the impression it was P. DeCordova, I cannot be exact about this as I have nothing here to refer to. I am also positive I showed not h purchase the land in suit had the deed from Rommel to Miller been acknowledged, Interrogatory 6th Describe the deed as fully as you can, What became of said deed: When and where was it destroyed and in whose possession when so destroyed, State fully your knowledge of these facts: Ans to Int 6th I have discribed the deed in Int 5th When the sale of the land sued for was made it was sold on a credit of six months, or may be 12 months, C. W. Prossler as Admr. claimed the custody of the papers until the note given for said land was paid, When the note was paid the deed in question was not thought of. dont remember having looked for it until I made a sale of the land some years ago; When the purchaser during an abstract of title sent to Wm Hamilton of Gainsville Cooke County Texas to examine the records and have the clerk of said County make out abstract, they reported the chain of title all right but the said Rommel to Miller and that could not be found, I also had the records of Montague County examined nothing found, I then called on C. W. Prossler and after examining into the matter he informed me he believed the deed now sued for was burned at his house, the date of the fire I do not remember, but this conversation was about two years ago I think before this suit was brought however, Interrogatory 7th State if you did not before purchasing said land examine all of the title papers in the hands of the said C. W. Prossler, and State whether or not he did not show and show have a deed from Rommel to Miller for this land and said deed was acknowledged? State if said Prossler did not have a full and complete chain of title from the State down to said Theodore Miller, Would you have bought said land had not this been the case? did you buy said land after this Examination and upon being satisfied of the correctness of this title, Ans to Int 7th I did Examine the papers in the hands of said C. W. Prossler and found the title from the State down to Theo. Miller complete, I should not have bought said land if this had not been the case, I was satisfied that it was good and that Miller title was good, Int 8th State if you know of said deed being recorded, State if you have made search for the record, and whether or not you have been able to find any record of the same, State such examinations and

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Where? Answer to Int 8. I do not believe said deed has been recorded as above stated, I have made diligent search, have had the records of Cooke County examined by Agents and can find no such deed on record, Int 9.th State anything else that you may know going to show that there was in existence a deed from C. P. Rommel to Theodore Miller conveying 1506 acres of land the Willis A Farris survey now in Clay formerly in Cooke County Texas, as stated in your petition and that this deed was in writing and duly acknowledged Ans 9th On the day of administrators sale at the time before stated Mr Bressler exhibited the title papers for examination by those who wished to purchase, The deed from C. P. Rommel to Theo Miller was among them and seen by me conveying 1506 acres of land in Cooke County now Clay County and the same was acknowledged before a Notary Public, and and acknowledgment was in writing Thomas Freeman, Cross Int No 1, If in answer to the 5th direct Interrogatory you say you know anything of the existence of a deed from C. P. Rommel to Theodore Miller conveying the land you bought from said C. W. Bressler administrator of said Millers estate, State Where said deed is now if you know, State its contents and its date and the names of the witnesses to it. Tell the kind of paper it was written on, Did you ever in fact see the written deed or any such written deed of conveyance as that inquired about, If you say it was acknowledged what kind of a certificate did it have on it or annexed to it, was it proven up by one or more of the subscribing witnesses or acknowledged by the grantor, and if either State how you know the fact, Can you give the form of the certificate of acknowledgment and what officer it was taken before, or what kind of a seal if any was attached to said certificate, Ans to Cross Int No 1, I do not know where said deed is now but believe it was burned at the house of C. W Bressler, I do not remember the names of the subscribing witness to the deed or the kind of paper it was written on, I have stated I did see it and all the circumstances in Examination in chief. My recollection is it was acknowledged by the grantor in the usual form, cannot be certain but think the officer was P. DeCordova, Notary Public I know the fact because I examined to find out the title and had there been no deed I should have noticed it and rejected the deed, Cross Int 2.nd Do not all that you say about the existence of the deed and all that you know about it your conclusions from the other facts and circumstances attending the purchase of the land by you rather than any actual knowledge or recollection on your part of the deed or of your having seen the deed yourself, Answer to Cross Int No 2, I am positive what I have said is true and that my knowledge is actual, Cross Int No 3, If you say you ever saw said deed then State if you have not the same in your possession? If C. W. Bressler had the deed at the

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hine you purchase the land Why did you not take the deed from the as part of your chain of title? did you demand the deed from L. W. Pressley at the time you purchased the land, and if not Why did you not demand it? Ans to Cross Int No 3. I have not the deed in possession, and never have it, The reason I did not get the deed at the sale, L W. Pressley the Admr. claimed the custody of the papers until the note given for the purchase money was paid, I did not demand it for the reason above given, Cross Int 4th, Is it not true that you do not know anything about the deed inquired about of your own knowledge? Ans to Cross Int 4. No it is not true but I do know of my own knowledge. Cross Int 5th In answering the 6. 7. 8. & 9th direct interrogatories have you confined yourself to your own knowledge about the existence of said deed and its being acknowledged or have you stated your conclusions drawn by you from other facts known to you than the actual existence of the paper writing acknowledgement, &c. Ans to Int 5th The direct Interrogatories answers all there questions Thomas Freeman, Which answers I caused to be reduced to writing and they were sworn to and subscribed before me at my office in the city of Marietta and county of Cobb. State of Georgia, on this 14th day of January A.D. 1880. by the said Thomas Freeman, In testimony whereof I have hereto set my hand and affixed seal, Wm Raymond Jr Notary Public Cobb Co Ga, (L.S.)

J. John T. Allen sworn for the Plff testified as follows. The receipt shown me is my receipt to L. Pressley Admr of the estate of Theodore Miller for $75.00 for fee in writing deed from L. P. Rommel to Theodore Miller I knew Theodore Miller, also knew L. P. Rommel, knew them both in the city of Austin Travis County Texas, I cannot say the deed was acknowledged, I believe it was, I simply drew up the deed, as an Attorney, The date I drew up the deed was sometime in the year 1856. about the middle of the year.

10 L. W. Pressley being sworn for the Plff testified, I was administrator of the estate of Theodore Miller died, The Administration was had and concluded in Travis county Texas. Theodore Miller owned 1506 acres of land out of the Willis A. Farris Survey in Clay formerly Lovell County Texas, I sold the same as Administrator of the estate of Theodore Miller to Thomas Freeman the plaintiff in this cause, Theodore Miller located the Willis A. Farris Certificate for L. P. Rommel and Rommel gave Miller this portion for his location shown was a deed in writing from L. P. Rommel to Theodore Miller conveying to Miller this land, the Deed was a good deed it vested the title of the land in Miller, the deed was dated about 1st day of July A.D. 1856. I cannot

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the the name of the officer before whom it was acknowledged, Am satisfied it was a good and Chardad, The deed remained in my possession as the Administrator of Theodore Miller until the 12th day of December A.D. 1862. when the deed in the City of Austin, County of Travis and State of Texas was burnt and destroyed by fire in the accidental burning of my dwelling house, I lost all of my private papers in this fire and this deed was burned at that time, I knew C.P. Rommel and Theodore Miller both in the City of Austin County of Travis and State of Texas in the year 1856. The field notes that are set out in the deed from myself as Administrator of Estate of Theodore Miller to Thomas Freeman I got from the deed from Rommel to Theodore Miller, I paid John T. Allen the fee as stated in his receipt for drawing up the deed, The Ch. Rommel one of the affiaires of the property of the Estate of Theodore Miller deceased is C.P. Rommel the defendant herein, He sometimes went by the name of Ph Rommel,

11. Plff introduced in evidence the deed from C.W. Pressler to Plff conveying the said land described in last and burnt deed viz: State of Texas, County of Travis} Whereas at the February term 1857. of the Probate Court of Travis County in the State of Texas and order was made and entered in the minutes of said court, The following being the substance pertinent hereto, Viz: "No 228. Estate of Theodore "Miller dec'd. and now on this day comes Charles. W. Pressler Administrator of "the estate of Theodore Miller died and made application to this court in writing &c. "and prays for an order to sell some of the real estate of said deceased hereinafter "described." It is therefore ordered and decreed by the Court that the said Administrator sell at Public auction to the highest bidder on the first Tuesday in April next at the Court House door of Travis County on a credit of twelve months after having given at least twenty days notice of said sale, to be used in the manner prescribed by law. the following described Real Estate to Wit: One third League and labor of land out of a survey of 14.265.200 again Varas in the name of the heirs of Willis A. Farris situated in Cook county on the East fork of the Little Wichita" And it is further ordered by the Court that said Administrator take from the purchaser a note with two or more good securities and mortgage on the land to secure the payment of the purchase money, It is further ordered by the court that said Administrator make due return of said sale to this Court &c. And Whereas I the said Charles W. Pressler Admr. as aforesaid, after having given notice in manner and for the length of time required by law, did offer for sale to the highest bidder and did sell at the Court House door of the County of Travis on the seventh day of April 1857. it being the first Tuesday in said month between the hours of 10 oclock A.M. and 4 oclock P.M. of said day to Thomas Freeman fifteen hundred and six acres of land for the sum of thirty one cents and a half per acre, described as follows: Situated in Cook County on the waters of the Little Wichita, Beginning at Hiram

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Williams East line 398. varas N. of his S. E. corner. Thence N. Wil
Williams East line 2265 varas to a Stake from which a Post oak bea
S. 73° E. 12 varas, another bears N. 48° W 15 varas being the N. W. corner o
the survey, Thence 3754. varas to a Stake from which a Post oak brs N. 45° W
varas another brs S. 25° E 10 varas, Thence S. 2265 varas to the S. E. corner of this survey
part of a survey made in the name of the heirs of Willis A. Farris, And after
to wit: at the June term 1857. of said Court an order was entered on the
thereof, the substance of which pertinent hereto being as follows viz: No 22
Estate of Theodore Miller dec'd, and now on this day comes Charles W. Porse
Administrator of the estate of Theodore Miller dec'd and returned an accou
of sales made by him in obedience to an order of this Court made at
February term 1857. duly sworn to and subscribed by him by which it ap
that he sold on the first Tuesday in April 1857. at the Court House
door of Travis County after due notice of said sale on a credit of twel
months, Fifteen hundred and six acres of land situated in Cook coun
on the Nichida waters, sold to Thomas Freeman for thirty one and a
half cents per acre, being the only number of acres out of the one thousand
and labor described in said order of sale that declared did come as fore
said by said Administrator since said order was made, It is therefore
ordered and decreed by the Court that said sale be and is hereby confir
and approved, It is further ordered by the Court that said Administrator
execute and deliver to the said Thomas Freeman a conveyance, convey
all the right and title that the said deceased had in and to said land
so purchased as aforesaid. Upon said purchaser complying with the terms
of said sale, Now therefore be it known that I Charles W. Porsler
Administrator of the Estate of Theodore Miller deceased by Virtue of the aforesaid
order of Court decreeing and confirming sale, and for and in consideration
of the sum of four hundred and seventy four 37/100 Dollars to me paid
according to the terms of said sale have granted bargained and sold and
by these presents do hereby grant bargain sell and convey unto the said
Thomas Freeman Fifteen Hundred and Six acres of land in Cook bein
above fully described, To have and to hold to him the said Thomas Free
his heirs and assigns forever all the right title and interest that the said
deceased had in and to the same, In testimony whereof I hereto set my
hand and seal for seal this 23d day of July A. D. 1857. Charles W.
Porsler (Seal) Administrator of the estate of Theodore Miller. Witnesses John T.
Allen. Jerry Harrington, State of Texas. County of Travis. } Before me John
B. Coles Chief Justice of the County of Travis on this day came and perso
=ally appeared John. T. Allen one of the subscribing witnesses to the instru
=ment of writing hereto attached to me well known who being by me duly sworn
saith that Charles. W. Porsler as Administrator of the estate of Theodore

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Miller died Whos name appears to said instrument of Writing, acknowledged to him that he had signed and sealed the same for the purpose and consideration therein stated and that he had signed the same as witness at the request of the said C. W. Pressler as such admr.. Given under my hand and seal of my office at Austin July 24th 1857. John B Costa Chief Justice Travis County (Seal Travis County Court) The State of Texas. County of Cook } This is to certify the within and foregoing is duly recorded in Vol No 3. pages 372. to 373. records for said county of deeds Bonds Morlgages &c Witness my official signature and the seal of said county court at office in the town of Gainsville this 27th day of October A.D. 1857. J. E. Hughes Clk C. C. C. C.. State of Texas, County of Clay } I. G. W. Alexander Clerk of the County Court in and for said County personally certify that the instrument attached and was filed for record in my office on the 6th day of July A.D. 1877. and recorded July 9th 1877. in Book B. 2 page 379. records of said county. In testimony Whereof I hereunto signe my name and affix my Official Seal at office in Henrietta this 9th day of July A.D. 1877. G.W. Alexander C C Clk By W. L. Jett Deputy. Recorded Vol 3. page 372 to 373. J. E. Hughes Clk C. C. C. C. Filed for record July 6th /77. Recorded July 9/77 G.W. Alexander C. C. by W. L. Jett Deputy: Whereupon the Plaintiff by his attorney rested his case and announced to the Court that his testimony closed, and the defendants by his attorney offering no testimony the court on hearing the arguments and suggestions of Counsel took said cause under advisement and consideration and after duly considering the same on the 3d day of Febuary A.D. 1880. in open Court gave judgment for the Plaintiff as prayed for in his said petition, Whereupon it is ordered adjuged and decreed by the Court that a tract and Which on the 12th day of December A.D. 1862. in the City of Austin County of Travis and State of Texas was burned and destroyed by fire in the accidental burning of the Dwelling House of one C. W. Pressler and which said deed was in Writing and which was executed and signed on the 1st day of July A.D. 1856. the date thereof by one C. P. Rommel Whose heirs and legal Representatives are defendants herein and made and delivered to one Theodore Miller of Whose estate C.W. Pressler was Administrator for the consideration on the part of said Theodore Miller to cating and satisfy for said C. P. Rommel the Willis A. Farris league and Labor Head right Certificate No $\frac{2407}{2510}$. as his said Theodore Miller location interest and conveying and deeding thereon 1506. acres of land out of said Willis A. Farris Head right survey formerly in Cooke now Clay County in the State of Texas described by miles and bounds as follows, on the waters of Little Wichita. Beginning at Hiram Williams East line 398 varas N of his S. E corner. Thence N with said Williams E. line 2265 varas to a stake from which a Post oak bre S 73° E. 12 varas another bears N. 48° W 15 varas thence N. W. corner of this survey, Thence E. 3754. varas to a stake from

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which a Post oak brs N 45° E. 8 varas, another brs S. 25° E. 10 vars
Thence S 2263 varas to the S. E. Corner of this survey, Thence N. 3754 va
to the place of beginning, part of a survey in the name of Willis A. Faro
patented per patent N 232. Vol 12. of date the 14th day of August A. D. 18
and which said deed was duly acknowledged before some officer of Tra
County Texas, authorized to take acknowledgements on the 1st day of Ju
A. D. 1856. to wit: one P. D. Cordova a Notary Public of said County
Travis. Be and the same is hereby established and revived in this dec
and all of the rights of the parties in and to as well as under said
and limited are herein and hereby established and vested in and to
other respectively. And it is further ordered that the Court is fully sat
of the existence and of the burning and loss of said Deed as alleged in
said Plaintiffs Petition and of the contents of the same, and that an
expression of this satisfaction upon these points is found in the above
foregoing part of this decree, And it is further ordered decreed and
adjudged by the Court that said Thomas Freeman in the title an
ownership of said land as against the said unknown heirs and
Representatives of said C. P. Rommel be and the same is hereby fore
quieted and settled, and the said Unknown heirs and Legal Represen
-tives of said C. P. Rommel dec'd is and are hereby prohibited and
prevented from claiming and setting up title to the same as against
said Thomas Freeman, that Plff Thomas Freeman pay all costs in
this behalf expended, That an Attorneys fee of Fifteen Dollars be tax
against said Thomas Freeman for D. W. Doom the Attorney appointed
by the Court to represent said unknown heirs and Legal Representa
and for collection of which costs Execution issue.
Thereupon Court adjourned till to morrow morning 9 o'clock.

Febuary 4th 1880

Court met pursuant to adjournment. Present same as on first day
whereupon the following proceedings were had, viz:

5331.

Ex Doc 5 page 91.

The State of Texas vs T. M. Bagby et ale, On the 2nd day of Febuary
1880. came the defendants in open Court by their attorneys and withdrew
their demand for a Jury theretofore made and entered that this
cause should be tried by the Court, then came on to be heard the Plain
tiffs motion to strike out the plea to the jurisdiction filed in this ca
by the defendant Wm M. Harrison, on the 17th of January 1880. upon
the ground that said plea was not sworn to by said Harrison, and
the argument of Counsel thereon, being heard it is the opinion of the
Court that the law is for the plaintiff, it is therefore considered by the Court
that the said motion of Plaintiff to strike out said plea to the jurisdiction of the

In consideration whereof it is ordered that the Clerk issue execution against said T. M. Bagby et ale for the sum of $15.99½ and all costs of suit. Given under my hand this 18th day of October A. D. 1880. Thos. A. Harris Clerk D. C. T. C.

Febuary 9th 1880 Attorneys Makemson & Doom defendants

Feburary 4th 1880.

Court. to sustained, to which ruling defendants then and there excepted. Whereupon the plea to the jurisdiction filed in this cause on the 26th of December 1879. by the defendants T. M. Bagby and L. A. Ellis, and plaintiffs exceptions thereto, came on to be heard, and the argument of counsel thereon being heard, it is the opinion of the Court that the law is with the plaintiff. It is therefore considered by the Court that the said plea of Bagby and Ellis to the jurisdiction be overruled, to which ruling the said defendants excepted, Whereupon came on to be heard the demurrers of plaintiff to the defendants answer setting up $5006.50 as a set off to plaintiffs demands, and their plea of payment setting up $1320. to plaintiff demand and the argument of counsel thereon being heard it is the opinion of the Court that the law is with the plaintiff. It is therefore considered by the Court that the said demurrers of plaintiff to said pleas setting up payment and offset be sustained, to which ruling defendants excepted, Afterwards to wit on the 4th day of Feburary 1880. this cause came on to be heard upon the merits. Whereupon the parties by their attorneys announced themselves ready for trial, and submitted the matters in issue to the Court, and it appearing to the Court from the evidence that the defendants T. M. Bagby, L. A. Ellis and Wm M Harrison are indebted to the plaintiff, the State of Texas, in the sum of Five thousand nine hundred and fifty nine & 14/100 ($5959.14/100) dollars, with interest thereon from the 1st day of January 1879 at the rate of Eight per cent per annum, It is therefore considered ordered adjudged and decreed by the Court that the State of Texas do have and recover of and from the said defendants T. M. Bagby, L. A. Ellis and Wm M Harrison the sum of Six thousand four hundred and eighty & 88/100 ($6480.88) dollars, that being the full amount of principal and interest due at this date, It is further ordered that said sum of $6480.88, draw interest from this date until paid at the rate of eight per cent per annum, It is further ordered by the Court that the State of Texas do have and recover of and from the said defendants all costs in this cause expended for which sum of $6480.88 and all costs Execution may issue, It appearing to the Court that the defendants L A. Ellis and Wm M. Harrison are the sureties of the defendant T. M. Bagby. It is therefore ordered by the Court that the Sheriff shall first levy the Execution upon the property of the said principal T. M. Bagby that may be found in Travis County State of Texas, upon a levy shall be made upon the property of the said sureties, if so much property of the said Bagby can be found in said County of Travis, as will in the opinion of the Sheriff be sufficient to make the amount of the execution in this cause, otherwise the levy to be made on so much property of the said Bagby as may be found, if any, and upon so much property of the said sureties as may be necessary to make the

Rec'd on this Judgment $81.45-11/100 Dollars from Sheriff
Feby 7th 1880.
Attorneys
& Clerks

Recd on this Judgment $1000. one thousand Dollars from T. M. Bagby, one thousand Dollars from L. A. Ellis one thousand Dollars from Wm M. Harrison & Osenla Archer & Co. Sureties
Feby 9th 1880.
Sheriff Travis Co. Texas

February 4th 1880.

the amount of the Execution, Thereupon Court adjourned till tomorrow morning 9 oclock.

February 5th 1880.

Court met pursuant to adjournment and there being no business adjourned till tomorrow morning 9 oclock.

February 6th 1880.

Court Met pursuant to adjournment, Present same as on first day. Whereupon the following proceedings were had viz:

No 5369. Dennis and Christian vs Wm W. Puckett, This day came the parties to the above entitled cause by their attorneys and announced themselves ready for trial and a jury not being demanded by either of the parties. the matters in issue in the cause were submitted to the court, and it appearing to the court from the evidence submitted in the cause that the defendant Wm W. Puckett is indebted to the plaintiff upon his notes sued on in this cause at this date in the aggregate sum of Seven hundred and fifty six and 47/100 ($756.47) dollars, and that said notes each bear interest at the rate of ten per cent per annum, and it further appearing to the Court that said notes were executed by the defendant on the 26th day of April 1875. to secure the payment of the purchase money for the following described tract of land to wit: (and that tract or parcel of land situated in the county of Travis and State of Texas on the Austin and San Antonio Road about five miles from the city of Austin and known as a part of the William Cannon Headright League and described as follows viz: Beginning at the north corner of a tract of land deeded by F. E. Smith to John C. Wilson thence S 12° W. 160 varas to a stone set in the San Antonio Road for corner, Thence S 71° E 170 varas to a Stake set for corner, Thence N 23° E 148 varas to a stone set for corner, Thence N 67° W 200 varas to the beginning) containing five acres more or less, It is therefore considered ordered adjudged and decreed by the Court that the plaintiffs Simon Dennis and Edward Christian under the firm name of Dennis and Christian do have and recover of and from the defendant William W. Puckett the said Sum of Seven hundred and fifty six and 47/100 ($756.47) dollars (that being the full amount of the principal and interest due upon the notes sued on at this date) with interest thereon from this date until paid, at the rate of ten per centum per annum together with all costs in this cause expended, And it is ordered adjudged and decreed by the Court that the Vendors lien as it existed on the 26th day of April 1875. upon the above described tract of land &c. and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff or any Constable of Travis County, Commanding him the said Officer to seize and sell the above

(Exec. docket No 5 page 6)

Febuary 6th 1880.

discribed tract of land as under Execution, and that he apply the proceeds thereof to the payment of this judgment and costs, and if the said land shall sell for more than sufficient to pay this judgment and costs, then the said Offices is hereby directed to pay over the excess to the defendants but if the said land shall not sell for enough to pay this judgment and costs, then the Clerk of this Court is directed to issue Execution for the balance remaining unpaid, to which judgment the defendants excepted and gave notice of appeal to the Supreme Court.

5384 Eckhoff, Cross & Co vs J. Weinberger & Co. Upon motion it was ordered that the Defts have leave to file first amended answer; further order that pltffs have leave to file first amended original petition; and further ordered that pltff have leave to file first supplemental petition, and afterwards leave given to Defts to file second amended answer.

Court adjourned until to morrow morning 9 o'clk.

Febuary 12th 1880.

4795. John C. Duval et al. Florida G. Howard, George W. Sampson and C. R. Johns Flavius Everitt William Von Rosenburg, Plaintiffs.

vs

Robert Cruzbaur and J. C. Kirby, Defendants.

In this cause now come the parties to this suit and announce themselves ready for trial, and a jury not being demanded the matters of law as well as of fact were submitted to the Court. Whereupon the demurrer of the plaintiffs to the answer and reconvention of the defendant Cruzbaur filed on the 24th day of May 1879 being considered by the Court the same was overruled. And thereupon the Court proceeded to hear the evidence and argument of Counsel, in consideration of the same, it is ordered adjudged and decreed that the respective interests in the lands in controversy between the original parties to the contracts of February 6th 1854. and March 20th 1857. viz; John C. Duval, Walter M. Booth (in this suit represented by Florida G. Howard his legatee) and Robert Cruzbaur are as stated in the petition of plaintiffs. viz: as to the tracts of land mentioned in said petition, the plaintiffs John C. Duval and Florida G. Howard and the defendant Robert Cruzbaur are entitled to partition equally, of one third each in the tract described as 738 acres being the South half of the third league of land in Travis County patented to the Heirs of N. N. Dennoman, the tract of 720 acres in Hays County described as the South half of the 8, 128, 800 square varas granted to George Hudin, and the 320 acres in Burleson County patented to the Heirs of Alfred C. Miles, said tracts being owned by each of said parties; and as to the 310 acres of the William Porter tract owned by Barbara

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Biles and her husband to Robert Cruzbaur John. C. Duval and the rep-
-resentatives of Wallen. M. Booth, the four hundred and ninety two of the said William
Porter tract deeded by Benjamin Neir and Martha. J. Neir to Robert Cruzb
John. C. Duval and the Representatives of Wallen. M. Booth, and the one hundred
fifty six acres of the tract patented to Joseph Baker assignee of Trinidad Darcie
as described in the petition, all of which three last mentioned tracts are in Ha
County and are owned by and subject to partition between the parties to this
as follows, The said Robert Cruzbaur is entitled to two thirds of each of sa
tracts and the said John. C. Duval and Florida. G. Howard as the legatees of Wa
M. Booth are entitled each to one sixth of said tracts, and it is ordered
partition between the said Duval Florida. G. Howard and Robert Cruzbaur
shall accordingly, It is further ordered adjudged and decreed that the
said John. C. Duval account out of his interest out of the said tracts to Rob
Cruzbaur for the value of one third of the following lands sold by him which
-longed to the partnership of Duval, Cruzbaur and Booth in which he ap
-praised the interest of the said Cruzbaur viz two hundred acres of the Jo
Hyson six hundred acres in Montgomery County Texas, three hundred and fo
seven acres out of the A. Benevidas ten hundred and forty one acres in Robertson
County Texas and Fifty three acres out of the Moorida two hundred and
seventy two acres in Bastrop County in all amounting to Six hundred acres.
value of which at this time is assessed by the court at one dollar and two
five cents per acre, making the said value to be accounted for seven hundred
Fifty dollars. It further appearing to the court that the judgment menti
in the petition rendered in the District Court of Travis County in the ca
of Wilson Green against John. C. Duval and George N. Sampson on the
day of November 1866. for the sum of Three thousand three hundred and
seventy four dollars bearing twelve per cent per annum interest was paid by the
said Sampson on the 28th day of April 1869. amounting with costs of suit to the
sum of Four thousand five hundred and seventy 52/100 dollars. less Seventy four
dollars paid by the said Duval on the day of 187 and that said judg
was rendered upon an obligation for the benefit of the said John. C. Duval and
M. Booth, and that said John. C. Duval and Florida G. Howard have giv
an irrevocable power of attorney to C. R. Johns & Co, at that time compo
of C. R. Johns. J. C. Kirby and Flavius Everitt mortgaging the proceeds
said land for the payment of said debt to the said Sampson and appointing
them Trustees to sell the same, it is adjudged and decreed that the said
amount of said judgment stands as a charge upon the said lands of the
said Duval and Florida Howard in favor of the said Sampson until the same
shall be paid with interest thereon at the rate of eight per cent per annum fr
the date of payment of said judgment by said Sampson, It further appea
that the said Sampson in order to protect the said lands bought some of

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same and paid taxes thereon Sciuce the bringing of this suit as follows. paid by him on account of the Geo. Howden tract of 720 acres. $137.20. on account of the Trinidad Vareinas tract $43.50. on account of the William Porter tracts $41.38. It is ordered and adjudged that the said purchasers at tax sale and payment of taxes thereon stand as a lien upon said lands against the said John. C. Duval. Florida G. Howard and Robert Cruzbaur to the extent of interest held by the parties respectively in said land so purchased at tax sale, or upon which taxes have been paid by said Sampson as aforesaid, That is to say, the said Florida G. Howard and John. C. Duval and Robert Cruzbaur shall repay the said Sampson out of the lands coming to them their proportion of the said amounts in accordance with the interest they may have in the respective tracts upon which payments were made, and that the tax deed of the said Sampson be delivered up for the benefit of the parties to this suit, It further appearing that the plaintiff C. R. Johns & Co composed of C. R. Johns J. C. Kirby and Flavius Everill, and afterwards C. R. Johns. Flavius Everett and W. Von Rosenberg were by contract with John. C. Duval and Florida Howard, to which the said George W. Sampson was a party entitled to the one fourth of all the lands to which they might perfect titles to the said John. C. Duval and Florida Howard, it is adjudged and decreed that an interest in the one fourth of said lands herein allotted to them is hereby vested in the said C. R. Johns & Co in this partition as a prior claim upon said lands subject to the other provisions of this decree, and it appearing that the firm of C. R. Johns & Co afterwards became an incor= =poration taking into said corporation only one half of said original interest and that afterwards they assigned all their rights as such Corporation to A. J. Peden, it is adjudged that said one fourth of the interest in said lands herein decreed to said C. R. Johns & Co shall be divided among them and their representations as follows, To J. C. Kirby one third, to C. R. Johns one Sixth and A. J. Peden the assignee of the incorporation of C. R. Johns & Co one half of the same, It is further adjudged that the said John. C. Duval, or George W. Sampson his beneficiary for him shall have the privilege of paying the said seven hundred and fifty dollars due to the said Robert Cruzbaur by the said Duval within sixty days from the date of this decree, and if the said Sampson shall pay the same for his protection he shall be substituted to the rights of said Cruzbaur as against the said Duval and the said judgment shall be a charge upon the interest of said Duval to be paid as herein after directed with interest at Eight per cent from date of payment, and in case the said Sampson shall choose so to pay the said amount decreed to said Cruzbaur he shall be entitled to deduct them from the amount that may be coming from the said Cruzbaur to him under this decree for his advancements upon the taxes on said lands. But if the said sum shall not be paid within sixty days from the date of this decree then the Commissioners herein after appointed shall value the said lands and allot to the said Cruzbaur out of the interest of said Duval

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an amount of land equal in value to the said sum of money due by the said ... to him, and the said Sampson shall have Execution for the amount advanced ... him for the benefit of the said Longbaur against the land of the said Longbaur ... It is further adjudged and decreed that John. C. Campbell. W. Von Rosenberg and J. M. Dickerson be appointed Commissioners of partition to go upon and divide the said lands in accordance with this decree, That the 320 acres in Burleson County granted to Hiram Alfred A. Miles lying in a distant County and imperfectly known be divided equally between the said Duval. Longbaur and Florida G. Howard. and that the other tracts of land mentioned in the ... and Travis Counties be divided in accordance with the interests of the parties respectively by giving parts or portions of any of said tracts to either of said parties entitled to partition under this decree, and it is ordered that the said Commissioners may make their report at the present term of the Court if possible, and that they shall report a plot and field notes of the tracts divided by them.

It further appearing that a trust was created by the power of Attorney executed by Florida G. Howard and John C. Duval to C. R. Johns & Co in favor of George W. Sampson, which contemplated the sale of the interest in the land therein mentioned which may be coming to them to pay the said judgment and interest thereon rendered in favor of the said Wilson Gorm against the said John. C. Duval and George. W. Sampson which was paid by the said Sampson as before stated, as well also as the sale of other lands which may be procured for the said John. C. Duval and Florida G. Howard growing out of the contracts of Feby 6th 1854. and March 20th 1857. between the said John. C. Duval Robert Longbaur and Wallace. M. Booth, and it appearing that the said C. R. Johns & Co have ceased to do business as a firm or corporation and that there is now no trustee capable of acting in that behalf for the benefit of the said Sampson. It is adjudged and decreed that the trust created by the said power of Attorney from John. C. Duval and Florida G. Howard for the benefit of the said George. W. Sampson be perpetuated for the benefit of said Sampson, and with the consent of the parties William Von Rosenberg of the County of Travis in the State of Texas is hereby appointed trustee in the place and stead of the said C. R. Johns & Co, to carry out the objects of said trust, and that he be clothed with like powers and upon him is conferred like privileges as were conferred upon the said C. R. Johns & Co and the members of said firm, and that he have power to proceed to finish the business of locating adjusting and procuring titles in favor of John C. Duval and Florida G. Howard growing out of said contracts of Feby 6th 1854. and March 20th 1857. so far as the matters embraced therein have not been completed and with the exception of the lands embraced in this suit, and certain lands in litigation in Lockhart County, being the lands embraced in the suit known as the case of Booth vs Shufflemann after paying all Expenses necessary in attending to these

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procurement protection and sale be allowed twenty five per cent of the net proceeds thereof as his compensation therefor, As to the lands in litigation in Colorado County in the suit known as the case of Booth vs Shippleman, he shall give all necessary attention thereto, and pay all expense connected with the interest of the said John C. Duval and Florida J. Howard in order to finally secure said lands, and for his compensation in=cluding the sale of said lands he shall be entitled out of the net interest coming to the said Duval and Florida J. Howard exclusive of Attorneys fee after deducting expenses fifteen per cent thereon, it being considered that a portion of the expense necessary to procure the said lands was heretofore ben otherwise advanced by the parties, and it is provided that all expenses incurred by him in carrying out the foregoing provisions shall be reimbursed to said Romberg out of the lands to be procured as aforesaid, and as to the lands to be divided in this suit and set apart to the said John C. Duval and Florida J. Howard the said Von Romberg as trustee shall have power to sue the same for the objects and purpose of the said trust, and to carry out the provisions of this decree, and he shall be entitled to receive as compensation therefor ten per cent out of the net sum for which the same shall be sold and collected by him, and to appropriate the money arising therefrom to payment of all costs expenses and taxes as well as the costs of this suit due from the said Duval and Howard, the judgment herein in favor of said Cruger ben against John C. Duval in case the same is paid by the said Sampson, The judgment of the said Sampson against the said Duval and Howard for his payments on account of lots and lots sales mentioned interest, The one fourth interest in said land due to C. R. Johns & Co as herein directed subject to the limitations herein after imposed upon the same, and the remainder shall be paid to the said George W. Sampson upon account of his payment of the said judgment of Wilson Green against John C. Duval and George W. Sampson until the same shall be satisfied, and in as much as by the terms of the said trust in the power of attorney from John C. Duval and Florida J. Howard to C. R. Johns & Co, the said C. R. Johns & Co were to sue the said lands and to appropriate the proceeds thereof as directed for which they were to receive one fourth of the net proceeds of said sales, and in as much as they failed to sue said lands, but the same remains to be done under this decree, it is adjudged and decreed that the ten per cent Commissions given herein to the said trustee for making the said sales be retained out of the one fourth interest which may be coming under this decree to the said C. R. Johns J. C. Kirby and A. J. Pasu assignee of the incorporation of C. R. Johns & Co, It is further ordered and adjudged, that title subject to the liens partitioned in this decree to John C. Duval and Florida J. Howard, the said Von Romberg as trustee shall have power to sell the same at private sale in such tracts or parcels as he shall deem proper for the space of twelve months after the entering of this decree, reporting his sale of such land to the next term thereafter of this Court for confirmation, But if he shall not have sold all of said lands within the time aforesaid he shall after giving notice of the time

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and place of sale in some newspaper published in the City of Austin in Travis County Texas, for Thirty days before the sale, Expose the said lands for sale at public auction to the highest bidder for cash before the Court House door of the County of Travis aforesaid and sell the same in such tracts or parcels as he may deem advisable and report the same to this Court,

The costs of this proceedings is to be equally divided between the interests respectively represented by John C. Duval. Florida G. Howard and Robert Youngblaur for which the officers of Court shall have execution against said parties respectively, all other matters not herein disposed of are reserved for the further order of this Court,

✓ 5237. (Exec. dock No 5 page 81)

Thomas B. Jourdan and Wife vs George B. Dimpelman, Now on this Third day of Febuary of the January term A.D. 1880, of the District Court in and for Travis County came on for hearing and was the above described cause wherein Thomas B. Jordan and his wife Emeline Jordan are plaintiffs and George B. Dimpelman is defendant, and a Jury having been waived by the parties and the case submitted to the Court without Jury and the Court having heard the pleadings evidence and arguments of counsel and having duly considered the same finds for said plaintiff Emiline Jordan and against said defendant George B. Dimpelman the issues raised by the pleadings therein, and thereupon it is ordered adjudged and decreed by the Court that said plaintiff Emeline Jordan do have and recover of and from said defendant George B. Dimpelman the following described premises viz! Fourteen (14) subdivisions of forty (40) acres each being such subdivisions Nos One (1) Two (2) Three (3) Four (4) Five (5) Six (6) Seven (7) Eight (8) Nine (9) Ten (10) Twelve (12) Thirteen (13) Fourteen (14) Fifteen (15) and Sixteen (16) or Five hundred and sixty acres out of a certain tract of land containing 640 acres more or less lying and situate in the County of Travis and known and described as follows, South of Onion Creek and about 9 miles S 15° E. from the City of Austin known as the James Priestly survey No 505. by virtue of Thomas Toby land scrift No 729 beginning at the West corner of survey No 505 made for Isaih A. Paschal on the S. E. line of the Del Valle grant, Thence S 30° W. with the del Valle grant 1376 varas to a stake in said line. Thence S. 60° E. 2626 varas to a stone mound on the N W. line of the William Lewis Senior survey. Thence N 30° E 1376 varas to the South corner of No 504 a stone mound on the N W line of the Wm Lewis Senior Survey No 2. Thence North 60° W 2626 varas to the place of beginning, and it is further ordered that Writ (or writs) of possession issue directed to and commanding the lawful officer of said County to place said plaintiff Emiline Jordan in peaceable and quiet possession of said described premises and tracts of land, and it is further ordered that said defendant Geo. B. Dimpelman pay all costs in and about this suit & funded and that Execution issue therefor against him, And it is further ordered adjudged and decreed that the deed from said defendant Dimpelman to B. W. Woods dated the 10th day of April 1874 and recorded on December 30th 1875 in Book No 31 of the records of said Travis county on pages No 87 to 89 and the deed

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form said Trade to said defendant L Dimpelman dated the 6th day of December 1875: and recorded on the 30th day of Dicember 1875: in said Book No 31. of the records of Travis County on pages 89. and 90. (Which deed purport to convey said subdivisions and are discribed in the original petition herein) be and the same are hereby declared null and void as against plaintiffs title: and said deed are hereby declared cancelled and of no effect as affecting the title of plaintiffs and further that said defendant L Dimpelman be and he is hereby enjoined and restrained from setting up or pretending title in or to said premises and tracts of land and that Writ of Injunction and restraint issue herein commanding injoining and restraining said L Dimpelman as afore ordered, It is further ordered that Execution may issue against each party respectively in favor of the officers of Court for all costs by him in this behalf expended,

Thereupon Court adjourned till tomorrow morning 9 oclock.

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Court met pursuant to adjournment, Present same as on first day Whereupon the following proceedings were had viz:

Emily Weems et al John. B. Weems vs George Newton, On this day came the plaintiffs Emily Weems and John B. Weems in person and by their attorneys Messrs Walton Jones & Hill and also came the defendant George Newton in person and by his attorney J. W. Robertson Esq. and the parties severally announcing themselves ready for trial, thereupon came a Jury of twelve good and lawful men to wit: J. H. Houghton and Eleven others, who being duly empannelled and sworn according to law to try the issues joined between the parties after hearing the pleadings evidence and argument of Counsel and the charge of the Court retired to consider of their Verdict and thereupon the said Jury returned into Open Court the following verdict to wit:

"Austin Tex Feby 2d 1880. We the Jury find that the defendant Geo Newton advanced his money to pay off valid claims, secured by valid liens to the amount of Twenty four Hundred and sixty dollars in Gold known as the Claims held by Hamig also Eight Hundred Gold dollars. known as the Claim held by Bartholomew, also Eleven Hundred and Forty Gold Dollars known as the Millett Claim or the one paid off to Jones, with the right to be subrogated to all the rights of the parties who held the liens so by him, Geo Newton paid" and We the Jury find that all the right of subrogation was to attach to the claim held by Mr Hamig and to the claim held by Mr Bartholomew and to the claim held by C. F. Millett, or the one paid to Jones (as Millett's ally) We further find that the defendant Geo Newton paid on Janry 30th 1878. the above claims aggregating, in total Four Thousand Gold dollars and that the rate of Interest as agreed upon was twelve per cent annually, and We find that the amount of interest due at the time the defendant Geo Newton taken possession, was seven hundred and forty gold dollars, and We further find that the value of the crop when the defendant Geo Newton took possession, was two hundred and forty three dollars. The annual value of the place as rent We find to be

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Four Hundred and Eighty dollars, and We on no cause for any damages and shall not allow any damages or anything for the alledged Wilful and malicious trespass upon the Premis, and We the Jury also find that the defendant Geo Newton, did pay to one E.T. Moore on the 21st day of Feby 1879. One Hundred Seventeen & 50/100 Dollars for the Taxes paid or bought in by said Moore, and We further find that the defendant Geo Newton is entitled to this and With interest from the 21st day of Feby 1879. up to the day of Possession amounting to $6.30 interest, Sign J.N. Houghton Foreman And it appearing to the Court from said verdict that the plaintiffs Emily Reams and John B. Reams are justly indebted to the defendant George Newton in the sum of Four Thousand Dollars in Gold principal and the further sum of Seven hundred and forty dollars interest due thereon from the 30th day of January A.D 1878. to the 15th day of August A.D. 1879. making a total of the sum of Four thousand Seven hundred and forty dollars in Gold Coin, and also in the further sum of One hundred and Seventeen and 50/100 dollars principal for Taxes paid by said defendant upon said tracts of land for and on account of plaintiffs and the further sum of six and 80/100 dollars interest on said last named sum from the 21st day of February A.D. 1879. to the said 15th day of August A.D. 1879. making an additional total of one hundred and twenty four and 30/100 dollars.
And it further appearing to the Court that the principal sum first aforesaid to Wit: the sum of Four Thousand dollars in gold coin of the United States was advanced by said defendant at the request of said plaintiffs and for their use and benefit to take up and pay off certain valid liens and incumbrances on said several tracts of land on the 30th day of January A.D. 1878. and that defendant in consideration thereof was to be subrogated to all the rights of the several parties holding said liens as hereinafter set forth, and that all of said claims so taken up for plaintiffs by said defendant should bear interest at the rate of twelve per cent per Annum from the 30th day of January A.D. 1878.
And it further appearing to the Court that the said sum of Four Thousand dollars in Gold advanced for plaintiffs by defendant on the 30th day of January A.D. 1878. as aforesaid was to be used and was used as follows. Eight Hundred dollars in gold was advanced by defendant for plaintiff to pay off a claim due by plaintiff to E.B. Bartholomew secured by a valid lien on the tract of 68 3/10 acres of land. Two Thousand four hundred and six by dollars was advanced by defendant for plaintiffs to pay off a claim due by plaintiffs to J.W. Hanning being the purchase money due upon the tract of 68 7/10 acres. the tract of 18 1/4 acres and the tract of 135 acres of land and secured by a valid ~~first~~ lien thereon, and Seven hundred and forty dollars in gold was advanced by defendant for plaintiffs to pay off a claim due by plaintiffs to L.F. Millett secured by a valid judgment with ~~fore~~ of Mechanics lien on the tract of 12 1/3 acres of land, all of said tracts of land being fully described in the petition and answer filed in this cause, and the same are also fully described hereinafter in this decree, and that said defendant

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became he advanced said several sums of money to satisfy said several liens at the request of and for the use and benefit of plaintiffs is subrogated to all the rights of the said Bartholomew, Haning and Mills and to the liens aforesaid. And it further appearing to the Court that the said defendant acquired possession of said premises according to law on the 15th day of August A.D. 1879. and that the interest upon said sum of Four Thousand dollars in gold is cancelled from said date by the use occupation and mils of said premises, which are found by the said verdict to be of the value of Four Hundred and Eighty dollars annually and that the crop on the said premises at the date when said defendant took possession of the same was of the value of two hundred and forty three dollars. It is therefore considered, ordered, adjudged and decreed by the Court that the defendant George Newton do have and recover of the said plaintiffs Emily Weems and John B. Weems the sum of Four Thousand seven hundred and forty dollars in gold coin of the United States, principal and interest due the 15th day of August A.D. 1880 and the further sum of one hundred and twenty four 39/100 dollars principal and interest due for taxes paid by defendant on said tracts of land for the year A.D. 1877. and that said plaintiffs be allowed a credit thereon of two hundred and forty three dollars, the same to be applied first to the payment said sum of One hundred and twenty four 39/100 dollars aforesaid and the remainder as a credit upon the said sum of seven hundred and forty dollars interest due defendant to the 15th day of August A.D. 1879. Making the several amounts now due defendant as follows: Principal debt Four Thousand dollars in Gold, and balance of interest due Six hundred and twenty one 39/100 dollars in gold, It is further ordered adjudged and decreed by the Court that the defendant George Newton be and he is hereby subrogated to the claim and lien heretofore held by the said E.C. Bartholomew upon said 68 7/10 acre tract of land, to the extent of Eight hundred dollars in gold as principal, and interest thereon at the rate of twelve per cent per annum from January 30. 1878. to August 15. 1879. amounting to the sum of One hundred and forty eight dollars in gold, said tract of land being described as follows: 1. Beginning at the S.W. corner of the one hundred and Twenty 57/100 acres set apart to the said Emily Rowe Thence S 57° 48' E. 753 varas to the S.E. corner of same, Thence N 36° 48' E. 158 vs. Thence N. 43° 30' W. 25-20 Thence N 71° E 638 vs to corner. Thence North with upper line of Thomas H. Jones tract to the River. Thence up same with its meanderings to the lower corner of 52 31/100 acre tract. Thence S 17° E 320 varas to corner of the same, Thence S 73° W 486 vs to corner. Thence S 27½° W 260 vs to corner. Thence N. 32° W 475 vs to corner. Thence N 30° E. 126 vs. to corner on river. Thence up same 10 vs the upper corner of said 120 35/100 acre tract. Thence S 30° W 326 vs to beginning containing 68 7/10 acres of land. And it is further ordered adjudged and decreed by the Court that the defendant George Newton be and he is hereby subrogated to the claim and lien heretofore held by the said J.W. Haning upon said 68 7/10 acre tract said

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18 3/4 acre track, and said 135 acre track of land to the Amt of two thousand four hundred and sixty dollars in gold as principal and interest thereon at the rate of twelve per cent per annum from January 30th 1878, to August 15th 1879 amounting to the sum of Four hundred and fifty five and 0/100 dollars Gold on the tracts of land being described as follows, 1 Beginning at the S. W. corner of the one hundred and ninety & 35/100 acres set apart to the said Emily Rowe Thence S. 57° 48' E 753 varas to the S. E corner of same, Thence N 36° 48' E 158 vs Thence N 43° 30' W 25 vs Thence N 71° E 638 vs to corner Thence North with upper line of Thomas H. Jones track to the river Thence up same with its meanderings to the lower corner of 52 31/100 acre track, Thence S 17° E 320 vs to corner of the same, Thence S. 73° W 486 vs to corner, Thence S. 37 1/2 W 260 vs to corner, Thence N 32° W 475 vs to corner, Thence N 30° E 126 vs to corner on river, Thence up same 10 vs the upper corner of said 120 35/100 acre track, Thence S 30° W. 326 vs to beginning containing 68 4/100 acres of land. 2nd tract containing 18 3/4 acres, Beginning at a stake in a thicket the N. W. corner of 41 acres sold by Mrs Emily Rowe to Thos. H. Jones from which a Pecan 4 in dia Vs S. 59° 45' W 36 links a Black Jack 14 in dia Vs S 30° 45' W 26 links, Thence N 46° 10' W 1,20 chs to a stake Thence N 44° 50' E 1,43 chs to a stake, Thence N 5° 10' W 8,01 chs a stake, Thence N 43° 55' W 3. 55 ch a stake and corner continue at 4. 63 chs a stake in a road, Thence N 71° E. 26. 84 chs to a stake Thence S. 78 links a stake, Thence S. 43° 50' W 29. 55 chs to beginning,

3rd tract Beginning at the North West corner of the 120 35/100 acre tract before mentioned Thence S. 30° W. along the line of J. T. Miller tract about 2100 Varas to corner of 115 acre tract sold by J. H. Nofford to W. T. Davis, Thence S 60° E. 315 Varas to corner, Thence N 34° E about 2100 varas to the S line of the aforesaid 120 35/100 Thence N 57° 48' W. 442 v to place of beginning containing 135 acres more or less. And it is further ordered adjudged and decreed by the Court that the said defendant George Newton, be and he is hereby subrogated to the claim and lien thereto for held by the said C. F. Miller upon said 12 1/2 acre tract of land to the Amt of Seven Hundred and forty dollars in Gold principal and interest thereon at the rate of twelve per cent per Annum from January 30 1878. to August 15th 1879 amounting to the sum of one hundred and thirty six and 0/100 dollars in gold said tract of land being described as follows: 12 1/2 acres of land sold by J. M. Jones and Wife and Wm Gardner and Wife to Jno. B. Neems by deed dated the 15th August 1876. Beginning at north corner of tract sold to J. M. Sampson by W. T. Davis a Live Oak 6 in in dia Vs S. 33 1/2° W 28 vs, Thence N 57° 45' W 210 vs to Stake, Thence S. 26° W 404 vs to Blk Jack 3 in dia Vs N 60° W P. O. 6 in dia Vs S. 48 1/2° E 7 1/2 vs, Thence S. 56 1/4° E 135 vs to a hickory 11 in dia, Thence N 30° E 408 vs to place of beginning, And it is further ordered adjudged and decreed by the Court that the liens aforesaid be and the same are hereby established in favor of the defendants and against the said plaintiffs Emily Neems and Jno. B. Neems upon the several tracts of land

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aforsaid and that the liens of the defendant aforsaid be and the same are hereby
foreclosed upon said several tracts of land in the manner hereinafter named, and it
appearing to the Court that the interest aforsaid due upon said sum of $4000. from
January 30th 1878. to August 15th 1879. has the credit hereto for allowed amounting to
a balance of six hundred and twenty one 30/100 dollars in Gold. is part due, and that
defendants lien to secure the payment of the same rests upon all of said four tracts of
land, it is therefore considered ordered adjudged and decreed by the Court that
the defendants said lien to secure the said sum of $621 30/100 dollars in gold interest
due as aforsaid be and the same is hereby foreclosed upon all of said four tracts of land
as herein before described, and it is therefore considered and ordered by the Court that
the Clerk of this Court do issue an order of sale directed to the Sheriff or any Constable
of Travis County, Commanding him the said officer, to seize and sell the above described
four tracts of land as under execution and to apply the proceeds thereof First to the
payment of the said sum of $621 30/100 Gold interest due as aforsaid and the interest
due thereon, Second he shall apply the remainder to the payment of the said principal
of $4000. in gold, Third if the said tracts of land shall sell for more than sufficient to
pay off and discharge said sum of $621 30/100 in gold and said sum of $4000. in gold
and all the costs of this suit then he shall pay over the balance remaining to the
said plaintiffs, But if the same shall not sell for sufficient to pay off and satisfy
all of said sums then the Clerk shall issue execution for the balance remaining
unpaid, But such execution shall not issue until February 1st 1883. It is further
considered ordered adjudged and decreed by the Court that if plaintiffs shall pay
to defendant said sum of $621 30/100 With interest thereon due, then no execution or
order of sale shall issue upon said principal sum of $4000. in gold until the 1st
day of February A. D. 1883. And if said sum of $4000 in gold be not paid to
defendant by plaintiffs on or before said 1st day of February A. D. 1883. then it
is ordered by the Court that the Clerk of this Court do issue an order of sale
directed to the Sheriff or any Constable of Travis County, Commanding him
the said officer to seize and sell the above described four tracts of land as under
execution and to apply the proceeds thereof as follows, First: he the said officer
shall sell the said 8 7/10 acre tract of land and shall apply the proceeds to the
payment of the said sum of $800. in gold, advanced and paid by defendant
for plaintiffs on the said claim and lien held by E. C. Bartholomew; and the
remainder if any shall be applied as a credit on the said J. W. Hannig claim
and lien; Second he the said officer shall sell the said 18 3/4 and the 135 acre
tracts of land and shall apply the proceeds to the payment of said sum of
$2460. in gold, advanced and paid by defendant for plaintiffs on the said
claim and lien held by J. W. Hannig, and the remainder if any shall be
applied as a credit on the said C. F. Mills D claim and lien, Third he the
said officer shall sell the said 12 1/3 acre tract of land and shall apply the
proceeds to the payment of said sum of $740. in gold, advanced and paid

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by defendant for plaintiffs on the said claim and lien held by said L. Th
and after said selling all of said liens in full the remainder, if any then be, sh
be by said officer paid over to the plaintiffs, But if said several tracts of land sh
not sell for enough to pay off and satisfy all of said claims with interest and
costs of this suit then the Clerk of this Court is directed to issue Execution f
the balance remaining unpaid. And upon making sales of said tracts of lan
the said officer shall execute deed or deeds to the purchaser or purchasers then
conveying all the right title and interest of the said Emily Means and Jno. B. Mean
in and to the same had and held by them or either of them on January 30th 1
or acquired by them or either of them since said date, It is further consid
ordered adjudged and decreed by the Court that said defendant shall remain
in possession of said premises, and that plaintiffs shall be allowed pending for the rent
of the same, and that defendant shall be allowed no interest on said premises
sum of $1400.00 during the time he retains possession of said premises, It is furth
ordered adjudged and decreed by the Court that the plaintiffs shall be entitled t
possession of said premises at any time upon payment by them to the defendan
of the said $1400.00 in gold and the interest now due as aforesaid, and should the
plaintiffs at any time before said 1st day of Febuary A. D. 1883. pay off and satisfy
this judgment in full in the manner aforesaid then it is ordered that the Clerk of the
Court do issue his writ of possession in favor of said plaintiffs directed to the Sheriff o
any Constable of Travis County commanding him to place said plaintiffs in possession
of said premises having any equities that may grow out of crops then on the premises
to future adjustment. It is further ordered adjudged and decreed that said de
of $621.30 Cts in gold shall bear interest from the date of this decree at the rate o
twelve per cent per annum, and that an Execution or order of sale issue to carry
this judgment into effect shall be for gold Coin, lawful money of the United States
And it is further considered by the Court that the defendant recover of the plaintiff
and the sureties on their cost bond filed herein all costs in this behalf expended
for which Execution may issue.

✓ 5202. Mrs Sarah E. Peel. vs William H. Peel & Andrew Strachle, This cause
being called for trial on this the Thirtieth day of Febuary A. D. 1880. came the ✓ 540
plaintiff by her attorney and announced ready for trial, and it appearing to the
Court that the defendant William H. Peel was duly served with citation by
publication returnable at a former term of this Court, and D. W. Doom Esq was duly
appointed as attorney for said defendant who is absent, having announced ready
for trial for said absent defendant; and it appearing to the Court that the de-
fendant Andrew Strachle was, by waiver in writing which is signed by him
and on file among the papers in this cause waived service of citation and copy
of petition and consented that this cause may be tried at this term of Court, but
was not made his appearance in person or by attorney, and a jury not being
asked for this cause is tried by the Court without a jury and the pleadings

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being read the evidence adduced and arguments of counsel heard and it is con=
=sidered and adjudged by the Court that the materiae facts alleged by the plaintiffs
petition are true and that plaintiff is entitled to the relief as herein ordered. It is therefore
ordered adjudged and decreed by the Court that the bonds of matrimony heretofore
existing between the plaintiff Mrs Sarah E. Peel and the defendant William H. Peel
be and the same are hereby dissolved, And it appearing to the Court that the
plaintiff is entitled by partition of the community property belonging to her
and the said William H. Peel to the five promissory notes for one hundred and
fifteen dollars each as described in her petition the said defendant Peel having
received and carried off a greater amount in value of all the remaining property be=
=longing to them as husband and wife, It is therefore adjudged and decreed by
the Court that said five promissory notes for one hundred and fifteen dollars
each executed by the said Andrew Strachle on the seventh day of August 1878.
payable to William H. Peel as follows to wit: one note on December 1st 1879,
one note on December 1st 1880, one note on December 1st 1881, one note on De=
=cember 1st 1882, and one note on December 1st 1883, and the amounts of money
due and to become due thereon are hereby decreed to be the property of said
Sarah E. Peel as against the defendant William H Peel his agents and attorneys
and the said Andrew Strachle is hereby forever enjoined and restrained from
paying the money or any part thereof due or to become due on either of said
above described promissory notes to said William H. Peel or his agents or
attorneys. It is further decreed by the Court that a fee of twenty five dollars
be taxed as costs to be paid to D. W. Doom Esq as attorney for said absent
defendant and that all costs incurred in this suit be taxed against the
said plaintiff Sarah E. Peel for which Execution may issue.

Court adjourned till tomorrow morning 9 oclock

Febuary 14th 1880

Court met pursuant to adjournment, Present same as on first day.
Whereupon the following proceedings were had viz:

5405 Reuben Anderson et als. vs Ann. H. Jones et als. And now on this Febuary 14. 1880.
it appearing to the Court from the allegation in the petition filed in this case that
six of said plaintiffs to wit: Attilla A. Anderson, Elizabeth L. Anderson, Annie E.
Anderson, Mary E. Anderson, Eleanor L. Anderson and Thomas J. H. Anderson
are minors, and that their legal guardian Ann A. Jones formerly Ann A. An=
=derson Mother of said minors, is entitled to a portion of the property mentioned
in said petition: the premises considered, It is ordered by the Court that
John B. Costa of Travis County be and is hereby appointed Guardian
ad litem to represent the interests of the aforesaid minors in the partition of
the estate mentioned in said petition

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5406. The State of Texas, on relation of Radcliff Platt et als. vs. J. C. DeGress. And now on this day came on to be heard the application of E. T. Moore the County Attorney for leave to file an information in the nature of a Quo. Warranto against J. C. DeGress for the purpose of inquiring by what authority the said J. C. DeGress is using and exercising the office of Mayor of the City of Austin, and the same being heard by the Court it is ordered that the said E. T. Moore have leave to file at once said information in the nature of a Quo-Warranto and tracing in substance the same facts and charges as are contained in the copy of the information presented with said application and it is ordered that the Clerk of this Court do forthwith issue citation to the said J. C. DeGress directed to the proper officer of Travis County to answer said information and to show by what warrant or authority he uses and holds the said office of Mayor of the City of Austin. Said answer to be filed on the 12th of March 1880.

5244. A. L. McRae vs. G. N. Miller et al. Febr 13th 1880. On motion & by consent of the attorneys of both parties, it was ordered that the continuance heretofore entered in this case be set aside, and that this case be consolidated with suit No 5283 between the same parties.

5395. L. Schoolherr vs Caroline Townsend et al. It was this day ordered by the Court that T. Ruggles Esq. be and he is hereby appointed guardian ad litem of the minors Elnora, Sarah M., Amanda C., George W., Charles John P. & Melville Townsend.

Court adjourned until Monday morning the 16th inst. 9 o'clk A.M.

February 16th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

5335. The State of Texas vs Joseph Cahn et al. In this cause it is ordered by the Court that the original answers of both the principal and sureties filed on the 10th day of October A.D. 1879 be copied in the transcript of the record sent to the Supreme Court to aid in explaining the ruling of this Court on the defendants sworn plea to the jurisdiction of the Court contained in their first amended answer filed on the 16th day of December A.D. 1879.

5244-5288. A. L. McRae vs G. N. Miller and M. A. Miller his wife. Now on this 13th day of Febuary A.D. 1880, came by his attorney A. L. McRae plaintiff in the cause on the docket of the District Court in and for Travis County Texas. numbered respectively No. 5-244 and 5-288. and both entitled A. L. McRae vs G. N. Miller and M. A. Miller his wife and also came the said defendants in said two causes G. N. Miller and M. A. Miller his wife by their attorneys and thereupon the said plaintiff moved the Court to set aside the continuances entered heretofore to-wit on the 6th day of Janu-

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A.D. 1880, in said two causes on the docket of said court, and the said defendants by their attorneys consenting thereto, the court having heard said motion and the consent to the prayer thereof by the said defendants by their attorneys present in court as aforesaid, it was ordered and adjudged that the continuances heretofore entered in said two causes on the docket of said court to-wit on the 6th day of January A.D. 1880, be set aside and held for nought; and thereupon the said plaintiff by his attorney moved the court that the said two causes No. 5244, and 5288, on the Docket of said court be consolidated and stand for trial as one cause and the said defendants by their attorneys consenting thereto in open court, the said motion and consent of defendants thereto having been heard by the court, and it further appearing to the court that the said two causes were between the same parties and concerning the same subject-matter, it was considered ordered and adjudged by the court that the cause No 5244 intitled A. L. McRae vs J. W. Miller and M. A. Miller his wife be consolidated with the said cause No 5288 of the same styles on the docket of said court and that said two causes stand for trial as one cause, and thereupon on the same day came the said parties by their attorneys and then came on to be heard the defendants demurrer to the pleadings of plaintiff in said causes No. 5244 and 5288 consolidated, and it appearing to the court that the law is for the plaintiff it is therefore considered and ordered by the court that the said demurrer be overruled and that plaintiff have and recover of the defendants the costs of said demurrer for which he may have his execution, and thereupon on the same day came the said parties by their attorneys and both parties having announced ready for trial, and a jury having been waived and the matters in controversy as well of fact as of law having been submitted to the court, and the evidence and argument of counsel having by the court been heard and fully understood, and it appearing to the court that the said defendants are indebted to said plaintiff in the sum of one thousand six hundred and sixteen dollars and sixty-two cents and that the promissory note sued on in said cause No 5288 consolidated herein with said cause No 5244 bears interest at the rate of eleven per centum per annum: and it further appearing to the court that said note was given to secure the payment of the purchase money for the following described tracts of land situated in the county of Travis and State of Texas and parts of the Joseph Duty half league survey in said County and State, said tracts being bounded and described respectively as follows to-wit: Beginning at a point in the West League line, Flats north West corner, on the South side of the Bastrop road, thence N. 30° E with the league line 676 varas to a stake thence S. 60° E 421 varas, thence S 30° W. 676 Varas to a stake, Thence N 60° W 421 varas to the place of beginning. Said tract containing fifty and one half acres of land more or less, also a tract of land part of the Joseph Duty half league survey bounded and described as follows to-wit: Beginning on the North line of said Joseph Duty half league survey

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at a point 152 varas East of the North West corner of said half league survey
Thence East and along the North line of said Joseph Duty half league survey 269 varas
Thence S 30° W 630 varas, thence N 60° W 269 varas: thence N 30° E. with east line
of land now owned by Campbell to the place of beginning, said tract of land
containing about thirty acres of land, and it further appearing to the Court that
the Injunction issued in the said cause No 5244 (then consolidated with
cause No 5288,) on the prayer of the said plaintiff against said defendants to
restrain said defendants and each of them their agents, servants and employes
from cutting down destroying and converting to their own use the timber and
growing trees on the tract of land last herein described was properly granted
and that the allegations in the petition therefor are true, It is therefore con-
sidered ordered, adjudged and decreed by the Court that the said plaintiff
do have and recover of the said defendants J. W. Miller and M. A. Miller
or either of them said sum of one thousand six hundred and sixteen dollars
and sixty two cents principal and interest, with interest thereon from this
date at the rate of eleven per centum per annum, together with all his costs
in this behalf expended, and it is further ordered adjudged and decreed
that the said Injunction against the said defendants in the said cause
No 5244. herein consolidated with Cause No 5288, issued be perpetuated
and that the said defendants and each of them their agents, servants and
employees be forever injoined and restrained from cutting down destroying
carrying away, or converting to their own use any timber or growing trees
the tract of land last above described, and further that said plaintiff have
Judgment for his costs in this behalf expended, and it is further ordered
adjudged and decreed by the Court that the Vendors lien upon the said
two tracts of land above described be and the same is hereby foreclosed
and that the Clerk of this Court do issue an order of sale directed to the
Sheriff of Travis County Texas, commanding him the said Sheriff to sup
and sell the above described two tracts of land as under execution: and that
he apply the proceeds thereof to the payment and satisfaction of the said
sum of one thousand Six hundred and Sixteen dollars and Six by two
cents together with all interest that may be due thereon, and the costs
of this suit: and if the said two tracts of land shall sell for more than
sufficient to pay off and satisfy said sums of money, then the said Sher-
iff is hereby directed to pay over such excess to the said defendants: but
if the said two tracts of land shall not sell for enough to pay off and satisfy
this Judgment then the Clerk of this court is directed after the sale of
said land to enter this judgment satisfied in part, the intention of this
Court to render no personal judgment against said defendants
except for costs of this suit.

5188 T. Roberts & Bro vs. W. S. Carothers. Feb 14th 1880 The motion for

a new trial of this cause, is continued until next motion day.

14674. Alfred Smith vs. J. R. Warren. The plaintiffs motion for a new trial of this cause, is continued until next motion day.

February 18th 1880.

15109 The State of Texas vs. J. M. Brown et als. Upon motion of W. T. Gaston, one of the sureties of the principal defendant Brown, it was ordered that W. M. Moon, Sheriff of Dallas County, have leave to amend his return on the 3rd execution in this case, so as to show the name of the defendant, who made the final payment of $3533 55/100 on the judgment in this case. ——

February 26th 1880.

Sc. J. No 52. The State of Texas vs. John Taylor et al. On this day came the defendants in this case by their Attorneys Messrs Chandler & McGregor and showed to the Court, that at the last term of this Court and on the 26th day of December A.D. 1879 a judgment final was rendered against these defendants in this case for ($1.00) One dollar & costs of suit, setting aside the balance of the judgment nisi, but that said final judgment had not been entered on the minutes of this Court; It was therefore upon motion of said defendants ordered by the Court, that such judgment final as rendered on said 26th day of December 1879 be here entered nunc pro tunc as follows:

Sc. J. No 52. Case docket 5 page 73. The State of Texas vs. John Taylor et als. On this 26th day of December 1879 came the parties to this suit by their attorneys and announced ready for trial. And the Court having heard the Defendants answer to the writs of Sc. Facias in this case, ordered adjudged and decreed, that the judgment nisi for two hundred dollars, rendered by this Court on the 18th day of November 1879, be and the same is hereby set aside except as to one dollar, and that said judgment nisi be and the same is hereby made final and absolute as to the said amount of ($1.00) One dollar, & that therefore the State of Texas do have and recover of and from the principal defendant John Taylor and from his sureties Nannie Stratton and Mary E. Reeves and Nannie Stratton the said sum of ($1.00) One dollar and all costs of this proceeding, for which execution may issue.

Sc. J. No 53 The State of Texas vs. John Taylor. On this day came the defendants in this case by their attorneys Messrs Chandler & McGregor, and showed to the Court, that during the last term of this

February 26th 1881.

Court on the 26th day of December a judgment final was rendered against these defendants for (1st) One dollar and costs, setting aside the balance of the judgment nisi heretofore rendered in this case, but that such judgment final had not been entered on the minutes of this Court, it was therefore upon the motion of said defendants now ordered by the Court, that such judgment final as rendered on the 26th day of December A.D. 1879 be here entered nunc pro tunc as follows viz:

St. vs. No. 53. (Exe. dock. No. 5 page 13) The State of Texas vs. John Taylor et als. On this 26th day of December A.D. 1879 came the County Attorney on behalf of the State and the defendants appeared by their Attorneys Messrs Chandler & McGregg and both parties announced ready for trial. And the Court having heard the defendants answer in this case to the writ of Sc. Jacias and having duly considered the same, ordered adjudged and decreed that the judgment nisi for five hundred dollars, rendered by this Court on the 12th day of November 1879, be and the same is hereby set aside except as to one dollar, and that said judgment nisi be and the same is hereby made final and absolute as to said amount of one dollar, and that therefore the State of Texas do have and recover of and from the said principal defendant John Taylor and from his sureties Mary E. Reeves and Wm E. Lloyd the said sum of one dollar and all costs of this proceeding for which execution may issue.

February 28th A.D. 1881.

5188 T. Roberts & Bro vs. W. T. Carothers. On this day, both parties being present by their attorneys, came on to be heard the defendants motion for a new trial of this cause, and the Court having duly considered said motion and the affidavits filed in support and in opposition thereto, overruled said motion. The defendant by his attorney thereupon excepted to such ruling and gave then in open Court notice of appeal to the Supreme Court.

4464 Alfred Smith vs. J. R. Warren. Both parties being this day present by their attorneys, the plaintiffs motion for a new trial in this cause was submitted to the Court. And the Court having heard and duly considered said motion overruled the same. The plaintiff thereupon by his attorneys excepted to such ruling and gave then in open Court notice of appeal to the Supreme Court.

4795. John C. Duval et als. vs. Robert Brenbaur. Both parties to the case being this day present by their attorneys, the defendants motion for a new trial of this case was submitted to the Court. And

January 28th 1880.

the Court having heard and duly considered said motion, overruled the same. The defendant thereupon by his attorneys excepted to such ruling and gave then in open Court notice of appeal to the Supr. Supreme Court. Court adjourned until next Monday March 1st 1880.

March 1st 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5348 Emily Weems & husband vs. George Newton. Both parties to this suit being this day present by their attorneys, the plaintiff submitted to the Court his motion for a new trial of this case. And the Court having heard and duly considered said motion, overruled the same. The plaintiffs thereupon by their attorneys excepted to such ruling and gave then in open Court notice of appeal to the Supr. Supreme Court.

Court adjourned until to morrow morning 9 o'clk.

March 2nd 1880.

Court met according to adjournment. Present same as first day. No business on the civil docket being transacted this day, Court adjourned until to morrow morning 9 o'clock.

March 3rd 1880.

Court met according to adjournment. Present same as first day. No business having on this day being transacted, Court adjourned until to morrow morning 9 o'clk.

March 4th 1880.

Court met according to adjournment. Present same as first day. and Court adjourned until without transacting any business on the civil docket.

March 5th 1880.

Court met according to adjournment. Present same as first day, & there being no business before the Court, Court adjourned until next Monday the 8th inst. 9 o'clk A. M.

March 8th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

It was this day ordered by the Court that R. H. Brumby, an

March 8th 1880.

Attorney of this Court, be and the same is hereby fined in the sum of ($5.00) five dollars, & that therefore the State of Texas do have & recover of and from the said R. F. Brumbey the said sum of fine dollars and costs, and that the clerk of this Court issue a capias for the collection of said fine, against said Brumbey

Court adjourned until to morrow morning 9 o'clk A

March 9th 1881.

Court met according to adjournment. Present same as first day. No proceedings being had Court adjourned until Friday the 12th inst. 9 o'clk A.M.

March 12th 1880.

Court met according to adjournment. Present same as first day. Whereupon the proceedings were had viz:

5406. The State of Texas upon information &c. vs. J. C. De Gress. Information in the nature of a quo warranto. – And now on this the 12th day of March A.D. 1881 came on to be heard in open Court the motion of the defendant to strike from the files the information filed herein on the 14th day of February A.D. 1881 and after appearance and argument of counsel for both parties it is adjudged and ordered that said motion be sustained and said petition be stricken from the file. It is further ordered on the application of the County Attorney that he have leave to file the copy of information which accompanied the original petition and that the same be and stand as an information filed by authority of this Court and that citation do issue in conformity to law citing the said J. C. De Gress to appear and answer the said information on the 18th day of March A.D. 1880 and to show by what warrant or authority he holds and exercises the office of Mayor of the City of Austin in the State of Texas. – –

5237. Thomas D. Jourdan & wife } Now on this 12th day of March A.D. 1880, came on
vs } to be heard the motion of the plaintiffs in the said cause
George D. Dimpelman } to amend the decree rendered therein on the 12th day of Febuary A.D. 1880 by erasing from the record of the judgment in said cause the words "It is further ordered that Execution may issue against each party respectively in favor of the officers of Court for all costs by him in this behalf expended", and both parties having appeared by their attorneys, and said motion having been heard by the Court and fully understood, and the said defendant by his attorneys having consented thereto, it is considered and ordered by the Court that said motion be granted and that said decree be amended by erasing the said words, and that the Clerk of the Court is hereby directed to make such erasure by entry on the face of the record of judgments of this Court when the judgment rendered in said cause on the said 12th day of Febuary A.D. 1880, may be found a marginal entry

March 12th 1880.

showing said amendment and referring to the page of said record where on this order may be entered, and also on the page of said record where on this order may be entered a marginal reference entry showing the said judgment and decree hereby amended.

Court adjourned till tomorrow morning 9 oclock.

March 13th 1880

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:- Upon reading the minutes of yesterday's proceedings it appeared to the Court that the entry of the order in the case, The State of Texas vs J.L. DeGress was not in conformity with the order of the Court rendered on yesterday. It was therefore ordered that said order be corrected so as to read as follows.

5406 The State of Texas upon information &c vs J.L. DeGress, information in the nature of a Quo-Warranto, And now on this the 12th day of March A.D. 1880, Came on to be heard in open Court the motion of the defendant to strike from the files the information filed herein on the 14th day of February A.D. 1880. and after appearance and argument of counsel for both parties it is adjudged and ordered that said motion be sustained and said paper be stricken from the file. It is further ordered on the application of the County attorney that he have leave to file the copy of information which accompanied the original petition and that the same be and stand as an information filed by authority of this Court and that citation do issue in conformity to law citing the said J.L. DeGress to appear and answer the said information on the 18th day of March A.D. 1880.

5316 Louis Canto vs Matilda Canto. By agreement of the counsel for both parties in this cause the continuance heretofore granted was this day set aside, and leave given the Sheriff to amend his return in this cause.

5398. James E. Tully vs Virginia Platt Tully, In this cause come the parties by their attorneys, and no jury having been demanded the matters of fact as well as of law in this cause was submitted to the court, And the Court having heard the evidence, became it is considered by the Court that the facts stated by the said plaintiff in his petition are true, and that the defendant has been guilty of cruel treatment to the plaintiff and committed outrages upon him that renders his living with her insupportable. It is ordered adjudged and decreed that the bonds of matrimony heretofore existing between the plaintiff James E. Tully and Virginia Platt Tully be dissolved and that the said plaintiff be entitled to a divorce from said bonds, and thereupon the said plaintiff and defendant present through their attorneys the following agreement in reference to the property respectively owned by them, as well as to the disposition of their two children Alberta and Marion. Viz: James E. Tully vs Virginia Tully. For divorce from the bonds of matrimony. This agreement between James E. Tully of the County of Travis in the State of Texas, and Virginia E. Tully, shows. that in order to avoid any dispute between them on the question of property, and the care and custody of the children, a divorce being granted the said parties provide as follows 1st That there be no question made in relation

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to property - but the property claimed by and in possesion of James E. Tully shall remain in his possesion and the title to the same shall be solely in him that is the tract of land mentioned in the petition and the debts due to him or claims set up by him against ochs persons than the said Virginia, and the money due from D. C. Wells or any othr person to the said Virginia and claimed by her as her seperate property shall be remain hers. 2. The said parties having tho children viz Alberta Elenn years old and Mamie nine years old it is agreed that they be disposed of as follows, The said children are to be placed in the convent at Austin Texas, under the management of the Sisters of the Holy Cross as boarding scholars, under and in subordination to the regulations of said Convent to be taught in all the branches in which instruction is given in said school according to the regular course of instruction, including music, said children are to be placed in said convent as soon as the same can be done, The said James agrees to maintain the said children and pay all of their expenses at said Convent, and to continue to so maintain them and pay their expenses until their education is complete or until they arrive at the age of Sixteen years, if they shall not have finished their course by that time, or until it is provided by mutual agreement otherwise by the said James E. and Virginia Tully, - Until the said children shall be placed in said convent the said James shall have the custody and care of the child Mamie, and the said Virginia shall have the custody and care of the child Alberta; and in case from any cause the said children shall be sent away from the said Convent the said James shall have the custody and care of the said child Mamie, and the said Virginia shall have the custody and care of the child Alberta so long as they shall remain out of said Convent, (S 387 Jud docket No 5 p

It is however provided, that at all reasonable times and under all reasonable circumstances when the said children shall be in the custody of the parties above specified the said Virginia shall have the right to be visited by the child Mamie, and the said James shall have the right to be visited by the child Alberta, When said children shall be placed in the said Convent each of their said parents shall have the right of visiting them in subordination to the rules and regulations of said Convent and on such occasions as may be permissable and under such regulations as may be allowed by the persons in control of said Convent, to take the said children out of the same and have them at their respective homes, If under the regulations of said Convent said children have to spend their vacation out of said Convent, then during such vacation the said James shall have the custody and care of the child Mamie and the said Virginia shall have the custody and care of the child Alberta. If either of said children become sick in said Convent to such a state as that in the opinion of the Medical attendant the child is in imminent danger of death, or that the welfare of the child in respect to its health requires removal from the Convent, then said James shall have the perfect right to take the child Mamie out of the Convent and the said Virginia shall have the perfect right of taking out the child Alberta and remove them from the Convent until such time as they shall again be restored

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to teach sufficiently to pursue their studies. But the above named removees shall be subject to the rules and regulations of the said Comm't, and the parties respectively are bound to return said Children to said Comm't under such rules and regulations. In case either the said James or Jennie shall become sick to a degree that in the opinion of the Medical Attendant the death of such party is imminent, then and in that case the party so sick shall have the right to have both of said Children with him or her, until such party is no longer in present danger of death in the opinion of the Medical Attendant,

3. It is agreed that the above provisions as to removals of said Children by either party from the Comm't, and delivering from thence, are understood to be made subject to the rules and regulations of the said Comm't, and that the said Children are placed thus to remain subject to such regulations, Mrs. Virginia P. Tully
Witness for Mrs. Tully, Thos E. Smed. Mrs Mary Scott. } James E. Tully.

It is therefore ordered adjudged and decreed that the said agreement in all things become the judgment of this Court in respect to the property mentioned respectively by the parties, and as concerns the rights duties obligations and responsibility of said parties with respect to the Children Alberta and Mamie.

It is further ordered that the said James E. Tully pay all costs in this behalf & judgt for which Execution may issue.

(No 387. Vol. docket No 5 page 71) First National Bank of Austin vs Sam Hamilton et als. And now come the parties to this cause by their attorneys and announce themselves ready for trial, and defendant D. C. Forman not having been served with Citation in this cause, and no appearance having been made for said Forman, on motion of the attorneys for the plaintiff this cause is dismissed as to said Forman: and the cause having been submitted to the Court without a Jury, and the Court finding from the evidence that there is due the plaintiff from defendants herein on the note sued on the sum of one hundred and sixty two Dollars principal and interest to this date and that said sum is purchase money for two thirds of lot No 8 in Block No 93. in the City of Austin in Travis County Texas, and that said plaintiff has the vendors lien on said two thirds of said lot to secure the payment of said sum of money, and it also appearing to the Court that because of the insolvency of defendant Sam Hamilton the defendants Brass, Harsen and Hume Bros are liable and bound for the payment of said note as endorsers thereon. It is therefore ordered adjudged and decreed by the Court that the plaintiff the First National Bank of Austin do have and recover of and from the defendant Sam Hamilton as principal and from G. M. Brass, Joseph Harsen and from Hume Bros. a Copartnership composed of Joseph L. Hume and George T. Hume as endorsers said sum of one hundred and sixty two Dollars. ($162.00) and all the costs of this suit, and it is further ordered and adjudged that said lien of plaintiff be foreclosed and that an order of sale be issued by the Clerk of this Court directed to the Sheriff of Travis County requiring

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said Shiff to sell as under Execution said two thirds of Lot Number Eight in Block Number Ninety three (93) in the city of Austin in Travis County (owned by said defendant Sam Hamilton) and that said Shiff apply the proceeds of such sale to the payment of this judgment and any balance remaining in the hands of said Shiff he shall pay over to said Hamilton: and in case said two thirds of said lot No 8. in Block No 93. shall not sell for a sufficient amount to satisfy this judgment this Execution shall issue against said Hamilton and against said Brace Harree and Hume Bros for such sum as may remain unpaid, And it is further ordered that in case the said Brace, Harree and Hume Bros, or either of them shall have any part of this judgment to pay them they shall have Execution over against said Hamilton to collect back such sum as they shall be compelled to pay on this judgment. 1537 1538

5316. Louis Canto vs. Matilda Canto. This day came the parties to this cause, the plaintiff by his attorney and defendant by attorney appointed by the Court, and both parties announced ready for trial, and no Jury being demanded the matters of fact as well as of law were submitted to the Court, and the Court having heard the evidence ordered that a Statement of the facts in this case be and are hereby filed with the papers in this cause, It is further ordered adjudged and decreed that the bonds of matrimony heretofore existing between the plaintiff and defendant be and the same are hereby dissolved, and that the said plaintiff be entitled to a divorce from said bonds. It is further ordered that the Plaintiff Louis Canto pay all costs in this behalf expended and $25. taxed as costs for compensation for the services of Atty Church for all which Execution may issue. 5418

Thereupon Court adjourned until Monday the 15th March 1880

March 15th 1880.

Court met pursuant to adjournment, and there being no business transacted Court adjourned till Thursday the 18th inst 9 oclock Am.

March 18th 1880

Court met pursuant to adjournment Present same as on first day, Whereupon the following proceedings were had: Viz:

5406 The State of Texas. vs J. C. DeGress. And now at this day come the parties to the above cause and with leave of the Court first had and obtained the State filed an amended original information on this the 18th day of March 1880. and thereupon the defendant moved to strike said amended original information from the files, and the Court after hearing the motion overruled and refused the same, and to which ruling the defendant by Counsel then excepted and thereupon the defendant on said 18th day of March 1880 filed his general and special demurrer and Exceptions to the said amended original information, and thereupon the said general and special Exceptions 4880

March 18th 1880.

Came on to be heard & upon argument it appearing to the Court that the law is with the defendant, it is ordered and adjudged that said demurrer and ex=ceptions be sustained and that the information be dismissed and the said State of Texas take nothing by its suit and that said defendant go hence without day, and that the said defendant recover from the relators in this case all costs of this suit for which Execution may issue against them, and thereupon the State in open Court excepted and gave notice of Appeal to our Supreme Court. Which is granted in lieu of the law.

5378 Robert F. Campbell vs. George Newton. March 12th 1880. Continued by agreement.

5384. Eckhahn Dress & Co vs. J. Weinberger & Co. February 6th 1880. — This case having on this 6th day of February 1880 been called for trial, came the parties by their attorneys and announced ready for trial. Thereupon a jury of twelve good and lawful men of Travis County was duly selected impannelled and sworn according to law, heard the pleadings evidence argument of counsel and the charge of the Court and retired for delib=eration. And thereafter on the 9th day of February 1880 said jury reported to the Court that they could not agree upon a verdict & that their was no prospect for their agreeing. It was therefore ordered by the Court that said case be withdrawn from this jury & a mistrial entered hereon.

5418. William L. Relfe Superintendent of the Insurance Department of the State of Missouri vs. A. J. Roberts et al. The plaintiff having paid the costs of this suit, it was this day ordered upon the motion of plaintiffs Atty, that this case be & the same is hereby dismissed. Thereupon Court adjourned till Monday morning 22d March 1880.

Monday March 22d 1880

Court met pursuant to adjournment. And there being no civil business tran=acted of this date. nor the 23d — 24th — 25th Court adjourned until the 26th inst.

March 26th 1880

Court met pursuant to adjournment. Present same as on first day. Where=upon the following proceedings were had. Viz:

4886 Margaret C. Boatner, vs Geo. W. Glascock, Sarah J. Hall, P. W. Hall, Annie E. Allen & W. C. Allen, Albert A. Glascock, Andrew J. Glascock, Elizabeth J. Talbot & Samp Talbot. On this day came the parties in the above entitled cause by their attorneys and consent to the following decree,

1st It is ordered and adjudged and decreed by the Court that defendants recover judgment against the Plaintiff, on all the issues presented in the pleadings

2nd that the Plaintiff Margaret C. Boatner is entitled to no interest in the estate

March 26th 1880

of Jno. W. Glascock decd and that she take nothing by this suit. 3d That the parties have leave to Withdraw all the papers filed by them in this cause except the original Petition of the Plaintiff. And that the officers have judgment against the defts for costs not to exceed fifty dollars, besides the $21.35 timely paid dollars previously paid by the Deft Jno. W. Glascock. Shuks and Sneed for Plff.

Terrell and Walker atty for Defts.

5346 (Exec. docket No 5 page 72) Omaha Iron Works vs Jno T. Jackson. This day came the Plaintiff by his attorney and the defendant having failed to appear and answer in this behalf but Wholly made default. Wherefore the said plaintiff ought to recover against the said defendant his damages in the premises, and it appearing to the court that the cause of action is liquidated and proved by an instrument in Writing, it is ordered that the Clerk do assess the damages sustained by said Plaintiff, and the Clerk now here having assessed the damages aforesaid at the sum of $842.55: it is therefore considered by the Court that said Plaintiff do have and recover of said defendant the sum of $842.55: with interest thereon at the rate of ten per cent per annum together with his costs in this behalf expended for which Execution may issue.

Sc. f. No 47 crim case No 5324 The State of Texas vs. William Poe et als. January 21st 1880. The writs of Scire facias heretofore issued in this case, being insufficient, it was this day ordered that the same be and they are hereby quashed, and that the clerk of this court issue alias writs of Scire facias, summoning the sureties in this case to appear at the next term of this court to be held in and for the County of Travis, at the court house thereof, in the City of Austin, on the first Monday in May A.D. 1880 to show cause if any they may have, why said judgment nisi heretofore entered against them on the 10th day of November 1879 be not made final and absolute.

Sc f No 48 Crim case No 5326 The State of Texas vs Wm Poe et al. January 21st 1880. The writs of Scire Facias heretofore issued in this case, being insufficient it was this day ordered that the same be and they are hereby quashed, and that the clerk of this Court issue alias writs of Scire facias summoning the sureties in this case to appear at the next term of this court to be held in and for the County of Travis at the court house thereof in the city of Austin on the first Monday in May A.D. 1880. to show cause if any they may have why said judgment nisi heretofore entered against them on the 10th day of November 1879. be not made final and absolute.

Sc f No 49. Crim No 5365. The State of Texas vs William Poe et als. January 21st 1880. The writs of Scire facias heretofore issued in this cause being insufficient it was this day ordered that the same be and they are hereby quashed, and that the clerk of this court issue alias writs of scire facias summoning the sureties in this case to appear at the next term of this court to be held in and for the County of Travis at the court house thereof in the city of Austin on the first Monday in May A.D. 1880 to show cause if any they may have why the judgment nisi heretofore entered against them on the 10th day of November 1879. be not made final and absolute.

March 26th 1880.

Sc fa no 56 (Crim No 5901.) The State of Texas vs L. L. Ferrary, January 21st 1880. The writs of Scire Facias heretofore issued in this case being insufficient it was this day ordered that the same be and they are hereby quashed, and that the Clerk of this Court issue alias writs of Scire Facias summoning the parties in this case to appear at the next term of this Court to be held in and for the County of Travis at the Court House thereof in the City of Austin on the first Monday in May A.D. 1880. to show cause if any they may have why said judgment Nisi heretofore entered against them on the 10th day of December 1879 be not made final and absolute.

Sc fa no 57. (Crim No 6005.) The State of Texas vs John A. Huling et al. January 21st 1880. The writs of Scire Facias heretofore issued in this case being insufficient it was this day ordered that the same be and they are hereby quashed, and that the Clerk of this Court issue alias writs of Scire Facias summoning the parties in this case to appear at the next term of this Court to be held in and for the County of Travis at the Court House thereof in the City of Austin on the first Monday in May A.D. 1880 to show cause if any they may have why said judgment Nisi heretofore entered against them on the 13th day of December 1879 be not made final and absolute.

Sc fa No 58 (Crim No 6006) The State of Texas vs John A. Huling et al. January 21st 1880. The writs of Scire Facias heretofore issued in this case being insufficient it was this day ordered that the same be and they are hereby quashed, and that the Clerk of this court issue alias writs of Scire Facias summoning the parties in this case to appear at the next term of this Court to be held in and for the County of Travis at the Court House thereof in the city of Austin on the first Monday in May A.D. 1880. to show cause if any they may have why said judgment Nisi heretofore entered against them on the 15th day of December 1879. be not made final and absolute.

Sc fa No 59. (Crim No 6007.) The State of Texas vs John A. Huling et al. January 21st 1880. The writs of Scire Facias heretofore issued in this case being insufficient it was this day ordered that the same be and they are hereby quashed, and that the Clerk of this court issue alias writs of Scire Facias summoning the parties in this case to appear at the next term of this Court to be held in and for the County of Travis at the Court House thereof in the city of Austin on the first Monday in May A.D. 1880. to show cause if any they may have why said judgment Nisi heretofore entered against them on the 15th day of December 1879. be not made final and absolute.

Sc fa No 60. (Crim No 6010) The State of Texas vs John A. Huling et al. January 21st 1880. The writs of Scire Facias heretofore issued in this cause being insufficient it was this day ordered that the same be and are hereby quashed, and that the Clerk of this Court issue alias Writs of Scire Facias, summoning the parties in this case to appear at the next term of this court to be held in and for the County of Travis at the Court House thereof in the city of Austin on the first Monday in May A.D. 1880. to show cause if any they may have why said judgment Nisi heretofore entered against them on the 15th day of December 1879. be not made final and absolute.

March 26th 1880.

On this 23rd day of March 1880 came into open Court John W. Brown, M. Butler and D. S. Mathews heretofore appointed as jury commissioners for the present term of this Court, were by the Court duly empannelled and sworn as jury commissioners, instructed as to their duties and ordered to select a venire for the Grand Jury and seven veniries of petit juries to serve during the next May term of this Court.

On this the 26th day of March 1880 came into open Court the jury commissioners empannelled at a former day of this term of Court, and delivered to the Court the venires prepared by them for the Grand Jury & seven weeks petit juries for the next May term of this Court, said jury commissioners were thereupon discharged, and the Court administered to the Clerk of this Court and to the clerk of the County Court of this County the oath required by law as to the safe keeping of such jury lists.

Thereupon Court adjourned till tomorrow morning 9 oclock.

March 27th 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had. viz:

5311. James. P. Randle, Mattie. A. Mahon, W. T. Mahon her husband, S. E. Ammonett and A. A. Ammonett her husband... Vs. James. M. Morphis, Now on this 27th day of March 1880. the above entitled cause being called for trial came all the parties announcing and announcing themselves ready and Waiving a jury the cause proceeds to trial before the Court. Whereupon the Court after hearing the evidence and arguments of counsel rendered the following decree, The Court doth find that the title to the premises in controversy to wit: lot No (3) three of Block number one hundred and twenty of the city of Austin in the County of Travis and State of Texas, being the same described in the petition of plaintiffs is fully vested in plaintiffs James. P. Randle Mattie A Mahon and S. E. Ammonette in fee Simple and that they are entitled to the possession thereof. The Court doth therefore adjudge and decree that Plaintiffs James P. Randle, Mattie A Mahon and S. E. Ammonette recover of defendant James. M. Morphis the possession of said premises and that the Writ of possession do issue therefor, and that the plaintiffs recover of the defendant their costs and have execution therefor,

Thereupon Court adjourned till Monday morning 9 oclock,

March 29th to 31st 1880.

Court met according to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5021 J. B. Wygall et al. vs The Treasurer of the State of Texas. This the 29th day of March A. D. 1880. this cause having been called for trial came the plaintiffs in said cause by their Attorneys and the State of Texas and the present Treasurer of the

March 29th to 31st 1880.

State of Texas by her Attorney Genl Hon George McCormick and this cause on to be heard the demurrer of the plaintiffs in said cause to the plea in bar of the defendant filed therein and argument of counsel thereon being heard, it is the opinion of the Court that the law is for the plaintiffs, It is thereupon considered by the Court that the said demurrer be sustained, and afterwards coming on to be heard the demurrer of defendant to plaintiffs first supplemental petition filed herein and argument of counsel thereon being heard it is the opinion of the Court that the law is for the defendant, It is therefore considered by the Court that the said demurrer be sustained to that part of said first supplemental petition which charges fraud on the part of the State of Texas her officers and agents, and thereupon the said plaintiffs and the said defendants by their said Attorneys having announced themselves ready for trial, Waived a jury and submitted the matters in controversy as well of law as of fact to the Court, and the Court having heard the pleadings evidence and argument of counsel thereon and duly considered and fully understood the same it is therefore considered by the Court, on this thirty first day of March A. D. 1880. ordered, adjudged and decreed that the said plaintiffs. Joseph. B. Wygal. Thomas B. Wygal, James D. Wygal. Sarah W. Hagerman. Wife of William G. Hagerman, John W. Vermillion and Corila D. Hooper Wife of Henry T. Hooper, children of Susan Vermillion deceased are the sole and legal heirs of John C. Clark deceased of the County of Wharton and State of Texas, and entitled to his estate in the following shares, that is to say, the said Joseph. Thomas. James, and Sarah each one share, and the said John W. and Corilla D. Vermillion to gether one share, and that the said plaintiffs do have and recover the property, funds and assets of the estate of the said John C. Clark deceased, and it appearing to the Court that in this cause the Supreme Court of the State of Texas has adjudicated that this suit is against the Treasurer of the State of Texas as an officer of the Government and not individually, and that it is substantially a suit against the State of Texas, which has been permitted to be brought under a law applicable to such a case, It is therefore considered ordered, adjudged and decreed that the said plaintiffs recover of the State of Texas and of the Treasurer of the State of Texas, all the property, funds and assets of the estate of the said John C. Clark deceased, and all the notes, deeds, mortgages and title papers belonging to the same which were deposited in the Treasury of the State of Texas on the 20th day of September A. D. 1866. by Dennis and Whitlow administrators of the estate of the said John C. Clark deceased, upon Warrant No 110. (one hundred and ten) of that date signed by the Comptroller of the State of Texas. W. L. Robards, and it is further ordered adjudged and decreed that the Comptroller of the State of Texas draw his Warrant upon the Treasurer for the said assets, funds, notes, deeds and title papers, and that the said Treasurer deliver the same to the plaintiffs or their attorneys of record in this cause, and all sums of money that have been collected by the officers

of the State or by their authority on any of the said assets notes and Mortgages shall be paid over and delivered to the said plaintiffs or their attorneys of record, and in all cases now pending in the District Courts of the State of Texas wherein said Notes and Mortgages by the State the said plaintiffs are authorized to control and collect, It is further ordered adjudged and decreed that the plaintiffs pay all costs of this suit for which Execution may issue, David Sheets, Sheriff etc.

No 11 (Exec. Book No 5. page 74.)

The State of Texas. vs J. J. Strickland et als. March 27th 1880. On this the 27th day of March 1880. the plaintiff and defendants being present by their attorneys, came on to be heard the defendants motion to set aside the judgment final rendered herein during the present term of this Court on the 20th day of January A. D. 1880, And it appearing to the Court that the principal defendant J. J. Strickland had been arrested since the rendition of said judgment and that he is now in the Travis County Jail awaiting his trial, it was ordered and decreed by the Court that the said judgment rendered herein on the 20th day of January A. D. 1880. be and the same is hereby set aside and vacated, And thereupon came on to be heard the defendants answer and motion to set aside the judgment nisi rendered in this cause: and the Court having duly considered said answer and motion and the evidence it was ordered adjudged and decreed by the Court that the said judgment nisi be and the same is hereby made final to the amount of ($40.00) Forty dollars, that therefore the State of Texas do have and recover of and from the said defendant J. J. Strickland as principal and of and from C. R. Cannon and Jacob Schneider as Sureties the said sum of Forty dollars and all costs of this proceeding for which Execution may issue against said parties, And it was further ordered and decreed that the balance of the aforesaid judgment nisi be and the same is hereby set aside and vacated,

Thereupon Court adjourned till tomorrow morning 9 o'clock,

April 1st 1880.

Court met pursuant to adjournment: Present Same as on first day whereupon the following proceedings were had viz:

5391. James Whitelaw vs Archibald L. Sandford et al Thomas B. Smith Executor and Trustee of David Smith dec'd, On this day April 1st A. D. 1880. the plaintiff had leave to file a trial amendment, and this case coming on for trial, and the plaintiff appearing by attorneys and the defendants having filed their answer herein and their answer being read and fully understood by the Court, and thereupon the Court having the pleadings, being the file and trial amendment and the answer and Exhibits and also hearing the evidence, and it appearing to the Court that the allegations in the petition (and amendments) are true and that the plaintiff is the equitable owner of the lands described in the petition and is entitled to recover as he prays It is therefore ordered adjudged and decreed by the Court that all right in trust and title in the said lands described in the petition to Wit:

April 1st 1880.

1. 1476. acres situated in Llano County Texas, being survey No 423. Sec 7. and patented in the name of H. B. Mitchell assignee of John Smion Abs. No 666. (old abs. No 409);
2. 1476 acres situated also in L. Llano County Texas being survey No 424 Sec 7 and patented in the name of H. B. Mitchell, abs No 503. (old abs. No 300.);
3. 640 acres situated in Frio County Texas, patented in the name of Sebastian Didrick Sen being survey No 164. Dist No. 2. Abs No 286. (old Abs No 162.);
4. 320. acres situated also in Frio County Texas, survey No 164. Dist No. 2. and patented in the name of Sebastian Didrick Jun. abs No 283. (old abs No 161);
5. 640 acres situated also in Frio County Texas, survey No 163. Dist No. 2. and patented in the name of Joseph Dedrick, abs No 284. (old abs No 160);
6. 1174 acres situated in Fayette Co Texas and being unsurveyed part of 1476 acres patented in the name of Saml. G. Powell. Cold abs No 224;
7. Also 2214 acres of land situated partly in Travis County and partly in Caldwell County Texas, being the North West half of the league of land, now abs No 481. (old abs No 214) patented in the name of Albert M. Levy.; - be and the same is hereby divested out of the estate of said David Smith deceased and out of the said defendants, and out of the heirs of said David Smith deceased and that the legal title to said described lands and all title thereto be and the same is hereby vested in the said plaintiff, and that he have full title in and to said lands as against the said defendants trustees of said estate and of the heirs of said David Smith dec'd: and that full title legal and equitable in and to said lands be vested in the said plaintiff: and the Court adjudges the costs herein against the said plaintiff for which after thirty days execution may issue.

464. Alfred Smith vs J. K. Warren alias Dick Warren. Upon motion of attorneys for both parties in this suit - leave was granted them by the Court of ten days to prepare and file a Statement of facts in this case from the adjournment of Court.

4795 John C. Duval et al. vs Robert Creighton. Upon motion of the attorneys for both parties in this cause, the Court grants them ten days time in which to prepare and file a Statement of facts in this case from the adjournment of Court.

5397. C. S. West vs G. M. Brazeal. Upon agreement of parties in this case this day filed and the costs having been paid by the defendants. it is ordered by the Court that this cause be dismissed.

Thereupon Court adjourned till tomorrow morning 9 o'clock.

April 2nd 1880.

Court met pursuant to adjournment, Present Same as on first day. Whereupon the following proceedings were had viz:

5021 J. B. Wygal vs The Treasurer of the State of Texas, on this day both parties to this suit being present by their attorneys, the defendants Motion for a new trial in this behalf was submitted to the Court and being fully understood and duly considered by the Court, said Motion was by the Court overruled. the defen-

April 2nd 1880.

dant by his Counsel the Attorney General thereupon excepted to such ruling and gave him in open Court notice of appeal to the Supreme Court, and it was further ordered by the Court upon motion of attorneys for both parties that they have ten days time granted them from the adjournment of Court to prepare and file a Statement of facts in this case. David Sheets

Special Judge.

Thereupon Court adjourned till tomorrow morning 9 o'clock.

April 3d 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

J 4608. Houston and Texas C. Ry Co. vs. Catherine A. Moran, And now on this third day of April A. D. 1880. came on to be heard the motion filed herein on the 2nd day of April 1880. by the plaintiff to have the judgment rendered in this cause on the 13th day of October A. D. 1879. corrected, Hancock West & North appearing for the plaintiff and C. T. Garland appearing for the defendant and the Court having heard said motion and duly considered the same, it is ordered and adjudged by the Court that said motion be overruled, to which ruling of the Court the plaintiff in open Court excepted.

5415 (Exec. docket No 15 page 88) Elizabeth Thompson vs J. H. Coll. et. Upon application of Plaintiffs Attorney it was this day ordered by the Court that this case be and is hereby dismissed, and that the plaintiff Elizabeth Thompson and surety on her cost bond. to wit: J. E. Phiffs pay all costs in this behalf expended for which execution may issue

5311. James. P. Randle et als. vs. J. M. Morphis. On this day both parties to this suit being present by their Attorneys the defendants motion for a new trial in this behalf was submitted to the Court and upon argument of counsel and fully duly considered and understood by the Court, Said motion was by the Court granted, and it was further ordered by the Court that the costs of this suit up to this date be taxed to the defendant,

5391. James Whitelaw vs Archibald L. Sanford and Thomas Buchanan Smith Upon motion of Plaintiffs Attorney in this case. leave was this day granted him by the Court to withdraw Plaintiffs title papers filed herein upon said party leaving with the Clerk certified copies of the papers withdrawn.

5370. W. C. McGowan Exr. &c. vs Susie. Hays. William H. Hays. Alice H. Hayes-flower. George H. Hayes flower. W. H. Hays and Alice Hays. And now on this day this cause being called. the plaintiff appeared by his Attorneys. Hancock West and North and the defendants by their Attorneys Walton Goree and Hill and announced themselves ready for trial and neither party demanding a jury the Court proceeded to hear the issues of fact as well as of law in said cause, and it appearing that the defendants Susie Hays Alice Hays and William Henry Hays (Nephew of William W. Hays deceased) are minors under the age of twenty one years. the Court appointed

April 3d 1880.

William H. Hayes (the son of Hilliard W. Hayes) Guardian ad litem of the defendant Susie Hayes, and appointed Jorge. D. Kelly sworn Guardian ad litem of the defendants Alice Hayes and William Henry Hayes. (nephew of Hilliard. W. Hayes, And thereupon the court having heard the pleadings of the plaintiff and those of the defendants proceeded to hear the evidence adduced by the parties in support of the issues presented by the pleadings and by the exceptions of the defendants to the reports and accounts filed in said cause by the plaintiff. And the court having heard the evidence and argument of counsel and being fully advised in the premises, it is considered adjudged and decreed by the Court that the final account and exhibit D filed by said plaintiff on the 13th day of December A. D. 1879. and the Supplemental final account and Supplemental exhibit D. filed by said plaintiff on the 3d day of April 1880. as Executor under the will of Mary. A. Hayes deceased, be and the same are hereby confirmed and ratified and adopted save and except in the following particulars to wit: 1. The item of $400. on the debit side of said original Exhibit D. being the interest on the Josephine Hayes $2000. fund is hereby increased and fixed at the sum of five hundred and fifty dollars instead of said $400. 2. The item of $636.25. on the credit side of said original Exhibit D. being the amount of charges against Josephine Hayes deceased, is hereby reduced and fixed at the sum of four hundred and forty one dollars and sixty five cents instead of said $636.25. 3. The item of $3223.32. on the credit side of said original Exhibit D. being the amount of charges for the support of the defendants is hereby reduced and fixed at the sum of Three thousand One hundred and ninety Eight dollars and thirty two cents instead of said sum $3223.32, 4. The item of $500. on the credit side of said original Exhibit D. being the amount of attorneys fee is hereby reduced and fixed at the sum of one hundred and fifty dollars instead of said $500. So as to make the debit side of said exhibit D. amount to $9267.15/100 and the credit side amount to $7821 24/100 leaving a balance chargeable to said plaintiff on said original exhibit D. of $1445.91. and not changing said supplemental exhibit D.. Wherefore it is ordered considered and decreed by the Court that said W. C. McGowan as Executor of the estate of said Mary. A. Hayes, deceased, is chargable with and is indebted as the Executor of said Mary. A. Hayes deceased in the sum of One thousand four hundred and forty five dollars and ninety one cents,

And thereupon it appeared further to the Court that the property of the estate of said Mary. A. Hayes, deceased, subject to partition and distribution is as follows to-wit:- 1 Cash in hands of Executor $1445. 91. 2. 850. acres of land in Liberty County Texas. 3. 216. acres of land in Milam County Texas, 4. Lot No 4. in Hord's addition to the city of Austin Travis County Texas. and improvements thereon. 5. Lot of household and Kitchen furniture, Sewing Machine. Piano, And thereupon it further appeared. and it is considered and adjudged by the Court that said Sum of $1445. 91. heretofore adjudged to be in the hands of said W. C. McGowan Executor &c. and subject

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to distribution is the residue of the $2000. dollar fund created by the will of Hilliard W. Hays deceased for the support of Josephine Hays now deceased and that the defendants William H. Hays (the son of Hilliard W. Hays deceased,) William H. Hays (the nephew of Hilliard W. Hays deceased.) Susie Hays. Alice Hays and Kate H. Hefly Glover are entitled each to one fifth share thereof, and whereas it further appears that said W. H. Hays (the son of said Hilliard W. Hays deceased) is indebted to the estate of said Mary A Hays deceased, in a larger sum of money than his share in said $1445.91/100 the said W. H. Hays (son of said Hilliard W. Hays.) consenting thereto, it is considered and decreed by the Court that the share of said W. H. Hays (son of said Hilliard W. Hays) in said sum shall be and is hereby applied as a credit pro tanto in the indebtedness of said W. H. Hays to the estate of said Mary A. Hays, deceased, It is further considered adjudged and decreed by the Court that under the Will of the said Hilliard W. Hays deceased, and under the will of said Mary A. Hays deceased, (the wife of said Hilliard W. Hays deceased,) the defendants W. H. Hays (the nephew of said Hilliard W. Hays.) Susie Hays. Alice Hays and Kate H. Hefly Glover are entitled to equal shares in the property above set forth as subject to distribution and that the defendant W. H. Hays. (son of said Hilliard W. Hays deceased) has no interest in the same. It is further considered adjudged and decreed by the Court that said property above set forth be divided and partitioned share and share alike between the defendants W. H. Hays (nephew of said Hilliard W. Hays) Susie Hays Alice Hays and Kate Hefly Glover, and that W. S. Hotchkiss, W. Von Rosenberg and John P. Costa, all of Travis County Texas, be and they are hereby appointed commissioners to make and carry out said partition and to report their action in the premises to this Court at the next term thereof and in making said division said Commissioners shall reserve from said sum of $1445.91/100, a sufficient amount to pay and discharge all the costs of this suit. It is further considered, adjudged and decreed that said W. C. McGowan Executor of the estate of said Mary A. Hays deceased, upon the payment by him of the said sum of $1445.91/100 in accordance with the report of said Commissioners upon the same being filed and confirmed, shall be discharged from all further liability, responsibility and duty as Executor of the estate of said Mary A. Hays deceased, and shall cease to act as such. It is further considered adjudged and decreed that all the costs of this suit be paid by the estate of said Mary A. Hays, deceased out of said sum of $1445. 9 1/100. Court adjourned until Monday morning 9 o'ck A. M. April 5th 1880

5194 Andrew Neal vs. Western Union Telegr. Company. Upon the application of the attorneys of both parties in this case, it was this day ordered that the said parties have time to file a statement of facts in this case until

Sc. J. 35. cr. p. 5586

the eight day of this month.

The State of Texas vs. Samuel Peacock et als. By agreement and upon application of the Attorneys of ~~the~~ both parties in this case, it was ordered that the continuance heretofore entered in this case, be and the same is hereby set asside and vacated, and thereupon Messrs Wilson & Gaines the attorneys for the defendants in this case withdrew with leave of the Court, their answer and pleadings heretofore filed by them in this case, and then the said Attorneys Wilson & Gaines notified the Court that they have withdrawn as attorneys in this case and have no further connection therewith.

Sc. J. 37 cr. M. 5405.

The State of Texas vs. Samuel Peacock et als. By agreement and upon application of the Attorneys of both parties in this case, it was ordered by the Court that the judgment final heretofore during the present term of this Court entered & rendered in this cause, be and the same is hereby set asside and vacated and held for naught, and thereupon Messrs Wilson and Gaines the attorneys for the defendants herein withdrew by leave of the Court their answer and pleadings heretofore by them filed in this cause, and then the said Attorneys notified the Court that they have withdrawn as attorneys from this case and that they have no further connection therewith.

It was this day ordered that all civil cases not otherwise disposed of, be and the same are hereby continued until the next term of this Court.

The foregoing entries having been read in open Court examined found correct and approved. it is now ordered that the same stand as part of the minutes of the present term of this Court, and further ordered that this Court do now stand adjourned until the next regular term thereof. April 5th 1880.

E B Turner

Judge 16th Judicial District of the State of Texas.

May 3rd 1880.

The State of Texas
County of Travis

Be it remembered that at the term of the Hon. District Court of Travis County, begun and held at the Court house thereof in the City of Austin on the 3rd day of May A.D. 1880, that being the first Monday of said month and the time fixed by law for the meeting of said Court, the Hon. C. B. Turner Judge of said Court presiding, and C Hallmann clerk of said Court and Dennis Corbin, Sheriff of said County by his Deputy Jno. P. Kirk being present the following proceedings were had.

✓ 3720 George W. Paschal vs. Central Rail Road Company and City of Austin. Continued.

✓ 4007 M. D. Miller vs. F. M. Randell and Emanuel Nolda. Continued for service on Nolda.

✓ 5273. Susan A. Partson vs. John M. Partson. Upon motion of plff's attorney it was ordered that Plff have leave to file first amended original petition.

✓ 5439 Bettie Browning Pope et al vs. Elebert Bacon et al. It was this day ordered by the Court that Elebert Bacon be and he is hereby appointed guardian at litem for Henry P. Bacon a minor defendant in this case.

The Court called over the docket except appearance cases, for the purpose of ascertaining in which cases Jury trials were demanded.

Court adjourned until to morrow morning 9 o'clk.

May 4th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

✓ 4626 S. Jacobs & Burkhardt vs F. Claus & Co. Continued for service.

✓ 4815 Charles Krahn vs. Thomas F. Purnell. Continued by agreement.

✓ 4911 The State of Texas vs. B. Brown et al. Continued generally.

✓ 5124 S. V. Baker vs Nicholas Jarvlomen. Continued for service.

✓ 5246. G. T. Garland vs. G. W. Garland. Continued for service.

✓ 5435. J. H. Pope vs. Jane M Peckatt et al. Upon motion of Plff's Atty it was ordered that this case be dismissed, and that the plaintiff J. H Pope pay all costs of this proceeding, and that execution therefor may issue against said Plff.

✓ 5438 J. H. Pope vs. Jno P. Kirk. Upon motion of Plff Atty, it was ordered that this case be dismissed, and that the plaintiff J H Pope pay all costs of this proceeding and that execution may issue therefore against said Plff.

Court adjourned until to morrow morning 9 o'clk

May 5th 1885.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had:

5165. Sheeks & Sneed vs. R.R. Booth & W.L. Booth. Continued generally.

G.A. Riedell vs. Travis County. This case having this day been regularly called for trial, the

5382 A. Dyckess for the use of Mc Darnell & Co vs East Texas Fire Insurance Co. Both parties to this cause being this day present by their attorneys came on to be heard the plaintiffs motion to place this case on the jury docket, and the affidavit made in support of said motion. And the Court after having heard the argument of counsels, granted said motion and ordered that this case be placed on the jury docket and stand as a jury trial case, to which ruling the defendant by counsel then & there excepted.

5151. G. A. Riedell vs Travis County. This case having this day been regularly called for trial, the plaintiff did not appear but wholly made default and failed to prosecute this case. It was therefore ordered by the Court upon the motion of Defendants Attorney, that this case be and it is hereby dismissed, and that the said plaintiff G. A. Riedell pay all costs of this proceeding for which execution may issue.

5247 Ruth Ann Stewart & husband vs. J. S. Watson. Continued for service.

5251. William Bray vs. T. B. Tullis et als. Continued generally.

5267 Laura P. Pernond vs. Charles J. Pernond. Continued.

5272 M. B. Davis vs. Letitia L. Davis. Continued.

5273. Susan A. Hartzan vs. John M. Hartzan. Continued.

5289. Maria M. Spence vs. M. Boerner et als. It was this day ordered that this case be dismissed for want of prosecution and that the plaintiff Maria M. Spence pay all costs of this proceeding for which execution may issue against her.

5292 James F. Johnson vs. B. W. Long et als. Continued generally.

5313 Helena Pennenger vs. John Pennenger. Continued generally.

5342 Herman Steinhoff vs. Mary Steinhoff. Dismissed by plaintiff, and ordered by the Court that said plaintiff pay all costs of this proceeding for which execution may issue.

5345. D. L. Ranlett & Co vs. Brueggerhoff and Seidenheimer. This day coming on to be heard the petition of D. L. Ranlett & Co plaintiffs in the above entitled cause to remove said cause into the Circuit Court of the United States for the Western District of Texas, at Austin and it appearing to the Court that a good and sufficient bond in the sum of two hundred and fifty dollars accompanies said petition it is ordered that said

May 5th 1881.

bond be approved and that the prayer of said petition be in all things granted, and the clerk is directed to make a copy of the record in said cause to be filed in said Circuit Court of the United States. The defendant William Bremeggerhoff by attorneys opposed the motion to remove on the ground that the case as to him has been at issue for two terms past and that therefore the motion to remove comes too late - which objection was by the Court overruled to which ruling said defendant excepted and asked that his exception be noted of record which is accordingly done.

✓ 5371. J. E. Early vs. B. C. Wells. Continued for service.

✓ 5378 Robert F. Campbell vs. George Newton. It was this day ordered that plaintiff have leave to file his first supplemental petition and that P. D. Sawyer have leave to make himself a partie defendant to this cause.

✓ 5382 A. Dykes for the use of McDarrell & Co. vs East Texas Fire Insurance Company. It was ordered that Plaintiff have leave to file a first supplemental petition.

✓ 5383 Beckey Pickett vs. Lee Pickett. Continued for service.

✓ 5386. Ed Christian vs. A. W. Caldwell et als. Continued for service.

✓ 5393 Emma Schroeder vs. John Schroeder. Continued by operation of law.

Court adjourned until to morrow morning 9 o'clock.

May 6th 1881.

Court met according to adjournment. Present same as first day. And Court adjourned until to morrow morning 9 o'clk.

May 7th 1881.

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

✓ 5411 Louisa Horst vs T. Lo. and W. A. Pitts. On this day came the plaintiff Louisa Horst by her attorney and the said defendants William A. Pitts and T. Lo. Pitts failed to appear and answer in this behalf, but wholly made default although both were personally served with citation according to law, and it appearing to the court that the said plaintiff Louisa Horst has fully established her title to lot number twenty-six block number Thirty five in the subdivision of Division D. of the out lots of the city of Austin Travis County Texas, usually known as Louis Horsts addition to the city of Austin and that she is entitled to a writ of possession therefor, and it further appearing to the Court that the bond for title to said property executed by Louis Horst declared, in favor of the said defendant T. Lo. Pitts on the day of has been forfeited, and never been complied

Exec. dock N° 5 page 88.

May 7th 1880.

with and that the same is null and void, and that the same is a cloud upon the title of the said plaintiff to said property. It is therefore considered ordered adjudged and decreed by the court that the said plaintiff Louisa Horst do have and recover of the said defendants W. A. Pitts and the said T. C. Pitts the said lot of land aforesaid and for which she may have her writ of possession; and it is further considered ordered and adjudged and decreed by the Court that the said bond for title aforesaid is hereby cancelled set aside and held for naught and the same is declared to be null and void; and all cloud cast upon the title of said Plaintiffs to said land by said bond for title is hereby removed, and it is further considered ordered adjudged and decreed by the court that the title of plaintiff to said land is hereby quieted and confirmed; and that plaintiff recover all costs in this behalf expended for which she may have her execution

(3412 ✓ Deed book 5 page 88.) Mary & James Cavanaugh vs William A. Pitts & T. C. Pitts, On this day came the plaintiffs Mary Cavanaugh and James Cavanaugh her husband by their attorney, and the said defendants William A. Pitts and T. C. Pitts failed to appear and answer in this behalf but wholly made default, although both were personally served with citation according to law, and it appearing to the Court that the said plaintiff Mary Cavanaugh had fully established her title to lot number nineteen in Block Number Thirty-five in the subdivision of Division D. of the out lots of the City of Austin Travis County Texas, usually known as Louis Horsts addition to the city of Austin, and to the lot of ground adjoining the lot above mentioned and lying on the South side of same and extending from the entire southern boundary of same to the road or Block south of this lot running East and West and which said lot contains forty six and one half feet by one hundred and twenty six feet, the same being her separate property, and that she the said Mary Cavanaugh is entitled to a writ of possession therefor, and it further appearing to the Court that the bond for title to said lot number nineteen in Block number Thirty five above mentioned executed by Louis Horst, deceased, in favor of said defendant T. C. Pitts on the day of A D was forfeited and has never been complied with and that the same is null and void, and that the same is a cloud upon the title of the said Mary Cavanaugh to the said lot number nineteen aforesaid; It is therefore considered ordered and adjudged and decreed by the Court that the said Plaintiff Mary Cavanaugh do have and recover of the said defendants William A. Pitts and T. C. Pitts both of said lots of land herein before set out and described, and that she have her writ of possession therefor; and it is further considered ordered adjudged and decreed by the Court that the said bond for title aforesaid is hereby cancelled, set aside and held for naught and the same is declared to be null and void; and all cloud cast upon the title of said plaintiff Mary Cavanaugh to said land above mentioned by said bond for title aforesaid, is hereby removed; and the title of said plaintiff Mary Cavanaugh to both of said lots of land herein above set out and described is hereby quieted and confirmed, and that said plaintiffs herein recover of and from the said defendants all costs in this behalf expended for which they may have their execution

May 7th 1880

5330 The State of Texas vs Henry Hamilton et al, This day came the plaintiff by attorney
(Exec. docket 5 page 75) and the defendants Henry Hamilton A. Mansfield, F. L. Hicks. and M. C. Click after
being duly cited as required by law having failed to appear and answer in this behalf
but wholly made default. Wherefor the plaintiff ought to recover against the said defen-
dants his damages by occasion of the premises. It is therefore ordered by the court
that the plaintiff have judgment by default against the said defendants, and that
the plaintiff have a writ of inquiry to be executed in the future, afterwards to wit;
on the same day came on to be heard the above entitled cause upon the writ
of inquiry awarded in this cause on this day, and thereupon a jury not being
demanded by either party in this cause, plaintiff submitted the evidence to the court
and it appearing to the Court from the evidence submitted by plaintiff that there
is now due plaintiff from the said defendants the sum of eleven hundred and nineteen
and 15/100 ($1119 15) dollars after allowing defendants a credit for the six hundred
dollars paid by Henry Hamilton in this cause to the Comptroller of Public accounts
during the month of October 1879. and after charging the defendants with all interest
due up to this date. It is therefore considered, ordered adjudged and decreed by
the Court that the plaintiff the State of Texas, do have and recover of and from
the said defendants Henry Hamilton, A. Mansfield, F. L. Hicks and M. C. Click
the sum of Eleven hundred and nineteen and 15/100 ($1119 15) dollars with interest
thereon from this date until paid at the rate of eight per cent per annum, and for all
costs in this behalf expended, for all of which Execution may issue. It further appearing
that the defendants A. Mansfield, F. L. Hicks and M. C. Click are sureties of
the defendant Henry Hamilton it is therefore ordered by the court that the said
sureties have judgment over against said Hamilton for whatever amount they
may pay upon this judgment in this cause.

Received, June 10th 1880, on the within judgment from Henry Hamilton Six hundred and Thirty Seven 37 85/100 ($11237,35) Dollars the same being in full amount of the within judgment principal & interest & costs. The State of Texas vs Henry Hamilton et al

5450 J. C. Higgins & C. B. Garwood vs F. Dohme. It appearing to the court from
(Exec. docket No 5 page 79) an inspection of the record herein, that the defendant F. Dohme has answered
that a judgment and decree may be entered herein as prayed for by plaintiffs. It is
therefore considered ordered adjudged and decreed by the Court that the plaintiffs
J. C. Higgins and C. B. Garwood do have and recover of the defendant F. Dohme
the sum of $100. as sued for herein with eight per cent interest on said amount from
February 12th 1877. until paid and for all costs and that Execution may issue for
the same, and it appearing that the said sum of ($100.) one hundred dollars and
interest sued for is a balance of purchase money due upon the following described
property to wit: Lots Six and Seven (6 & 7) Grimes subdivision of out Lot No
Forty five (45) in Division D. of the city of Austin in Travis county Texas,
it is further ordered that this judgment operate as a Vendors lien upon said
described property, it is further ordered that the said lien be foreclosed and that
the said property be sold to satisfy said debt interest and costs of this suit.
Further ordered that Execution be stayed until July 1st 1880.

This day Capt Hully plaintiff in this cause dept, on 1880 for Capt Stewart atty for Plff

5418. The State of Texas, vs Frank Rugeley et al, on this the 7th day of May A. D. 1880.

May 7th 1880,

came the State of Texas plaintiff by her attorneys, and the defendants Frank Rugeley and J. Baer after being duly cited in the manner provided by law having failed to appear and answer in this behalf but wholly made default, Wherefore the said plaintiff, the State of Texas ought to recover against the said defendants Frank Rugeley and J. Baer her damages by occasion of the premises, and no jury having been demanded, and the pleadings evidence and argument of counsel having been heard and fully understood by the Court it is considered ordered adjudged and decreed by the Court that the said plaintiff the State of Texas do have and recover of the said defendants Frank Rugeley and J. Baer the sum of one thousand eight hundred and sixty dollars ($1860.00) together with all costs of suit for which execution may issue, And it further appearing to the Court that the said defendant Frank Rugeley is the principal in the official bond sued on in this case and that the said defendant J. Baer is a surety on said bond and as such surety is entitled to the benefit of the Statutes in such cases made and provided it is therefore further ordered adjudged and decreed by the Court that the Sheriff levy the execution issued by virtue of this judgment first upon the property of the said defendant Frank Rugeley subject to execution and situated in the County of Travis before a levy shall be made upon the property of the said J. Baer, but if the said defendant Frank Rugeley has no property in said County of Travis subject to execution then the levy of execution to be made upon so much of the property of said J. Baer as may be necessary to make the amount of this judgment interest and costs, And it is further ordered adjudged and decreed by the Court that in said J. Baer shall make any payment which is applied on this judgment by reason of his suretyship on said official bond this judgment shall not be discharged by such payment but shall remain in full force and be prosecuted to execution for the use of said J. Baer surety to the amount of such payment, and it further appearing to the Court that on the 9th day of September A.D. 1879 the said plaintiff brought suit in this court against the said Frank Rugeley and one C. Frang one John Matthews and the said J. Baer on the same bond and on the same account and cause of action upon which this suit is based, said suit being No 5325 on the docket of said Court and styled the State of Texas vs Frank Rugeley et al, and that on the 12th day of January A.D. 1880, before this Court then in session it appearing that the said J. Baer had not been served with citation and had not filed any answer in said suit a dismissance as to him was ordered thereon and final judgment was rendered in said suit in favor of said plaintiff against the said Frank Rugeley and C. Frang for the sum of one thousand eight hundred and sixty dollars besides costs of suit and against the said John Matthews for the sum of one thousand five hundred dollars the amount for which he obligated himself on said bond besides costs of suit and that said judgment still remains in full force and unsatisfied, it is therefore further ordered adjudged and decreed by the Court that any payment made on this judgment shall operate as a payment on the said judgment rendered on the 12th day of January A.D. 1880 in said suit No 5325 to the end of such payment, and in case any payment is made on the last mentioned judgment it shall operate as a payment on this judgment to the amount of such

Received May 31, 1880 of D. Baer one thousand and sixty two and 00/100 ($1062.00) which with amount in case of the State vs. Frank Rugeley et al, No 5325 and entered in this book on page 361, on March 31, 1880 from John Matthews satisfies the judgment in favor of the State of Texas plaintiff. The interest after judgment having been remitted by the Attorney General.

D. Baer
Attorney for Plaintiff

May 1st 1880

payment, It is further ordered that the officer of the Court have execution against said defendants for all costs

5323 James Lockwood vs. Frederick Jordan. Continued for service.

5374. Amelia Richta vs. Parey Silman. On the motion of defendant it appearing that the one question in this case is one of boundary, it is ordered by the Court that Dennis Corwin make a survey of the R. B. Moore 640 acre tract of land in Travis County, being the land sued for in this cause; and it is further ordered that said Corwin in making said survey run such lines of connecting surveys as may be necessary to locate on the ground said R. B. Moore survey with reference to the land claimed and occupied by defendant as a preemption and that said Corwin report his action to this Court as early as possible.

5403. (Exec. docket No 5, page 16) C. H. Merritt Administrator of the estate of F. C. Taylor dec'd vs Thomas F. Purnell. This case having this day been duly called for trial, came the plaintiff C. H. Merritt Adm'r by his attorney, but the defendant Thomas F. Purnell came not but wholly made default though duly cited according to law to appear and answer in this behalf at the present term of this Court, as appears by the Sheriffs return of the citation in this case. It was therefore ordered by the Court that the said plaintiff have judgment by default against said defendant, as prayed for in plaintiffs petition. And it appearing to the Court that the plaintiffs demand is liquidated and evidenced by a certain promissory note executed by Thomas F. Purnell on the 15th day of October A.D. 1875 for $1612.00 to the order of F. C. Taylor, on which note a credit of $500.00 is endorsed on the 22nd day of August A.D. 1876.— It was ordered adjudged and decreed by the Court that the plaintiff C. H. Merritt as administrator of the estate of F. C. Taylor dec'd do have and recover of and from the the said defendant Thomas F. Purnell the sum of ($1527 93/100) One thousand five hundred and twenty seven 93/100 dollars with interest thereon from date until paid at the rate of (8) eight per cent per annum and all costs of this proceeding for which execution may issue against said defendant.

5407. C. C. Bartholomew vs. Joel M. Bennett et al. Continued for service.

5413. Joel H. Stewart vs. Henry T. Cubanks et al. Continued by operation of law.

5420. Henry Brooks et als vs Jacob G. Upright et al. Continued for service.

5421. The State of Texas vs. J. W. Blakely et als. Continued for service.

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5724 The State of Texas vs. John T. Cordray et al. This cause is continued the citations having been served on all the defendants on the 28th day of April A.D. 1880 and that being too late to require them to answer at this term of this Court.

5725. Myra M. Campbell et al. vs. Aug. S. Krischke et al. Continued by operation of law.

5731. W. P. Carothers vs. R. W. Crawford. Continued for service.

5732. T. H. Miller vs. A. B. Hardin for & F. G. Morris. Upon motion of pltff's Attorney it was this day ordered, that this case be dismissed and further ordered that the plaintiff T. H. Miller pay all costs of this proceedings for which execution may issue.

5741. Rachel J. Harris et al. vs. Albert C. Jones et al. Continued for service.

5742 Mary A. Swisher et al vs. Jas. M. Swisher & Louis Maas. Continued for service.

5743. Mary A. Swisher et al. Jas M. Swisher & Lorraine. Continued for service.

5753 Mary A. Swisher et al. vs. Jas. M. Swisher & James Paig. Continued for service.

5757 Mary A. Swisher et al. Jas M. Swisher, James Paig, & George Craven. Continued for service.

5758. Mary A. Swisher et al. Jas M. Swisher & George Bright. Continued for service.

5764. Wilson Young vs Thos. McCormick, This day came the plaintiff by his Attorney and the said defendant though having accepted service having failed to appear and answer in this behalf but wholly made default. Wherefore the said Wilson Young ought to recover against the said Thomas McCormick his damages by occasion of the premises, and it appearing to the Court that the cause of action is liquidated and proved by an instrument in writing, it is ordered that the Clerk of this Court do assess the damages sustained by the said plaintiff, and the said Clerk now here having assessed the damages aforesaid at the sum of Twenty Five hundred and Ninety Two ($2592.00) dollars, It is therefore considered by the Court that the plaintiff do have and recover of the said defendant said sum of Twenty Five hundred and ninety two dollars principal and interest with interest thereon from this date at the rate of three per cent per annum together with his costs in this behalf expended, and it further appearing to the Court that the note sued on in this cause was executed on the 28th day of March 1876. to secure the payment of the purchase money of the following described tract of land, to wit: One hundred acres of land situated in the County of Travis and State of Texas on the waters of Big Walnut creek about nine miles North of the city of Austin. Beginning on the center of the bed of Walnut creek where the West Georgetown and Austin road crosses the same, Thence South parralel with said road to Ben Faulks line, Thence East with

5464.
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Gaviels north line to a rock mound the S. E corner of this survey from which a live oak ten inch in dia bears N 43° E. 34 varas. Thnce N 30° E. 834 varas to a corner in the bed of Walnut creek from which a Pecan 18 in dia bears N 26° E. 18 varas and an Elm 6 in dia bears S 26° West 18 inches. Thnce up said creek with its meanderings to the place of beginning, containing 100 acres, It is therefore ordered adjudged and decreed by the Court, that the vendors lien as it exists upon the 28th day of March 1876. upon the above described track of land be and the same is hereby foreclosed, and that the Clerk of this court do issue an order of sale directed to the Sheriff or any Constable of Travis County commanding him the said officer, to seize and sell the above described track of land as under execution, and that he apply the proceeds thereof to the payment and Satisfaction of the said sum of Twenty five hundred and ninety two dollars together with all interest that may be due thereon, and the costs of this suit; and if the said land shall sell for more than sufficient to pay off and satisfy said sums of money, that the said officer is hereby directed to pay over the excess to the defendant; but if said land shall not sell for enough to pay off and satisfy this judgment, then the clerk of this court is directed to issue execution for the balance remaining unpaid, and the plaintiff now appearing entered a remittitur for a part of the interest hereafter to become due and agrees that the said judgment and decree shall draw interest from this date at the rate of ten per cent per annum, and further agree that order of sale shall not issue, until twelve months from and after date hereof. ✓ 5 3/4

5461. Susan Goodloe and A. P. Goodloe vs. P. F. Sneed. This case having this day been called for trial came the plaintiffs by their attorneys but the defendant P. F. Sneed came not but wholly made default although he had accepted service in this case and indorsed such acceptance on the plaintiffs original petition in this case. And the plaintiffs thereupon claiming a judgment by default against said defendant, it was ordered that the plaintiffs recover from the defendant according to the prayer of their petition and that a writ of inquiry be awarded to ascertain the plaintiffs' damages.

5467 (Exec. docket No 5 page 78) Carroll T. Bennett vs. Jno W. Brown. This cause having this day been called for trial, came the plaintiff by his attorneys of record but the defendant came not but wholly made default. And it appearing to the Court that the said defendant has accepted service of the petition in this case and has waived the regular service by the Sheriff and has acknowledged the note sued on in this case to be a just debt against him and has consented that judgment thereon may be entered against him during this present term of Court - as indorsed by him on plaintiffs petition; - and the plaintiff now claiming judgment final by default, it was ordered, and ✓ 5-27

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judged and decreed by the Court that the plaintiff recover from the defendant according to the prayer of his petition, and the cause of action being liquidated and proved by an instrument in writing to wit: a promissory note executed by the defendant on the first day of January 1877 & due July 1st 1879 - it was ordered that the clerk of this Court do assess the damages sustained by the plaintiff; and the clerk now here having assessed the damages aforesaid at the sum of ($1345.25) thirteen hundred & forty five & 25/100 dollars, it was considered ordered adjudged and decreed by the Court that the plaintiff Carroll T. Bennett do have and recover of and from the said defendant Jno W. Brown the said sum of ($1345.25) thirteen hundred & forty five & 25/100 dollars with interest thereon from this day until paid at the rate of (10) ten per cent per annum and all costs of this proceeding, for all of which execution may issue against said Jno W. Brown. Thereupon Court adjourned till Monday morning May 10th 1880.

May 10th 1880

Court met pursuant to adjournment, Present same as on first day. Whereupon the following proceedings were had, Viz:

s 5 # 27. Hany Jones vs George M. Kure, On this the 10th day of May A D 1880. came the parties by their attorneys and then came on to be heard the defendants plea to the jurisdiction of the Court and the argument of Counsel thereon being heard it is the opinion of the Court that the law is for the plaintiff. It is therefore considered by the Court that the said plea to the jurisdiction be overruled, to which ruling of the Court the defendant excepted, And then came on to be heard the defendants general demurrer to the plaintiffs original petition and the argument of Counsel thereon being heard it is the opinion of the Court that the law is for the plaintiff it is therefore ordered by the Court that the said demurrer be overruled to which ruling of the Court the Court the defendant excepted, And it is ordered by the Court that the plaintiff Hany Jones do have and recover of the defendant Geo. M. Kure the costs of said plea to the jurisdiction and of said demurrer for which he may have his Execution and upon the application of defts attorney it was ordered that the defendant have leave to file first amended original answer.

s 273. Susan A. Harbon vs John M. Harbon, On this the 10th day of May A.D. 1880. this cause coming on to be heard in its regular order and both parties appearing by their attorneys and announced ready for trial, and no jury having been demanded the cause was submitted to the Court, and the Court after hearing the pleadings evidence and argument of counsel in the cause and duly considering the same it was adjudged the law and facts were with the plaintiff Whereupon it is ordered adjudged and decreed by the Court that the

May 10th 1880

bonds of matrimony heretofore existing between the Plaintiff Sara A Harlson and John M. Harlson the defendant in this cause as man and wife be and are hereby dissolved and that they be divorced by operation from the bonds of the same. It is further ordered adjudged and decreed that the plaintiff Susan A. Harlson do have the charge and the custody of the persons of the children the fruits of said marriage to wit William Harlson a boy and Bertie Harlson a girl and that the defendant be and is hereby prohibited from interfering with the plaintiff in the care and custody of the same. That a fee of Twenty five Dollars for David Shuler the attorney appointed by the Court to represent the defendant be taxed in the Bill of costs in this cause against plaintiff. That plaintiff pay all costs in this behalf expended for which executions may issue.

✓ 4953 Albert S. Roberts vs Crockett Harbert. Continued by agreement

✓ 5197 F. L. Britton vs The City of Austin. No counsel appearing this cause is continued.

✓ 5249. F. W. Chandler Admr. vs Loomis & Christian. No counsel appearing this cause is continued

✓ 5363. Bertram & Moeller vs Asa Geary & Co. - . Continued.

✓ 5389. M. C. Hamilton vs Jas. F. Ellison. No counsel appearing this cause is continued

✓ 5390 G. W. Sampson vs D. N. Stewart et al. no counsel appearing this cause is continued. ✓ 53

✓ 5395 L. Schoolherr vs Caroline Tomrud et al. Continued.

✓ 5399. R. A. Chadwick vs E. Raven, Continued. ✓ 54

✓ 5402. The State of Texas vs F. A. Dorn et al. No counsel for State appearing upon suggestion of deft this cause is continued,

✓ 5410 William Blackwood & William Frazier vs T. E. P. Wright & husband. no counsel appearing this cause is continued ✓ 54

✓ 5419 A. C. Stigl & Bro vs J. S. Sullivan & Co. Continued by operation of law.

✓ 5423. The State of Texas, vs L. C. Cromwell et al. no counsel appearing cause continued & continuance set aside, & Plff has leave to file a 1st Supplemental Petition, death of L. C. Cromwell and William Holmes suggested. and the case is dismissed as to them. and dismissed as to W. W. Winn because out of the jurisdiction and not served.

✓ 5429 The State of Texas vs L. L. Critchfield et al., Continued for service. ✓ 54

✓ 5435 G. W. Hicks vs Mary A Babbitt et al. Continued

✓ 5444. Mary A. Smisher vs James M. Smisher & G. B. Burke. The Defendant has leave to file 1st amended Original Answer,

✓ 5446 Mary A. Smisher vs James M. Smisher & John Kyle. Continued for Service.

✓ 5449 Thos. F. Kimpel et al vs Geo King. Continued by operation of Law.

✓ 5466 The State of Texas vs The International and Great Northern R. R Company

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the International R. R. Co. Not owned in time and cause continued until next term.

5468. A. Snider Pelligrino vs Foster Lydlow & Co. — Continued.

5469. Robert Courtaur vs Wm Smyth et al. Continued

5260. Wm Brush et als. vs. L. B. Vinyard et als. Ordered that Pff have leave to file first amended original petition.

5312 (See docket 5 page 79) Edward Wilkerson vs. Martha Wilkerson. This cause having this day been called for trial came the plaintiff by his attorneys and S. Posey Esq., who had been heretofore appointed by the Court to represent the defendant, appeared on behalf of said Deft, and no jury having been demanded, the matters of fact as well as of law were submitted to the Court. And the Court having heard all the pleadings and evidence, did order adjudge and decree that the divorce prayed for by plaintiff, be refused because the plaintiff had failed to make satisfactory proof of the marriage between plaintiff and defendant, and it was further ordered that the plaintiff Edward Wilkerson and the sureties on his cost bond viz: Posey Wilkison and R. Johnson pay all costs of this proceeding for which execution may issue against them in favor of the officers of this Court.

5349 The Austin Home Building & Loan Association vs Wm Kniveton & Mary Kniveton. It was ordered that plaintiff have leave to file first supplemental petition.

5409 William S. Relfe Superintendent of the Insurance Department of the State of Missouri vs. L. J. De Pree. It was ordered that the defendant have leave to file first amended original answer.

5423 The State of Texas vs. L. B. Correll et al. It was ordered that the defendants have leave to file a trial amendment.

Court adjourned until to morrow morning 9 o'clk.

May 11th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had to wit:

5463 Caroline Koch vs. Charles Koch. This cause having this day been called for trial came the plaintiff by her attorney, and the defendant by his attorney appointed by the Court and both parties announced ready for trial, and no jury having been demanded the cause was submitted to the Court: and the Court after hearing the pleadings evidence and argument of counsel in the cause and duly considering the same, it was adjudged the law and facts were with the plaintiff. Whereupon it is ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the plaintiff Caroline Koch and

May 11th 1880

defendant Charles Koch be and the same are hereby dissolved and set aside and she is hereby forever divorced from the said Charles Koch. It is further ordered by the Court that a fee of fifteen dollars for F. G. Morris the attorney appointed by the Court to represent the defendant be taxed in the bill of costs in this cause against plaintiff, and that plaintiff pay all costs in this behalf expended for which execution may issue.

5463. J. N. Carey vs. Augusta Carey. This day came the parties by their attorneys and this cause coming on to be heard the defendants demurrer to plaintiffs petition. and the argument of counsel thereon being heard it is the opinion of the Court that the law is for the defendant it is therefore ordered by the Court that said demurrer be sustained, and Plaintiff has leave to amend and cause passed to foot of the Jury docket.

5433. J. B. Parson vs W. B. Brush. And now on this day this cause being called the plaintiff announced ready for trial, and the defendant appearing in person and showing no cause for further delay and neither party demanding a jury the Court proceeded to try said cause, and the Court having heard the pleadings of the plaintiff and of the defendant the evidence and argument of counsel and having duly considered the same, it is considered adjudged and decreed by the Court that the plaintiff James. B. Parson do have and recover of and from the defendant William. B. Brush the sum of Two thousand and two 88/100 Dollars ($2002.88) in Silver coin of the United States besides all costs of suit and fifteen per cent interest per annum on this judgment payable annually from the date hereof for all of which execution may issue. Thereupon Court adjourned till tomorrow morning 9 o'clock.

March 21/1881 Judgment satisfied for this judgment of $2002.88 in case No 5433. of J. B. Parson vs W. B. Brush in my favor. T. B. Parson and Charles A Fleming

Exd. Feb. page 79.

This judgment satisfied in full by consideration Exd. & W. B. Brush by Chas. Koch Attorney. Mch 21 1881

May 12th 1880.

Court met pursuant to adjournment Present same as first day. Whereupon the following proceedings were had. viz

5375. The State of Iowa. vs W. B. Middleton et al. continued by agreement

5428 John Todd vs D. J. Kingsbury. No counsel appearing for Plff. on motion of deft this cause is continued till next term.

5442. Mary A. Smisher vs James. M. Smisher & Louis Maas. Continued.

5443 Mary A. Smisher vs James. M. Smisher & A Lorraine continued

5444 Mary A. Smisher vs James M Smisher & J. B. Burke continued

5445 Mary A Smisher vs James. M. Smisher & J M. Litton continued

5446 Mary A. Smisher vs James. M. Smisher & John Kyle continued

5447 Mary A. Smisher vs James M. Smisher James. V. Birgen & R. F. Caulfield continued

5448 Mary A. Smisher vs James M. Smisher & Joseph Harrell. continued

5452 Mary A. Smisher vs James. M. Smisher & R. F. Caulfield continued

5454 Mary A. Smisher vs James. M. Smisher & E. W Shands continued

5455 Mary A. Smisher vs James M Smisher. Isabella Naigler et al continued

5456 Mary A. Smisher vs James M Smisher & Patrick Toner. continued

May 12th 1880

5459	Mary A. Smisher vs James. M. Smisher & Jacob P. Schneider. Continued
5396.	A. W. Terrell vs E. C. Dewey et al. And now on this twelfth day of May A. D 1880. this
(Ex Docket p 91)	cause being called for trial the plaintiff appeared by his attorney Hancock West and Scott and announced ready for trial, and it appearing that all the defendants have been duly served with process, and it appearing that the defendant Sallie D. Dewey is a minor under twenty one years of age the court thereupon appointed John P. Coste the Special Guardian of said Minor defendant Sallie D. Dewey, and the other defendants failing to answer, and neither party demanding a jury the court proceeded to try said cause; and the court having heard the pleadings, the evidence and the argument of counsel and also the agreement made in said cause between said plaintiff and the defendant E. C. Dewey, and the court having duly considered the same, it is considered adjudged and decreed by the court that the plaintiff A. W. Terrell as trustee and agent of and for the benefit of Mrs. E. A. Mitchell do have and recover of and from the defendant E. C. Dewey the Sum of Seven thousand and sixty one dollars and forty five cents ($7061.45) together with all costs of this suit; it is further considered and adjudged by the court that no execution or other process shall issue on this judgment until the twelfth day of April A D 1881, it is further considered and adjudged by the court that if the defendants pay and discharge this judgment within twelve months from the date hereof then the same shall bear interest from its date at the rate of ten per cent per annum, but if said defendants do not pay and discharge the same within twelve months from the date hereof then this judgment shall bear interest at the rate of fifteen per cent per annum from the date hereof; and it further appearing to the court that said defendant E. C. Dewey and his wife Sallie K. Dewey during her life time duly made executed and delivered to one E. T. Eggerton a conveyance in trust of the following described property in the State of Texas and County of Travis and in the city of Austin and being lots Number Eleven and Twelve in Block Number Ninety Six of said city of Austin together with all and singular the improvements thereon and the rights and hereditaments thereto belonging to secure the payment of the notes on which this judgment is rendered, which said trust deed is duly recorded in the records of deeds of Travis County Book 29 pages 69 & 71 and it further appearing that said trust deed is a valid lien upon said above described property and was created to better secure the payment of the debt herein adjudged to be due, and it appearing that Sallie D. Dewey has departed this life more than four years ago intestate and that no administration has been had on her estate, and that she left surviving her, her husband E. C. Dewey and her children by said E. C. Dewey the defendants Anna K. Dis Kill wife of the defendant Charles Dis Kill, Minnie C. Dewey and Sallie D. Dewey, it is further considered adjudged and decreed by the court that said lien be foreclosed on said above described property as against the defendants E. C. Dewey Anna K. Dis Kill and her husband Charles Dis Kill, Minnie C. Dewey and Sallie D. Dewey and that an order of sale issue to the Sheriff of

May 12th 1880

Travis County at the time and in the manner herein before provided com=manding him to sell said above described property in the manner that sales under execution are made, and that he apply the procede of such sale first to the payment of the costs of this suit, Second to the payment of this judgment principal and interest as herein before provided, third the balance if any to be paid to the said defendants, it is further considered and adjudged by the Court that in case said property does not sell for sufficient money to satisfy this judg=ment, then plaintiff may have his Execution against the defendants E. C. Dewey for such unpaid portion of this judgment

5409. William S. Rolfe Superintendent of the Ins dept of Missouri vs L. J. Dupree, on this may 11th A. D. 1880. Plff has leave to file 1st Supplemental petition,

5409. William S. Rolfe Superintendent of the Ins dept of Missouri vs L. J. Dupree, on came the parties by their attorneys and this the 12th day of May A.D 1880, the demurrer of Plff to defendants 1st Supplemental answer coming on to be heard, and the argument of counsel thereon being heard, it is the opinion of the court that the law is with the defendant and said demurrer is over=ruled, and application for continuance overruled, and then came on to be heard defts General demurrer and argument of counsel thereon being heard it is the opinion of the court that the law is for the plaintiff and the said demurrer is over=ruled. And the parties having read their pleadings and the plaintiff having introduced in evidence the note sued on, and the court on objection of the defen=dant having refused to admit in evidence the Mortgage or deed of trust declared on, the counsel of plaintiff asked leave of Court to take a non suit with leave to move to set aside the non suit and to reinstate this cause on the docket which being granted by the Court, It is therefore ordered and adjudged by the court that plaintiff take a non suit in this cause and that leave is hereby given said plaintiff to file his motion to reinstate this cause on the docket of this Court without prejudice,

Thereupon Court adjourned till tomorrow morning 9 oclock,

May 13th 1880.

Court met pursuant to adjournment, Present same as on first day whereupon the following proceedings were had viz:

5164 Fannie Savage vs International and Great Northern Rail Road Company, This day came the parties by their attorneys and the plaintiff says she will no further prosecute her said suit; It is therefore considered by the court that the plaintiff take nothing by her said suit and that the defendant go hence without day and that said defendant have and recover of the plaintiff Fannie Savage its costs in this behalf expended, It is further ordered that Execution issue for the use of the officers of Court against each party respectively for the costs by each party in this behalf incurred,

5333. The State of Texas vs L. E. Dunn et al. On this the 13th day of May

May 13th 1880

Exc Doc 5/77. June 1st 1880.

A. D. 1880. Came the plaintiff by his attorneys, and the said plaintiff Chairmy suggested the death of the defendant Richard Williams Sr. and discontinued this suit as to him, and the other defendants Chairmy filed their answer in this cause appeared by their attorneys and this cause coming on to be heard the defendants general and special demurrers to the plaintiffs amended original petition and the argument of counsel thereon being heard and fully understood it is the opinion of the court that the law is for the plaintiff, it is therefore considered by the court that the said demurrers be overruled Whereupon both parties announced themselves ready for trial and waive a jury and submit the matters in controversy as well of fact as of law to the court and the pleadings evidence and argument of counsel having been heard and fully understood it is considered ordered adjudged and decreed by the court that the said plaintiff the State of Texas do have and recover of and from the said defendants L. E. Dunn, Mat Stewart, Jno. C. Womack, R. D. Simonton, J. A. Robinson and Samuel Wisinger the sum of Five thousand two hundred and seventy five and 39/100 Dollars ($5275.39) and interest thereon from this date at the rate of eight per cent per annum to gether with all costs of suit for which Execution may issue. And it further appearing to the court that the said defendant L. E. Dunn is the principal on the official bond, sued on in this case, and that the said defendants Mat Stewart, Jno. C. Womack, R. D. Simonton J. A. Robinson and Samuel Wisinger executed said official bond as sureties and as such sureties are entitled to the benefit of the Statute in such case made and provided it is therefore ordered adjudged and decreed by the court that the Sheriff levy the execution issued by virtue of this judgment first upon the property of the said defendant L. E. Dunn subject to Execution and situated in the County of Travis before a levy shall be made upon the property of said sureties or any of them, but if the said defendant L. E. Dunn has not sufficient property in said County of Travis subject to Execution to make the amount of this judgment principal and interest and costs then the levy of execution to be made upon so much of the property of said sureties as may be necessary to make the amount of this judgment principal and interest and costs, And it is further ordered adjudged and decreed by the court that in case said sureties or any of them shall make any payment which is applied on this judgment by reason of their suretyship on said official bond this judgment shall not be discharged by such payment but shall remain in force and be prosecuted to Execution for the use of said sureties or any of them making such payment to the amount of such payment. It is further ordered that the officers of the court have Execution for their costs.

5381 James E. Boulden Exhr. vs L. B. Giles. It is ordered that deft L. B. Giles have leave to file amended original answer.

5422. The State of Texas vs. James Martin et al. – Continued for service.

Thereupon Court adjourned till tomorrow Morning 9 o'clock

May 14th 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had, viz.

✓ 5414 Mary L. Scott et al. vs P. C. Wills et al. And now on this day this cause coming on to be heard the plaintiff appeared by counsel, and also appeared the defendant in person and by counsel and it appearing to the Court that the matters involved in this suit as well as all matters growing out of and incidental to the institution of the same and of the issuance of any and all process and writs therein have been fully settled compromised and liquidated and that this cause under said compromise is to be dismissed at the costs of defendant Virginia P. Tully. It is therefore ordered by the Court that this cause be dismissed and that defendant Virginia P. Tully pay all costs of this suit for which Execution shall issue.

✓ 5416 Virginia P. Tully vs P. C. Wells, And now on this day this cause coming on to be heard the plaintiff appeared by counsel and also appeared the defendant in person and by his attorneys and it appearing to the Court that the matters involved in this suit as well as all matters growing out of and incidental to the institution of the same and of the issuance of any and all process and writs therein have been fully settled compromised and liquidated and this cause under said compromise is to be dismissed at the costs of defendant Wells. It is therefore ordered by the Court that this cause be dismissed and that Defendant P. C. Wells pay all the costs of this suit for which Execution shall issue.

✓ 5260. Wm Brush et al. vs. L. C Vineyard et al. Upon suggestion of counsel it was this day ordered by the Court that Samuel C. Vineyard and Anna E. Vineyard be appointed guardians ad litem to represent the interest of the minors Harry and J. C. R. Vineyard in this litigation

✓ 5427 Henry Jones vs Jno M Kuse. Continued by agreement.

✓ 5416 Virginia P Tully vs P. C. Wells. The matters involved in this suit having been compromised and this cause having been dismissed it is ordered by the Court that the Sheriff of Travis County return to defendant Wells the property levied on by the attachment issued in this cause.

✓ 5333 The State of Texas vs L. C. Dunn et al. In this cause it is ordered by the Court that the original answer of all the defendants filed on the 9th day of January A.D. 1880 as well as the amended original answer of a part of the defendants filed on the 13th day of May A. D. 1880. in this cause be copied in the transcript of the record herein sent to the Supreme Court if an appeal or writ of error be taken from the final judgment rendered in this cause to show that all the defendants against whom judgment was rendered were before the Court.

Thereupon Court adjourned till tomorrow morning 9 o'clock

May 15th 1880.

Court met pursuant to adjournment Present same as on first day Whereupon the following proceeding were had viz:

May 15th 1880.

5409. William D. Rolfe. vs L. J. Du Pree. And now on this day the motion of plaintiff to set aside the nonsuit heretofore entered in this cause and to reinstate this cause on the docket coming on to be heard and the same being by the court duly considered and fully understood and the court being of opinion that the motion should be granted, It is therefore ordered adjudged and decreed by the court that said motion be granted and that the order of this court entered at a former day of this term of this court nonsuiting the plaintiff be set aside and vacated and that this cause be and the same is hereby reinstated on the docket of this court and that said plaintiff's right to maintain and prosecute this suit be not in any manner affected or prejudiced by said order of non suit. And it is further ordered that said plaintiff pay the costs which have been incurred in this cause during this term of this court.

Fe fa 47.
Cr No 5324.
(Exc. docket No 5. page 77)

The State of Texas vs Wm Poe et al, And now on this the 5th day of may A. D. 1880. this cause being called for trial, came the County attorney and suggested to the court that one of the surety defendants viz Wm M. Poe has not been served with a writ of Scire Facias in this case, and further says that the plaintiff will not longer prosecute this case against said W. M. Poe and dismisses this case as to him and thereupon the county attorney on the part of the plaintiff announced ready for trial but the principal defendant W. Poe and his surety C. R. Puckett being distinctly called three times at the court house door by the Sheriff, failed to appear and Wholly made default, and it appearing to the court that the said William Poe as principal with W. M. Poe and C. R. Puckett as sureties did on the 7th day of January 1879 enter into an appearance bond payable to the State of Texas in the penal sum of ($400) four hundred dollars, payable jointly and severally: conditioned that the said principal should well and truly make his personal appearance before the Hon. District Court of Travis County at the court house thereof in the city of Austin, on the 22d day of April 1879 and then remain from day to day and from term to term of said Court, until discharged by due course of law, to answer the State of Texas upon an indictment then in filed wherein he is charged with the theft of a gelding and mare, And it further appearing to the court that at the October term 1879. and on the 10th day of November 1879, the aforesaid cause being called for trial, the said defendant William Poe failing to appear, the said appearance bond was declared forfeited, and judgment nisi entered of record against said William Poe and his said sureties, And it further appearing to the Court that a writ of Scire Facias had been properly issued against said sureties notifying them to be and appear at the May term 1880 of said Court and show cause why said judgment should not be made final, and that proper service thereof was had upon the said surety C. R. Puckett, and the parties as aforesaid failing to appear. it was ordered that the aforesaid judgment nisi be made final and absolute against the said principal W. Poe and his said surety C. R. Puckett for the sum of $100. one hundred dollars, and that the balance of said judgment nisi be set aside and vacated, the State's attorney having suggested to the Court that the said surety had procured the rearrest of said Defendant William Poe, It was therefore ordered adjudged and decreed that the State of Texas

do have and recover of and from the said defendant William Poe as principal and from said C. R. Puckett as surety the said sum of ($100) one hundred dollars jointly and severally, together with all costs of this suit for which let execution issue.

Sc. J. 48. (Cr. No 5325) (Exec. Book 5. page 77)

The State of Texas vs Wm Poe et al. And now on this the 7th day of May A D 1880 this cause being called for trial, came the county atty and suggested to the court that one of the surety defendants viz: Wm M. Poe has not been served with a writ of Scire facias in this case, and further says that the plaintiff will not further prosecute this case against said Wm M Poe and dismisses this case as to him, and thereupon the county attorney on behalf of the plaintiff announced ready for trial but the principal defendant Wm Poe and his surety C. R. Puckett being duly called three times at the court house door by the sheriff failed to appear and answer and wholly made default and it appearing to the Court that the said William Poe as principal with W M. Poe and C. R. Puckett as sureties did on the 7th day of January 1879, enter into an appearance bond payable to the State of Texas in the penal sum of ($200) three hundred dollars, payable jointly and severally, conditioned that the said principal should well and truly make his personal appearance before the Hon. District Court of Travis County at the court house thereof in the city of Austin on the 22d day of April 1879, and thus remain from day to day and from term to term of said Court until discharged by due course of law to answer the State of Texas upon an indictment then filed wherein he is charged with the theft of a Gelding and mare, And it further appearing to the Court that at the October term 1879, and on the 10th day of November 1879, the aforesaid cause being called for trial, the said defendant William Poe failing to appear the said appearance bond was declared forfeited and judgment nisi entered of record against said William Poe and his said sureties, And it further appearing to the court that a writ of Scire facias had been properly issued against said sureties notifying them to be and appear at the may term 1880 of said Court and show cause why said judgment should not be made final and that proper service thereon was had upon the said surety C. R. Puckett and the parties as aforesaid failing to appear it was ordered that the aforesaid judgment nisi be made final and absolute against the said principal Wm Poe and his said surety C. R. Puckett for the sum of ($100.00) one hundred dollars, and that the balance of said judgment nisi be set aside and vacated, the State's attorney having suggested to the Court that the said surety had procured the rearrest of said defendant Wm Poe, It was therefore ordered adjudged and decreed that the State of Texas do have and recover of and from the said defts Wm Poe as principal and from the said C. R. Puckett as surety the said sum of ($100.00) one hundred dollars jointly and severally together with all costs of this suit for which let execution issue.

Sc. J. 4166,

Sc. J. 4154

Sc. J.

Sc. J. 4752

Sc. J. 5023

Sc. J. 49. (Cr No 5365)

The State of Texas vs Wm Poe et al. And now on this 7th day of May A D 1880, this cause being called for trial came the county attorney on behalf of the plaintiff and announced ready for trial but the principal defendant Wm Poe and his sureties M. M

Hornsby and C. R. Puckett. They distinctly called three times at the Court House door by the Sheriff failed to appear and Wholly made default. and it Appearing to the court that the said Wm Poe as principal with M. M. Hornsby and C. R. Puckett as suretis did on the 19th day of July 1879 enter into a recognizance payable to the State of Texas in the penal sum of ($500) five hundred dollars, payable jointly and severally, conditioned that the said principal should pers and they make his personal appearance before the Hon. District Court of Travis County at the court house thereof in the city of Austin on the 1st monday in October A. D. 1879. and then remain from day to day and from term to term of said Court until discharged by due course of law to answer the State of Texas upon an indictment then filed. Wherein he is charged with the theft of two work oxen, and it further appearing to the court that at the October term 1879, and on the 10th day of November 1879, thereon said cause being called for trial, the said defendant William Poe failing to appear the said recognizance was declared forfeited and judgment nisi entered of record against said William Poe and his said suretis, And it further appearing to the court that a writ of Scire facias had been properly issued against said suretis notifying them to be and appear at the may term 1880 of said court and show cause why said judgment nisi should not be made final, and that proper service thereof was had upon the said suretis, M. M. Hornsby and C. R. Puckett and the parties as aforesaid failing to appear it was ordered that the aforesaid judgment nisi be made final and absolute against the said principal Wm Poe and his said suretis for the sum of ($1.00) one dollar and that the balance of said judgment nisi be set aside and vacated, the States attorney having enquired of the court that the said suretis had procured the rearrest of said deft Wm Poe, It was therefore ordered adjudged and decreed that the State of Texas do have and recover of and from the said deft William Poe as principal and from the said M. M. Hornsby and C. R. Puckett as suretis the said sum of ($1.00) one dollar jointly and severally, together with all costs of this suit for which let execution issue,

Sc. fac. No 21 vs 466, The State of Texas vs. Reuben Murphy et al. Several writs of Scire facias having been returned not executed, and the Sheriff reporting that he is unable to find they sureties or obtain any information concerning them, it was ordered that this case be dismissed.

Sc. fac. No. 23. vs 4154 The State of Texas vs. Charles Cannon et al. May 7th 1880. Continued for service.

Sc. f. No 43 The State of Texas vs. J. M. Halbard. May 7th 1880. The Sheriff reporting that he can't find the defendant nor any trace of him, this scire facias case was ordered dismissed.

Sc. fac. No. 61. vs 4752 The State of Texas vs. Bud Dooling alias Jim Dan et al. Continued for service.

Sc. f. No. 62. vs 5023 The State of Texas vs. Frank White et als. Continued for service.

Sc. f. Nº 65. cr. 4247
Sc. f. Nº 66. cr. n. 4248.
5430.

The State of Texas vs. G. M. Turner et als. Continued for service.
The State of Texas vs. G. M. Turner et al. Continued for service.
The State of Texas vs. J. J. Cureton et als. This, the 7th day of May 1880 came the plaintiff by her Attorneys and showed to the Court, that the defendants J. J. Curetan, J. M. Hancock and Rus Barron have been duly and legally served with process in this case to require them to answer at the present term of this Court, but that said three defendents have filed no answer in this case but have wholly made default, and this day being default day & the said plaintiff claiming a judgment by default it was ordered by the Court that the plaintiff the State of Texas do have and recover of and from the said defendants J. J. Curetan J. M. Hancock and Rus Barron according to the prayer of her petition in this case and that a writ of inquiry be granted returnable next term of this Court to ascertain the damages sustained by plaintiff in this case and further ordered that this case be now continued for service as to the other defendants.

5423 The State of Texas vs. L. B. Cranell et als. On the eleventh day of May this case being called for trial it was ordered that the defendant have leave to file a trial amendment, and thereupon both parties announced themselves ready for trial. And the parties having read the pleadings, the plaintiff dismissed this suit as against the principal defendant L. B. Cranell, on account of the death of said L. B. Cranell, and thereupon the evidence was introduced, and the Court took the case under advisement. And on the 14th day of May 1880, the Court being of the opinion that the plaintiff had not proved the alleged death of said principal defendant and was therefore not entitled to prosecute this suit against the other defendants the sureties of said Cranell, the Court ordered and adjudged that the plaintiff take nothing by this suit & that the defendants recover from the plaintiff their costs.

4464. Alfred Smith vs. J. R. Warren. May 14th 1880. Ordered that the plaintiff have leave to file an amended motion to retax costs.

5445 Mary A. Swisher vs James M. Swisher & J. M. Litten — May 15th 1880
5441. Rachel J. Harris vs. Albert B. Jones et als.
5444 Mary A. Swisher vs James M. Swisher & J. B. Burke
5447 Mary A. Swisher vs. James M. Swisher, James V. Bergen, Robt F. Campbell
5452 Mary A. Swisher vs. James M. Swisher & Robt F. Campbell
5455 Mary A. Swisher vs James M. Swisher & Isabella Higley et al.
5457 Mary A. Swisher vs James M. Swisher, James Haig & Geo Craven
5456 Mary A. Swisher vs James M Swisher & Patrick Toner
5459 Mary A. Swisher vs James M Swisher & Jacob P. Schneider

Upon motion of the several defendants in the foregoing 9 cases it was ordered by the Court that the respective plaintiffs in the aforesaid 9 cases be required and ordered to give bond and

security for costs of suit on or before the first day of the next term of this court, in default of which these said cases will be dismissed, the attorneys of the respective plaintiffs having been by the Court notified of this order.

5312 Ed Wilkerson vs. Martha Wilkerson. The parties to this case being this day present by their attorneys, came on to be heard the plaintiffs motion for a new trial in this behalf, which motion was by the Court after due consideration denied and overruled; and the plaintiff thereupon excepted to such ruling of the Court and gave notice in open Court of appeal to the Supreme Court.

5174. R. B. Hubbard Govern. &c. vs. A. J. Ward et al. It was this day ordered that the defendants have leave to file a first supplemental answer.

5176. R. B. Hubbard Govern &c vs. A. J. Ward et al. It was this day ordered that the defendants have leave to file a first supplemental answer;

5311 M. Scudder vs H. & T. C. R. R. Co. It was ordered that the Plff. have leave to file a first supplemental petition.

5366. The State of Texas vs. Mit Livingston et al. It is ordered that this case be continued as upon the affidavit of defendants.

5401 T. L. Wren vs. H. F. Belon & Co. It was ordered that the Plff. have leave to file a first supplemental petition.

5404. D. Weinberger Guard. &c. vs. H. & T. C. R. R. Co. It was ordered that the plaintiff have leave to file a first supplemental petition.

4504 George B. Limpelman et al. vs. Thomas Robb et al. Continued.

4699 James H. Link vs. Austin Jetty R R Co. Continued by Deft.

4887 J. R. Nixon & wife vs. H. & T. C. R R Co. Continued no mandate having been filed.

4930. W. B. Brush vs. James B. Barron. Continued.

4935. Carleton & Robertson vs. B. Trigg. Continued.

4973. Joe H. Stewart vs. Int. & Great North. R.R. Co. Continued no mandate having been filed.

4975 T. L. Wren vs. Edward Green. This case was set for trial for Monday the 24th inst.

5183 James Lloyd vs. Int. & Great Northern R.R. Co. Continued by agreement.

5186. Mary Mc Gowan vs. George B. Limpelman. No mandate having been filed, this case is continued.

5366. The State of Texas vs. Mitt Livingston et al. Continued by the Deft

5384. Eckhohm Dross & Co. vs. J. Weinberger & Co. Upon motion of plaintiffs Attys. this case is ordered to be dismissed, the plaintiffs having paid the costs.

May 17th 1880.

5392 L. Weinberger & wife vs. H. & T. C. R. R. Co. It was ordered that the plaintiff have leave to file a first supplemental petition.

5417 Wm H. Thaxton by his next friend William Thaxton vs. James A. Wren. It was this day ordered that this case be set for trial for Monday the 31st of May 1880.

5423 The State of Texas vs. L. C. Crowell et als. This day came on to be heard the plaintiffs motion for a new trial in this behalf, and the Court having heard the arguments of the Attorneys of Pltff & Defts, sustained said motion & ordered that the judgment heretofore rendered in this cause be set aside and vacated and that a new trial be granted in this cause.

Court adjourned until to morrow morning 9 o'clk

May 18th 1880.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had viz:

5382 A. Dyches for the use of Mc Darnell & Co vs. East Texas Fire Insurance Company. Continued by agreement.

5311 James P. Randle et als vs. James M. Morphis. This day this cause being called for trial came the parties by their attorneys and both parties announced ready for trial. Thereupon came a jury of twelve good and lawful men of Travis county consisting of P. A. Gerhard Foreman and eleven others. Who being duly selected empannelled and sworn according to law to try this case, heard the pleadings read of both Plaintiffs and defendant the evidence introduced arguments of Counsel thereon and being duly charged by the Court as to the law related to consider of their verdict. And thereafter on the same day said Jury returned into open Court the following verdict to Wit: "We the Jury find the following Verdict. The right fee simple of Lot No 3 Block 120 in the city of Austin as S. E. Ammonett, Mattie A. Mahon and James. P. Randall, Said James. P. Randall 5211 interest in above lot being barred by limitation. We further find and value the vacant lot at Six hundred dollars, We further find that the annual rental of said vacant lot is equivalent to the taxes paid by defendant, We further find that all the improvements on said lot were placed thereon by the defendant or by those under whom he claims in good faith, and value said improvements at Seven hundred dollars, The reason for not barring the interest of S E. Ammonett and Mattie A. Mahon is, because they were married to the same parties at the time of the entry of defendant and those whose estate he was upon the premises to whom they are now married P. A. Gerhard. Foreman" And said Verdict being read by the Clerk in open court was approved by the Court and ordered to be recorded. 5474

Thereupon Court adjourned till tomorrow morning 9 O'clock. 5176

May 19th 1880.

Court met pursuant to adjournment. And there being no business before

May 20th 1880.

the Court adjourned till tomorrow morning 9 oclock

May 20th 1880

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5321 — Record 5. page 76. The State of Texas vs. W. F. Egan et al. On this day by agreement of the parties in this cause the judgment by default rendered herein on the 10th day of October 1879 is set aside and the plaintiff by leave of the Court files his trial amendment. Whereupon the plaintiff appeared by attorney, and the defendants also appeared by attorney, and both parties announced ready for trial, and a jury not being demanded by either plaintiff or defendants the matters in issue were submitted to the Court, and it appearing to the Court from the evidence submitted that the law is with the plaintiff, and that the defendants are indebted to the State of Texas in the sum of Thirteen thousand eight hundred and thirty one and 17/100 ($13831.17) dollars as principal, and the sum of Twenty eight hundred and Thirty + 35/100 ($2830.35) dollars as interest due thereon at this date. It is therefore considered, ordered, adjudged and decreed by the Court that the plaintiff herein, The State of Texas do have and recover of and from the said defendants herein, W. F. Egan, A. Murphy, L. S. Forster and S. F. Reynolds the sum of Sixteen thousand Six hundred and Sixty one + 52/100 ($16661 52/100) dollars, that being the full amount of principal and interest due at this date) with interest thereon from this date until paid at the rate of eight per centum per annum, and all costs of suit, for all of which Execution may issue, and it further appearing to the Court that the defendants A. Murphy, L. S. Forster and S. F. Reynolds are sureties of the defendant W. F. Egan, it is therefore ordered by the Court that the said sureties have judgment over against said W. F. Egan for whatever amount they may pay upon this judgment in this cause,

5253 — Mattie P. King vs. R. E. King. It was this day ordered that E. T. Moore be and he is hereby appointed Attorney for the absent defendant R. E. King, and that this case be continued, as the service herein has been made by publication but no term of Court has been held since such publication.

5424 — The State of Texas vs. John T. Cordray et al. It was ordered that Reff have leave to file first amended original petition.

Court adjourned until to morrow morning 9 o'clk.

May 21st 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5176. R. B. Hubbard Governor etc. vs. Andrew J. Ward et als. The plaintiff on this day obtained leave to file a first supplemental petition

May 21st 1880.

he at the same time reserving his right to its motion filed on yesterday to strike out certain pleadings.

5333. The State of Texas vs. L. E. Quinn et als. The parties to this suit being this day present by their attorneys came on to be heard the defendants' motion for a new trial in this behalf, and the Court having heard said motion and the argument of counsel thereon, overruled said motion to which ruling the defendants by counsel excepted, and then said defendants gave notice in open Court of appeal to the Supreme Court.

5311. The James P. Randle et al. vs. James M. Morphis. Both parties to this cause being present on this day came on to be heard the plaintiffs' motion for a new trial in this behalf and also the defendents motion for a new trial, whereupon it was ordered by the Court that the said motions be granted that the verdict heretofore rendered in this behalf be set aside and vacated and that a new trial herein be granted.

5336. The State of Texas vs T. J. Norrell et als. On this the 21st day of May A.D. 1880 came the State of Texas plaintiff by her attorneys and E. Hallmann clerk of this Court by his attorneys and then came on to be heard the motion of the said plaintiff against the said E. Hallmann for an order directing and requiring the said E Hallmann to pay to plaintiff or her attorneys the sum of sixty and 61/100 dollars balance of twelve hundred and twelve and 97/100 dollars received by the said E. Hallmann as clerk of this Court on a judgment in favor of the said plaintiff rendered in this Court in the above entitled cause, the sum of eleven hundred and fifty one & 75/100 dollars having been paid by said E. Hallmann to plaintiff, or her Attorneys, and the said motion and the said E. Hallmann's answer thereto, and the evidence and the argument of counsel having been heard and fully understood, and because it is the opinion of the Court that the said E. Hallmann as clerk of this Court is entitled to retain the said sum of sixty and 61/100 dollars as five per cent commission on the sum of twelve hundred and twelve and 97/100 dollars received by him on the judgment rendered in this cause in said cause, it is ordered adjudged and decreed by the Court that the plaintiff take nothing by her said motion that the said motion be overruled, and that the costs of said motion be taxed against the said plaintiff. Whereupon the said plaintiff, the State of Texas by her Attorneys in open Court gave notice of appeal to the Supreme Court of the State of Texas.

Court adjourned until to morrow 9 o'clk A. M.

May 22nd 1880.

Court met according to adjournment. Present same as first day. & Court adjourned until Monday the 24th 1880, 9 o'clk A. M.

May 24th 1880

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

/ 5174. R. B. Hubbard Governor et al. vs. A. J. Ward et als. And now on this day comes the plaintiff by Peeler & Maxey Attorneys and the defendants by Messrs Pancock West & North & Messrs E. J. Davis and J. W. Robertson Attorneys and the motion of the plaintiff to strike from the files the amended answer of Nathan Patton and the amended and substituted answer of defendants A. J. Ward et als filed on the 17th day of May 1880 and to strike out certain portions thereof, and the general and special exceptions of defendants to plaintiffs petition came on to be heard and after argument of counsel and the Court having considered the same it is ordered and adjudged that plaintiffs said motion to strike from the files and to strike out be overruled to which plaintiffs excepts and that defendants general and special exceptions to plaintiffs petition (the defendants Ward, Dewey & Patton, waiving and abandoning all general and special exceptions thereto) be and the same are overruled.

/ 5176 R. B. Hubbard Governor et al vs A. J. Ward et al, And now on this day comes the plaintiff by Peeler and Maxey attorneys and the defendants by Messrs Pancock West and North and Messrs E. J. Davis and J. W. Robertson attorneys and the motion of the plaintiff to strike from the files the amended answer of Nathan Patton and the amended and substituted answer of defendants A. J Ward et al filed on the 17th day of May 1880. to strike out certain portions thereof, and the general and special exceptions of defendants to plaintiffs petition came on to be heard, and after argument of counsel, and the Court having considered the same it is ordered and adjudged that plaintiffs said Motion to strike from the files and to strike out be overruled. to which plaintiff excepts, and that defendants general and special exceptions to plaintiffs petition (the defendants Ward Dewey & Patton, waiving and abandoning all general and special exceptions thereto) be and the same are overruled,

/ 2975. T. L. Wren vs Edward Gowen, This cause was this day continued by agreement. Thereupon Court adjourned till to morrow morning 9 o'clock,

May 25th 1880,

Court met pursuant to adjournment. Present same as first day and there being no business of this date adjourned till to morrow morning 9 o'clock,

May 26th 1880.

5

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

✓ 5401. T. L. Wynn vs D. H. Pilo & Co. It is ordered by the court that defendant have leave to file 1st Supplemental answer, and Plaintiff has leave to file 1 Supplemental and 1st Amended petition

✓ 5349 The Austin Home Building and Loan Association vs Wm Swinton & Mary Swinton. It is ordered by the court that deft have leave to file 1st Supplemental answer,

✓ 5350. M. Scudder vs Houston and Texas Central Railway Company. And now this twenty Sixth day of May A. D. Eighteen Hundred and eighty. this cause being called for trial. the plaintiff appeared in person and by his attorny Hancock West & Stork, and the defendant appeared by its attorney, George Goodrich, and thereupon both parties announced themselves ready for trial. and it appearing to the court that the plaintiff and the defendant have agreed in open court to withdraw said case from trial by and before a jury and to submit the issues of fact as well as of law to the court, the court thereupon proceeded to the trial of said case, and it appearing to the court that the plaintiff was agreed to take and receive in satisfaction of the matters and things set forth in his petition the sum of ($3000.00) Three thousand dollars, and that the defendant was agreed to pay the same with interest at seven per cent five months after the date hereof, it is therefore considered adjudged and decreed by the court that the plaintiff Michael Scudder do have and recover of and from the defendant the Houston and Texas Central Railway Company the sum of Three thousand dollars with interest thereon from date at the rate of seven per cent per annum besides the costs of this suit for all of which execution may issue; it is further considered adjudged and decreed by the Court (the parties to this suit having in open court agreed thereto) that no execution shall issue for said sum of Three thousand dollars and interest as aforesaid before the twenty sixth day of October A. D. Eighteen Hundred and Eighty, and thereupon in open court the defendant waived all right of appeal or error in this cause and on hand all costs in the same.

Thereupon Court adjourned till tomorrow morning 9 Oclock.

May 27th 1880

Court met pursuant to adjournment. Present same as first day whereupon the following proceedings were had viz:

De fa 57. cr No. 6005 The State of Texas vs John A. Huling et al. This day this cause being called the State of Texas the Plaintiff herein appeared by her counsel. E. T. Moore County attorney of Travis County and Shuttz and Smith, and the defendant John A Huling Thomas P. Hughes and D. N. Hamon appeared by attorneys and file herein a written agreement which is as follows to wit: " No 57. The State of Texas vs John A. Huling et al. In the District Court. Travis County May 27th 1880. It is agreed between the parties plaintiff and defendants in the above entitled cause that judgment final be rendered and entered in said cause in favor of plaintiff and against the defendants for the sum of one thousand dollars and all costs, and that this said Judgment

May 27th 1880.

be in full discharge and satisfaction of the bond and judgment nisi thereon, hereto=fore rendered and entered herein in this court, This agreement is in consideration of the prompt payment by defendants of said one thousand dollars and all costs, and a waiver by defendants of their defences herein filed, Witness our hands this 27th May 1880, E T Moore Co Atty. Travis Co Tx, and Shuks & Smed Attys for the State, Wilson and Gaines Attys for defendants," It is therefore considered and adjudged by the court that the State of Texas do have and recover of the defendants, John A. Huling. Thomas P. Hughes and J N. Hamon severally the Sum of ($1000.00) One thousand dollars and all costs herein expended and for which execution may issue, and this judgment shall be in full discharge and satisfaction of the judgment nisi herein heretofore rendered and entered and of the bail bond of said defendants upon which said judgment nisi was rendered and entered,

This agreement has been put in judgment as to costs and receipted for — E. T. Moore Co Atty.

Def No 58. Cr No. 6006.

The State of Texas vs John A. Huling et al

This day this cause being called the State of Texas, the plaintiff herein appeared by her counsel E. T. Moore County attorney and Shuks and Smed, and the defendants John A Huling, A. S. Roberts and W. P. Gaines appeared by attorney, and file herein a written agreement which is as follows to wit: "No 58. The State of Texas vs John A. Huling et al., In the Dis'trict Court of Travis County May 27th 1880. It is agreed between the parties plaintiff and defendants in the above entitled cause that judgment final be now rendered and entered in said cause in favor of the plaintiff and against the defendants for the Sum of Five hundred dollars and all costs, and that this said judgment shall be in full discharge and satisfaction of the bond and judgment nisi therein, heretofore rendered and entered in this court, This agreement is in consideration of the prompt payment by defendants of said ($500.00) Five hundred dollars and costs, and a waiver by defendants of their defences herein filed. Witness our hand this the 27th May 1880. E. T. Moore Co Atty Travis Co. and Shuks and Smed Attys for the State, Wilson & Hughes Attys for defendants." It is therefore considered and adjudged by the court that the State of Texas do have and recover of the defendants John A. Huling, A. S. Roberts and W. P. Gaines severally the sum of Five hundred dollars and all costs herein expended, and for which execution may issue, and this judgment shall be in full discharge and satisfaction of the judgment nisi herein heretofore rendered and entered, and of the bail bond of said defendants upon which said judgment nisi was rendered and entered,

Judgment has been paid in full as to costs and receipted for — E. T. Moore Co Atty.

Def No 59 Cr No. 6007

The State of Texas vs John A. Huling et al

This day this cause being called, the State of Texas the plaintiff herein appeared by her counsel E. T. Moore County attorney of Travis County and Shuks and Smed, and the defendants John A. Huling, W. P. Gaines and A. S. Roberts appeared by attorney, and file herein a written agreement which is as follows to wit: "No 59. The State of Texas vs John A. Huling et al, In the District Court Travis County May 27th 1880. It is agreed between the parties plaintiff and defendants in the above entitled cause, that judgment final be now rendered and entered in said cause in favor of the

May 27th 1880.

plaintiff and against the defendants for the sum of Five hundred dollars and all costs, and that this said judgment shall be in full discharge and satisfaction the bond and judgment nisi thereon heretofore rendered and entered in this court. This agreement is in consideration of the prompt payment by defendants of said $500 Five hundred dollars and costs, and a waiver by defendants of their defences herein filed. Witness our hands this the 27th May 1880. E. T. Moore Co Atty Travis Co Texas, Shirks and Smith Attys for the State. Wilson and T.P. Hughes attys for defts." It is therefore considered and adjudged by the court that the State of Texas do have and recover of the defendants John A. Hulings, W. P. Gaines and A.S. Roberts severally the sum of ($500 00) Five hundred dollars, and all costs herein expended and for which execution may issue, and this judgment shall be in full discharge and satisfaction of the judgment nisi herein heretofore rendered and entered, and of the bail bond of said defendants upon which said judgment nisi was rendered and entered.

No 5 - The State of Texas vs Hulings et al - Judgment has been paid in full (except the costs) and receipts filed - E. T. Moore Co Atty

No 5 of No 65 or No 6010.

The State of Texas
vs
John A. Hulings et al

This day this cause being called, the State of Texas the plaintiff herein appeared by her counsel E. T. Moore County attorney of Travis County and Shirks and Smith, and the defendants John A. Hulings, W. P. Gaines and A. S. Roberts appeared by attorneys, and file herein a written agreement which is as follows, to wit:

"No 60. The State of Texas. vs John A. Hulings et al. In the District Court, Travis County May 27th 1880, It is agreed between the parties plaintiff and defendants in the above entitled cause, that judgment final be now rendered and entered in said cause in favor of the plaintiff for the sum of Five hundred dollars and costs, against all the defendants, and that this said judgment shall be in full discharge and satisfaction of the bond and judgment nisi thereon heretofore rendered and entered in this court, This agreement is in consideration of the prompt payment by defendants of said ($500 00) Five hundred dollars and costs, and a waiver by defendants of their defences herein filed. Witness our hands this the 27th day of May 1880. E. T. Moore Co atty Travis Co Texas, Shirks and Smith attys for the State. Wilson & T. P. Hughes attys for defts." It is therefore considered and adjudged by the court that the State of Texas do have and recover of the defendants. John A. Hulings. W. P. Gaines and A. S. Roberts severally the sum of ($500 00) Five hundred dollars and all costs herein expended and for which execution may issue, and this judgment shall be in full discharge and satisfaction of the judgment nisi herein heretofore rendered and entered and of the bail bond of said defendants upon which said judgment nisi was rendered and entered.

All costs in cause 58, 59, 60 & 65 Defts. Paid 10/80 J. Allen Sheriff

Thereupon Court adjourned till tomorrow morning 9 o'clock.

May 28th 1880

Court met pursuant to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

May 28th 1880.

5461 (Book No 5 page 79)

Susan Goodloe &c A. J. Goodloe
vs
D. G. Snood Jr.

And now on this day comes the plaintiff Susan Goodloe in this cause by her attorneys, she being joined by her husband and A. J. Goodloe and asks final judgment herein, and because it appears to the Court that the defendant has accepted and acknowledged service and waived process of citation in this suit, and has had due and legal notice of this suit and failed to appear and plead herein, and that at a former day a judgment by default was rendered herein; And the said plaintiff having submitted this cause to the Court and her evidence in support of the same, and the Court being of opinion from the evidence that said defendant is indebted to the plaintiff Susan Goodloe as alleged in her petition, and that said plaintiff Susan Goodloe has the Vendors lien on the two tracts of land described in the said plaintiffs petition to secure the payment of the two notes sued on and that there is now due on said two notes sued on the sum of $1097.00/100 Cts after allowing all just and proper credits; It is therefore ordered adjudged and decreed by the Court that the plaintiff Susan Goodloe in her own right and as her own separate property and estate do have and recover of and from the defendant D. G. Snood Jr the sum of One thousand and Ninety Seven dollars Cts to draw interest at 12 per cent per annum from this date until paid, together with all costs in this behalf expended, And it is further ordered adjudged and decreed by the Court that the said Vendors lien of said plaintiff now existing to secure the payment of said sum be foreclosed on the two tracts of land described in plaintiffs said petition, and which land is described as follows, Said two tracts of land are situated on the West side of the Colorado River and on Williamson Creek in Travis County Texas, and more particularly described by Metes and Bounds following, that is to say, First Tract is a part of the Santiago Del Valle Ten league grant about five miles from the City of Austin and begins at a point in the bed of Williamson's Creek where John Tullis line crosses the same, Thence S 30° W one thousand and fifty varas to George J Nails Spring Branch - Thence down said Branch with its meanders to where it mouths or empties into Williamson's Creek, Thence up said Creek with its meanders to the place of beginning, Second Tract is a part of the William Cannon Headright League and is adjacent to the tract just above described on the West and begins at a point in the center of the Arrington or Nail Spring Branch at the South East corner of a 10 acre tract, Thence N 12° W. 200 varas to the North corner of said 10 acre tract, Thence N 30° E. 366 varas to a stake in John Tullis line, Thence S 60° E 346 varas to the West line of the Santiago Del Valle grant, Thence S 30° W with said Del Valle West to the bed of said Arrington or Nail Spring Branch, Thence up said Branch with its Meanders to the place of beginning and containing 30 acres of land more or less, And it is further ordered adjudged and decreed by the Court that an order of sale issue to the Sheriff of Travis County Texas, requiring him to sell said two tracts of land as under execution and that he apply the proceeds of such sale to the payment of the amount herein adjudged to said plaintiff and

May 28th 1880

Goodloe principal interest and costs of this suit and any residue left shall be paid over to said defendant. and in case said land shall not sell for an amount sufficient to satisfy this judgment then Execution issue against said defendant for such unsatisfied balance.

5370 W. C. McGowan vs Susie Hays et al } And now on this the 27th day of May 1880. come the Commissioners appointed by the Court at the last term thereof, viz; W. L. Holcstaw, W Von Rosenberg and John B. Costa and made report as follows, of the matters and things by them to wit: W. C. McGowan No 5370 vs Susie Hays et al. Suit pending in the District Court of Travis County. To the Hon. E. B. Turner, Judge &c.

In conformity with a decree of your Honorable District Court in the above entitled cause, We the Commissioners therein named and appointed, beg leave to submit the following report of their action in the premises. In order to ascertain the distributive Share of each heir, We found it necessary first, to affix a value to the property required to be partitioned: therefore availing ourselves of the best information at our command, We did agree to, and do appraise same as follows viz:

1st 850 acres land in Liberty County, being part of the Jas. McCoy league, and more definitely described in deed herewith from George W. Slater constable to M. A. Hays dated September 7th 1875 @ 50¢ per acre. $425.00

2nd 216 acres land in Milam County, being part of the Monroe Edwards league, and definitely described in deed herewith, from J. D. & W. C. Giddings to Mary A. Hays, bearing date March 1st 1876. @ $2.00 per acre. $432.00

3d Lot No 4. in Block No 21. in Division D. of the Government tract adjoining the City of Austin, and more definitely described in deed herewith, from Mrs M. Street to Mrs M. A. Hays dated April 7th 1878. with the improvements. $2000.00

4th 1 Piano — 200.00

5th 1 Sewing machine, 24.00

6th 1 doz Silver Spoons 12.00

7th 1 Lot household and Kitchen furniture 50.00

8th Cash in the hands of the Executor $1445.91. less amt for costs & expenses of this suit 84.91 1361.00

making a total $4500.00

Which gives to each of the four heirs 1125.00

and We have partitioned same as follows,

To Alice Hays: 1/2 interest in the house and lot in the city of Austin $1000.00

Cash 125.00

$1125.00

To Susie Hays 850 acres land in Liberty County, being the same referred to in the inventory herewith @ 50¢ - $425.00. Piano $200. Cash $500.00 $1125.00

To W. A. Hays Nephew of Willard W. Hays 1/2 interest in the house and lot in the city of Austin $1000.00. Cash $125.00 $1125.00

May 28th 1880

To Kate Hefley Bower. 216 acres land in Milam County Being the same land included in the warranty Survick @ $12.00 — $432.00

1 Doz Silver Spoons — 12.00

1 Lot House hold & Kitchen Furniture 50.00

1 Sewing Machine 20.00

Cash 611.00

— $1125.00

— $4500.00

All of which is respectfully submitted for the consideration of your Honorable Court.
W. D. Holcklss. W. Von Rosenberg. John. B. Costa, Commissioners.

Commissioner fee for 3 days services @ $3. each $27.50 — Sworn to before me by W. D. Holcklss, W Von Rosenberg & John. B. Costa this the 15th day of May 1880. E. Kallmann clk.

Which said report having been submitted to the parties at interest and no objection being made thereto, or any part thereof, and the same being understood by the Court and deemed to be just fair and equitable in its terms and provisions and distributions, the same is hereby confirmed and made the order judgment and decree of the Court in whole and in part, And now for the purpose of divesting and vesting title in the distributees, under said report, it is here and now further ordered adjudged and decreed viz:

1. That all of the right title interest and claim of Susie Hays and Kate A. Hefley = bower and her husband Jno F. Hefley bower, in and to lot No(4) four in Block No(21) twenty one in Division D. of the Government tract adjoining the city of Austin, and more particularly described in a deed from Mrs. M. Hirsh to Mrs M. A. Hays dated 9th April 1878 together with all improvements thereon, be and the same is hereby divested out of them and vested in Alice Hays and W. A Hays share and share alike, and that said above described property is hereby decreed to be the property of the said Alice and W. A Hays (the said W A. Hays being the nephew of Hilliard W. Hays the father of the other distributees in this case); and it is further ordered adjudged and decreed, that all the right title interest claim and state of the said Alice Hays. M. A. Hays. Kate A. Hefley bower & her husband Jno. F. Hefley bower in and to the following described land (Viz) Eight Hundred and Fifty acres of land, it being a part of the James McCoy league, and situated in Liberty County and State of Texas and on the West side of the Trinity River which tract was surveyed by A Bagerby, and lies on the Southern line portion of the league and West of lots 24 & 15, and a lot purchased by James Evans, together with the improvements thereon be and the same is hereby di= =vested out of them and vested in Susie Hays, and it is here and now decreed that said above described land, shall be the property of the said Susie Hays. free from the claim of the said other distributees under this decree —; and it is further ordered adjudged and decreed by the Court, that all the right title interest claim and estate of said Alice Hays and M. A. Hays aforesaid in and to the following described lands, viz: Two certain tracts & parcels of land both lying and being situated in the county of Milam in said State of Texas being a part of the Monroe Edwards League in said

May 28th 1880.

County; true of said tracts being more fully described by metes and bounds as follows to wit: Beginning at the N. E. corner of a 245 acre survey for the S. E corner of this survey from which corner a Post oak 14 in in dia bears S 46½° W 16½ vrs & a post oak 8 in dia bears S 75° W 15 vrs thence N 30° W 552 varas to the N. E. corner of this survey from which a Post oak 15 in dia brs N 45½° W 3¾ vrs and a Post oak 14 in dia brs S 55° E 11 vrs. Thence S 60° W 635 vrs to the N E. corner of a 113 acre survey made for W. C. Saunders from which a Post oak 14 in dia brs S 55 E 5 vrs & a Blk Jack 12 in dia brs W 50° E 3½ vrs, Thence S 30° E 384 vrs. to the S. E corner of said 113 acre survey from which a Post oak 15 in dia on the East Bank of Harrals creek bears S 30° E 12 vrs. Thence S 60° W 635 vrs to the North west corner of this survey, Thence S 30° E 168 vrs to the S W corner of this survey it being also the N W. corner of the 245 acre survey from which a hollow Post oak 9 in dia brs N 60° E 9 vrs & a Post oak 8 in dia brs S 75 E 8½ vrs, Thence N 60° E 1500 varas to the place of beginning containing one hundred and three acres of land more or less, and the other of said tracts of land is described by Metes & bounds as follows to wit: Beginning at the N. W. corner of the Tomlinson tract of land thence N 30° W. 384 vrs to S W corner of the Phips tract of land, Thence N 60° E. 1660 vrs. to a stake from which a post oak 18 in in dia brs S 55 E. 5 vrs a Blk Jack 12 in dia brs N 30° E. 3½ vrs. Thence S 30° E. 384 vrs to a Post oak on the East bank of Harrals creek, Thence S 60° W. 1660 vrs, to the place of beginning containing 113 acres more or less, both of said tracts containing in the aggregate Two hundred and Sixteen acres of land more or less. together with all and singular the improvements thereon and also in one dozen Silver Spoons, one lot of household and Kitchen furniture and one sewing Machine mentioned in said report be and the same is directed out of them and Vested in Mrs Kate A. Hefley bower, wife of Geo. F. Hefley bower as her individual and seperate property free from the claims of her co distributees under this decree, It is further ordered by the court that the respective shares of the said minors, Susie Hays Alice Hays & W. A. Hays remain in the care and custody of the Clerk of this court until Guardians shall or may be appointed for them according to law, and that the said Clerk surrender each share on being receipted them for by such guardian or guardians,

May 28th to June 2nd 1880.

5401.

T. L. Wren
vs
A. H. Belo & Co

This day came the parties by their attorneys, the plaintiff by Carleton & Morris and the defendants by Messrs Hancock West and North and announced themselves ready for trial, Whereupon came a jury of twelve good and lawful men of Travis County to wit: B. C. Bennett Forman and them others who being duly selected impannelled and sworn according to law to well and truly try the issues joined between the parties, Who after hearing the evidence, argument of counsel and charge of the court continuing 28th 29th & 31st of May and 1st of June retired to consider of their verdict, and afterwards to wit on the 2nd day of June returned into open court the following verdict "We the jury find for the plaintiff and assess the damages at Seven thousand five hundred dollars ($7,500) B. C. Bennett,

May 28th 1880

Foreman". It is therefore considered by the Court that the plaintiff T. L. Ware do have and recover of and from the defendants, A. H. Belo. D. C. Jenkins and John J. Hamel the sum of Seven Thousand five hundred dollars with interest thereon at the rate of eight per centum per annum together with his costs in this behalf expended and that he have his execution therefor.

5401. T. L. Ware vs A. H. Belo & Co. on this 26th day of May 1880. Upon motion it is ordered by the Court that pltff have leave to file 2nd Supplemental petition and defts have to file supplemental and amended answer,

5401 T. L. Ware vs A. H. Belo & Co. on this 27th day May 1880, coming on to be heard the demurrer of defts to plaintiffs petition in the ground that the petition does not allege publication in Travis County and therefor no jurisdiction and after being duly considered by the Court said demurrer was by the Court overruled,

5401 T. L. Ware vs A. H. Belo & Co. on this 28th day of May 1880, the demurrer of plaintiff to defendants answer coming on to be heard and the same being considered by the Court was by the Court overruled (but certain parts thereof stricken out, and reference is to those parts which are so closed in brackets, and the clerk is directed in preparing the transcript for the Supreme Court to enclose in brackets that part of the answer to which plaintiff's exceptions were sustained and otherwise indicate them so that they may be identified, and it was further ordered by the Court that defendant have leave to file trial amendment, and thereupon both parties announced themselves ready for trial and a Jury being empannelled & Sworn according to law the trial continued till

June 2nd 1880.

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz: on the 28th day May A. D. 1880. came the parties by their attorneys, the plaintiff by Carleton & Morris and the defendants by Mess Hancock Nash & North and announced themselves ready for trial. Whereupon came a jury of twelve good and lawful men of Travis County, to wit: consisting of B. C. Bunnell Foreman and eleven others, who being duly empannelled and Sworn according to law to ~~[illegible]~~ and true ~~by~~ the issues joined between the parties who after hearing the evidence argument of Counsel and charge of the Court retired to consider of their verdict and thereafter on this 2nd day of June 1880. returned into open Court the following verdict viz: "We the Jury find for the plaintiff and assess the damage at Seven thousand five hundred Dollars ($7,500) B. C. Bunnell Foreman" It is therefore considered by the Court that the plaintiff T. L. Ware do have and recover of and from the defendants, A. H. Belo. D. C. Jenkins and John J. Hamel the sum of seven thousand five hundred dollars with interest thereon at the rate of eight per centum per annum together with his costs in this behalf expended and that he have his execution therefor

5388 E. C. Barcholomew vs Fritz Tegener et al May 29th 1880 upon motion it is ordered by the Court that pltff have leave to file 1st Supplemental petition

5434 G. W. Hicks vs Mary A Bobbitt et al on this June 1st 1880. upon

June 2nd 1880

motion of Plaintiff the continuance heretofore entered in this cause was set aside by the Court and the cause dismissed the costs having been paid,

✓ 3134. J Martinez vs The State of Texas. Upon motion of the plaintiff Attorney in this cause it is ordered by the Court that the plaintiff have leave to withdraw the Titles papers filed herein upon leaving certified copies of the same, as required by law.

✓ 5349. ✓ The Austin Home Building and Loan association vs William Knowlton & wife (Ex No 5 p 89) Mary E. Knowlton, And now on this day this cause coming on to be tried and the demurrer and special exceptions of the defendants to plaintiffs pleading heard and the argument of counsel thereon, and the same being considered by the Court it was ordered by the Court that said demurrer and exceptions be and the same were overruled, To which ruling the defendants by counsel then and there excepted, Thereupon came a jury of good and lawful men of Travis county to wit- W W. Dean Foreman and three others who being elected empannelled and sworn according to law, and having heard the pleadings and evidence, argument of counsel ✓ 5 and the charge of the Court retired to consider of their verdict and afterwards returned into Court the following verdict to wit:- "We the jury find for the plaintiff the sum of ($98.14) Ninety eight 7 14/100 Dollars balance due on the Vendors and Mechanics lien, We also find that the note for $489.00. was given as the purchase money of said lot described in plaintiffs petition, W. W Dean Foreman" It is therefore ordered adjudged and decreed by the Court that the plaintiff do have and recover of and from the defendants the said sum of Ninety eight and 14/100. Dollars, And it further appearing to the Court from the pleadings evidence and Verdict of the jury that the plaintiff has a Vendors and Mechanics lien to secure the payment of said sum assessed by the jury aforesaid upon the following described tract or parcel of land together with the improvements thereon to wit:- Lot No six (6) in out Lot No twelve (12) in Division "B" of the out Lots of the city of Austin according to the subdivision and plot of said out Lot Twelve, and out Lot Thirteen in Division "B" recorded in Book "W" of the deed records of Travis County on page 187. beginning in the Southerly line of said out lot 12 on the Northerly line of the street separating Division A. from Division "B." at the South corner of Lot No 7 in said out lot 12, thence sold to James H. Bell, Thence N 48° W 648 feet to a stake for corner, Thence S 28° W 346½ feet to N corner of lot No 3 sold to T. F. Pardee, Thence S 48° E with N. E. line of said lot 3 648 feet to a stake for corner, Thence N 28° E 346½ feet to the place of beginning, containing five acres of land more or less, It is therefore further ordered adjudged and decreed by the Court that said Vendors and Mechanics liens be and the same are hereby foreclosed, and that an order of sale do issue directed to and commanding the Sheriff of Travis county to sell said above described tract of land together with the improvements thereon as under execution and the proceeds of said sale to apply to the satisfaction of this judgment and costs of this suit and in case said proceeds shall not be sufficient

June 2nd 1880.

to satisfy the judgment this judgment that that execution shall issue to be levied upon the goods and chattels lands and tenements of the said defendant William Swinton to make said deficiency, and further that in case the said property shall sell for more than enough to satisfy this judgment and costs such excess shall be paid over to said defendant, And it is further ordred and adjudged that plaintiff have and recover of the defendants all costs in this behalf expended, Thereupon Court adjourned till tomorrow morning 9 oclock

June 3d 1880

Court met pursuant to adjournment, Present same as on first day, and there being no minutes of this date Court adjourned till to-morrow morning 9 oclock,

June 4th 1880.

Court met pursuant to adjournment, Present same as on first day. Whereupon the following proceedings were had viz:

5388 E. C. Bartholomew vs Fritz Figuer and wife, This cause coming on to be heard the parties appeared in person and by their attorneys, and announced ready for trial, and thereupon came a jury of twelve good and lawful men of Travis County who being duly impannelled and sworn according to law to try this cause, and who after hearing the evi=dence argument of counsel and charge of the court retired to consider of their verdict and afterwards to wit: on this day returned into open court the following verdict to wit: "Jury. Room Austin June 4th 1880,. We the jury in case No 5388. E. C. Bartholomew vs Fritz Figuer & wife. find for the plaintiff for the land discribed in petition. and that he is entitled to rent from July 5th 1879. to Feby 27th 1880. at the rate of Six ($6) per month, Wm Smyth Foreman" It is therefore considered ordered and adjud=ged by the court that the plaintiff E. C. Bartholomew recover of the defendants Fritz Figuer and Augusta Figuer, his wife, the title to the premises discribed as follows to wit: That tract or parcel of land lying and being in the county of Travis State of Texas, adjoining the city of Austin and discribed more particularly as follows, a part of out Lot (No 76) number 76. in Division D. of the out lots of the said city of Austin, Beginning at a stake in the South boundary line of said out lot No 76, five hundred and sixty four and one third feet North 60° West from the south east corner of the same, Thence North 30° East 345 7/10 varas to a stake in the North boundary line of said lot, and with the said north line N 60° W 224 7/10 varas a stake, Thence South 30° West 144 7/10 varas to a stake, Thence South 60° East 60 feet a stake Thence S° West 216 1/2 varas to a stake in the South boundary of said lot, Thence with the same South 60° E. 122 6/10 varas to the place of beginning, containing twelve (12) acres of land more or less (except about one acre of land sold by said Fritz Figuer and Augusta Figuer to Patrick Toury and Samuel Sundberger previous to Sept 24th 1875. the deeds to which are on record in Travis county Texas, and for a discription of the same reference is here made to said records) and it appearing to the court from the evidence submitted in this cause that plaintiff filed his

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or plevy bond herein on the 28th day of Febuary A.D. 1880, and that he is now in possession of the above discribed premises. It is therefore considered and adjudged by the Court that plaintiff be forever quieted in his title and possession to the above discribed premises. It is further considered ordered and adjudged by the court that said plaintiff E.C. Bartholomew do have and recover from said defendant Fritz Tegner the sum of forty Six & 40/100 ($46.40) dollars, the same being the amount due for rent of said premises at ($6.00) per month from July 5th 1879. to Feby 27th 1880. and that plaintiff recover from said defendant Fritz Tegner all costs in this by half & pended for all of which & execution may issue.

5400 R. J. Lonny vs C.W. White. And now on this day this cause coming on to be heard the parties in person and by attys appear and announce ready for trial, and the parties having read their pleadings and the plaintiff having introduced a part of his evidence and having offered in evidence an affidavit made by defendant charging plaintiff with the crime of swindling. Which affidavit on objection of defts was excluded as evidence because of a variance between the affidavit offered in evidence and that set out in the plaintiffs petition, and thereupon the plaintiff asks leave of the court to take a non suit in this cause without prejudice and with leave to file a motion to set aside the non suit and to reinstate this cause on the docket. Which being granted It is therefore ordered and adjudged by the court that plaintiff take a non suit in this cause without prejudice and that leave is now here granted plaintiff to file his motion to set aside this non suit and reinstate this cause. And it is further ordered by the court that the plaintiff R. J. Lonny and his surety on his cost bond to wit: Joseph Nalle pay all costs in this behalf incurred for which & execution may issue. Thereupon Court adjourned till tomorrow morning 9 o'clock.

June 5th 1880

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had,

De fa 6H

Dec. dock No 5 pge 78

The State of Texas vs A. H. Muir, On this 5th day of June 1880 this cause having been regularly called for trial, came the State by her atty and all the defendants herein appeared by their atty John B. Rector and both parties announced themselves ready for trial, Thereupon a jury of twelve good and lawful men of Travis county, consisting of W. S. Barnes foreman and eleven others duly elected and sworn according to law, were impannelled for the trial of this cause, Both parties then submitted to said Jury and Court their pleadings and the State introduced her evidence, but the defts did not introduce any evidence, and both parties by their attorneys having submitted their arguments the court charged the jury as to the law in this case, The said jury after having retired for deliberation, returned into open court the following verdict- "We the Jury find for plaintiff the sum of five thousand dollars ($5000.00) as per judgment nisi heretofore rendered in this case. W. S. Barnes Foreman" It was thereupon considered ordered adjudged and decreed by the court in accordance

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with said verdict. that the judgment nisi rendered by this court on the 9th day of February 1880, and forfeiting a certain appearance bond. dated the 26th September 1879, on which bond A H Weir was principal and J. L. Monroe. J. E. Anderson and C W. Henderson were sureties) be and said judgment nisi is hereby made final and that therefore the State of Texas do have and recover of and from the said A. H Weir as principal and of and from J. L. Monroe. J. E. Anderson and C. W Henderson as sureties the said sum of ($5000.00) five thousand dollars together with all costs of this suit for which execution may issue.

5439 Billie Bromrigg Pope et al. vs Elbert Bacon et al. On this day this cause being regularly called for trial and no counsel appearing for plaintiff, upon motion of defendants attorney it was ordered by the court that the cause be continued.

5260. Wm Brush et al. vs L. C. Vineyard et al. The defendants L. C. Vineyard and annie W. Vineyard who were on a previous day of the present term of this court appointed guardians ad litem of the minor heirs Harry and J. E. R. Vineyard having presented their application requesting to be relieved of the guardianship ad litem. their request was by the court granted and Wilson Gregg Esq appointed by the court guardian ad litem in their place and stead.

4795. John. C. Duval et al vs Robert Cruger et al, Mandate of the Supreme Court. The State of Texas, To the District Court of Travis County, Greeting: Before our Supreme court, on the 7th day of May A D 1880 the cause upon appeal to revise and reverse your judgment between Robert Cruger Appellant and J. C. Duval et al Appellees was determined; and therein our said Supreme Court made its order in these words: "No 4179. In this cause came the appellees by counsel and confess errors in the judgment it is therefore ordered by the court that said cause be reversed and the cause remanded for further proceedings, that the appellant and his sureties P. De Cordova and J. C. Pilmickey pay all costs in this behalf expended and this decision be certified below for observance" Whereof we command you to observe the order of our said Supreme Court in this behalf, and in all things to have it duly recognized obeyed and Executed. Witness. the Hon Geo F. Moore Chief Justice of our said Supreme Court. with the seal thereof annexed. at the city of Austin, this the 8th day of May A. D 1880. W. P. de Normandie Clerk by E. de Normandie Deputy.

4795. John. C. Duval. Florida G. Howard. George W. Sampson. C. R. Johns. Flavius Ewell. and William Van Rosenburg vs Robert Cruger and J. C. Kirby.

In this case come now the parties plaintiff and defendant by their attorneys, and submit the matters in controversy to the court upon the evidence and argument of parties, whereupon it appears to the court that the property subject to partition herein is as follows. 1st Seven hundred and ninety acres of land in Hays county the south half of the George Fuller #0644 00 square varas of land described in the petition 2. Seven hundred and thirty eight acres of land in Travis county the south half of 1476 acres of land granted to the heirs of A M Downman, 3. Three hundred and seventy five acres of land in Travis and Hays counties described in the petition

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as 476 acres of land deeded by Ruf. Weir and Martha J. Weir to Robert Longbaur
John L. Duval and the representatives of W.M. Booth being part of the Wm Porter
third league survey, 4th Three hundred and eight acres of land in Hays County, described
in the petition as three hundred and ten acres of land deed by Wm Biles and Richard
Biles to Robert Longbaur John. L. Duval and the representatives of W. M Booth, part
of the Wm Porter third league, 5 one hundred and seventy nine acres of land in Hays
County described in the petition as one hundred and fifty six acres of land patented to
Joseph Baker assigne of Tomidad Varcinas, 6 three hundred and twenty acres of
land in Burleson County, described in the petition as having been granted to the heirs of
Alfred A. Miles, 7th An interest of three hundred and twenty acres in a certificate of
Bounty warrant No 2 for 640 acres issued to John Linville and located in Kames
County Texas, and that said lands and land certificate are a portion of the property
acquired by John. L. Duval. W. M. Booth and Robert Longbaur under their
agreements for the location and acquisition of lands in Texas of date February 6th 1854,
and March 20th 1857 referred to in the pleadings, It further appears to the court
that three certain lands and interests in land in the State of Texas acquired by
the said parties under their agreements of 1854 and 1857 aforesaid which are not now the
subject of partition because of the pendency of suits relating thereto or their determine-
-ation and delin. It further appears to the court that John L. Duval had sold
out of the lands coming to the defendant Longbaur two hundred acres out of the John
Hyson 600 acres in Montgomery County. 347 acres out of the St Bernardo in Robertson
County Texas, Fifty three acres out of the Morinda 272 acres in Bastrop County Texas,
and three hundred and forty seven acres out of the J Tucker tract in Kames County Texas,
It further appears to the court that W. M. Booth died in Travis County Texas
leaving a Will that was duly probated in Travis County by which he made Florida
G. Everett, now Florida G Howard one of the plaintiffs his legatee to all his interest
in lands in Texas, It further appears to the court that John. L. Duval one of
the plaintiffs for the benefit of himself and Walter. M. Booth borrowed from one
Wilson Green a large amount of money by giving his note to the said Green with
George W Sampson one of the plaintiffs as surety, and that on the 19th Nov 1866, the
said Wilson Green obtained judgment in the District Court of Travis County Texas
against the said John Duval as principal and Geo. W. Sampson as surety for the
sum of three thousand three hundred and ninety four 7 dollars bearing twelve per cent per
annum interest which sum has been paid by the said Geo. W. Sampson with the
exception of Seventy four 61/100 dollars paid by the said Duval, and it further
appears that John. L. Duval executed to Geo. W. Sampson a mortgage upon all
his lands in Texas to secure the said Sampson harmless from the payment of the
said judgment and that afterward on the 21st July 1866, the said John L. Duval
and Florida G Howard executed their irrevocable power of attorney to C.R. Johns & co
at that time compose of C.R. Johns, J.L. Kirby and Flavius Everett mortgaging
the proceeds of all lands they might own or acquire under the said agreements of 1854

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and 1857, between John C. Duval, W. M. Booth and Robert Long Baun for the ac=quisition of land, for the payment of said debt so paid by the said Sampson to Wilson Green and affording them trustees to secure all lands and rights coming to them under said agreements and authorizing the said trustees to sell all such lands, and after payment of expenses and the retain=ing of one fourth of the net proceeds for their services in that respect, to pay the remainder to the said George W. Sampson until the said debt paid by him to Wilson Green be satisfied, It further appears that George W. Sampson in order to protect the lands therein men=tioned lying in Hays and Travis counties and since the bringing of this suit paid on taxes and tax sales the following amounts, on the George Hudson tract of 320 acres, $137.20 on the Wm Porter tracts $41.38 amounting in all to $178.58. It is thereupon adjudged that said payments and expenditures of the said Sampson was for the benefit of the parties in interest in this suit and that the said amounts stands as a charge upon the said lands with interest from the 30th day of April 1878 until paid. It is also adjudged and decreed that the interest of John C. Duval in the lands to be divided shall stand charged with the payment to Robert Long Baun of the sum of Seven hundred and fifty dollars for the sale of said Long Baun's interest in the John Hyer, N Bunion tract and Moorida tracts sold by him, And that all the matters in con=troversy between the said John C. Duval, Florida G. Howard George W. Sampson and Robert Long Baun may be finally settled and adjusted with the consent of all the parties to this suit the following agreement for a judgment in respect to partition is entered into, ,

It is agreed between the plaintiffs and the defendants in Case No 4795. Travis County District Court to compromise that Case by making the following division of the lands and other assets in controversy in that Case, reference being made to the accompanying Plat, Plaintiffs are to have, 1st out of the Denman location interest, tract No 1, of 738 acres, the Subdivision marked B containing 288 acres ~~in extending half of the Spring~~ beginning at the S W. corner of the H. M. Denman 1/3 league thence North to a point due west of the center of the Spring" - 762 vs more or less. Thence East 400 vs thence North or south for quantity. Thence East 1734 vrs. Thence South to the S. line of said Denman 1/3 league thence West with said S line 2134 vs to the beginning

2. The sub-division C. of the said Denman tract No 1. containing 250 acres, beginning at the S. E corner of the H. M. Denman 1/3 league survey, thence West with the South line 1092 varas to the S. E. corner of 288 acre tract above described, thence North 1292 varas to the division line between the South and North halfs of the H. M. Denman 1/3 league, Thence East 1092 varas to corner on East line of the same, thence South with said line 1292 varas to the beginning

3. Sub division C of 125 varas acres, part of tract No 3 out of the Wm Porter 1/3 league, being part of the 476 acre tract received in exchange for part of the T. Varcinas tract from Weir, Beginning 1620 varas South from the original N. E. corner of Wm Porter 1/3 league Survey thence West 1250 varas to a point due South from the original N. W. corner of said Wm Porter thence South 562½ varas: thence East 1250 varas

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to the original East line of said Survey, thence North 3762 vrs to the beginning,
H. The Martin and B. containing 288½ acres out of the location in Clark "Tract No 2 of
720 acres. South half of Geo. Herder 1440 acre tract, Beginning at the South West
corner of the said Geo. Herder 1440 acre tract, thence North 1086 vrs to one of its
N. W. corners, thence East 1500 varas; thence South 1086 varas; thence West 1500 vrs
to the beginning,
5. Three hundred and twenty acres out of County Warrant No. 2 for 640. acres, issued to John
Llewellyn and referred to in said case as located in Kames County,
The defendant is to receive, 1. Subdivision A. of the Downman tract No 1 being of the
N. W. part thereof and containing 200. acres. Beging in the W line of the H.M. Downman ½
league at the division corner of the North and South halves thereof. Thence South with said
W line to a point due West of the center of the Spring 530 vrs more or less, thence East 400 vrs
thence N or S. for quantity; thence East 1734 vrs. Thence North to the division line between said
South and North halves of said ⅓ league as run by County surveyor Campbell, thence West
with said division line 2134 vrs to the beginning.
2. Subdivisions H of 250 acres, the balance of the said tract No 3 "reserved from Weir
in Exchange for part of the Narcinas tract; Beginning in the East boundary of said Wm
Porter ⅓ League 452 vrs S of its N. E. corner in the W line of the Cooke league, Thence South
with the Porter E. line - 1168 vrs, thence W 1250. vrs. Thence North 1088. vrs to G.W. Turner's
fence, thence with said same East 680 vrs, Thence N 7½° E. 80 ½ vrs (80 vrs due N) Thence East
560 vrs to the beginning containing 248-70
3. Tract No 5 of 171 acres the balance of the T. Narcinas 948 acre tract after Wm Biles'
300 acres and Weir's 476 acres have been taken off. Beginning at the original S. E corner
of the said T. Narcinos 948. acres survey thence West 2350 vrs to a corner of the Wm Biles
tract; thence North 340 varas, thence East 1100 varas; thence North 137 varas to the S.W.
corner of the Weir tract; thence East 1250. varas to the original East line of T Narcinas
Survey thence South 477 varas to the beginning
4. The balance of the Geo. Herder location in said tract No 2 of 720 acres, after Plain-
tiff's portion B. of 288½ acres hereto for described has been taken therefrom containing
431½ acres; Beginning at the original mort Southern S. E. corner of the Geo Herder
1440 acres survey; thence West 1726 varas; thence North 1086 varas, thence East 1250
varas to the original S. E. corner of T. Narcinas 948 acre survey; thence North 1186 varas,
thence East 476 varas, thence South 2272 varas to the beginning,
5. The Alfred A Miles 320 acres survey in Burleson County referred to in the papers of
the case and known under abstract No 188, the certificate being No 1491, for description
of boundaries reference is made to the patent, being No 175 Vol. 11 Blk.
6. Tract No 4 of 308 acres. part of the Wm Porter ⅓ league received by Wm Biles
and wife in exchange for 300 acres of the T. Narcinas 948 acres survey. Beginning
at the Western North West corner of said Porter ⅓ league; Thence South 1436 varas
thence East 858 varas, thence North 794 varas, thence West 1500 varas to the place of
beginning is allotted to the defendant at two dollars an acre amounting to $616.00

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which are to be deducted from $750.00 named in the decree of the Court as payable to Defendant by plaintiff= John.C. Duval, the balance of $134.00 to be credited to defendant in the balancing of accounts in settling the expenditures for taxes made by both parties hereto. Plaintiffs paying the taxes belonging to the tracts allotted herein to plaintiffs, and defendant paying the taxes belonging to the tracts allotted herein to defendants, the balance so coming to either party to be paid in cash, And it is decreed that all title and interest vested in any of the parties hereto by tax sales or otherwise shall vest under this decree in the respective parties in accordance with the partition above named, so as to vest fee and complete title accordingly, It is further adjudged and ordered, that the taxes heretofore accru=ing upon the lands respectively set apart in this decree to the plaintiffs John.C. Duval and Florida G Howard and the defendant Robert Cruz Saur shall be accounted for and paid by them respectively, and the Hon. William Von Rosenburg is hereby directed on the part of said John.C. Duval and Florida. G. Howard to settle and adjust the same with the defendant Cruz Saur, The court & fees are to be paid one half by each party, Defendant waives all further claims against any locative interest acquired by any of the other members of the late firm of Booth Duval and Cruz Saur, under their agreements, and particularly does defendant waive all claims to said Duval's share, and to the share of the representatives of said Booth in the "Eagle Lake Lands" now in suit; said lands being embraced in the case of Booth vs Shifflman", the shares of the defen=dant Cruz Saur, of said Duval, and of the representatives of Booth in said Eagle Lake lands being in every respect equal without any counter claims whatsoever.

And it appearing that the said agreement is to the interest of all the parties to this suit, it is ordered adjudged and decreed that the same be made the judgment of this court, and that the partition and division as established in the said plat and field notes be recognized as the partition between said parties respectively and that the title to lands thus set apart to the plaintiffs John.C. Duval and Florida. G. Howard be divested out of the said Robert Cruz Saur and vested in them, and the title to the lands set apart above to the defendant Robert Cruz Saur be divested out of the said Florida. G. Howard and John.C. Duval and vested in the said Cruz Saur. It is further adjudged and decreed that the settlement of partition herein made is a full settlement of all accounts or claims between the said John.C. Duval, Florida G Howard and Robert Cruz Saur on account of ap=propriations of the funds or assets of the former firm of John.C. Duval W.M. Booth and Robert Cruz Saur by either of said parties in respect to the taking or acquiring land in Texas under said agreements of 6th February 1854 and March 20th 1857, and that all future acquisitions growing out of the said agreements and especially the lands located in Colorado County Texas in Eagle Lake and embraced in the suit known as the case of Booth vs Shifflman shall be equally divided between the said John.C. Duval Florida G. Howard and Robert Cruz Saur, It further appearing to the Court that the said C. R. Johns & Co composed of the firm of C. R. Johns, J. C. Kirby and Flavius Cornell have by contract entitled to an interest in the net proceeds of one fourth of the lands coming to the said John.C. Duval and Florida Howard that they might-

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secure titles to under said agreement, That J. C. Kirby one of said firm with drew therefrom carrying his full interest of one third with him, that afterwards William Von Rosenberg became one of said partners of C. R. Johns & Co, dividing the interest of said Flavius Cook that afterwards the said C. R. Johns & Co. became an incorporation, Whereupon the said C. R. Johns carried into the same only one half of his said interest of one third, and that afterwards the same corporation of C. R. Johns & Co made an assignment to A. J. Pulen of all their property for the benefit of their creditors, it is adjudged, that subject to the other provisions of this decree, the said J. C. Kirby is entitled to the one third, the said C. R. Johns to one sixth, and the said A. J. Pulen assignee of the corporation of C. R. Johns & Co is entitled to one half of whatever may be coming under the said contract with C. R. Johns & Co entered into by the said John. C. Duval and Florida G. Howard, so far as concerns the interest in the lands set apart to said Duval and Florida G. Howard that lie in the counties of Hays and Travis but no further, And it appearing that the said C. R. Johns & Co have long since ceased to do business either as a copartnership or corporation without having complied the contract further than as it relates to the lands aforesaid in Hays and Travis counties or without having sold or realized and proceeds therefore it is adjudged that their interest in the proceeds of said lands shall only be fifteen per cent to be divided as before named between the said A. J. Pulen assignee the said C. R. Johns and J. C. Kirby the remainder, ten per cent to be disposed of as herein directed, And it appearing that there is a necessity for perpetuating the trust created in the said power of attorney from John. C. Duval and Florida G. Howard to the said C. R. Johns and Co. and that there is now no person capable of acting, it is ordered that said C. R. Johns & Co be discharged from said trust; and that all the powers that were conferred or duties imposed thereby upon the said C. R. Johns & Co or any of the members thereof, be now confirmed and devolved upon William Von Rosenberg of the city of Austin Texas, Who shall have power to proceed to finish the business of adjusting and procuring titles to lands in favor of John C. Duval and Florida G. Howard growing out of said contract with Robert Crug Baur of Feby 6th 1852 and March 20th 1857, so far as the matters entered therein have not been completed to all the lands in Hays and Travis counties and other property herein set apart to the said John. C. Duval and Florida G. Howard, On the sale of said lands and land certificate herein partitioned and set apart to John C. Duval and Florida G. Howard he shall for one year from the entering of this decree be authorized to sell the same at private sale reporting such sales to this court, and upon the confirmation thereof making deed or deeds to the purchaser or purchasers thereof, and at the expiration of that time he shall sell the remainder for cash at public auction at the court house door of Travis county after giving notice as in Sheriffs sales and report the same to this court for which services he shall be entitled to ten per cent of the net proceeds of said sales, and as to the other lands viz: those now in litigation or that may be procured under the said contract between the said John. C. Duval W. M. Booth and Robert Crug Baur

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the said Rosenberg for his services in giving attention thereto and making sale of the interests that may come to the said John C. Duval and Florida G. Howard and otherwise discharging the duties of trust as herein provided shall be entitled to the following compensation, For his services to be performed as aforesaid in respect to the lands in litigation, being those lands in Colorado county known as embraced in the suit of Booth vs Shifflemans he shall on sale thereof be entitled to fifteen per cent of the net proceeds in the shares coming to said Duval and Florida Howard, and as to those lands or interests that may be procured by him out of the interests in lands under the contracts between John C. Duval. M. M. Booth and Robert Cruzbaur, and that are not herein mentioned, he shall upon the sale thereof be entitled to the net proceeds of the one fourth of the same so far as concerns the shares that may be coming to the said John C. Duval and Florida G. Howard, It is adjudged and decreed that the trust created for the benefit of Geo. W. Sampson by the said power of attorney from John C. Duval and Florida G. Howard to C. R. Johns & Co shall be perpetuated, and the said trustee William Van Rosenberg is clothed with all the power and authority conferred thereon upon the said C. R. Johns & Co, and shall have power to divide with any other person claiming rights therein and to sell the said lands mentioned that are now in litigation or that may be acquired under the agreements aforesaid between the said Duval Booth and Cruzbaur, so far as concerns the interests that may come to the said Duval and Florida G. Howard, Whenever the same may be acquired or determined and that he make report thereof to this Court for confirmation of his acts, and he shall pay over subject to the other provisions of this decree all money that may arise from said sales, until he shall have repaid to the said George W. Sampson the said money paid out by him on the judgment of Wilson Jones against John. C. Duval and George W. Sampson with interest thereon from the date of said judgment at the rate of twelve per cent per annum,

For the purpose of executing this decree and carrying out the trusts created, the said Rosenberg Trustee with the money that may come into his hands from the pro=perty sold of the said John. C. Duval and Florida G. Howard, shall pay all the costs chargeable to them in this proceeding as well as all future costs and expenses to be properly incurred in the prosecution of their rights and reducing said property into money, including taxes on the lands, and he is required from time to time to make report of the same to this Court.

It is adjudged and decreed that the defendant Cruzbaur as per agreement of parties shall pay the costs of the making of the transcript in this cause in this appeal to the Supreme Court and that as to the remainder of the costs accrued the said Robert Cruzbaur shall pay one half, and the said John. C. Duval and Florida G. Howard shall pay one half thereof for which Execution may issue, It is further ordered that this cause shall stand upon the docket from time to time to carry out the trusts herein created as far as it relates to the said John. C. Duval, Florida G. Howard and George W Sampson, and all matters in respect thereto not embraced in this decree are reserved for the further action of this court,

Thereupon court adjourned till Monday morning till 9 o'clock

June 7th 1880

Court met pursuant to adjournment, and there being no civil minutes of the date Court adjourned till tomorrow morning 9 oclock.

June 8th 1880.

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

√ 5385. (Exec. docket No 5 page 80) The State of Texas, vs Mill Livingston. J. C. Page, J. C. Anderson, T. J. Sampson, N. A. Nabors, J. B. Polutt W. E. Easterwood, A. E. Brady, W. M. Story, R. Lyles,

This day this cause coming on to be heard and it appearing to the court that the said defendant J. C. Page was not served with process, it is therefore ordered that this suit be dismissed as to the said J. C. Page: and came the said plaintiff and the said defendants Livingston, Anderson, Sampson, Nabors, Polutt, Easterwood, Brady, Story and Lyles, by their attorneys, and neither party demanding a jury the matters in controversy as well of fact as of law were submitted and tried by the court, and the pleadings of the parties and the evidence and argument of counsel having been heard and fully understood and considered and it appearing to the court that this suit was brought upon the official bond of said Livingston as Tax collector of Milam County Texas, which said Bond was signed by said Livingston as principal and by the other defendants above named as sureties, on the 26th day of December 1877. And it further appearing that said sureties in this suit are not properly chargeable with the License Taxes, amounting to $2.761,09, charged to have been collected by said Livingston up to the 31st day of December 1877, and the same is therefore not charged against defendants in this suit; and it further appearing that said Livingston collected ad valorem State Taxes on the tax rolls of 1877, the sum of $3.574.91. prior to said 26th day of December 1877, and did not have said last mentioned sum in his hands on said last named date, and the same is not therefore charged against said defendants in this suit; and it further appearing to the court that said Livingston and the sureties on the bond sued on in this case are liable for the payment of the sum of $6.000 for taxes for 1877, and are further liable for the payment of $6.199.00 for taxes for the year 1878, the said amounts aggregating the sum of $6,839.00, and it further appearing that said last mentioned sum should bear interest at the rate of 8 per cent per annum from the 1st day of January 1879. It is therefore ordered adjudged and decreed by the court that the plaintiff the State of Texas, do have and recover of and from the said defendants, Mill Livingston, J. C. Anderson, T. J. Sampson, N. A. Nabors, J. B. Polutt, W. E. Easterwood, A. E. Brady, W. M Story and R. Lyles, the sum of Seven thousand six hundred and fourteen ($7614.00) dollars with interest thereon at the rate of 8 per cent. per annum from date hereof until paid together with all costs of suit in this behalf expended, and that execution issue therefor, And it appearing that the said defendants J. C. Anderson, T. J. Sampson, N. A. Nabors, J. B. Polutt W. E. Easterwood, A. E. Brady, W. M. Story and R. Lyles, as sureties are entitled to the benefit of the Statutes in

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such case made and provided, It is therefore ordered adjudged and decreed by the Court that the Sheriff levy the Execution issued by virtue of this judgment first upon the property of the said Will Livingston subject to Execution, before a levy shall be made upon the property of the said sureties or either of them; provided so much of the property of the said Livingston shall be found as will be sufficient to make the amount of said Execution, otherwise the levy thereof to be made on the property of the said Livingston, that may be found if any, and upon so much of the property of the said sureties as may be necessary to make the amount of said Execution, and it is further ordered and and decreed by the Court that in case said sureties, or either of them shall make any payment which is applied on this judgment by reason of their suretyship on said official Bond, this judg=ment shall not be discharged by such payment, but shall remain in force and be pro=ceeded to Execution for the use of said sureties or either of them making such payment, to the amount of such payment. And it further appearing to the Court that in addition to this cause that there is pending in this Court another suit numbered 5366, wherein the State of Texas is plaintiff and said Livingston and J.C. Page, David Thomson, H.V. Miller Geo. Miller and P.M. Kolb are defendants. Brought on an official bond of said Livingston as Sheriff and Collector of taxes of said Milam county, dated April 18th 1876, the judgment rendered therein is rendered without prejudice and saves the rights of said State to recover such other, further or additional amounts for taxes collected on account of the State for the years 1877 and 1878. as the said State may be entitled in said cause No 5366 to recover against said Livingston and his sureties on said bond of April 18th 1876. Defendants except and give notice of Appeal to the Supreme Court.

Thereupon Court adjourned till to-morrow morning 9 o'clock,

June 9th 1880.

Court met pursuant to adjournment, and there being no civil minutes of this date Court adjourned till tomorrow morning 9 o'clock

June 10th 1880.

Court met pursuant to adjournment. present same as on first day whereupon the following proceedings were had viz:

5370 W.C. McGowan Ex. vs Sarie Hays et al, And now on this day on motion of the defendants attorney. it is ordered by the Court that W.C. McGowan Executor of the estate of Mary A. Hays dec'd. pay over to E. Hallmann clerk of this Court the sum of Fourteen hundred and forty five 9/100 dollars being the balance found in his hands on the final settlement of his account as such Executor by this Court and thereupon came the said Executor in open Court by his attorneys Hancock West and North and paid to said clerk the above mentioned sum of money, the balance found in his hands as aforesaid, and the Court being fully satisfied that nothing remains in the hands of said Executor belonging to said estate, the premises duly considered, It is further ordered and decreed by the court that the said W.C. McGowan Executor as aforesaid be and he is hereby

June 10th 1880.

discharged from his said trust; And it is further ordered by the court that the Clerk out of the money received as above stated, pay to Kate Stiffley Bowen her share of said money allot to her by the Commissioners as set forth in their report and take her and her husbands receipts for the same, and the share of said money allotted to each of the minors Susie Hays, Alice Hay and W H. Hays remain in the care and custody of said Clerk to be disposed of by him as directed in the decree of this court approving the Commissioners report, and the balance of said money to be applied to the payment of the costs of these proceedings.

✓ 5260. Wm Brush, W. P. Millhouse, F. Carson Moore, A. R. Gossard, J. N. Burnett, J. O. Richardson, Thomas F. Purnell and Harry Webb,

vs

Samuel L. Vineyard, Annie W. Vineyard H. D. Vineyard and J. E. R. Vineyard

This day come the parties the plaintiff by their atty and the defts S. L. Vineyard and Anna W. Vineyard by the written agreement on file and in person, and H. D. Vineyard and J. E. R. Vineyard minors, and the said S. L. and Anna W. Vineyard having filed their written application to be discharged as guardians ad litem they being discharged, and Wilson Gregg Esq having been appointed guardian ad litem for said minors thereupon the parties submitted said cause to the court for adjudication and decree upon the pleadings, agreement in writing filed and the evidence, Whereupon the court having duly examined the pleadings and agreement and evidence, doth find as follows to wit: That on or about the 17th day of June A. D. 1878, Wm Brush, F. L. Moore, E. M. Rice, J. N. Burnett Jas. M. Dearmond, W. P. Millhouse, W. E. McCarty, M. McGoodwin and T. L. Reed their acting Trustees and agents of the Methodist Episcopal Church of the city of Austin in the Central Methodist Episcopal Church district, and Austin Conference Texas, made and entered into a contract with Samuel L. Vineyard and Anna W. Vineyard by which said contract the Trustees and agents aforesaid at the instance and request of the said S. L. and Anna W. Vineyard conveyed by deed to the minors Harry S. and J. E. R. Vineyard the following described property situated in the city of Austin Texas to wit: Lot No (One) in Block No three (3) of a subdivision made by Raymond & Willis of out lot No (16) Sixteen of Division D. in the city of Austin Texas together with all the improvements thereon, that the said Samuel L. Vineyard and Wife Anna W. Vineyard in payment for and in consideration of the conveyance aforesaid by their deed conveyed to said Trustee certain lands hereinafter mentioned and described in this decree, and also a certain promissory note for the sum of Two thousand one hundred and seven and 50 dollars principal dated the 7th day of June 1877. and executed and delivered by the said S. L. and Anna W. Vineyard by John L. Herring with interest thereon at the date of said contract amounted to the sum Twenty three hundred and Seventeen and dollars which note was given for the purchase money of a certain tract of land situated in Aransas county Texas, and it also appearing that said tract of land and having been previously transferred by S. L. and Anna W. Vineyard to all of said H. E. R. Vineyard, sold and conveyed by the said S. L. and Anna W. Vineyard

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and retained the Vendors lien upon said land for the payment thereof, and which note was transferred to said Trustees by the endorsement of the said Samuel C. and Anna W. Vineyard, And it also appearing that said tract of land sold to Herring had previously been conveyed by S.C. and Anna W. Vineyard to A. S. and J. E. R. Vineyard, And the Court doth further find that the plaintiffs herein and the successors of the parties herein above named as Trustees of said Methodist Episcopal Church, And the Court doth further find that the said Samuel C and Anna W Vineyard could not and did not convey the legal title to the land hereinafter described, and attempted to be conveyed to the Trustees aforesaid in consideration of the conveyance by said Trustees and that the title should have entirely failed. The Court doth further find, that the note of the said John C. Herring aforesaid given in part for the purchase of said Church property has been transferred and endorsed by the said Trustees to S. C. Moore and that judgment therein has been rendered in the District Court of Travis County in favor of said Moore and against the said Herring and Samuel C. Vineyard and the said Trustees as endorsers, and that in said judgment and decree an order of sale is directed for the sale of the tract of land sold to said Herring aforesaid, Which said judgment and decree of foreclosure of the Vendors lien is now held and owned by the said F Carson Moore and is beyond the control of the plaintiffs herein. And the Court doth further find, that there is now pending in the Court of Appeals a suit by S. C. and J E. R. Vineyard by Special Guardian, against W. E. McCarty and Wm Brush involving the right to the following property 1 Organ. 1 Sofa. 3 Strips Carpet. 2 Chandeliers and 12 lamps. 26 Benches, Which was the property of said Methodist Episcopal Church, and Which is claimed in said suit by the said Vineyards Plaintiffs therein to have been sold and conveyed to them by the said Trustees in the sale aforesaid,

And the plaintiffs herein having prayed in their pleadings, that said original trade be rescinded and cancelled and that the title to the property conveyed as herein above found to the said minors A. S. and J. E. R. Vineyard be divested out of said minors, and that the same be revested in the Methodist Episcopal Church as the same was vested before the trade aforesaid was made; and also praying that plaintiffs may pay into Court the sum of Thirty five hundred dollars the amount mentioned in the written agreement between pltffs and Samuel C. and Anna W Vineyard as equivalent to the value of the note of the said John C Herring and in the place and stead of the return of said note, And it appearing to the Court upon consideration of all the facts, pleadings and the terms of the agreement on file, that said original contract between the parties thereto should be rescinded and annulled, and the parties placed in Statu quo so far as the same can be done, and it further appearing that the sum of Thirty five hundred dollars offered to be paid by the said plaintiff is equivalent to and a fair and just compensation for the interest of the said minors A. S. and J. E. R. Vineyard in the note of the said John C. Herring, and the land for which the same was given and that said amount should be received in lieu of the return of said note, and that all the property conveyed by the parties respectively should be restored in title and possession as the same was before the making of said trade, and conveyance by the said Trustees and the said S. C.

June 10th 1880.

Vineyard and Anna. E. Vineyard aforesaid. It is therefore ordered adjudged and decreed by the Court that the conveyance made by the Trustees of the said Meth=odist Episcopal Church of Lot No one in Block No three of a Sub division made by Raymond and Whitis of Out Lot No sixteen Division D in the city of Austin known as James Chapel to Harry S. Vineyard and J. E. R. Vineyard be and the same is hereby cancelled and annulled and that the title thereto be and hereby is divested out of the said A. S. Vineyard and J. E. R. Vineyard, and be and the same is hereby vested in the plaintiffs herein for the use and benefit of the Methodist Episcopal Church in the city of Austin in the Central District Austin Conference as fully and perfectly, free from the claim of the said A. S and J. E. R. Vineyards as the same was before the said conveyance to them, It is further ordered adjudged and decreed by the Court, that whatever and all the title that was conveyed and vested in the said Trustees of the Methodist Episcopal Church aforesaid by the conveyance to them by the said Samuel E. Vineyard and Anna E. Vineyard and to the following described tracts of land to wit:

1st 320 acres of land granted James. W. Byrne by letter patent No 259 Vol 23 Surv. Same No 581 in the County of Runnels in the State of Texas.

2nd 320 acres in Same County Same Grantee. Patent No 257 Vol 23 Survey No 580.

3d 320 acres in same county same Grantee Patent No 258 Vol 23,

4th 320 acres in Menard County Texas Patent to James W Byrne by Patent No 260. Vol 23 -

5th 320 acres in the County of Menard. patented to James. W. Byrne, Patent No 261 Vol 23 Survey No 31

6th 320 acres. Patented to James W Byrne. Patent No 262 Vol 23,

7th 320 acres, Patented to Same Grantee. Patent No 264 Vol 26. Survey No 319, Land Scrip No 306

8th 640 acres of land granted, Paul Anderson by virtue of Scrip No 178 on the West side of Copano Creek Refugio County.

9th 220 acres granted to James. W. Byrne Refugio County on Said creek located by virtue of Scrip $\frac{24}{25}\frac{30}{31}$ abstract No 86.

10th 320 acres in Refugio County granted to A. Storrs by virtue of Headright Cer=tificate No 12 issued May 3d 1843 in Montague county

11th 640 acres Refugio County granted James F. Irwin by virtue of Scrip No 172 on the West side of Copano creek,

12th 1157 acres in Aransas County. located jointly by Wm G. Hall Chas Allen and James. W. Byrne, by virtue of certificate to Eg. Kil Pace (1280) Hun=dred (75) acres Wm G Martin (383 1/2) acres Toby Scrip No 301 and 205 acres out of No 105 Toby scrip and (370 1/2) acres aggregating 2314 acres one half of which belonged to J. W. Byrne

13th 320 acres Matagorda County. Patented to James. W. Byrne Patent No 14 Survey No 4 near Lake Austin

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14th 320 acres in Matagorda County Patented to James. W. Byrne. Patent No 141. Survey No 3)

15th 320 acres in Matagorda County Patented to James W Byrne No 142. Patent 16th 640 acres. Matagorda Co. Granted to James. W. Byrne by Patent No 139 Known on Map of said County as survey No one, It and the same is hereby divided out of said Methodist Episcopal Church and the Trustees thereof, and that the same shall vest and be held and owned as the same was held and owned before the said Conveyance. It is further ordered adjudged and decreed by the Court that the Plaintiffs do pay off and discharge the Mortgage held by A. W. Terrell upon a part of the lands herein above described. Which was executed by D. C and Annie W. Vineyard for the sum of Three Hundred and fifty dollars. It is further ordered adjudged and decreed by the Court that the Plaintiffs herein shall pay into this court, into the hands of the Clerk Hereof the sum of Twenty five hundred Dollars to the use and benefit of the said Minors Harry. S. Vineyard and J. E. R. Vineyard the same being in full compensation for their right and interest in the Note given by the said John C Hervey, Except so much as shall be applied to the payment of costs as herein provided, and that said money be safely held by the Clerk until the same can be paid over to the legally appointed and Qualified regular guardian of said Minors Harry. S. and J. E. R. Vineyard appointed by the County Court. It is further ordered and adjudged by the Court that the Plaintiffs have writ of possession to the property herein above described situated in the city of Austin commanding the Sheriff to place them in possession thereof, It is further ordered and adjudged that the plaintiffs pay one half of the costs of this suit for which the officers of Court may have Execution therefor, and that the defendants pay the other half of said costs. the same to be paid to the Clerk out of the money paid into Court by the plaintiff as herein ordered. It is further ordered that Wilson Gregg Esq be and he is hereby allowed the sum of Twenty five dollars as guardian ad litem of the Minors H. S. and J. E. R. Vineyard and that said amount be paid out of the money deposited in Court by the plaintiffs as aforesaid.

5-260. Wm Bond et al vs D. C. Vineyard et al. The bill of costs, taxed in this cause amounting to $47.75 having this day been inspected by the Court and found correct, it was ordered by the Court, that the Clerk of this Court retain one half of said amount to wit: the sum of $23 87/100 Twenty three 87/100 Dollars out of the Twenty five hundred dollars paid into court in accordance with the decree in this cause, said $23 87/100 being the amount of costs heretofore adjudged against the minor defendants, Thereupon Court adjourned till tomorrow morning 9 o'clock

June 11th 1880.

Court met pursuant to adjournment present same as on first day. Whereupon the following proceedings were had viz!

Ge J 17. The State of Texas vs J. D Berry et al. The following Mandate of the Hon Court of Appeals of the State of Texas. was received & filed in this Court this

June 11th 1880

day the this cause.

The State of Texas, To the District Court of Travis County Greeting; Before our Court of Appeals on the 8th day of May A. D 1880, the cause upon writ of Error bind to revise or reverse your judgment between J. D Berry et al Plffs in Error and the State of Texas- Defft in error was determined; and therein our said Court of Appeals made its order in these words: No 1678. on this day came on to be heard the motion of the Asst Atty General for Appellee to affirm this cause on certificate and the same being considered it is ordered adjudged and decreed that the judgment of the Court below be in all things affirmed, that the plaintiff in Error J. D. Berry, H. H. Hall and L. T. Frank and their sureties E. C. Thornton and J. W. Gentry pay to the Appellee the amount adjudged below and all costs and all costs in this behalf expended, and this decision be certified below for observance, Wherefore We Command you to observe the order of our said Court of Appeals in this behalf and in all things to have it duly recognized obeyed and executed. Witness the Hon John. P. White, presiding Judge of our said Court of Appeals with the seal thereof annexed, at the city of Austin this 11th day of June A.D. 1880 James L. White Clerk. By H. F. Folmer Deputy.

Sc f 38. The State of Texas to James Morrow et al, The following Mandate of the Hon Court of Appeals of the State of Texas, in this case was received and filed this day in this Court, The State of Texas, To the District Court of Travis County, Greeting: Before our Court of Appeals on the 8th day of May A. D 1880, the cause upon Appeal Bond to revise or reverse your judgment between Wm Thomas et al Appellants and the State of Texas Appellee was determined; and therein our said Court of Appeals made its order in these words: No 1680, on this day came on to be heard the motion of the Asst Atty General for Appellee to affirm this cause; and the same being considered it is ordered by the Court that said Motion be granted, that the judgment of the Court below be in all things affirmed, that the appellants Wm Thomas, Edmund Coleman W. W. Tandy and G. W Doolittle and their sureties D. L. Thomas, and Thomas Brown pay to appellee the amount adjudged below and all costs and all costs in this behalf expended and this decision be certified below for observance, Wherefore We Command you to observe the order of our said Court of Appeals, in this behalf and in all things to have it duly recognized, obeyed and executed. Witness, the Hon John P. White presiding Judge of our said Court of Appeals. With the seal thereof annexed at the city of Austin this 11th day of June A.D. 1880 James L. White Clerk By H. F. Folmer Deputy Clerk.

$2000. William Ernst Kheese vs. Austin City Rail Road Company. On the 24th day of May A.D 1880, this case having been regularly called for trial, came the parties thereto by their attorneys and announced themselves ready for trial. Whereupon a jury of twelve good and lawful men, being duly sworn as required by law, were selected empannelled for the trial of this case. The parties thereupon

read their pleadings and introduced their evidence and the Court charged said Jury as to the law of this case, whereupon said Jury retired for deliberation, and on the 27th day of May 1880 said Jury reported to the Court that they were unable to agree upon a verdict. The Court therefore withdrew this case from the Jury and ordered a mistrial to be entered herein.-

June 12th 1880.

5349 Austin Home Building & Loan Association vs. Wm Rinsston & wife. Both parties being this day present by their attorneys, the plaintiffs motion for a new trial in this behalf was submitted to the Court, which motion was by the Court overruled. The plaintiff thereupon excepted to such ruling and gave notice in open Court of appeal to the Supreme Court.

June 14th 1880.

S. f. No 47. The State of Texas vs. Wm Poe et al. Both parties to this case being this day present by their attorneys, the defendants motion for a new trial in this behalf was submitted to the Court, and the Court overruled said motion

S. f. No 48 The State of Texas vs. Wm Poe et al. Both parties to this case being this day present by their attorneys, the defendants motion for a new trial in this behalf was submitted to the Court, and the Court overruled said motion.

June 16th 1880.

5400 R. J. Lorring vs. C. W. White. Both parties to this case being this day present by their attorneys, the plaintiffs motion to reinstate this case, came on to be heard and being duly considered, said motion was granted by the Court, and it was ordered by the Court that this case be reinstated upon the docket of this Court and that the plaintiff R. J. Lorring & the surety on his cost bond viz: Joseph Nalle pay all costs in this behalf expended including the costs of this order, for which execution may issue against said parties.

June 21st 1880.

5401 T. L. Wren vs. T. H. Bolen & Co. Both parties being this day present by their attorneys, the defendants motion for a new trial came on to be heard and being duly considered by the Court, it was ordered by the Court that said motion be overruled. The defendants by counsel then excepted to such ruling and gave notice of appeal to the Supreme Court.

June 26th 1880

4464 Alfred Smith vs. J. R. Warren. On this 26th day of June 1880, both parties being present by their attorneys, came on to be heard the plaintiff motion and amended motion to retax the costs in this case. And the Court having heard said motion and the evidence of both parties, considered ordered and adjudged that the witness M. T. Sharp is not entitled to the last item of ($32.50) Thirty two dollars taxed in his favor on the bill of costs, but that he is entitled to the balance of the witness fee & mileage taxed in his favor viz: ($7.50) Seventy eight dollars, that therefore a retaxation of the bill of costs be had so as to exclude the said item of ($32.50) Thirty two dollars. Both parties by their attorneys then excepted to such ruling & gave notice of appeal to the Supreme Court.

June 28th 1880

5471 Paul Kirkmann, Ex parte. The State of Texas, County of Travis, Paul Kirkmann being duly sworn according to law in the District Court of said County doth declare that he was born in the year A D 1844 in the Kingdom of Prussia. Whence he emigrated in the year 1871. to the United States of America, and has selected the State of Texas as the place of his intended Settlement, and he further declare that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounce forever all allegiance and fidelity to any Foreign prince, Potentate, State or Sovereignty whatsoever, and particularly to William the King of Prussia of whom he was a Subject, 401

July 6th 1880.

Jury Commissioners Tiff Johnson, Wm. M. Saunders and R. Bertram have to fore appointed and regularly sworn and impannelled by the Court as Jury Commissioners came this day into open Court and delivered to the Court the list of Grand Jurors and the lists for Petit Jurors for the 3. 4. 5. 6. 7. 8. and 9 Weeks of the next October term of this Court. Whereupon the Court delivered said lists to the Clerk of this Court and administered to him the oath required by law as to the safe Keeping of Jury lists, and the Court then delivered to the Clerk of the County Court the list of all Jurors prepared by said Commissioners and directed to the Jury Commissioners of the County Court and also administered to said County Clerk the oath required by law.

July 8th 1880.

Sc fa 68. The State of Texas, Vs R. E. Hatch. Sci. fa. The defendants in this case having accepted Service of the Writs of Scire facias upon a Judgment nisi rendered during the present term of this Court, Came this day into open Court by their Atty of record W. H. D. Carrington Esq and Agreed that this case Stand and be made a trial case Without Jury at the present term of this Court, and both parties thereupon announced ready for trial and submitted this case to the Court, The defendants then

July 8th 1880

admitted the facts set out in the Writs of Scire Facias, and say that they are ready and willing to pay to day ($2000.00) two thousand dollars on this judgment and prayed the Court to remit the balance of the judgment nisi viz: One thousand dollars. It was thereupon consid=ered, ordered and adjudged by the Court that the judgment nisi heretofore rendered in this be and it is hereby made final for the sum of $2000.00) Two thousand dollars and that the balance of said judgment nisi be and it is hereby remitted and vacated, that therefore the State of Texas do have and recover of and from the defendant R. E. Hatcher as principal and of and from L. D. Carrington and E. A. Brooks as said sureties the said sum of $2000.00) two thousand dollars and all costs of this prosecution. The said defendants thereupon paid to the Clerk of this Court the said sum of ($2000.00) two thousand dollars and four dollars costs. Whereby this judgment became fully discharged and satisfied.

July 10th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5388 E. C. Barthalomew vs. Fritz Tegener et al. The parties to this case being this day present by their Attorneys, the defendants' motion for a new trial was submitted to the Court. And said motion being duly considered was by the Court overruled. The defendants by coun=sel excepted to such ruling and gave then in open Court notice of Appeal to the Court of Appeals.

4016. F. Heussey & son vs. J. T. Jackson deft & F. B. Forster garnishee. The answer of the garnishee F. B. Forster being contested, it was this day ordered by the Court that this case be again placed upon the trial docket to be tried on the question of facts.

Sc. J. No 50 (ex No 5901. Exc. dock. 5 pg 78) The State of Texas vs. L. L. Ferrary et al. This cause being this day called for trial came the County Attorney on behalf of the State, but the defendant Ferrary being distinctly called three times by the Sheriff, again failed to appear but wholly made default. The County Attorney thereupon claimed a judgment final pursuant to the judgment nisi heretofore rendered in this case: And it appearing to the Court that the said defendant L. L. Ferrari as principal with G. N. Erwin and J. J. Erwin as sureties did on 14th day of July A.D. 1879 before this Court enter into a recognizance payable unto the State of Texas in the penal sum of ($400.00) four hundred dollars payable jointly and severally, conditioned that the said principal should well and truly make his personal appearance before the Post. District Court of Travis County, at the Court house thereof in the City of Austin at the first Monday in October A.D. 1879 and there remain from day to day and from term to term of said Court until discharged by due course of law; then and there

Error of this judgment: Case No 5901 Sc. J. No 50 Exc. dock 5 pg 78 Amount of this judgment $400.00 Date of this judgment July 10th 1880 Amount remitted by this judgment $200.00 Amount now due by this judgment $200.00 Interest on $200.00 from Aug 1st 1882. This Sept 5th 1882 $200.00 and interest paid - Aug 5, 1882 Clerk D.C.

July 10th 1880.

to answer the State of Texas upon a charge found upon a bill of indictment therein filed wherein he is charged with theft of money of a higher value than ($20.00) twenty dollars, and it further appearing to the Court that at the October term 1879 of said Court and on the 10th day of November 1879 the aforesaid cause being called for trial the defendant L. L. Ferrari failing to appear, the said recognizance was declared forfeited and judgment nisi was entered of record against said Ferrari and his said sureties, the Court now heard the demurrer and answer filed in this behalf by the aforesaid sureties D. W. & J. J. Erwin. And the Court having duly considered said demurrer and answer, overruled said demurrer and, being of the opinion that the allegations contained in said answer did not present any legal defence, the Court did now reconsider ordered, judge and decree, that said judgment nisi be and the same is hereby made final and absolute, and that the State of Texas do have and recover of and from the said defendant L. L. Ferrari as principal and of and from D. W. Erwin and J. J. Erwin his said sureties the sum of ($400.00) four hundred dollars, jointly and severally, together with all costs of this suit, for which executions may issue.

Court adjourned until the 13th 9 o'clk A.M. 5176

July 13th A. D. 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

5260 Wm. Brush et al vs. L. L. Vineyard et al. On this day came the defendants by their Attorney, excepted to the judgment, entered in this cause on the 10th day of June 1880 during the present term of this Court, and gave in open Court notice of appeal to the Supreme Court. Thereupon Court adjourned till Friday Morning 16th inst. 9 o'clock.

July 16th 1880

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5424 The State of Texas. vs John T. Cordray et al. On motion of plaintiffs attorney this cause was this day dismissed at plaintiffs costs,

5176 Sc fa 65. The State of Texas. vs J. M. Turner et al. On this day it is ordered by the Court that the continuance heretofore entered in this cause be set aside, and the judgment nisi heretofore ordered set aside and cause dismissed. Costs having been paid.

Sc fa 66 The State of Texas. vs J. M. Turner et al. on this day it is ordered by the Court that the continuance heretofore entered in this cause be set aside. and the judgment nisi heretofore entered in this cause be set aside. and cause dismissed. Costs having been paid. Court adjourned until Monday the 19th inst 9 o'clock

July 19th 1880.

Court met according to adjournment. Present same as first day Whereupon the following proceedings were had viz:

5390 G. W. Sampson vs. P. W. Stewart et al. Upon motion of plaintiff Sampson this case was this day ordered to be dismissed. pltff having paid the costs.

Court adjourned until to morrow morning 9 oclk A.M.

July The 20th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

Whereas the jury Commissioners of last term provided for the juries of this term and whereas the juries drawn for this term have all been discharged, and there still remains to be tried at this term of the Court a jury case upon the docket of this Court & undisposed of. It is ordered that R. A. Rutherford, D. W. C. Baker & A. P. Blocker be and they are hereby appointed Jury Commissioners and that the Sheriff of this County notify said Commissioners to be and appear before this Court now in session on Friday the 23rd inst. to enter upon the discharge of their duties as such commissioners.

5176 R. B. Hubbard Governor &c. vs. Andrew J. Ward et al. It was this day ordered by the Court, that the plaintiffs general and special exceptions to the answer of defendant Patton - filed December 31st 1879 - be and the same are hereby overruled, and that Pffs general and special exceptions to the answer of defendant Ward et al. - filed May 21st 1880 be and the same are hereby overruled, and upon pltffs motion it was further ordered that plaintiff have leave to amend its pleadings and have ten days to do so, and further ordered that the defendants have leave to file an amended answer, and plaintiff excepted to such leave being given to the defendants. Error

5176 R. B. Hubbard Governor &c. vs. A. J. Ward et al. Now in this case came on for hearing the demurrer and exceptions general and special of plaintiff in his first supplemental petition filed May 26th 1880 to the amended answer and plea in reconvention of defendant Patton filed December 31st 1879 and to the first amended answer of defendants Ward, Dewey et al. filed May 17th 1880 and the said demurrer and exceptions having been duly argued and considered, because the Court is of opinion that the law is with said defendants, it is therefore ordered and adjudged that said demurrer and exceptions of plaintiff be and the same are hereby overruled. Whereupon at the request of plaintiffs counsel leave was given Plaintiff to amend his pleadings, such amendment to be filed within ten days (10) from this date. It is also ordered at request of Defendants that they have leave within ten days.

July 20th 1880.

thereafter to amend their pleadings. It is further ordered by consent of the parties that this case be fixed for trial on Tuesday 30th November next.

Court adjourned until the 21st inst. 9 o'ck. A.M.

July 21st 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had.

5-407.
v 5388 E. L. Bartholomew vs Joel M. Bennett et al. Upon motion of plaintiffs Attorney it was this day ordered by the Court that the continuance in this case be set aside and that this case be and the same is hereby dismissed, plaintiff having paid the costs.

Upon the report of the Sheriff that D. W. C. Baker, one of the Jury Commissioners appointed by this Court on the 20th inst., is sick and unable to serve as jury commissioner, it was this day ordered by the Court that Walter Tips, a citizen of this County be and he is hereby appointed as jury commissioner in the place of said Baker. Court adjourned until to morrow morning 9 o'clock.

July the 22nd 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

Now on this day appears R. A. Rutherford A. P. Blocker and Walter Tips as jury commissioners and after being duly sworn and examined as to qualification and were ordered by the Court to select the names of one hundred persons qualified to serve as jurors and not exempt from jury duty and to draw therefrom as the law directs the names of (36) thirty six of said persons and return the names so selected to this Court in manner and form as the law directs, such persons to constitute a jury for the 13th week of the present term of this Court and to make a list also for the jury commissioners of the County Court as required by law and the said jury commissioners thereupon retired in charge of a deputy Sheriff to enter upon and to discharge the said duty as jury commissioners.

On this day came into open Court A. B. Langerman a native of Prussia and submitted to the Court his petition praying to be admitted to become a citizen of the United States; and it appearing to the Court that he had declared on oath before the clerk of the District Court of this County on the 5th day of May A.D. 1877 that it was bona fide his intention to become a citizen of the United States

July 23rd 1880.

and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty whatsoever and particularly to the King of Prussia of which he was at that time a subject; and the said H.B. Langerman having on oath declared, and also made proof thereof, agreeably to law to the satisfaction of the Court, that he had resided five years in the United States and in the State of Texas immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and said Langerman having declared on oath before said Court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince potentate, State or sovereignty whatsoever, and particularly to the King of Prussia, of whom he was before a subject; and having in all respects complied with the laws in regard to naturalization; It was therefore ordered by the Court that the said H.B. Langerman be and he is hereby admitted as a citizen of the United States

Court adjourned until Monday the 26th inst. 9 o'clk A.M.

July 26th 1880

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5423 The State of Texas vs L. C. Cromwell et al. On this day the motion of the plaintiff in the above entitled cause to reinstate the said cause, as to L. C. Cromwell and Wm Holmes coming on to be heard, and it appearing to the Court that this cause was dismissed as to the said defendant L. C. Cromwell and Wm Holmes on the 18th day of May 1880, and that it is the desire of all the parties in this cause that said cause shall be reinstated upon the docket as to the said Cromwell and Holmes, and it also appearing to the Court that said defendants L. C. Cromwell and Wm Holmes are both dead, a suggestion to that effect having been made in open court and entered of record, and that B. L. Temple is the administrator of the estate of L. C. Cromwell deceased, and that Mrs Holmes surviving wife of said Wm Holmes deceased is the administratrix upon said estate of her deceased husband, and that all the children of said Cromwell and Holmes are minors. It is therefore considered ordered adjudged and decreed by the court that this cause be reinstated as to the said defendants L. C. Cromwell and Wm Holmes; that B. L. Temple the administrator of the estate of the said L. C. Cromwell deceased and Mrs Holmes surviving wife

July 26th 1880.

of said Wm Holmes and administratrix in said estate of Wm Holmes be made party defendants hereinas prayed for in plaintiffs motion filed in this cause on this day and that the Clerk of this Court do issue at once a writ of Scire facias to said Administrator and administratrix who reside in Kinney County Texas requiring them each to be and appear before the District Court of Travis County Texas to be held on the 1st Monday in October A. D 1880 then and there to defend this suit and show cause if any they have why they shall not be made party defendants to said cause, and that this cause be continued for service of said Scire facias

Court adjourned until to morrow morning.

July 27th 1880.

Court met according to adjournment. Present same as first day. No proceedings being had on the civil docket, Court adjourned until the 29th inst.

July 29th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

S. Jas. B. 64. The State of Texas vs. A. P. Weir et al. On this 29th day of July 1880 came on to be heard the defendants' motion for a new trial in this case, and said motion being fully argued by counsel and duly considered by the Court, said motion was by the Court overruled. Whereupon the defendants by their counsel excepted to such ruling and gave them notice of appeal to the Court of Appeals.

5237 Thomas B. Jourdan vs. George B. Kimpelman. This day came on to be heard the plaintiffs motion for leave to withdraw the following papers filed in this cause viz: 1st deed from James Lamb sen to Thomas B. Jourdan, 2nd deed of trust from Thomas B. Jourdan to Lucius R. Kendall, 3rd deed from Lucius R Kendall to Emilie B. Jourdan. The Court thereupon ordered that said plaintiff have leave to withdraw said papers from the file of this case upon leaving certified copies of the same with the clerk of this Court.

5406 The State of Texas upon relation of R Rolt et al vs. J. C. De Gress. By leave of the Court first had and obtained the defendant by his attorneys withdrew his answer filed in this case on the 19th inst, and thereupon by consent of plaintiffs counsel this cause was postponed until the 4th day of August 1880

Court adjourned until Monday the 2nd day of August 1880

August the 2nd 1880.

Court met according to adjournment. Present same as first day.
Whereupon the following proceedings were had viz:
5091. The State of Texas vs J. M. Brown et al } And now on this 2nd day
5109. The State of Texas vs J. M. Brown et al } of August comes W. H.
Gaston by his attorney and shows to the Court that he is one of the
sureties in the case 5109 The State of Texas vs J M Brown et al., that he
the said Gaston has paid (# 4883 53) four thousand eight hundred &
eighty three & 53/100 dollars more than his pro rata share on the judgments
in the two above styled & numbered cases, that he is therefore entitled
to an execution for contribution in his favor against his co sureties
as follows: against N. M. Burford for #549 25, against L. H. Beauchamp
for #549 25, against W. H. Witt for #549 25, against Ed Taylor for #549 25
against E. M. Parks for #549 25, against John H. Cale for #549 25
against M J. Pickles Exectrx for #524 00, against Lucy A. Cross sur-
viving wife etc for #549 25 against John J. Aikens for #509 75 with
interest on said several sums of money at the rate of 8 per
cent per annum from the 26th day of September 1879 the day
when he the said Gaston made the aforesaid payment, and the
said Gaston moved the Court to grant him an order to require
the clerk of this Court to ipsue an execution in his the said Gastons
favor as above stated. And it appearing to the Court that all of
the aforesaid parties have had due and legal notice of this motion
and that the law is with the said Gaston, it was ordered by the
Court that the clerk of this Court do ipsue the executions as
prayed for by said Gaston in his motion.

Je 67. The State of Texas vs Thomas M. Childers et al. Continued for service.
Je 63 The State of Texas vs Thomas M. Childers et al. Continued for service.

August 4th 1880.

4593. J. B. Morris et al. vs Fred Carleton et al. Now on this day came the parties by their
attorneys and the minors by their guardian ad litem E. T. Moore Esq and the motion to confirm
the report of the commissioners for partition coming on to be heard, which report is as follows:
14593. Morris et al. vs Carleton et al. In Dist Court Travis Co. Tx. June Term 1880.
To the Hon E. B. Turner Judge of the 16th Judicial District of Texas. The undersigned
who were sent for appointed Commissioners to divide and partition certain tracts of land
equally between Mrs M. T. Morris, Mrs P. T. Carleton, Alfred E. Tannes, R. A Tannes
Phillis E. Tannes, A. C. Tannes and E. T. Tannes and which tracts of land are described as
follows. 1st 100 acres of land situated in Travis County Texas out of a league of land
granted to J. B. Wallis and bounded as follows, Beginning at a stake in the S. W line
of J. B. Wallis half league which is the S. W. corner of James Woods tract of one hundred
acres. Thence N 30° E 885 Varas with said Woods West line to a stake for the N. E. corner

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of this survey, Thence N. 60° W. 660 varas to a Post Oak for the N. W. corner which is 10 links dia from which another P. O. 11 in dia brs N 50° W mkd X. Thence S. 30° W. 865 varas to a P. O. in the North line of the J. F. Webber half league, Thence With the North line of the Webber survey 660 varas to the place of beginning,

2nd 1054 acres out of the 1280 acre tract of land situated in Travis County Texas patented to Joseph Fersenden assignee of J. D. McAllister, said 1054 being described by metes and bounds as follows. Beginning at a point 890 vrs N 60° W. from the most Easterly corner of said tract; Thence N 60° W. With the line of the said survey 2180 vrs to its North corner, Thence S 30° W 3030 vrs to the Western corner, Thence South 60° East 1180 vrs to its most Southern corner, Thence North 30° East 666 vrs to another corner, Thence S 60° E 1000 vrs to another corner, Thence North 30° E 2367 vrs to the place of beginning,

3d Two tracts of land out of the P. B Isles league of land situated in the County of Travis and State of Texas, one tract of which is described as follows; Beginning at a stake in the north line of said league 1130 varas West from the North East corner and being also the N.W. corner of a tract of land sold to F. Mark, Thence West 1130 varas to the N.E. corner of a tract of land sold by C. S. West to Pearce and Harris on the 9th May 1863, Thence South With said Pearce and Harris tract about 1220 varas to the N W corner of a tract of 148 1/2 acres sold to Madison Kirk Sr. Thence East With said Madison Kirk Sr. North line 1130 vrs to a stake in the line of a tract of 150 acres sold to M Kirk, Thence North about 1220 vrs to the place of beginning containing 250 acres,

The second tract described as follows, Beginning at a stake on the bank of the Colorado River being the South East corner of said P. B. Isles league, Thence North With East line of said league to the North East corner of a tract of 100 acres sold to J. C. Stubblefield, Thence West With the line of said Stubblefield one of J. B Hall 1412 vrs to the S. W. corner of J. B Halls 25 acre tract, Thence North With his West line 500 varas to his N. W. corner, Thence East With his N line 282 1/2 varas to his N E. corner, Thence North 250 varas to the N W. corner of another tract of 50 acres sold to J.S. Hall, Thence East 1130 varas to the East line of the P.B. Isles league, Thence North to a point in said line Where it strikes Gravelly Creek, Thence up said Creek in a North West direction until it strikes the South line of a tract of 150 acres sold to W. C. Baker, Thence West to the line of a tract of 200 acres sold to Madison Kirk Jr. Thence South With the line last named to its South East corner, Thence West 1130. varas to the line of the Pearce and Harris tract, Thence South With said line to the bank of the Colorado river, Thence With the meanders of said River to the river bed, thereon, a tract of 50 acres sold to Jas. Hill containing 1870 acres,

Your petitioners report that from the best information they could obtain that the 148 acre tract is worth about 2. dollars per acre, that the 1054 acres out of the J.D. McAllister tract is worth about 75 cts per acre, and that the two tracts in Bastrop County are worth about one dollar per acre, They then proceeded to divide said lands in seven lots or shares as will be hereafter set out. each lot or share being

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in their judgment as near equal in value as they could be made without actual inspection of the grounds, after having made the division as above indicated they assigned the shares by lot among the several distributees, and in accordance with such arrangement they recommend the following partition and distribution of the lands.

To Mrs Polly F. Carleton Share No 1. — 1st 462. acres out of the 1280 acre tract patented to Joseph Fernedes assignee of J. D. McAllister situated in Travis county, and discribed by metes and bounds as follows. Beginning at the North corner of said tract of land, Thence South 30° West with the N.W. line 1197 Varas to a corner, Thence South 60° East 2180 varas to a corner on the line of a tract of 226 acres sold to L. B. Cox out of said McAllister tract, Thence north 30° East with L. B. Cox's line to N. corner of Cox tract in McAllister line 1197 Varas. Thence with McAllister line N 60° W 2180 varas to beginning containing 462 acres. [marked on plat No 1]

2nd 98 acres out of a tract of land situated in Bastrop county granted to P. P. Isles, Beginning at a point in the East line of said Isle league at the N. E. corner of survey of 50 acres sold to Hall by Fred Carleton, Thence N. with Isles line 490 varas to a corner. Thence South 490 varas to N. W. corner of Hall tract; Thence East 1130 varas with Hall's line to the place of beginning. [marked on plat No 1]

To Miss Sallie E. Torres - Share No 2, — 1st 100 acres of land situated in Travis County Texas out of a league of land granted to J. P. Wallis and discribed by miles & bounds as follows: Beginning at a stake in the S. W. line of J. P. Wallis half league which is the S. W. corner of James Woods tract of one hundred acres. Thence N 30° E 888 varas with said Woods West line to a stake for the N. E. corner of this survey, Thence N 60° W. 660 varas to a Post Oak for the N. W. corner which is 10 in dia. from which another P. O. 11 in dia bs N 30° W. mkd X. Thence S 30° W 888 vrs to a P.O in the N line of the J. F. Webber half league, Thence with the North line of the Webber survey 660 varas to the place of beginning,

2nd 250 acres out of the P. P. Isle league of land situated in Bastrop County, discribed by miles and bounds as follows, Beginning at the N. E. corner of the tract sold by C. S West to Pease and Harris on the 9th day of May 1868, Thence East 1130 varas with the north line of the said Isle league 1130 varas to the N. W. corner of the tract of 184 acres sold by Fred Carleton to F. Meaik, Thence South 1355 varas with the West line of the tracts sold by Fred Carleton to F Meaik J. Kirk and M. Kirk to the N. E. corner of a tract of 200 acres sold by Fred Carleton to Madison Kirk Jr. Thence West 1130 varas to the N W corner of the last named tract, Thence North with the East line of the Pease and Harris tract 1355 varas to the place of beginning. [marked on plat as tract No 2]

To E. T. Torres. Share No 3. — 592 acres of land out of the J. D. McAllister tract of 1280 acres in County of Travis. discribed by metes and bounds as follows: Beginning at the most Western corner of said McAllister tract; Thence S 60° E 1180 vrs to corner, Thence North 30° E 666 varas to a corner, Thence South 60° East 1000 varas to a corner, Thence North 30° East 930 to corner of McAllister tract, con

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=laiming in same direction 1270 varas to a point in N. W. line of tract sold by Fred Carleton to L. B. Cox, Thnce N 60° W 2180 varas to the N. W. line of [illegible] =allistin tract, Thnce South 30° West 1836 varas to place of biginning [illegible] plat No 2]

To Mrs Mila. T. Morris, Share No 4.— 444 acres out of the P. B Isles league of land situated in Bastrop county— Biginning at the S. W. corner of a track of 157 acres sold by Fred Carleton to A. Baker on Gravelly Creek, on the E line of a tract sold to Mael Nink Sr. Thnce With M Nink Sr East line to his S. E corner, Thnce Nth 1130 vrs with his South line to a point in the E line of Peace and Harris tract. Thnce South with said line 900 varas, Thnce East 691 varas to the N. W corner of a tract of 50 acres sold by Fred Carleton to Jas Hill thnce in same direction with N line of Hill in all 1130 varas to his N. E. corner. Thnce South with his East line to his South East corner 615 vrs and in same direction to the corner of a tract of 98 acres set apart thnce as tract No 1 in all 725 varas. Thnce East with N line of last tract 1130 varas to E line of P. B. Isles league, Thnce N with E line of Isles league to the S. E. corner of J Nink tract on the E line of Isles league where Gravelly Creek crosses said line, Thnce up said Creek with its meanders the place of biginning, [tract marked No 3 on plat]

To Alfred. E. Torres Share No 5.— 444 acres of land out of the P. B. Isles league in Bastrop County discribed as follows: Biginning at the South East corner of a tract of 100 acres of land sold by Fred Carleton to J. C. Stibbling on the East line of P. B. Isles league, Thnce With said line of J. C. Stibbling tract 1130 varas to its South West corner, Thnce South 2220 varas to a corner, Thnce East 1130 varas a point in the East line of P. B. Isles league, Thnce North 2220 varas with the said East line to the place of biginning, containing 444 acres [tract marked plat No 4]

To R. D. Torres, Share No 6— 444 acres out of the P. B. Isles league of land in Bastrop County, Biginning at the N. W corner of a tract of land of 50 acres sold by Fred Carleton to Hall, Thnce West 691 varas to the line of Peace and Harris tract; Thnce South With East line of Peace and Harris tract 2587 varas, Thnce East 1130 varas to a corner, Thnce N. to S. W corner of Stibblins tract and S. E corner of J. S. Hill, Thnce West with line of J. S. Hill 282½ vrs to his S. W corner, Thnce North With his West line 900 vrs to his N W corner, Thnce East 282½ varas to his N. E. corner being the N. W. corner of J C Stibblins Thnce North 850 varas to the S. E. corner of a tract of 50 acres sold by Fred Carleton to Hill, Thnce East with the South line of Hill 439 varas to his S. W corner, Thnce North with his west line 615 varas. to biginning containing 444 acres, [tract marked No 5 on plat]

To W. C. Torres, Share No 7.— 444 acres out of the P. B. Isles league in Bastrop county, Biginning at the South East corner of Peace and Harris tract in Bank of Colorado River, Thnce down the river with its meanders to the East line of Isles league, Thnce North With said line 1280 to the South East

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corner of tract set apart to Alfred. E. Harris and marked on plat as No 4. Thence West with South line of said tract No 4, 1130 varas to its S. W corner, Thence N with its W. line to the S. E corner of tract No 5; Thence West 1130 varas with the south line of No 5 to the line of Pease and Harris tract; Thence South with the last named line 1590 varas to the place of beginning. [marked on plat No 6]

Your Commissioners herewith attach his plats one of the 1280 McAllister tract in Travis county and the other of the P. B Isles league in Bastrop county, on which are marked the several subdivisions herein before set out. Having performed the labor assigned to them your Commissioners ask to be discharged from any further action in the matter Respectfully A Hmer. P. Blocker.

F. L. Worn

State of Texas } I. F. L. Worn do solemnly swear that as Commissioner
Travis County } appointed in the case of Morris vs Carlton et al to partition and divide certain lands. I have performed my duty to the best of my ability and have divided the said lands as near fair and equitable as I could do with the knowledge possessed and was able to obtain.

F. L. Worn

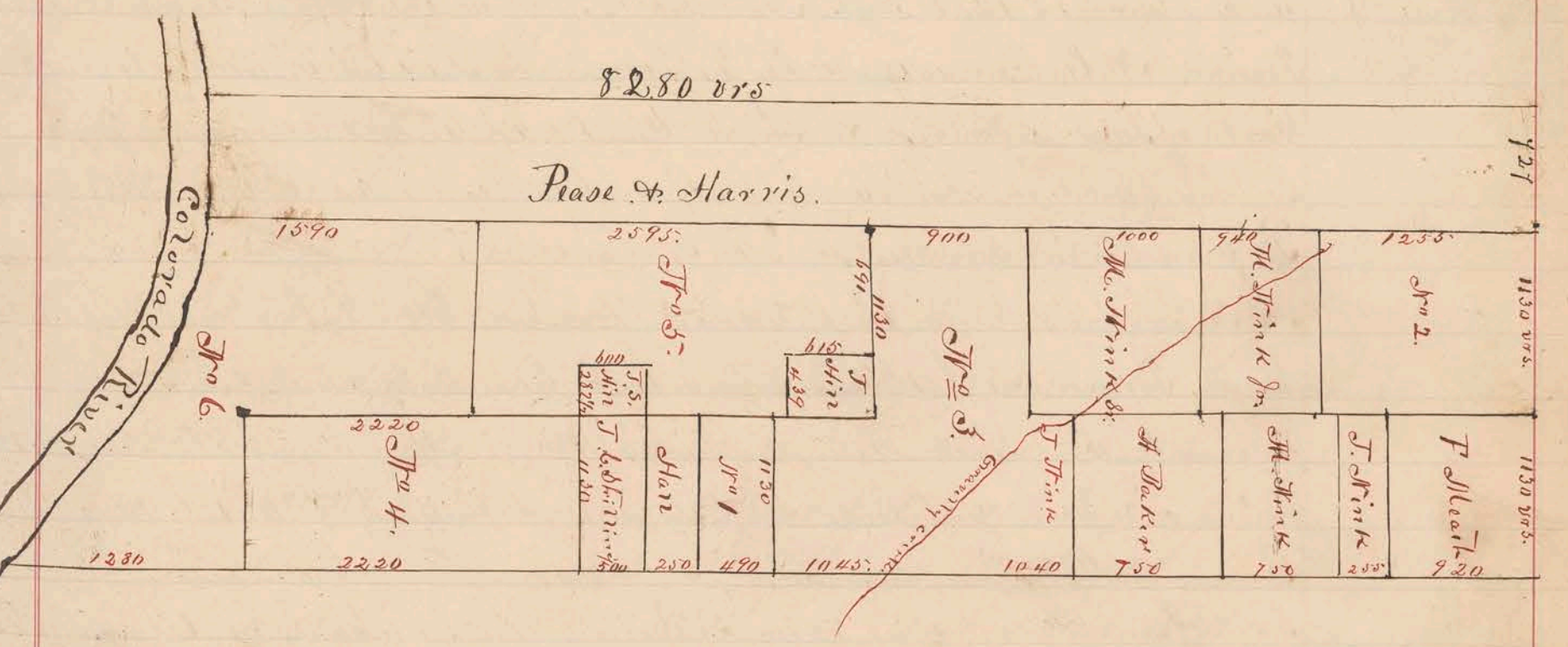
A. P. Blocker.

Sworn to by F. L. Worn before me at Austin this the 2nd day of April 1880.

E Hallmann clk.

Sworn to & Subscribed before me by A. P. Blocker this 2nd day of April 1880.

E. Hallmann clk.



Plat of P. B Isles
League in
Bastrop County.

Scale 1000 vrs.
to inch

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and this being no opposition and it appearing to the Court that the partition made by the Commissioners is fair and equitable to all parties, It is ordered adjudged and decreed that said report of partition be in all things confirmed. It is further decreed that Mila T. Morris, Alfred E. Tonnes, Pattie E. Tonnes, R. A. Tonnes, N. C. Tonnes and E. T. Tonnes be divested of all title in and to the tracts of land described in Shan Number one (1) of the Commissioners report and that the title and absolute right of and to said tracts of land be vested in Pollie E. Carleton in Severalty.

It is further decreed that Mila T. Morris, Pollie T. Carleton, Alfred E. Tonnes R. A. Tonnes, N. C. Tonnes and E. T. Tonnes be divested of all right and title in and to that tracts of land described in Shan Number two (2) of the Commissioners report and that the title and absolute right to the same be vested in Pattie E. Tonnes in severalty.

It is further decreed that Mila T. Morris, Pollie T. Carleton, Alfred E. Tonnes, Pattie E. Tonnes, R. A. Tonnes and N. C. Tonnes be divested of all right and title to that tract of land described in Shan Number three (3) of the commissioners report and that the title and absolute right to said tract of land be vested in E. T. Tonnes in Severalty.

It is further decreed that Pollie T. Carleton, Alfred E. Tonnes, Pattie E. Tonnes R. A. Tonnes N. C. Tonnes and E. T. Tonnes be divested of all right and title in and to that tract of land described in Shan number four (4) of the

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Commissioners report and that the title and absolute right to said tract be vested in Milla. T. Morris in severalty.
It is further decreed that Pollie T. Carleton, Pattie. E. Tomes, R. A. Tomes N. L. Tomes and E. T. Tomes be divested of all right and title in and to that tract of land described in Share number five (5) in the Commissioners report and that the title and absolute right to said tract of land be vested in Alfred. E. Tomes in severalty.
It is further decreed that Milla T. Morris. Pollie T. Carleton. Alfred. E. Tomes Pattie. E. Tomes. N. L. Tomes and E. T. Tomes be divested of all right and title in and to that tract of land described in Share number Six (6) of the Commissioners report and that the title and absolute right to said tract of land be vested in R. A. Tomes in severalty.
It is further decreed that Milla. T. Morris. Pollie T. Carleton Alfred. E. Tomes. Pattie. E. Tomes. R. A. Tomes and E. T. Tomes be divested of all right and title in and to that tract of land described in Share number Seven of the Commissioners report and that the title and absolute right to said tract be vested in N. L. Tomes in Severalty.
It is further ordered and decreed that of the money paid into court by L. B. Cox purchaser from Fred Carleton as provided by a former decree of this court in this case all costs of court be first paid and that the balance if any be equally divided between Milla. T. Morris. Pollie T. Carleton. Alfred. E. Tomes Pattie. E. Tomes. R. A. Tomes N. L. Tomes and E. T. Tomes.

Sc. Sa 64. The State of Texas vs A. H. Weir et al, On this day in this cause came on to be heard on the application of defendant A H Weir to Appeal said cause without giving bond therefor, or securing costs in said cause. And it appearing to the court after hearing the application of said Weir that said Weir is unable to pay the costs of said appeal in the above cause or any part thereof or to give security therefor or any part thereof. It is therefore considered by the Court that he do have his appeal in said cause without giving the cost bond usual in such cases or supersedeas bond, This order not to prevent issuance of Execution in this case.

5481. Bryan Va Daly, Ex parte, — Declaration of intention to become a Citizen. The State of Texas. County of Travis. Bryan Va Daly being duly sworn according to law. in the District Court of said County. doth declare that he was born in the year A.D. 1842 in the Kingdom of Ireland Whence he emigrated in the year 1869. to the United States of America, and has selected the State of Texas as the place of his intended settlement; and he further declares that it is bona fide his intention to become a citizen of the United States. and of the State of Texas and renounces forever all allegiance and fidelity to every foreign power. Potentate. State or Sovereignty Whatsoever and particularly to the Queen of Great Britain & Ireland of whom he was a subject.

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✓ 5385 The State of Texas vs Will Livingston et al. On motion it is ordered by the Court that the parties to this suit be allowed two days after adjournment of Court to make out and present a Statement of facts in this case,

✓ 5406. The State of Texas upon the relation &c. vs. J. C. Rogers. It is ordered by the Court that this cause be continued until the next term of this court,

August 6th

✓ 5405. Reuben Anderson et al vs Ann. H. Jones et al. And now on this day comes Reuben Anderson by his attorney Hancock Walker & Stark, and Attelia A. Anderson. Elizabeth C. Anderson, Annie E. Anderson, Mary E. Anderson, Eleanor L. Anderson and Thomas J. H. Anderson minors by their guardian Ad-litem John B. Costa duly appointed by this Court. Plaintiffs in the above entitled cause, and Ann. H. Jones formerly Ann A. Anderson mother of said plaintiffs, and John B. Jones her husband Defendants in the above cause by their attorney Alexander. W. Turner and submitted the case to the court, and the court having fully considered all the facts and the law of the case, and the Court being satisfied from the sworn answer and exhibits thereto attached of the said defendant Ann H. Jones, that she has fully shown and accounted for all the community estate that came to her hands and possession, as the surviving wife of Thomas J. H. Anderson deceased, and the father of said plaintiffs, and also what she had received and expended in the care and management of the seperate property of her said deceased husband, and it further appearing that the account for amounts expended by said defendant Ann H Jones in the support and education of the plaintiffs are reasonable and proper, their estates and station in life being considered: it is ordered that the accounts of said defendant be in all things approved,

The Court finds the following real and personal estate to be the seperate property of the estate of the said Thomas J. H. Anderson dec'd to wit: 1476 acres of land in Robertson County Texas, being the H. A. McGow third league and more fully described by metes and bounds in the deed from Rosa P. Yongue and others to the said Ann H. Anderson dated July 1st 1874 to which reference is here made for more full description of the same,

350 1/3 acres of land in said Robertson County Texas being an undivided interest of one third in the J. W. McGow survey of 1051 acres and fully described in the above mentioned deed to said Ann. H. Anderson with improvements and growing crops on said two tracts of land above described,

And the Court further find the following to be community property of Thomas J. H. Anderson deceased and the said Ann. H. Anderson now Ann. H. Jones,

350 1/3 acres of land in Robertson County Texas, being an undivided interest of one third in the J. W. McGow survey of 1051 acres of land fully described in the said deed from Rosa P. Yongue and others to Mrs Ann H. Anderson dated July 1st 1874. to which reference is made for more full description,

272 1/4 acres of land in said Robertson County Texas purchased by the said Thomas J. H. Anderson in his life time by deed dated October 16th 1869. to which deed reference

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is here made for a full discription of said land, together with the improvements thereon and the permit gaining crop on the same,
Lots Nos. one, two and three in Block No 122 of the city of Austin Travis County Texas, and the improvements thereon being now the homestead of the family,
One Piano, Household and Kitchen furniture, now used by the family, one Buggy and one horse- 18 mules, 3 oxen, 15 hogs. Fodder, millet and oats- 5000 bushels of corn, 5 Planetation wagons 13. Ploughs, 18. Scrapes, 2 Buggy Plows, 4 Cultivators, 1 corn Planter, 1 Hayrake 15 sets Harness. 1 Gin Stand. Feeder, Condenser and pipes and miscellaneous implements, 4 Notes on A. H Vinson for $875.00 each due Oct 15th 1880. 1881, 1882, and 1883., one Note C. T. West Trustee & J W. Cain for $2000.00, one Note on A. J Folsom $1000.00. one note on Dr R. J Ward for $3660.00 one note on Mrs Mary Robertson for $5000.00, Balance due by the Grand Lodge of Texas $10000.00 and claim on Alford Muckle $3759.00.
And the Court being satisfied that the said plaintiffs are the only heirs at law of the said Thomas J. H Anderson deceased and the said Ann. H. Anderson now Ann. H. Jones is the surviving wife of said deceased, and that the said Plaintiff are each entitled to an equal share according to Quantity, Quality and Value in and to two thirds of said Separate property above described. and an equal share each in and to one half of said Community property and claims above described, her payments being of the State, and that the said Ann. H Anderson now Ann. H. Jones surviving wife of said Thomas J. H. Anderson deceased is entitled to one third life estate in and to said Separate real estate above described and one half absolute in and to said Community property and claim above described, the premises duly considered and by the Court fully understood. It is therefore ordered and decreed by the Court that said Separate and Community property and claims above described be partitioned, That one third of said described Separate estate of the said Thomas J. H. Anderson deceased be set apart to the said Ann. H. Anderson now Ann H. Jones for her natural life as her life estate in the same as the surviving wife of said deceased, according to Quality, Quantity and Value, less $148.00 already received, And the other two thirds of said Separate estate be equally divided share and share alike according to Quantity, Quality and Value between the said Reuben T. Attilia A. Elizabeth C. Annie E. Mary E. Eleanor L. and Thos. J. H. Anderson children of the said Thomas J. H. Anderson deceased and said Ann H. Jones, That the Community property above described be valued by the Commissioners hereinafter named and that said Austin City Lots on which the homestead is situated be valued at $13.172.00 the cost price when acquired and the property at its fair value and the interest due on the said notes added to principal and to the total amount of the value of said Community property and notes to add the sum of $22.182.50 reserved by said Plaintiff out of said Community estate for board clothing, tuition, Medical attention and other purposes since the death of the said Father in August 1871. as set out in said answer of said defendant, and also add to said total $2.098.50. and out of said property by the said Ann. H. Jones and out of said Grand total, one half be set apart to the said Ann. H Anderson now Ann H. Jones as her Community interest in the same and that said lots No 1- 2 and 3 in Block No 122 with im-

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=prements thereon, being the homestead of the family to constitute a part of said half in lieu at cost price of $13.172.00. also set apart to her the Piano, Household & Kitchen furniture and the horse and buggy at their fair value.
And the other half of said community property and claims be divided between said children share and share alike less the amount heretofore received by each of them from said defendant Wm. A. Jones as follows to wit: To Reuben T. Anderson one share less $4.221.18. Athilia A. Anderson one share less $4.549.10. Elizabeth C. Anderson one share less $4201.38. Annie E. Anderson one share less $3.355.45. Mary E. Anderson one share less $2625.31. Elenor L. Anderson one share less $1.822.52. and Thomas J. N. Anderson one share less $1607.55.
It is further ordered and decreed by the Court that J. N. P. Cramer, J. Crow and William Von Rosenberg be and they are hereby appointed Commissioners to make partition of said separate and community estate above described between said parties in accordance with this decree and make report of their action in the premises at next term of this Court in the manner and form as the law provides to which term this case stands continued.

5174 R. B. Hubbard Governor &c. vs A. J. Ward et al. And now on this 24th day of May 1880. came the parties to the above cause and the demurrer of plaintiff filed May 24 1880. to the answer of defendants filed May 24th 1880. coming on to be heard and the Court being of opinion that the giving of a new bond under the act of June 4th 1873. in manner and form as delivered by defendants operated as a discharge of the principals and sureties from all liability on the bond sued on in this case. it is ordered that plaintiff said demurrer be overruled and the facts stated in said plea of defendants not being disputed by plaintiff and the plaintiff not desiring to amend the answer was submitted to the court without a jury to the end that final judgment in accordance with said opinion might be rendered herein. It is therefore ordered adjudged and decreed that plaintiff take nothing by his suit and that defendants go hence without day and that plaintiffs ~~suit be dismissed~~. and to the ruling of the court & judgment aforesaid plaintiff here in open court gives notice of appeal.
This judgment having been in fact rendered on the 24th day of May 1880. but by inadvertence not having been entered at that time it is ordered both parties consenting in open court that the same be now entered as of the 24th day of May 1880.

5482. Ottamar Schubert. Ex parte. Be it remembered that at the District Court for the County of Travis aforesaid held at the Court House thereof in the City of Austin on the 6th day of August A. D 1880. Ottamar Schubert a Native of Germany exhibited a petition praying to be admitted to become a citizen of the United States: and it appearing to the Court that he had declared on oath before the Clerk of the Court of Common Pleas in and for the County of Cape Girardeau State of Missouri on the 18th day of June A.D 1864 that it was bona fide his intention to become a citizen of the United States

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and to renounce forever all allegiance and fidelity to any foreign prince, potentate, State or Sovereignty whatsoever and particularly to Henry the XIV Duke of the Dukedom of Russ, Germany of whom he was at that time a subject: and the said Ollamar Schubert having on oath declared and also made proof thereof, agreeably to law, to the satisfaction of the Court, that he had resided one year and upwards within the State of Texas, and within the United States of America upwards of five years, both periods immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same: and having declared on oath upon the said Court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and adjure all allegiance, and fidelity to any foreign prince, potentate, State and sovereignty and particularly to Henry XIV. Duke of the Dukedom of Russ Germany of whom he was before a subject: and having in all respects complied with the laws in regard to Naturaliza=tion: Thereupon the said Court admitted the said Ollamar Schubert to become a citizen of the United States, and ordered all the proceedings aforesaid to be entered in the records of said Court.

Court adjourned until to morrow morning 9 o'clk.

August 7th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz: It was this day ordered that all civil cases not otherwise disposed of be continued until the next term of this Court.

The foregoing entries having been read in open Court, examined and found correct, were this day approved by the Court, and it was ordered by the Court that the same stand as a part of the minutes of the present term of this Court, and further ordered that this Court do now stand adjourned until the next regular term thereof. August the 9th A.D. 1880.

Judge 16th Judicial District of the State of Texas

Court adjourned till Monday morning 9 o'clock.

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Court met according to adjournment: and there being no further business to be transacted this term of the Court, and the foregoing entries having been read in open Court and found correct were this day approved by the Court and it was ordered by the Court that the same stand as a part of the minutes

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of the present term of this Court and further ordered that this court do now stand adjourned until the next regular time thereof.
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E B Turner

. Judge 16th Judicial District of the State of Tex.

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The State of Texas } Be it remembered that at a term of the Hon. Dist.
County of Travis } Court of Travis County begun and held at the Court house thereof at the City of Austin on the 4th day of October A.D. 1880, that being the first Monday in said month and the time fixed by law for the meeting of said Court and the Hon. E. B. Turner judge of the 16th Judicial District of the State of Texas presiding, and E Hallmann clerk of said Court and Dennis Corwin Sheriff of said County being present, the following proceedings were had viz:

3720. George W. Paschal vs. Central Rail Road Company & Austin City. Continued.

3934. Chandler Carleton & Robertson vs. George W. Toney, - W. P. McCormick Garnishee. Continued.

5024 P. W. Baker vs. Nicholas Jerelemon. Continued for service.

5246. C. T. Garland vs C. W. Garland. Continued for service.

5292. James A. Johnson vs. W. W. Long et al. Continued by agreement.

5329. The State of Texas vs. L. L. Critchfield et al. The decission in this case having been affirmed by the Hon. Supreme Court, this case is now dropped from the docket.

5371. J. C. Early vs P. C. Wells. Continued for service.

5378 Robert F. Campbell vs. George Newton. On this day came Jno W. Robertson heretofore the Attorney of record for the defendant in this case, and gave notice in open Court that he has withdrawn from this case as the Atty for said defendant, and that he the said Robertson has given due notice of his withdrawal to said defendant Newton, and the said Robertson moved the Court to strike his name from the docket in this case, which was accordingly done by the Court.

5384 Eckbohm Bross & Co. vs. J. Weinberger & Co. By the statement of the Attorneys of both parties it appearing that this case has been compromised and settled between the parties, it was this day ordered that this case be dropped from the docket.

5389 M. C. Hamilton vs. James F. Ellison. Continued by agreement.

5402. The State of Texas vs. F. A. Lorn et al. On this day appeared

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the plaintiffs attorney and suggested to the Court the death of the defendant F. X. Torn, and upon said plaintiffs attorneys motion this case was dismissed as to the said F. X. Torn, and leave was given to plaintiff to file a first amended original petition.

5409. William T. Ratje Supert &c. vs. L. J. DuPre. Upon motion it was ordered that plaintiff have leave to file amended original petition.

5427 Henry Jones vs George M. Reese. Continued by agreement.

5452. Mary A. Swisher vs. James M. Swisher et Robt F. Campbell. Continued by agreement.

5473. Joseph Farrell vs. Thomas Smith & C. Smith. Both parties have leave to amend their pleadings, the plaintiff by supplemental.

Court adjourned until to morrow morning 9 o'clock.

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Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

3135. Jose Maria Canales vs The State of Texas. Continued to await mandate.

3136. Roberto Garcia et al vs. The State of Texas. Continued to await mandate.

3137. Francis Cuellar vs. The State of Texas. Continued.

3138 Alberto Garcia vs. The State of Texas. Continued.

3139. Sabas Fuentes et al vs. The State of Texas. Continued.

3140. Eubaka Gonzales vs. The State of Texas Continued.

3150. H. A. Shan et al. vs. John Norwood. The mandate of the Supl. Supreme Court, dismissing this case, having been filed, this case is now dropped from the docket.

3165 John & Ann Eliza Holland vs. Jno P. Conner. Continued to await mandate.

3187 Juan Vila Gutierez vs. The State of Texas. Continued.

3189. Manuel Bustamente vs. The State of Texas. Continued.

3190. Manuel Ramirez vs. The State of Texas. Continued.

3191 Pedro Gaitezes vs. The State of Texas Continued.

3192. Gabriel Saras et al vs The State of Texas. Continued.

3196. Julia Zapatan vs. The State of Texas. Continued.

3197 Raphael Vaiba vs The State of Texas. Continued to await mandate.

3198 John L. Haynes et al vs The State of Texas Continued to await mandate.

3199 Maria Alveces Aumalda De Leon vs The State of Texas. Continued to await mandate.

3202 Candaleria Ramirez vs The State of Texas. Continued.

3277 Andrew Garcia vs. The State of Texas. The judgment of this Court in this case having been affirmed by the Supreme Court this case is now dropped from the docket.

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3278	Juan Manuel Ramirez vs The State of Texas. The judgment of this Court in this case having been affirmed by the Supreme Court it is now ordered that this case be dropped from the docket.
3361.	Trinidad Villareal vs. The State of Texas. Continued.
3362.	Victoria Juarez vs. The State of Texas. Continued.
3364.	Seraphic Garza vs. The State of Texas. Continued.
3365.	Salvador Cardenas vs. The State of Texas. Continued.
3366	Juan Rodriguez Jack vs. The State of Texas. Continued.
3368	G. W. Lewis vs The State of Texas. Continued.
3481	Sidney D. Fountain et al Jacob Ruechler et al. Continued to await mandate.
3529	J. T. Coleman vs Alfred Smith. Continued to await mandate.
3540.	B. M. Odom vs Houston & Texas Central R.R. Co.
3556	Raymond & Whitis vs. Davidson et al. This case having been reinstated on the docket upon a writ of error, it is now ordered that this case be now again dropped from the docket, as the appeal by said writ of error has never been perfected.
3590	John T. Cosmer et al vs. Ella R. Carter et al. Continued to await mandate.
3621	Ellen C. Hunlin et al vs E. B. Nichols et al continued to await mandate.
3622	Ellen C. Hunlin et al. v. Mary M. Bowers. continued to abide decision in case No 3621,
3623.	Ellen C. Hunlin et al v. A. H. Cook et al. continued to abide decision in case No 3621,
3624	Ellen C. Hunlin et al vs Young Mens Real estate & Building association, continued to abide decision in case No 3621,
3625	Ellen C. Hunlin et al vs Wm Oliphant, continued to abide decision in case No 3621,
3637	C. F Millett vs John T. Miller, Continued to await mandate.
3696.	John Ireland vs C. D. Wirt John Hancock et al — continued
3723.	John Brinn et al vs Lucretia Brinn et al. Continued to await mandate.
3733.	Wm F. Orr vs Wm Kluge, Continued to await mandate
3734	Wm F. Orr. vs Mary O'Brien. Continued to await mandate
3735	Wm F. Orr " W. A Cushing Continued to await mandate.
3748.	John A. Green et al. vs Lucinda Raymond et al Continued to await mandate
3890	D. Jerold vs James. P. Newcomb et al Continued to await mandate.
3934	Chandler Carleton & Robertson vs Geo. W. Henry. Continued
3950	M. D. Culvon vs R. N. Lane. Continued to await mandate
3969	Geo. M. Poe vs John Browning, Continued to await mandate.
3997	J. C. De Gress vs R. B. Hubbard et al. Continued to await mandate.
4007	M. D. Miller vs F. M. Randle & Emanuel Rolda Continued for Service

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4016	F. Sluss & Son vs J. T. Jackson.	Continued
4063	James P. Newcomb. vs W. C. Bowmidal	Continued to await mandate.
4073	R. N. Law vs Geo O. Evans.	Continued to await mandate
4100	John Willis v. H. & T. C. R. R. Co.	Continued to await mandate.
4154	James Garrity vs J. J. Grose Com.	Continued to await mandate
4173	T. B. Whiles vs Fenille Cecil et al.	Continued.
4175	Ernest Haumann vs H. & T. C. R. R. Co.	Continued to await mandate.
4184	J. Duchez vs J. W. Talbot. —	Continued
4246	H. G. Burland Guard. vs Carlo Curnis et al.	Continued.
4277	M. C. Hamilton vs Richard Flinn et al	Continued to await mandate.
4285	Orlando Caldwell vs W. A. Oatman.	Continued to await mandate.
4293	Charles L. Tamull vs Ira M. Bradlove et al.	Continued to await mandate.
4320	A. G. Barrager vs H & T. C. R. R. Co	Cont to await mandate.
4329	Loomis & Christian vs Dyson & Brook et al.	Continued to await mandate.
4348.	Jno. O. Ford vs H. & T. C. R. R. Co.	Continued to await mandate.
4401	R. D. Coyle vs M. A Morris Admrs et al.	Continued to await mandate
4407.	G. H. Booth vs Richard Walsh.	Continued to await mandate.
4430	James M. Long. vs Geo. L. Robertson et al	Continued to await mandate.
4464	Alfred Dimick vs J. K. Warren.	Continued to await mandate.
4472	James H. Raymond vs Geo. W. Glascock et al.	Continued to await mandate
4473	M. C. Hamilton vs George W. Glascock et al	Continued to await mandate.
4504	Geo. B. Zimpelman vs Thomas Robb. et al	Continued to await mandate.
4527	John S. Miles vs Geo B. Zimpelman & al.	continued to await mandate.
4546	C. W. White vs J. B. Barron Exr et al.	Continued to await mandate.
4556	C. S. West &c. vs F. M. Hanks et al	Continued for service.
4557	C. S. West & vs F. M. Hanks et al.	Continued for service.
4558	C. S. West & . vs F M Hanks	Continued for service.
4608	H. & T. C R R Co v.	Catherine A. Horan. Continued to await mandate.
4636	S. Jacobs & Burkhardt. vs	F. Claure & Co Continued for service
4692	Loomis & Christian vs	H. C. Tumey et al. Continued to await mandate.
4757	A. J. Wynne et al vs	M. A. Taylor et al. Continued to await mandate
4815	Charles Krohn vs	Thomas F. Purnell. Continued by agreement.
4828	Bichel Coopwood et al. vs	William Alexander Continued.
4887.	J. R. Nixon vs	H & T. C. R. R. Co. Continued to await mandate.
4890	J. B. Barron vs	W. B. Brush et al. Continued to await mandate
4900	The State of Texas vs	B. Brown et al. Continued.
4917	C. F. Millett vs	David V. Whiting et al. Continued to await mandate.
4926	Rust & Dinkins vs	H & T. C. R. R Co. Continued to await mandate.
4963	Joseph Rossin vs	John Ravey Continued to await mandate.
5035.	Bingham Trigg vs	C. T. Moore Continued to await mandate
5036	G. Crow vs	C. R. Johns & Co. Continued

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5073 The State of Texas vs W. J. Galloway et al. Continued to await mandate.

5090 The State of Texas vs James W. Vadin et al Continued to await mandate.

5194 Andrew Neal vs Western Union Tel. graph Co. Continued to await mandate.

5247 F. W. Chandler Adm. vs Lomis & Christian — Continued

5267. Laura A. Ormond vs Charles J. Ormond. Continued,

5272. M. B. Davis vs Letitia L. Davis Continued

5304 W. W. Fontaine v. Jno O. Johnson et al. Continued to await mandate,

5313 Selma Hemminger vs John Hemminger Continued,

5341. Rachel J. Harris et al. vs A. C. Davis et al. Upon motion plaintiff's atty leave to file 1st amended petition and cause continued for service,

5475. Charles Wolf vs Charles A. Fox. In this cause it is ordered by the court that E. S. Westrope appointed guardian ad litem for the defendant, Charles A. Wolf.

5496. Florence Willis vs Rufus Willis. In this cause it is ordered by the court that John B. Cooley be appointed guardian ad litem for the minor defendant

5247. Ruth a Ann Stewart & husband vs J. S. Watson. This cause having this day been regularly called for trial. and both parties failing to appear, It was therefore ordered by the court that this cause be and is hereby dismissed for want of prosecution and that the plaintiffs and their sureties on their cost bond to wit: D. R. Stewart and M J. Denman pay all costs of this proceeding for which Execution may issue.

5197 F. L. Pinton vs The City of Austin. This cause having this day been regularly called for trial. and both parties failing to appear. It was therefore ordered by the court that this cause be and is hereby dismissed for want of prosecution and that the plaintiff and his surety on his cost bond to wit: Peter Smith pay all costs of this proceeding for which Execution may issue.

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5251. William Bray vs T. E. Tullis et al. This cause having this day been regularly called for trial and both parties failing to appear. It was therefore ordered by the court that this cause be and is hereby dismissed for want of prosecution. and that the plaintiff and his surety on his cost bond to wit: R. Platt pay all costs of this proceeding for which Execution may issue.

5252 Martin P. King vs R. E. King. This cause having this day been regularly called for trial and both parties failing to appear. It was therefore ordered by the court that this cause be and is hereby dismissed for want of prosecution and that the plaintiff herein pay all costs of this prosecution for which execution may issue.

5274 J. R. Ray vs Vincent Chambers et al.- The matters and things in controversy having been settled and the costs having been paid upon suggestion of plaintiffs atty it is ordered by the court that cause be dropped from the docket

5318. R. M. Wilcox et al. vs The Unknown heirs of T. Ellison. This cause having this day been regularly called for trial. and both parties failing to appear. It was therefore

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ordered by the court that this cause be and is hereby dismissed for want of prosecution and that the plaintiffs Robt M. Wilcox and John W. Darlington and D. H. Walsh pay all costs of this proceeding for which execution may issue.

3510 The State of Texas vs G. R. Morris, Def. Upon motion of plaintiffs attorney and the costs having been paid it is ordered by the court that this cause be dismissed.

5198 L. L. Illingsworth vs Thomas J. Hill et al. The appeal not having been perfected in this it is ordered by the Court that it be now dropped from the docket.

Thereupon Court adjourned till tomorrow morning 9 o'clock

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Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had, viz:

5323 James Lockwood vs Frederick Jordan. Continued for service.

5363 Bertram & Moller vs Asa Frary & Co. Continued

5368 W. A. D. Carrington vs Charles Dodge Continued for service.

5372 Anna Sims vs Thomas Sims Continued for service.

5374 Amelia Brichta vs Harry Gilman Continued.

5383 Picky Pickell vs Lu Pickell Continued for service.

5395 L. Schoolhouse vs Caroline Townsend et al Continued

5399 R. A. Chadwick R. A. vs E Raven. Continued

5420 Henry Brooks et al vs Jacob Enright et al. Continued for Service

5421 The State of Texas vs J. W. Blakely et al. Continued for service.

5425 Myra. M. Campbell et al. vs August. D. Kincheloe et al. It is ordered by the court that E. W. Shands Esq be appointed guardian ad litem to represent the minor deft August D. Kincheloe,

5428 John Todd vs D. G. Smigelbury et al. This case is set for Monday 11th October 1880.

5431 W. S. Caruthers vs R. W. Crawford. Continued for service.

5444 Mary A. Smithers vs Jas. M. Smithers & G. B. Burke, Continued.

5445 Mary A. Smithers vs James M. Smithers & J. M. Lillon Continued Generally

5446 Mary A Smithers vs James M. Smithers & John Kyle. Continued

5447 Mary A. Smithers vs James M. Smithers, James T. Burgen & Robert F. Campbell. Continued.

5448 Mary A. Smithers vs James M. Smithers & Joseph Harris. Continued

5453 Mary A. Smithers vs James M. Smithers & James Haig Continued

5454 Mary A. Smithers vs James M. Smithers & E. W. Shands Continued

5455 Mary A. Smithers vs James M. Smithers & Isabella Haigler et al Continued

5456 Mary A. Smithers vs James M. Smithers & Patrick Toner. Continued

5457 Mary A Smithers vs James M. Smithers, James Haig & Geo Crain Continued

5458 Mary A. Smithers vs James M. Smithers & George Bright Continued

5459 Mary A Smithers vs James M. Smithers & Jacob P. Schneider. Continued

5468 A. Snider Pellegrini vs Foster Sudlow & Co. continued for service

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5463 J. N. Cary vs Augusta Cary. This cause having been this day regularly called for trial and both parties failing to appear. It is therefore ordered by the court that this cause be and it is hereby dismissed for want of prosecution and that the plaintiff and his surety of his cost bond to wit: Thomas J. Pilant pay all the costs of this suit for which execution may issue.

(Decree. docket N° 5 page 88)

5406. The State of Texas. vs J. C. De Grass, Information in the nature of a Quo Warranto. And now on this day come the parties to the above entitled cause by their respective attorneys, and announced themselves ready in said cause and that the following agreement on file was read to the court. Viz:

The State of Texas. Plaintiff vs J. C. De Grass. Defendant, No 5406. In District Court Travis County. Information in the nature of a Quo Warranto

In the above entitled and numbered cause it is agreed between the parties to the cause, 5406

I That the said J. C. De Grass will at once send into the city council a letter resigning the office of Mayor to take effect as soon as his successor may be elected and qualified.

II That the Mayor will at once call a special meeting of the said city council to assemble for the purpose of acting upon said resignation and for the purpose of ordering said election to take place as soon as practicable at an early day,

III Should the Mayor fail to call the council together at once, and should they fail to accept his resignation and order an election at once that this agreement will be of no effect,

IV In order to give the said Mayor and council time to act. the trial of this cause is postponed by consent until the 7th day of August 1880. at 9 A. M. and a Jury in this cause is waived and the cause may be tried by the court without a Jury in case the Mayor and City Council shall fail to act as above indicated,

V. If by the 2nd of August 1880. the said letter of resignation has been sent in and accepted and the said election ordered that this cause may on that day stand continued until next term if this said election has been held and another person as the successor of said De Grass be elected and qualified, this cause will be dismissed at the cost of the Defendant. July 28th 1880 J. C. De Grass by Shirks and Brown & Walton Gram & Hill & Ward & Pendexter Atty's E. T. Moore Co-Atty

And thereupon in accordance with said agreement, it is ordered and adjudged by the court that this suit be dismissed. and that the defendant go hence without day and that the said Plaintiff do have and recover of the said J. C. De Grass the costs in this behalf expended for which execution may issue.

5402. The State of Texas vs Sam H. Kellogg. J. R. Bell and Edward English., Now on this day the above styled and numbered cause being called for trial, came the State by her attorneys, the defendants appearing by answer. and the plaintiff announced

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ready for trial, and no jury having been demanded, the court proceeded to determine both the matters of law and fact, and after having heard the pleadings and evidence finds that since the institution of this suit F. A. Lom has departed this life, whereupon the suit was dismissed as to him, and the court proceeding to consider the case as to the defendants Samuel A. Kellogg. J. R. Bell and Edward English finds that said defendants Kellogg, Bell and English are jointly indebted to the State of Texas in the full sum of $1886.00 dollars principal and interest. Wherefore it is ordered adjudged and decreed that the State of Texas do have and recover of and from the defendants, Saml. A. Kellogg. J. R. Bell and Edward English the sum of $1886.00 dollars, and interest thereon at the rate of 8% per annum from and after this date until paid, together with all costs of suit for which execution may issue.

5065 Shelton and Speed. vs R. R. & Wm L. Booth, On this 5th day of October A.D. 1880 this cause being regularly called for trial came now the plaintiffs in person and suggest to the Court that R. R. Booth has departed this life since the institution of this suit: this cause is dismissed as to the said R. R. Booth on the motion of plaintiffs and the plaintiffs now announce themselves ready for trial and it being made to appear to the Court that the said Wm L. Booth has been duly served with citation and copy of the petition herein, more than five days before the commencement of this suit and the said Wm L. Booth comes not but wholly makes default, it is therefore ordered that the allegations in the said petition herein contained be taken as true and confessed, and this cause being submitted to the Court without the intervention of a Jury for trial - the Court after hearing the pleadings of plaintiffs and hearing the evidence finds that Wm L. Booth is indebted to the plaintiffs in the sum of $350.00 Gold principal and $191.$\frac{32}{100}$ Gold interest due on the note herein sued on making in the aggregate the sum of $541.$\frac{32}{100}$ Gold - And the Court doth further find that W. L. Booth executed the mortgage described in said petition and sought to be foreclosed to secure the payment of said note, on the following described property to wit: 500. acres being out of and part of the location in the name of Wm L. Booth the defendant in the Johnathan Wallace 1/3 league survey on Aches Creek about 11 miles S. E. of Hillsboro Hill County Texas. it is therefore ordered adjudged and decreed that the plaintiffs do have and recover of the defendant the sum of $350.00 Gold principal and $191.32. Gold interest making in the aggregate the sum of $541.$\frac{32}{100}$ gold with interest from this date at the rate of 8% per cent per annum of said sum of $541.32. gold. and it is further ordered adjudged and decreed that the defendant is henceforth to stand absolutely debarred and foreclosed of and from all Equity of redemption of and to the aforesaid property, and it is further ordered adjudged and decreed that the property hereinfore described or so much thereof as may be necessary be sold to satisfy this judgment - and should the proceeds of said sale be not sufficient to satisfy this judgment the plaintiffs shall have their execution for any balance due on this judgment after applying the proceeds of said sale to the payment of this judgment - and it is further

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ordered adjudged and decreed that the defendant shall pay all costs of this suit except the costs incurred in making R. R. Booth a party. Which said costs shall be paid by plaintiffs.

5303. Rachel C. Levy et al. vs Geo. W. Stephens et al. Now on this 5th day of October (Exec. docket No 5 page 87) 1880, came the parties plaintiffs and defendants by their counsel and announced themselves ready for trial, & this cause was submitted to the court on the pleadings and evidence, the hearing of which the court doth find upon such pleadings and evidence, and the admission of all the parties plaintiffs and defendants that the plaintiffs are owners of and entitled to possession of the following lands described in the original petition herein filed viz: A tract of twelve hundred and eighty acres of land situated in the county of Lampasas and State of Texas described in the patent issued by the Republic of Texas to Albert. M. Levy December 31st 1845. being Survey number ninety four on the waters of North Fork of the Lampasas River said Patent being numbered 133 and recorded in the General Land Office of the State of Texas in Volumn 3. — Also a tract of land containing Six hundred and forty acres situated in the county of Medina and State of Texas and described in patent numbered ninety four in Volumne two of the records of the General Land office of the State of Texas dated March 3rd 1847. Which patent was issued to Albert M. Levy, the same being survey number four hundred and forty nine on the waters of Seco Creek and distant about forty six miles Northward from the city of San Antonio — Also the following tract of land situated in Travis and Caldwell counties in the State of Texas. viz and all that part of the Head right league patented to Albert. M. Levy by letter patent bearing date June 17th 1841. and numbered 306 in Volumn one in the records of the General Land office of the State of Texas and known as survey No 5. on the waters of Cedar Creek described as follows towit: 1st a tract of land described in a deed from Samuel. W. Fisher as Administrator of Albert M. Levy to D. E. Braman dated April 27th 1853 and recorded in Book F. on page 508 of the records of Travis County aforesaid — the same being the North Western half of said league. 2nd a tract of land Commencing at the eastern corner of said Braman tract above described: running thence South 45° East with the north East line of said survey 2639 varas to a stake: thence South 45° West 495 varas crossing Rocky Branch of Cedar Creek to a stake from which a Mesquite 4 in in diameter bears South one Vara. Thence South 45° East 2926 varas to a corner in Eastern line of said league: thence West with the Eastern line of said league to its Southern corner. Thence North 45° West with the South West line of said league to the South corner of said Braman tract — and thence North 45° East with the Eastern line of said Braman tract to the place of beginning to include One Hundred and Forty four acres: and the Court doth order and decree that the defendants George. W. Stephens and Barnes Parker be divested of all right title interest and claim whatsoever in and to all and every part of the four tracts of land herein before

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described and that the title thereto be vested in plaintiffs Rachel C. Levy, Lewis F. Levy and E. H. Lombard and that they have possession of the same and that they have writ of possession therefor - and the court doth further find that defendants George W. Stephens and James Parker are the owners of and entitled to possession of all the residue of said Albert M. Levy headright league & certain said Braman tract and said tract last described by Miles and bounds, and the Court doth order and decree that plaintiffs Rachel C. Levy Lewis F. Levy and E. H. Lombard be divested of all right title interest and claim whatsoever in and to all of said residue of said league and that the title to the same be vested in defendants. Geo. W. Stephens and James Parker and that they have possession of the same and that they have writ of possession therefor. It is further ordered and decreed that the plaintiffs pay all costs of this suit.

5319. P. Wedgfelt vs. Alfred Wedgfelt, Continued.

5381 James C. Boulden Exctr vs. L. B. Giles. Octbr 4th 1880. It was this day ordered that plaintiff have leave to file first original petition.

Court adjourned until to morrow morning 9 o'clock.

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Court met according to adjournment. Present same as first day.

Whereupon the following proceedings were had viz:

5444. Mary A. Swisher vs. Jas. M. Swisher and G. B. Burke. Ordered that the defendant Burke have leave to file amended original answer.

5462 Charles Wolf vs. Charles Fox et al. Upon motion of plaintiffs attorney it was this day ordered by the Court that this case be and it is hereby dismissed, and further ordered that the plaintiff Chas. Wolf pay all costs in this behalf expended, for which execution may issue.

3134 Deridee Martinez vs. The State of Texas. October 4th 1880 Continued.

Court adjourned until to morrow morning 9 o'clk.

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Court met according to adjournment. Present same as first day.

Whereupon the following proceedings were had viz:

4973 Geo T. Stewart vs. Int. & Great North. R. R. Co. It was this day ordered that plaintiff have leave to file amended original answer and that the defendant have leave to file amended pleadings.

5386 Ed Christian vs. A. W. Caldwell et al. Continued for service on deft Townsend.

5393 Emma Schroeder vs. John Schroeder. This case having this day been regularly called for trial and no attorney appearing for plaintiff it was ordered by the Court that this case be dismissed for want of prosecution and that the plaintiff Emma Schroeder

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pay all costs in this behalf expended for which execution may issue.

5410. William Blackwood & William Frazier vs. T. C. P. Wright & husband. Court disqualified.

5413. Joe H. Stewart vs. Henry T. Dubanks et al. Citation in this cause having been perfected by publication and no answer having been filed for the defendants, it was this day ordered that John B. Rector Esq. an Attorney of this Court be and he is hereby appointed to represent the defendants in this case.

5419 T. C. Hill & Bro. vs J. J. Sullivan & Co. Upon motion of plaintiffs' Attorney it was this day ordered that this cause be and the same is hereby dismissed & further ordered that the plaintiffs pay all costs in this behalf incurred for which execution may issue.

5423 The State of Texas vs L. L. Cravell et al. Ordered that defendants have leave to file first amended original answer.

5425 Myra M. Campbell et al vs. August P. Kirchelve et al. It was this day ordered by the Court that P. W. Shands Esq. be and he is hereby appointed guardian ad litem for the minor defendant Campbell & cause continued.

5430. The State of Texas vs J. J. Cureton et al. Continued for service.

5442 Mary A Smither vs James M. Smither & Louis Maas. Ordered that plaintiff have leave to file 1st Supplemental petition and deft leave to file 1st Supl. answer.

5443 Mary A. Smither vs James M. Smither and A. Lorraine - Ordered that Plaintiff may file 1st Supplemental petition

5444 Mary A. Smither vs James M. Smither & G. B. Burke - Ordered that Plaintiff may file 1st Supplemental petition

5449 Thos T Kemp vs Geo King - Continued for service.

5469. Robert Craig Baur vs Wm Smyth et al. Ordered that Plaintiff have leave to file 1st amended petition - and cause continued for service

5472 Bertram & Moeller vs W. J. Bishop. Upon motion of Plaintiffs attorney it was this day ordered by the Court that this cause be and is hereby dismissed and further ordered that Plaintiffs Bertram and Moeller pay all costs in this proceeding & for which execution may issue.

5479 Elske Quast et al vs Houston Goaken. Continued for service.

5486 Joel A. Harris vs Jeanetta Harris. This cause this day having been regularly called for trial, and both parties failing to appear. It is therefore ordered by the Court that this cause be and is hereby dismissed for want of prosecution and that the plaintiff Joel A. Harris pay all costs of this proceeding for which execution may issue.

5487. William Biles vs L. A. Shannon. This cause having this day been

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regularly called for trial, and both parties failing to appear. It is therefore ordered by the Court that this cause be and is hereby dismissed, and that the plaintiff William Biles pay all costs of this proceeding for which execution may issue.

5488 John Sauls vs J. C. Flinn, Continued for service

5489 Nancy J. Smith vs George Smith. Continued by operation of law.

5491 Isabella Edmonds vs Charles Edmonds. Continued by operation of law.

5492 George F. Moore vs Thomas J. Campbell et al. It is ordered by the Court that Osceola Archer Esq be and he is hereby appointed Guardian ad litem of the minors Arnold E. Deats. O. G. Deats. Kate Deats and Eugene. T. Deats.

5494 John E. and Wm Wallace. vs Benjamin Cagle et al.. Continued by operation of law.

5495 Peter Auct. vs Mary Auct. Upon motion of plaintiffs Attorney this cause it is ordered to be dismissed. and that the plaintiff Peter Auct and his securities on his cost bond to wit J. H. Chaney and Jno. E. Campbell pay all costs of this proceeding for which execution may issue.

5496 Florence Whilis vs Rufus Whilis et al. ordered by the Court that Plaintiff have leave to file 1st amended petition,

5497 The State of Texas vs Charles Kerber et al.- Continued by agreement

5500 Lucy A. Field et al vs Thomas A. Field et al. Continued by operation of law.

5498 The State of Texas. J. F Stendebach et al. + D. C. for Monday 11th October 1880

5499 The State of Texas vs Pedro Marcelie et al Set for Tuesday 12th October 1880

5501 The State of Texas vs Charles Kerber et al. Continued by consent.

5503 The State of Texas. vs Geo. W. Michael et al. Continued for service.

5504 The State of Texas vs D. A. Hardin et al. .. Set for November 12th 1880.

5507 The State of Texas vs H. P. Garrington et al. Continued

5508 Mary L. Wardlow vs Thomas Wardlow- This cause being this day regularly called for trial and the parties failing to appear and prosecute the same it is therefore ordered by the Court that this cause be and is hereby dismissed for the want of prosecution and that the plaintiff Mary Warlow pay all costs of this proceeding for which execution may issue.

5511. Larkin Samuels vs Julia Samuels. Upon motion of Plaintiffs attorney it is ordered by the court that this cause be and is hereby dismissed. and further ordered that Larkin Samuels plaintiff pay all costs of this proceeding for which execution may issue.

5513 The Hellman & Taylor Co. vs Ben N. Shropshire et al. Continued for service,

5515. The State of Texas. vs J. W. Davis et al. Continued for service.

5516 The State of Texas vs Alexander Cole et al. Continued for service on O. C. Dix.

5517. The State of Texas vs A. T. Eubanks et al Continued for service

5518 The State of Texas vs A. T. Eubanks et al Continued for service,

5519 Upton Swingley vs Wesley Johnson et al. Continued for service

5520 W. A. Taylor vs V. O. Wood et al Continued by consent.

5521 Jno T. Allen vs A. A. Pilo & Co. Continued by agreement.

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5524 L. Tellmann et al. vs E. Holzberg. Continued by consent.

5525 Martha Washington vs Geo. Washington. Set for Wednesday 13th October 1880.

5527 Martha Rivers vs Geo. Bradshaw. Set for Wednesday 13 October 1880.

5528 Herman Schmidt vs Cardwell and Morris. Continued for service on Morris

5531 N. N. Patterson vs Mary A. Patterson Continued for service

5532 Dock Pryor vs Nelly Pryor Set for Wednesday 13th October 1880.

5533 Larkin Samuels vs Ellen Samuels. Continued for service

5536 W. J. Montgomery vs Louis Maas. Continued.

5537 Jesse Griffin vs Ellen Griffing Continued for service.

5484, Mc Dannell & Co vs Jackson & Goode. On this day came the Plaintiff Page Mc Dannell and Martin Mc Carty by their attorneys and the said defendants James Jackson and John H. Goode though duly served with citation, having failed to appear and answer in this behalf but wholly made default. Wherefore the said Page Mc Dannell and Martin Mc Carty partners composing the firm of Mc Dannell & Co ought to recover against the said James Jackson and John H. Good their damages by occasion of the premises, And it appearing to the Court that the plaintiffs cause of action is liquidated by an instrument in writing, it is therefore considered by the Court that the said plaintiffs do have and recover of the said defendants James Jackson and John H Good the sum of Fourteen hundred and forty six and 50/100 dollars ($1446.50) principal debt and interest due to this date with interest thereon at 12 per cent per annum, together with all costs in this behalf expended for which execution may issue.

Rec'd on this judgment & to mit.: in favor of Mc Dannell & Co vs Jackson & Goode the sum of $1446.50 five thousand dollars, this 8th October A.D. 1880. Mc Dannell & Co

For value rec'd on this judgment I assign to Page Mc Dannell & Co Dayton Milton or bearer this January 10, 1881. Mc Dannell & Co

5422. The State of Texas vs James Mastin et al. On this the 8th day of October A.D. 1880 came the plaintiff by attorneys and suggests the death of the defendant James Mastin and that he has not been served with citation and says the plaintiff will no further prosecute this suit against said defendant, and asks leave to file an amended original petition as to the other defendants which is accordingly granted, And this cause being regularly called for trial plaintiff announced ready for trial, and the defendants T. D. Wyly J. H. Cage and G. W. Guthry having heretofore filed their answer in this this cause but now failing to appear and prosecute the same, and the defendant Wm Mastin after having been duly served with citation having failed to appear and answer in this behalf but wholly made default, and no jury having been demanded by any party to this cause the same is tried by the Court without a jury and the pleadings and evidence including allegation and proof of the death of James Mastin the principal in the bond sued on, and the argument of counsel all having been heard and fully understood by the Court it is considered ordered adjudged and decreed by the court that the plaintiff the State of Texas do have and recover of and from the said defendants T. D. Wyly J. H. Cage G. W. Guthry and Wm Mastin the sum of one thousand six hundred and thirty five & 45/100 dollars with legal interest thereon from this date together with all costs in this behalf expended for which execu-

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tion may issue, It is further ordered that execution may issue in favor of the officers of this court against said defendants for all costs in this behalf incurred, Desha Bunlow vs E. W. Shands, This cause being called on this the 8th day of October A. D. 1880. came the plaintiff by his attorney and announced ready for trial, and it appearing to the Court that the defendant by waiver in writing signed by him endorsed on the petition herein filed has waived service of citation and consented that judgment may be rendered against him at any time in this court, and it appearing to the court that the cause of action is liquidated and proved by an instrument in writing, it is ordered that the Clerk do assess the damages sustained by the plaintiff, and the said Clerk now here having assessed the damages aforesaid at the sum of Five hundred and thirty nine dollars and ninety four cents ($539.94) it is therefore considered by the Court that the said plaintiff Desha Bunlow do have and recover of and from the said defendant Edward W. Shands the said sum of Five hundred and thirty nine dollars and ninety four cents, together with costs of suit in this behalf expended: said sum of money to draw interest from this date until paid at the rate of ten per cent per annum, And it further appearing to the Court that the promissory note which is the basis of this suit was executed by said defendant on the first day of June A. D. 1876. to secure the payment of the purchase money for and reserved a lien on the following described tracts of land to wit: Certain tracts or parcels of land known as lots "A and B" and lots numbers (16) sixteen and seventeen (17) and Eighteen (18) in Live Oak Grove, a subdivision of the Bunlow Homestead property, part of the Isaac Decker league in Travis County Texas and containing in all 17½ acres of land - It is therefore ordered adjudged and decreed by the Court that the vendors lien, as it existed upon the first day of June A. D 1876, upon the above described tracts of land, be and and the same is hereby foreclosed; and that the Clerk of this Court do issue an order of sale directed to the Sheriff or any constable of Travis County, Commanding him the said officer to sieze and sell the above described tracts of land as under execution, and that he apply the procedes thereof to the payment and satisfaction of said money to gether with all interest that may be due thereon and the costs of this suit: and if said land shall sell for more than sufficient to pay off and satisfy this judgment the said officer is hereby directed to pay over the same to the defendant: but if the said property cannot be found, or if the procedes of said sale be not sufficient to satisfy this judgment, then to make the money, or any balance thereof, remaining unpaid, out of any other property of defendant as in case of ordinary executions

This judgment was duly recorded by J. C. Kirby 29th day of Nov. 1880. See Record Book 48, page 1347-5. (Order of sale in Book 4, p. 91)

5526.

5423. The State of Texas, vs L. C. Cromwell et al. on this the 8th day of October 1880 this cause coming on to be tried in its regular order the parties all appeared by their respective Attorneys and announced ready for trial, and there being no jury demanded the matters in issue were submitted to the court - And it appearing from the evidence submitted to the court that L. C. Cromwell and Tom Holmes both died since the institution of this suit: that B. L. Temple of Rainey

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County Texas is the administrator of the estate of said L. C. Cromwell deceased and that Mrs Minnie Holmes of Shinny County Texas is the surviving wife and Administratrix of the estate of said William Holmes deceased, and it further appearing to the Court that the bond sued on in this cause is for four thousand dollars, and that the principal in said bond F. C. Cromwell is indebted to the State of Texas at this date in the Sum of Six thousand three hundred and eighteen and 57/100 ($6318.57) dollars - It is therefore considered ordered, adjudged and decreed by the Court, that the State of Texas, do have and recover of and from the defendants. Edw. Kormoumpfer. James Murphy and Mrs Minnie Holmes administratrix of the estate of Wm Holmes deed, as aforesaid, the sum of four thousand dollars ($4000.00) and all costs in this behalf expended, and that the State of Texas do have and recover from the defendant B. L. Temple Administrator of the estate of L. C. Cromwell deceased as aforesaid the sum of Six thousand three hundred and eighteen and 57/100 ($6318.57) dollars and all costs in this behalf expended.

It is further ordered and adjudged by the Court that this judgment as against said B. L. Temple administrator, and Mrs Minnie Holmes as administratrix as aforesaid, is to be paid in due course of administration, and no execution shall issue on this judgment as against said Administrator and administratrix, but the same shall be certified to the county court of Shinny County State of Texas sitting in probate and be there enforced in accordance with law.

It is further ordered, adjudged and decreed by the Court that the plaintiff do have and recover all costs in this behalf expended against all the defendants herein and that the execution issue therefor against all of said defendants except as to the said administrator and said administratrix - And it appearing to the Court that all the defendants herein are sureties except L. C. Cromwell - it is therefore ordered that said defendants who are sureties do have and recover of and from the said B. L. Temple administrator as aforesaid a judgment over for whatever amount they or either of them may have to pay by reason of this judgment and that the same be collected from said Administrator in due course of administration and it is further ordered by the Court that whatever amount shall be paid by any of the sureties herein shall be a credit upon the judgment for $6318.57 as well as a credit upon the $4000.00 judgment against the sureties herein - It is further ordered that said sums of $6318.57 and $4000.00 each draw interest from this date, until paid at the rate of eight per cent per annum until paid.

See Journal for all of this final proceedings in this Cause - Stat Clerk

3493. Geo. F. Moore vs Thomas F. Purnell et al. This day came the plaintiff by his attorney and the said defendant having failed to appear and answer in this behalf, but wholly made default, and it appearing to the Court that the defendants are indebted to the plaintiff in the sum of two thousand eight hundred and forty and 30/100 $2840.30 dollars as evidenced by the note sued on in this case, and that said note bears interest at the rate of twelve per cent per annum, and it further appearing to the Court that said note was given to secure the payment of the purchase money for the following

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described lot or tract of land to wit: The East half of Block No (47) forty seven in Division "E" in the city of Austin Travis County Texas – It is therefore considered by the Court that the plaintiff do have and recover of the said defendant said sum of $2840 50 principal and interest; with interest thereon from this date at the rate of twelve per cent per annum together with his costs in this behalf expended, And it is ordered and decreed by the Court that the vendors lien upon the above described lot piece or parcel of land be and the same is hereby foreclosed, and that the Clerk of this Court do issue an order of sale directed to the Sheriff of Travis County, commanding him the said Sheriff to seize and sell the above described tract of land as under Execution, and that he apply the proceeds thereof to the payment and satisfaction of the said sum of $2840.50 together with all interest that may be due thereon, and the costs of this suit, and if the said land shall sell for more than sufficient to pay off and satisfy said sums of money, then the said Sheriff is hereby directed to pay over the excess to the defendants but if the said land shall not sell for enough to pay off and satisfy this judgment, then the Clerk of this court is directed to issue Execution against the said defendant Thos. F. Purnell for the balance remaining unpaid.

Was sale set aside by payment of $2034.60 the balance in plaintiffs favor as per writ this Aug 21 1884

5529 Leopold Fellman and Emma Fellmann. vs Joseph H. Stewart and Anna. M. Stewart. On this day came the plaintiff Emma Fellman and her husband Leopold Fellman by their attorneys, and also the said defendants Anna M. Stewart and Joseph H Stewart in person and by attorneys, and both parties announced themselves ready for trial, and no jury having been demanded the matters of law as well as of fact were submitted to the Court, and it appearing to the Court after hearing the evidence and the argument of counsel that the plaintiff Emma Fellman has fully and completely established her title to lot No (20) twenty in Block No (21) twenty one in the subdivision of Division "D" adjoining the city of Austin in Travis County Texas, and known as Louis Horts addition to the city of Austin, and that the same is her separate property and that she is entitled to a writ of possession therefor, and it further appearing to the Court that the bond for title to said lot aforesaid, executed and delivered by Louis Hort on the 7th day of October A D 1874 to Charity W. Pohemus and which said bond for title was by the said Charity W. Pohemus joined by her husband James E. Pohemus was signed and delivered to the defendant Anna. M. Stewart has never been complied with and has been forfeited and that the same is null and void and constitutes a cloud upon the title of the said plaintiff Emma Fellman to said lot aforesaid; It is therefore considered ordered adjudged and decreed by the Court that the said plaintiff Emma Fellman do have and recover of said defendants Anna. M. Stewart & Joseph H. Stewart the said lot No 20 in Block 21. aforesaid. and that she have her writ of possession therefor. – and it is further considered ordered adjudged and decreed by the Court that the said bond for title aforesaid is hereby

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cancelled set aside and held for naught and the same is declared to be null and void, and all cloud cast upon the title of plaintiff Emma Fillman to said land aforesaid by said bond for title aforesaid is hereby removed; and it is further considered, ordered adjudged and decreed by the court that the title of said plaintiff Emma Fillman to said land is hereby quieted and confirmed and that plaintiff recover all costs in this behalf expended for which they may have this execution

5378 Robert F. Campbell vs George Newton, et al. This day came the plaintiff by his attorney; and the defendant appeared not and said nothing in bar of plaintiffs action, and the pleadings of plaintiff and defendants having been read to the court, and the evidence and argument of counsel on the part of plaintiff having been heard and fully understood it is considered by the court that the plaintiff recover of the defendants the premises described and bounded as follows, Twelve and one third acres of land out of the Santiago del Valle grant; beginning at the north corner of a tract of land sold to George Dawson by W. T. Davis a Live Oak 6 in in dia bears S. 33½° W. 28 varas distant Thence N 57° 48' W. 210 varas to a Stake. Thence S. 26° W. 404 varas Black Jack 3 in in dia bears N 60° W ½ vara a Post Oak 18 in in dia bears S 84½° E. 7½ varas distant. Thence S 36¼° E. 135 varas to a Hickory 11 in in dia blazed on three sides. Thence N 35° 40' E 408 varas to the place of beginning situated in Travis county Texas, and the costs in this behalf expended of the defendant George Newton for which he may have his execution. It is further ordered that a writ of possession do issue in favor of plaintiff against each of the defendants George Newton and P. D. Sawyer. 579

5386. Ed Christian vs A. W. Caldwell et al. Continued for service on Tomeus.

5490 The State of Texas vs Western Union Telegraph Co. Set for Wednesday 13th October 1880.

5535. Alonzo Cooper & Agnes Robertson Executors vs Isham G. Searcy. On motion of plaintiffs attorney it appearing that the petition was filed by mistake it is ordered by the court that this cause be stricken from the docket and leave given plaintiff to withdraw the papers filed.

5476. The State of Texas vs John T. Cordray et al. on this the 8th day of October A.D. 1880 (See page 82 Docket No 5.) This cause being regularly in its order for trial the plaintiff by leave of Court filed a 1st supplemental petition alleging Jack Rust and Jackson Rust to be one and the same person and dismissed this cause as to Jack Rust. Whereupon the plaintiff and the balance of the defendants herein appeared by their attorneys and announced ready for trial, and this being no jury demanded by any of the parties herein the cause was submitted to the Court without a jury, And it appearing to the court from the evidence submitted in this cause that the two bonds sued on in this cause, amounted only to the sum of ($7657 88) Seven thousand Six hundred and fifty seven & 88/100 dollars - and that the principal defendant John T. Cordray in this cause is indebted to the plaintiff in the sum of Seven thousand nine hundred and twenty five

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and 13/100 ($7925.13) dollars, It is further considered, ordered, adjudged and decreed by the Court, that the plaintiff the State of Texas, do have and recover of and from the defendants, John. T. Cordray, Jackson Rust. J. T. Bolton and Thomas Habermacher the sum of Seven thousand Six hundred and fifty seven & 88/100 ($7657.88.) dollars and all costs in this cause expended. & that the costs incurred by reason of Jack Rust being made defendant for which Execution may issue, It is further ordered and decreed by the Court, that the said State of Texas do have and recover from the said principal John. T. Cordray the further sum of two hundred and sixty seven and 25/100 ($267.25) dollars and that said sums of $7657.88. and $267.25 each draw interest at the rate of eight per cent per annum from this date until paid - and for both of said sums let Execution issue. It further appearing that all the defendants herein are sureties & that the said John. T. Cordray, it is therefore ordered that the said defendants, who are sureties shall have judg= =ment over against the said John. T. Cordray for whatever amount of this judgment they or either of them may pay and that Execution may issue therefor in their favor.

Court adjourned until tomorrow morning 9 o'clk.

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Court met pursuant to adjournment; Present same as on first day, Whereupon the following proceedings were had. Viz:

8496 Florence Whitis vs Rufus Whitis et al, And now on this day came on to be heard the above styled cause, The plaintiff appearing by counsel and in person and the defendants to wit:- Rufus Whitis, Mary Whitis, John Whitis, Florence Whitis Gertrude Whitis Charles. W. Whitis and Thomas. P. Whitis by their guardian ad-litem John. P. Coste Esq. and announced themselves ready for trial - After hearing the evidence and argument of counsel it appearing to the court that the plaintiff Mrs Florence Whitis widow of C. W. Whitis deceased is the owner of an undivided one half interest in and to (51 3/4) fifty one & 3/4 acres of land situated in Travis County Texas, particularly described as follows to wit:- (51 3/4) fifty one & 3/4 acres out of lots Nos ——— (10) ten (11) eleven (12) twelve (13) thirteen (15) fifteen (16) sixteen and (17) seventeen in Division D. of the city of Austin, and that the above named defendants are the owners of the remaining undivided one half interest in said land - save the homestead of the said plaintiff Mrs Florence Whitis which is described as follows to wit:- About (7 1/2) about seven and one half acres together with the improvements thereon out of the aforesaid lots Nos (12) twelve and (13) thirteen above described commencing at the N. E. corner of lot No (17) seventeen in Block No (9) nine Division D. of the out lots of the city of Austin - Thence west with the west line of Berlin Street 660 feet across Laurel Street for the corner - Thence at right angles to the west line of Berlin Street 572 feet - Thence at right-

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Angles 572 feet. Thence at right angles 572 feet. Thence at right angles 572 feet to the place of beginning, and it further appearing to the court that the parties hereto are desirous of partitioning said land between them - It is considered ordered adjudged and decreed by the court that P. de Cordova Joseph Spruce and Flavius Everett be and they are hereby appointed commissioners to partition and divide said property lee said Amendiad as aforesaid between the parties hereto in the following manner to wit: one half of said property to be set apart and allotted to the plaintiff Mrs Florence Willis and the remaining one half to be divided into seven equal shares - one of which said shares shall be set apart and allotted to each of said defendants respectively -

It is further ordered that the Clerk issue an writ of partition as the law directs returnable on November 1st 1880 -

It is further ordered adjudged and decreed by the court that the above homestead be in no manner affected by this decree

√ 5183 James Lloyd vs International and Great Northern Rail Road Company. Octbr 9th 1880. This day came the parties by their attorneys and then came on to be heard the demurrer to the petition, and the argument of counsel thereon being heard, it is the opinion of the Court that the law is for the defendant. And the plaintiff declining to amend his petition, It is therefore considered by the Court that said petition be dismissed and the defendant go hence without day and the defendant recover of plaintiff all costs in this behalf expended for which let execution issue.

√ 5460. Emily Sckerls vs. Chas F. Skerls. It was this day ordered by the Court that this case be dismissed and that the plaintiff Emily Skerls pay all costs in this behalf incurred for which execution may issue.

Court adjourned until to Monday morning 9 o'clk

October 11th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

√ 5477 John M. Swisher vs. William M. Saylor et al. This day came on to be heard the defendants' motion to dissolve the injunction heretofore granted to plaintiff, and the argument of counsel having been heard, the Court was of the opinion that the law is with the plaintiff, it was therefore ordered by the Court that said motion to dissolve the injunction aforesaid, be and is hereby refused and denied.

Court adjourned until to morrow morning 9 o'clk.

October 12th 1880.

Court met according to adjournment. Present same as first day.
Whereupon the following proceedings were had viz:

5492 George F. Moore vs. Thomas J. Campbell et al. It was this day ordered that Pltff have leave to file first amended original petition.

5512. Mc Dannell & Bc vs. Bridge & Wilkinson. On this 8th day of
Dist. Dock N-5 page 82. October A.D. 1880 came the plaintiffs Page Mc Dannell and Martin McCarley by their attorneys, and the said defendants, N. J. M. Bridge and W. J. Wilkinson though duly served with Citation having failed to appear and answer in this behalf. But wholly made default, Whereupon the said Page Mc Dannell and Martin McCarley, partners composing the firm of Mc Dannell & Co ought to recover against the said N. J. M. Bridge and W. J Wilkinson their damages by occasion of the premises - And it appearing to the Court that the plaintiffs cause of action is liquidated and proven by the instruments of writing as alleged in their petition, it is therefore considered by the court that the said plaintiffs do have and recover of the said defendants. N. J. M Bridge and W. J. Wilkinson the sum of six hundred and twenty-seven and 70/100 dollars ($627.70) principal and interest due to this date with interest thereon at 12 per cent per annum. And it is further ordered and adjudged by the court that the said plaintiffs do have and recover of the said defendants the further sum of Sixty-two 70/100 dollars ($62 70/100) Attorneys fee as provided in said writing instrument with interest thereon at the rate of 8 per cent per annum, - It is further ordered that said plaintiffs recover all their costs in this behalf expended - and that they have their execution for all of said sums of money and costs,

5492. George F. Moore vs Thomas J. Campbell, Kate F. Deats. Arnold E. Deats. Oliver
Dist. No 5. Page 84. G. Deats Kate Deats and Eugene T. Deats. On this cause now comes the plaintiff by his attorneys, and the defendants Arnold E. Deats, Oliver G. Deats. Kate Deats and Eugene T. Deats by their guardian ad-litem Osceola Archer. and it appearing to the court that the said Thomas J. Campbell one of the defendants had duly acknowledged service of the petition in this case and waived citation, and that Kate F. Deats another of the defendants had been duly served with citation and copy of said petition and having failed to answer as required by law. judgment by default is taken as against them - And said cause coming on to be heard before the court without the intervention of a jury, and the evidence being submitted, and it appearing that the defendant Thomas J. Campbell and Eugene T. Deats executed to the plaintiff their note for the sum of twelve hundred dollars, dated 27th June 1876. due at twelve months from date and bearing interest from date at the rate of twelve per cent per annum, upon which there has been paid only the sum of fifteen hundred dollars, which was paid on the 13th March 1878. leaving the remainder of said note due and unpaid with interest amounting at this time to the sum of one thousand nine hundred and eighty one & 37/100 dollars ($1981.37) - And it further appearing that at the above date the said Campbell and Deats for the purpose of securing the said note to the plaintiff, made their certain deed of trust to D. S. Moore for the

October 12th 1880

benefit of the plaintiff to the following discribed real estate in the city of Austin in Travis County Texas. viz: The whole of lot number one in Block number one hundred and six and ninety three feet off the Westin side of lot number two in the same Block, the whole constituting ninety two feet on Ash street in the South West corner of Block number one hundred and Six aforesaid, which deed of trust is a lien upon said property: That Eugene. T. Deats one of the parties to said deed of Trust and note is dead, leaving the said Kate F. his Widow, and the said Arnold. E. Oliver G. Kate and Eugene T. Deats his Childern and heirs at law - That there is no administration on his estate: that said Childern are all minors under the age of twenty one years and have no guardian - and are duly represented by their guardian ad litem Osceola Archer - It is ordered adjudged and decreed that the said debt of the plaintiff George. F. Moore be established as against the said parties to wit: against the said Thomas J. Campbell, and against Kate F. Deats. and the infants Arnold. E. Oliver. G. Kate and Eugene. T. so far as the property aforesaid is concerned for the amount due thereon and as having a lien upon the said property before mentioned - It is further adjudged and decreed that the clerk of this court do issue an order of sale directing the Sheriff of Travis county to sell the said property in satisfaction of said lien as required by law. and make return thereof - It is further ordered and decreed by the court that the Guardian ad litem Osceola Archer be allowed a fee of ten dollars for representing the minors herein to be taxed as part of the costs in this cause, and that the defendant Thomas. J. Campbell pay all costs in this behalf expended and that execution issue therefor. but if the same cannot be made out of said Campbell - then, inasmuch as all the costs in this cause were necessarily made by the plaintiff. it is ordered that the plaintiff George. F. Moore pay the same and that execution may issue against him therefor,

Court adjourned till tomorrow morning at 9 oclock

October 13th 1880.

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5525 Martha Washington vs George Washington, now comes plaintiff by his attorney and defendant appearing not in person or by attorney the Court appointed W.W. Doom Esq to represent the defendant as his attorney - both parties having announced ready for trial - The pleadings having been read to the court, and the evidence having been adduced - the cause then being submitted to the court without argument and without the intervention of a Jury. the court is of opinion that the relief sought by plaintiff should be granted - It is therefore ordered considered adjudged and decreed by the court that the bonds of matrimony heretofore existing between Martha Washington and George A. Washington plaintiff and defendant herein be absolutely dissolved and held for naught - It is further

October 13th 1880.

ordered that the absolute right to the custody and custody of the children Henry and Anna Washington children of Plaintiff and defendant be decreed to the plaintiff said Martha Washington, It is further ordered that the plff pay all costs of this suit.

5552. Dock Pryor. vs Nelly Pryor on this 13th day of October A.D, 1880 the above entitled and numbered cause coming on to be heard in its regular order for trial and the plaintiff appearing in person and by his attorney, and the defendant not appearing although duly served but wholly made default, and the plaintiff announced ready for trial and the cause proceeded to trial, and the court after hearing the pleadings and evidence and duly considering the same adjudged the plaintiff entitled to the relief sought in his petition, Whereupon it is ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the plaintiff Dock Pryor and the defendant Nelly Pryor as man and wife be and are hereby dissolved, and the said Dock Pryor and Nelly Pryor man and wife as aforesaid hereby separated in the bonds of matrimony as aforesaid by a decree of divorce - that the plaintiff pay all costs in this behalf expended - for which execution may issue,

5475. Charles Wolf vs Charles Fox And now on this 7th day of October 1880. came the parties hereto and being all here present in court and the defendant being represented by C. D. West Esq his legally appointed Guardian ad litem and both parties having waived a Jury and announced themselves ready for trial and the evidence being heard the cause was submitted to the Court on the pleadings and evidence: Whereupon the Court doth find from the evidence that the premises in controversy to wit: the north half of lot No 4 in Block No 56 of the city of Austin County of Travis and State of Texas, was on the 17th day of May 1875: the separate property and estate of Charles A. Fox and that the mother of defendant Charles Adolph Fox had at no time any interest therein and that at the date last aforesaid or at any other time said Charles Adolph Fox had no right title or interest therein and has not now any such right title or interest and that on said 17th day of May 1875 said Charles A. Fox by a good and valid deed for a valuable consideration conveyed said premises to said Charles Wolf and that said Charles Wolf was at the filing of his petition therein and is now the legal and equitable owner of said premises and in rightful possession thereof - and the Court doth order and decree that said Charles Adolph Fox be declared divested of all right title interest and claim to the same or any part thereof or the rents issues or the profits thereof and be forever enjoined from instituting any and all actions for the recovery or possession of the same or of any part thereof and that the title of said Charles Wolf to said premises be fully and in all things confirmed and quieted and declared vested in said Charles Wolf in fee simple - And the Court doth further order and decree that C. D. West Esq be allowed the sum of $25.00 for his services as guardian ad litem of defendant and that the same be taxed as costs and that all costs in this cause be taxed against said plaintiff Charles Wolf

October 13th 1880.

✓ 5366 The State of Texas vs Mill Livingston et al. It is ordered that defendants Page, Thompson, A. V. Miller, George Miller and P. M Koch have leave to file 1st amended Answer.

✓ 5477. John. M. Smith vs William A. Taylor et al.. It is ordered that Plaintiff have leave to file amended pleadings.

✓ 5498 The State of Texas vs J. F. Studebach et al. Continued for service.

✓ 5490 The State of Texas vs Western Union Telegraph Co. It is ordered that this cause be passed to the bottom of the criminal docket

✓ 5460 Emily Sckirls vs. Charles A. Sckirls. This day came the parties by their attorneys the plaintiff by her attorneys messrs. Walton, Green and Hill and Mess Sheeks and Sneed, and the defendant by his attorneys. Mess Wooldridge and Fisher and waive a jury and submit the matters in controversy upon the cross bill heretofore to Wit: on the 6th day of Oct A. D. 1880 by defendant filed, as well of fact as of law. to the court, and the evidence, and argument of counsel having been heard and fully understood it is considered by the court and it is so ordered adjudged and decreed accordingly: that the marriage relation of husband and wife now existing between plaintiff and defendant in this cause be divorced cancelled and annulled and the bonds of matrimony existing between the said Charles A. Sckirls and the said Emily Sckirls formerly Obelz- as consummated by marriage in the city of Austin Texas on the 11 day of January A. D. 1874. be and the same are hereby forever separated and disjoined, and the said Charles A. Sckirls and the said Emily Sckirls declared to be no longer husband and Wife and inasmuch as it appear that the community property owned in common by plaintiff and defendant has already been justly and equitably divided between them, upon terms to this mutual satisfaction. it is hereby adjudged ordered and decreed that each party be invested with sole and exclusive title to such personal property of the community estate as they are this day in possession of respectively- It is further ordered that execution do issue against the said Charles. A. Sckirls of the costs of this cause.

Court adjourned till tomorrow morning 9 Oclock.

October 14th 1880

Court met pursuant to adjournment. Present same as on first day and there being no minutes of this date, Court adjourned till Saturday 16th inst 9 Oclock

October 16th 1880

Court met pursuant to adjournment, Present same as on first day. Whereupon the following proceedings were had viz

✓ 5428 (Rec. book N. 5. page 83) John Todd vs S. G. Kingsbury and Elizabeth Kingsbury, This day this cause coming on to be heard and all the parties appearing in person and by attorneys announced ready for trial- all the parties waived a Jury and submitted the cause to the court,

October 16th 1880

and afln hearing the pleadings read the testimony adduced by all the parties and the argument of counsel, it is the opinion of the court that plaintiff John Todd ought to recover by reason of the premises, and that defendant Elizabeth Knigsbury ought to take and recover nothing, It is therefor ordred adjudged and decred by the court that plaintiff John Todd do have and recover of and from the defendant S. G. Knigsbury the sum of Four hundred and twenty ($420.00) dollars principal and interest due to this date, and it further appearing to the court that for the payment of said above Amount of $420.00, plaintiff has holds and reclaims his vendors lien upon undivided one half (1/2) interest in and to the following described tract piece or parcel of land, viz lying in Caldwell County State of Texas on the Waters of Peach Creek about 18 1/2 Miles S. 74° E. from Lockhart patented to the heirs of Daniel W. Cloud deceased, by Patent No 371, Vol 3. to which reference is here made, Beginning at the S. W. corner of league No 36. from which a P. O. 14 in in dia. brs. S. 23° W 7 vrs. and a do 20 in dia brs N. 73° E. 8 vrs Thence with the South line of said league S. 65° E. 1240 vrs to a stake on the E. bank of Alum fork of Peach Creek. from which a P.O. marked (1/X) brs N 47 1/2° E. 13 vrs and a black Jack brs N 16° W 10 vrs. Thence N 25° E. 900 vrs to a corner from which a P.O. brs S. 73° W. 6 vrs and a do N 22 1/2 W 8 vrs, Thence N 65° W 435 vrs to a stake and corner, Thence N 25° E. 3114 vrs to a stake and corner. Thence N 65° W 805 vrs to a stake on the West line of said league from which a P.O. brs N 88° E 18 vrs and a Elk Jk 11 inches in dia brs N 49° W. 13 varas, Thence with said line S 25° W 4014 varas to the beginning containing 640 acres of land, and that said Vendors lien was so retained in the sale thereof by plff John Todd to Defft S. G. Knigsbury on the 15th day of July A. D. 1879 - And it further appearing to the court that for the payment of said above amount of $420.00, Plff John Todd has and holds a gneral lien upon the whole of the above fully described tract of land, It is therefor ordred, adjudged and decred that plff John Todds said Vendors lien as same exists in the said 15th day of July A D 1879 be upon the one undivided half of above described land for the payment of above amount of $420.00, and the same is hereby foreclosed - It is further ordred adjudged and decred by the court that said Gneral lien upon the whole of said tract of land for the payment of said above amount of $420.00 be and the same is hereby foreclosed - and this decree and judgment shall in no manner prejudice the rights of said plff John Todd under and by virtue of another promissory note executed and delivered to Plff John Todd by defft S. G. Knigsbury on the 15th day of July A D 1879, for the sum of two hundred dollars and due on or before the 1st day of March A D 1881, and holding a Vendors lien and gneral lien also as above set forth in reference and relation to said $420.00 - Wherefor it is ordred adjudged and decred by the court that for the payment of said $420.00 and interest thereon at 8 per cent per annum from date hereof an Execution and order of sale do issue according to law to Caldwell County State of Texas commanding the legal officer to sell said 640 acre tract for the purpose of foreclosing said liens and payment of said debt and costs - And that plff John Todd have his execution for any balance remaining there

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be such) against said S. G. Shigebury and execution against S. G. Shigebury and Elizabeth Shigebury for all costs in this behalf incurred.

5514, Victoria C. Burke vs The Houston and Central Railway Company, on this 8th day of October 1880 came the plaintiff in the above entitled cause by her attorney, and the said defendant having failed to appear and answer in this behalf but Wholly made default, Whereupon the said Victoria C. Burke ought to recover against the said Houston and Texas Central Railway Company her damages by occasion of the premises; and it appearing to the Court that the cause of action is unliquidated, it is ordered by the Court that the cause do await further evidence on the part of the plaintiff so that the court can assess the damages sustained by the plaintiff.--

And on this the 16th day of October came on to be heard the motion of defendant 1st To arrest this case in its present Status and any and all further proceedings therein for the present

2nd Not to render final judgment therein - 3d To set aside the judgment by default rendered therein on Friday the 8th day of October 1880. 4th To restore said case to the Jury docket and let it stand for a trial as a Jury case and also at the same time came on to be heard the motion and opposing motion of Plaintiff in answer to said defendants said motion which are as follows -

1st That the judgment by default was regularly and properly obtained,

2nd That the defendant has shown no sufficient excuse for its laches and failure to appear in said cause and plead at proper time,

3d That defendant has not shown that he has a meritorious defence to plaintiffs said cause of action, that its object is to obtain a trial de novo with a view to shield itself from liability behind the technical defence that it is exempt from responsibility by reason of the nature of the goods lost.

4th That there was no agreement between plaintiff and defendant, that the latter should not be held responsible for gold Silver or precious stone, Metals jewelry, or treasure of any kind, works of art &c.

5th That if there had been any agreement between plaintiff and defendant of the character referred to in division No 4. then the same was contrary to the Statutes of this and the public policy of the State of Texas. and cannot be enforced in the Courts of Texas,

6th That the bill of lading referred to by the defendant, as having been given by it to plaintiff, was delivered if at all to plaintiff after the property in controversy had been shipped by it from New Orleans, at which time it was beyond the power to recall the property or withdraw it from defendant,

7 That defendant was informed of the character and nature of the shipment of the goods in controversy, and received the same knowingly to transport for the consideration mentioned in plaintiffs petition. and the court after hearing fully considered said motions together with the affidavits and data attached

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to them respectively, and after hearing the arguments of counsel thereon, it is thereupon ordered and finds as follows,'

1st That the judgment by default against defendant in this cause was regularly taken after proper service on default day,

2nd That prior to default day, this being an appearance case, the plaintiff had demanded of the Clerk of the Court a Jury in this case and paid him the Jury fee,

3d That on appearance day when this case with others was called for default judgments, and to allow parties who chose to demand Juries, the plaintiff made no demand for a jury, but on the contrary shortly after she took her judgment by default notified the court that she wished no jury,

4th That subsequent to the default judgment taken in this case, and on the same day when this case was regularly reached on ~~peremptory~~ call of the non jury ~~trial~~ docket, plaintiff announced ready for trial, and introduced the witness who was sworn and testified in her behalf,

5th That before the court rendered its decision on the case so submitted as above in default, defendant filed the said motion to stay proceedings as herein before referred to, -

Whereupon it is ordered and adjudged by the court on said motions of plaintiff and defendant that no further proceedings be had in said cause at this term of the court as a non jury case, and that said cause be placed upon the jury docket of this court and stand for trial at this term as a jury case,

It is further ordered by the court that the judgment by default heretofore rendered in this cause at this term of the court remain in full force and effect, and that the same be in all things observed - with the exceptions that it is hereby ordered as part of this judgment that the defendant be, and he is hereby allowed to introduce any and all legitimate evidence it may have as to the quantity and value of the goods and property in controversy - and that as to the quantity of goods shipped and their value the defendant may interpose his defense and evidence, the same is as if no default had been taken and with the same effect and not further or otherwise - It is further ordered that defendant pay all costs in this case incurred up to this date, for which execution may issue, - the plaintiff excepted in open court to the ruling of the court, so far as it sought to limit the legal effect of the judgment by default in this case.

5442. Mary A. Smisher vs James M. Smisher & Louis Maas. On this day came on to be heard the defendants demurrer and exceptions to the plaintiffs petition, and the same having been heard and fully understood by the court it is the opinion of the court that the law is with the plaintiff - It is therefore considered by the court that said demurrer and exceptions be and the same are overruled. to which ruling defendant Maas excepts.

Court adjourned till Monday Morning 9 o'clock

Monday October 18th 1880.

Court met pursuant to adjournment. Present same as on first day and thier being no business transacted of this date. Court adjourned till tomorrow morning 9 o'clock.

October 19th 1880

Court met pursuant to adjournment, Present same as on first day. Thereupon the following proceedings were had Viz:

4504, George B. Limpelman vs Thomas Robb et al, And now at this day came all the parties to the above entitled and numbered cause by their attorneys of record and by consent the continuance heretofore entered in said cause is set aside and the parties announced themselves ready for trial, and having waived the jury herefore demanded in said cause, both parties by consent submitted the matter in controversy to the Court. And thereupon the said cause was heard by the Court, and the agreement of counsel on file was read as follows; "Limpelman et al. vs Robb et al "It is agreed that the above cause be dismissed, the defendant deposits $100.00 "one hundred dollars to pay costs of this suit; and the balance of said $100.00, "after paying costs to be subject to order of plaintiffs attorneys 16th October 1880,

"Hancock West & North Defts Atty"

"Jno. B. Rector & Jno W. Robertson Plff. Atty." "

under which said agreement it is ordered by the court that the said cause be dismissed in accordance with the terms of said agreement and it appearing to the Court that the terms of said agreement have been complied with and all said costs paid. It is considered by the court that the said plaintiffs take nothing by their said suit; and that said defendant go hence without day, and if there be any balance of said ($100.00) one hundred dollars on deposit with the Clerk after paying all costs, the said balance be paid over to said plaintiffs attorneys in accordance with the terms of said agreement on file.

5471, J. W. Stalnaker vs Pethe Coofmod. This cause being called for trial on the 19th October 1880, and it being brought to the notice of the court by the parties hereto that the matters in issue have been settled by a written agreement of the parties on file in this cause - It is therefore considered ordered and decreed by the court that judgment be rendered herein in accordance with said written agreement which is, that plaintiff J. W. Stalnaker do have and recover of and from the defendant Pethe Coofmod the sum of one hundred and fifty ($150.00) dollars due and payable on the first day of February 1881, and that no execution can issue therefor before the first day of February 1881, - It is further ordered by the Court that the defendant Pethe Coofmod can satisfy and pay off the above judgment in full by paying the plaintiff or his attorneys, one hundred dollars in cash at anytime between now and the first day of February 1881, the said plaintiff shall have the right to collect the said judgment ($150.00) one hundred and fifty dollars in full by execution, if deft does not settle the same before time in accordance

October 19th 1880

mit the terms of this judgment, It is further ordered that the plaintiff J. W. Stat=
=maker pay all costs in this cause expended, for which execution may issue,

5539. Emil Wolber Ex parte. Declaration of intention to become a citizen. The State of Texas County of Travis. Emil Wolber being duly sworn according to law, in the District Court of said county doth declare that he was born in the year A.D. 1848 in the Kingdom of Baden Germany whence he emigrated in the year 1874 to the United States of America, and has selected the State of Texas as the place of his intended settlement and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounce forever all allegiance and fidelity to any foreign prince, potentate, State and Sovereignty whatsoever and particularly to the Emperor of Germany, of whom he was a subject.

Court adjourned till tomorrow morning 9 o'clock

October 20th 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5499 The State of Texas, vs Pedro Marcelin et al. On this the 20th day of October A.D. 1880, came the plaintiff and the defendants by their attorneys, and both parties announced themselves ready for trial and waive a jury and submit the matters in controversy as well of fact as of law to the court, and the pleadings, evidence and argument of counsel having been heard and fully understood it is considered, ordered, adjudged and decreed by the court that the plaintiff the State of Texas, do have and recover of and from the defendants Pedro Marcelin, Lazaro Lopez Vr Pellat and T L Rivers the sum of Three thousand Seven hundred and twenty seven and 76/100 dollars. ($3727.76) with interest thereon from this date at the rate of eight per cent per annum, together with all costs in this behalf expended. For which execution may issue, And it further appearing to the court that the defendant Pedro Marcelin is the principal in the official bond sued on in this cause, and that the said defendants Lazaro Lopez Vr Pellat and T L. Rivers executed said bond as sureties, and as such sureties are entitled to the benefit of the Statute in such cases made and provided. it is therefore further ordered adjudged and decreed by the court that the Sheriff levy the execution issued by virtue of this judgment first upon the property of the said Pedro Marcelin subject to execution and situate in the County of Travis before a levy shall be made upon the property of said sureties or any of them, provided so much property of the said Pedro Marcelin subject to Execution shall be found in said Travis County as will be sufficient to make the amount of said Execution, otherwise the levy thereof to be made on the property of the said Pedro Marcelin that may be found if any, and upon so much of the property of said sureties as may be necessary to make the amount of said execution — And it is further ordered adjudged and decreed by the court that in case said sureties or any of them shall make any payments which is afflixed on this judgment by reason of their suretyship on said Official bond, this judgment shall not be discharged by such payment

5499 Vol 23 D. page 55. Creditor's claim allowed for $3727.76 Dollars and costs of suit. Pedro Marcelin et al

October 20th 1880.

but shall remain in full force and be prosecuted to execution for the use of said sureties or any of them making such payment to the amount of such payment and interest thereon, And it is further ordered adjudged and decreed by the Court that in case this judgment is paid by the said sureties or any of them, and one or more of said sureties fails to pay his proportionate part of this judgment to wit: one third thereof, and in consequence of such failure one or more of said sureties is compelled to pay more than his said proportionate part of said judgment that execution may issue against the said Pedro Marcelis for the use of the sureties or surety who has paid more than his proportionate part of said judgment for the whole amount paid by him and interest thereon and also against his co sureties for their proportionate part of the sums so paid by him and interest thereon – And it is further ordered that execution may issue on behalf of the officers of this court for all costs in this behalf incurred,

5405 Reuben Anderson et al. vs Ann. H. Jones et al. And now on this day, this cause coming on finally to be heard, the said Reuben Anderson appeared by his Attorneys Hancock, Wirt, and Storey, and the said Attelia A. Anderson, Elizabeth C. Anderson Annie E. Anderson, Mary E. Anderson, Elenor L. Anderson and Thomas J Anderson minors appeared by their guardian ad litem John P. Costa, Ann H. Jones and John B. Jones her husband by their attorney A. W. Terrell – And thereupon came on to be heard the report of J. A. P. Cramer, G. Crow and C. Von Rosenberg the Commissioners appointed to value and divide the estate of Thomas J. H. Anderson deceased between the plaintiffs and defendants, which said report is as follows, Reuben Anderson et al vs Ann H. Jones, et al. 5 October term Travis county District Court, – And now come the Commissioners heretofore appointed to make partition in the above cause and at the suggestion and by consent of the attorneys of the parties thereto and amend the report of partition filed by them therein on the 5th day of October A D 1880. so that it shall hereafter read as follows,

5405 Reuben Anderson et al. vs Ann H. Jones et al – We J. A. P. Cramer G. Crow and William Von Rosenberg. Commissioners appointed by a decree of the District Court of Travis, made in the above cause on the 6th day of August 1880, to make partition and division of certain land and personal property in the pleadings and decree of said cause mentioned and described, do hereby report to the court that after obtaining all necessary information relating to said property, We did by virtue of the power, and pursuant to the directions of said decree, proceed to make and did make partition of all the said land and property described in said decree as community property, between the said plaintiffs and defendant Ann H. Jones, in the manner following, that is to say – We first valued and appraised said property as follows. 350 1/3 acres of the J. W McGraw survey in Robertson County being an undivided 1/3 interest in 1050 acres= $1085.00

October 20th 1880.

Amount brought forward	$5085.00
272 1/4 acres of the J.R. Robertson survey in said County	1633.00
Lots 1-2 & 3. Block 122. Austin city Travis County Texas.	13.172.00
Personal and miscellaneous property	6018.00
Cash notes considered good with interest to October 1st 1880	27,330.45
Amount heretofore received by the plaintiffs	22.182.50
Amount heretofore received by deft Ann H. Jones	2098.50
Making in all.	$77.319.45

Which we divided into two equal parts, quantity and quality relatively considered, and set apart to Defendant Ann H. Jones $38759.72.
(deducting amount received by her $2098.50. being one equal part.)
That in said allotment to said defendant Ann H Jones we set apart to her the following property,

Lots 1. 2. and 3. Block 122. Austin City	13.172.00
One piano	400.00
Household and Kitchen furniture —	600.00
Horse and buggy	150.00
Undivided 1/3 interest in mules. Oxen. hogs. fodder. millet. Oats corn. plantation Wagons. plows. Sompo buggy plows, cultivators. corn planter, Hayrake, plow harness. Gin stand. feeder and condenser and cotton press.	1622.66.
Interest in note on H. H. Vinson for $875. dated Oct 15. 1879, and due Oct 15th 1882. with 10 per cent interest to Oct 1st 80	753.14.
One note on H. H. Vinson for $875. of date Oct 15th 1879, due Oct 15 1883 and interest at 10 per cent to Oct 1st 1880	958.85
One note for $2000. on C. J. Wellbrook and J. W. Carr. of date Feby 4th 1879, at 12 per cent interest to Oct 1st 1880	2390.00
One note on Mrs Mary Robertson for $5000. and interest at 12 per cent to Oct 1st 1880.	3341.65
Balance due on note of Grand Lodge of Texas - $10.000. with 10 per cent interest from Jan 1st to Oct 1st 1880.	10.750.00
Compensation to be paid by Attelia A Anderson	435.32.
Compensation to be paid by Elizabeth C. Anderson	87.60
Amount heretofore received by her	2098.50
Total,	$38759.72.

To the plaintiffs. Reuben T. Attelia A. Elizabeth C. Annie E. Mary E. Elinor L and Thomas J. H. Anderson we have allotted and set apart an equal undivided interest of 1/7 each in 350 1/3 acres of the G. W. McGown survey described in the pleadings 5085.00
272 1/4 acres of the J R. Robertson survey also described in the pleadings 1633.00
Amt Carried $6.718.00

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	Amount brought forward.	$ 4718.00
	Undivided 2/3 interest in the following personal, and in running the plantation in Robeson county	
	18 mules $ 1570.00	
	3 Oxen 50.00	
	15 hogs 100.00	
	Fodder, Millet & Oats 158.00	
	5000 bushes of corn @ 40 cts. 2000.00	
	5 Plantation wagons 195 00	
	13. Plows 75.00	
	18 Sweeps 50.00	
	2 Buggy Plows 50.00	
	4 Cultivators 50.00	
	1 Corn Planter 40.00	
	1 Hay rake 15.00	
	15 sets Plow harness 30.00	
	1 Gin Stand 150.00	
	Feeder & Condenser 135.00	
	1 Cotton press 150.00	
	Miscellaneous implements 50.00 =	$ 3245.34
	Note of J. R. Ward - 3928.40	
	Note of H. H. Unison due Oct 15th 1880 958.85	
	" " " " " " " 15th 1881. 958.85	
	" " " " " " " 15. 1882 (interest in) 205.71	
	" " A. J. Folsom with interest 1085.00 =	7136.81
	To which is added amount received by them $ 22.182.50. less compensation $ 522.92. =	$ 21.659.58
	Making the amount to be divided among the seven plaintiffs	$ 38759 72
	And the share to be allotted to each one and which we have so allotted,	$ 5537.10
	To the plaintiff Reuben Anderson We have allotted and set apart.	$ 5537.10
	Which amount is made up by an undivided 1/7 interest in the said land and personal property on the plantation valued at $ 1423.33.	
	Interest in Notes set apart to plaintiffs 92.58	
	Amount heretofore received by him 4021.18. }	$ 5537.10
	To the plaintiff Attelia A. Andrews We did set apart and allot 1/7 of said sum allotted to said plaintiffs.	$ 5537.10
	Giving an undivided interest of 1/7 in the land given plaintiff and the personal property on the plantation $ 1423.32.	
	Amount heretofore received by her 4549.10 =	5972.42.
	From which is to be deducted compensation to deft Ann. A. Jones	435.32
		$ 5537.10.

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To the plaintiff Elizabeth C. Anderson We did set apart and allot 1/7 of said land $1537.10

to make which We assign to her an undivided 1/7 interest in said land and the personal property on the plantation valued at. $1423.32,

Amount heretofore received by her 4201,38 = $5624.70

From which is to be deducted compensation to deft Ann. H. Jones 87.60

$5537.10.

To plff Annie E. Anderson We did set apart and allot 1/7 of the Amount $5537.10

assigned to Plff as follows, - 1/7 undivided interest in said land and

personal property on the plantation valued at $1423.24

Interest in the notes set aside to Plff 7581

Amount heretofore received by her 3355.45 $5537.10.

To the plaintiff Mary E. Anderson We did set apart and allot an

equal 1/7 of said plaintiff 1/2 of said community estate — $5537.10

Giving her an undivided 1/7 interest in said land and personal

property on the plantation valued @ $1423.33.

Interest in notes set aside to Plff 1488.46,

Amount heretofore received by her. 2625.31. $5537.10.

To the Plaintiff Elenor L. Anderson We did set apart and allot 1/7

of said 1/2 of said community estate — $5537.10

being an undivided 1/7 interest in said land and personal property in the

plantation set apart to Plaintiffs $1423.34

Interest in notes set aside to plff 2291,24

Amount heretofore received by her 1822.52. $5537.10

To the Plaintiff Thos. J. H. Anderson We did allot and set apart

1/7 of 1/2 of said Community estate $5537.10

of which We gave him an undivided 1/7 interest in the said land

and 2/3 of said personal property on said plantation valued at $1423.33.

Interest in Notes set aside to plaintiffs 2506.22.

Amount heretofore received by him 1607.55 $5537.10

The Claim mentioned in said decree, on A. Muckle We could not find to be of any value and it was not included in this petition — And We do further report that it is our opinion that said separate property described in said decree cannot be partitioned among the parties in interest there according to their respective rights without greatly lessening its value, for the reason that in its present shape and with the land set apart heretofore to the plaintiffs it makes a valuable plantation which affords a very considerable income to the owners - but if divided between them the quantity to each would be so small that the expense of management seperately would

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take a large share of the profits to be derived therefrom, and it is the desire of the parties that said plantation remain undivided, Given under our hands this the 13th day of October 1880–

J. N. P. Cramer
W. Von Rosenberg
G. Crow.

Sworn to and subscribed before me this 13th day of October 1880. Witness my official seal and signature (Seal)

Frank. H. Bailey,
Notary Public Robertson Co Tx.

The State of Texas, } This day appeared before the undersigned authority. W.
County of Travis } VonRosenberg and G. Crow, and after being duly sworn upon their oaths say that they made the foregoing partition in accordance with a decree of the District Court of Travis county, impartially and according to their best skill and ability — Witness my hand and the seal of said Court. this the 14th day of October 1880

(Seal) E Hallmann Clk. D.C.C.

And there being no objection to the said report. It is ordered adjudged and decreed by the Court that the same be and is hereby confirmed,

And the Court being satisfied that the land mentioned in the decree of partition as community property between the said Thomas J. H. Anderson deceased and the said Ann H. Anderson now Ann H Jones. and in said report set apart by the Commissioners to said plaintiffs share and share alike as part of each of their shares in said Community estate, That the 350⅓ acres out of 1057 acres un=divided. the said 1051 acres being out of the one third league of land which was once surveyed for Gus W. McGown. Situated in Robertson county State of Texas, and particularly described as follows towit: Beginning on the East bank of the Big Bragos River at the upper most N. or North West corner of the Hardin R. McGown ⅓ league survey a stake from which a Red Elm 3 in in diameter marked O brs N. 10° E. 4 vrs also a red Elm 6 in in dia marked B. brs N 24° E 5¼ vrs. also another red Elm mkd A. 6 in in dia brs N 10° E 4 vrs, Thence N 70° E 6651 vrs. passing the N. E. corner of the said Hardin R. McGown survey a stake where said 6651 vrs stops from which a Pecan tree 8 in in dia mkd W. brs S. 47½° W 24½ vrs, also another 7 in in dia mkd V. brs N 40½° E 8½ vrs, Thence N 20° West at right angles with the said line above. which is the eastern boundary line of said G. W. McGown survey. far enough Northerly to include within said Southern line and said Eastern line and a line running Westerly parallel with said southern line unto the East bank of said Big Bragos River one thou=sand and fifty one acres of land. Thence from said third corner so as above es=tablished South 70° W to the East bank of said Big Bragos River - thence down said Big Bragos River with its meanders to the place of beginning –

That the 272⅔ acres also set apart to said plaintiffs as aforesaid is in two tracts one tract containing 111 acres, and the other 161 acres situated in said

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Robertson county. part of the headright league of land granted to James. R. Robertson, The first tract is described as follows to-wit:- Begins at the S. W. corner of a survey made for H.R. McGown lying the upper corner on the river Brazos of said headright- a stake from which a Hackberry marked R. brs S 75 E. 16 vrs off. and an Elm mkd R. brs S 57. E 21 varas. Thence N. 70° E. with said McGowns line 2720 varas in stake the N. W. corner of another survey of said F. D. Robertson of 154 varas No 2. on said plain a stake from which an Elm marked X. brs N. 5562 varas and another mkd X brs S 12° W. 5 4/10 varas - Thence S. 31 1/4 E. with the west line of the same 336 varas Honey Locust mkd X for corner from which a Honey Locust mkd X brs N 53 E 5 varas Thence S. 70° W 2040 varas to the bank of the Brazos River a stake from which a Pecan mk X brs N 53° E 13 7/10 varas and an Elm mkd X brs S. 74 W 8 11/100 varas, Thence up the right Bank of said stream with its meanders to the place of beginning, The other tract of 161 1/4 acres, the field notes of which are as follows. - Beginning on the bank of the Brazos River at the S. W. corner of a survey made for F. D. Robertson. number one, containing 111 acres of land a stake from which a Pecan mkd X brs N 53 E 13 7/100 varas, and an Elm mkd X brs S 74 W 8 4/100 varas - Thence N 70 E with said F. D. Robertson southern line 2640 varas to the Western line of a survey of 154 acres made for F. D. Robertson No 2 a stake from which a Honey Locust mkd X brs N 53 E. 5 varas, Thence S. 31 1/4 E with the line last named 347. varas an Ash mkd X for corner from which another Ash mkd X brs N 35 W 9 varas. Thence S. 70 W 2721 varas the bank of the Brazos River a stake from which an Elm mkd X brs S. 66 E 14 varas and another mkd X brs N 46 E 14 varas - Thence up the right bank of said River with the meanders to the place of beginning,

It is further ordered adjudged and decreed by the court, that the title to the lands, personal property, notes set apart and assigned in the report of the Commissioners of partition aforesaid respectively to the said plaintiffs as the heirs of Thomas J. H. Anderson deceased, and that the title to the lots No 1- 2- and 3 in Block No 122 in the city of Austin with all the improvements thereon - the personal property bonds and notes mentioned in the aforesaid report which is set apart and assigned to Ann H. Jones formerly Ann. H. Anderson, surviving wife of said deceased, and the mother of said plaintiffs. be vested absolutely in the said parties to whom said assignment or allotment is made, to be owned by them and each of them respectively in full property. free from the claim or claims of any of the other parties to this decree,

It is further ordered that Attilia A. Anderson having received more than the value of the share allotted to her in order to equalize the said value, pay to Ann H. Jones $435. 32, - and that Elizabeth E Anderson in order to equalize the value of the share, pay to Ann H Jones $87. 60. -

It is further ordered by the court that each party to this partition suit pay the costs in proportion to the value of each of their respective shares - And it is further ordered by the court that John R Coosta Guardian ad litem for said minor plaintiffs be and he is hereby allowed the sum of ($240.00) Two hundred and forty dollars for his services as such guardian

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to be taxed as a part of the costs in this case,

5534. C. Von Carlowitz. Exparte-. C. Von Carlowitz having made application to this court for license to practice as an Attorney and Counsellor at law, and having filed the certificate as to his moral character as required by law, and the committee appointed by this court to examine said applicant as to his legal qualification, having examined said applicant and having reported to this court that the said C. Von Carlowitz is well and fully qualified to practice as attorney and counsellor at law. It was this day ordered by this court that the said C. Von Carlowitz be and he is hereby admitted to practice as counsellor and attorney at law in all District and Inferior Courts of this State, and that the Clerk of this court issue him license accordingly

Tribute of respect. In honor of the Hon Thomas A. Duval. A Meeting of the Austin bar was held on Tuesday October 12th 1880, in consequence of the death of Judge Thomas A. Duval at which the following resolutions were adopted;

Resolved, That in the public and professional life, labors and honors of Judge Duval, all those qualities of head and heart are to be found which make up the good citizen, the honorable and conscientious lawyer, the able, upright and exalted judge. Settling in Austin in 1845. Judge Duval entered upon the practice of his profession, and continued at the bar until elected in 1855 a judge of the District Court of the State. In 1856 he was re-elected by the people to the same office- In 1857. he was appointed by President Pierce district Judge of the United States for the Western district of Texas, which position he held at the time of his death- Before his elevation to the bench he had served as Secretary of State under the administration of Governor P. A. Pease, and had been one of the reporters of the Supreme Court. In all these positions his kindness to associates, his justice to all, his purity and goodness of heart, his unflinching fidelity to the right, even in times of fiercest political contests, and the contribution of his best powers to the discharge of every duty, secured for him the permanent esteem and affection of his fellow citizens- If not brilliantly great, he was nevertheless great, for to say of one who sat for nearly a quarter of a century upon the bench, as can be truly said of him that he was fully adequate in ability and learning to every judicial task, that he was always calm, patient and laborious, never announcing his conclusions until thoroughly comprehending all the points of his case; impartial and unvarying in his courtesy, sustaining the most fraternal relation to the officers of his court and bar, commanding not less their esteem than enjoying their love, is to pay a tribute which belongs alone to true greatness.

Resolved, That the members of the bar and officers of the court will affectionately preserve the memory of his many virtues and high qualities, and as a token of their regret at his loss, wear the usual badge of mourning for thirty days.

Resolved, That the members of the bar and officers of Court attend the funeral of the distinguished deceased in a body, and that the Chairman of this meeting appoint

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a committee of twelve members of the bar to meet his remains upon their arrival in the city,

The following gentlemen were appointed by the chair: Hon John Hancock, Judge A. W. Terrell Major John. A. Green, Judge Jos. Lee. Genl. N. G. Shelby, Capt Thos. E. Sneed, Maj W. M. Walton, Col. A. J Peeler, Judge A. J. Evans, Major A. M. Jackson, Mr R. H. Ward, Mr. A. P. Wooldridge and Judge E. D. Turner. -

A resolution was also passed designating certain members of the bar to present the above res= =olutions to the Supreme Courts, and to the family of the honored and lamented dead,

Court adjourned till Monday 25th October 1880.

October 25th 1880

Court met pursuant to adjournment, Present same as on first day. Whereupon the following proceedings were had viz:

No 5509. R. F. Campbell vs George Newton and P. D. Sawyer. And now on this day came the parties, R. F. Campbell, plaintiff, in person and by his attorneys, Wm M. Walton and J. W. Robertson, and the defendants, George Newton and P. D. Sawyer in person and by their attorneys, Mrs Wooldridge & Fisher, and thereupon the said defendants with the consent of the said plaintiff, withdraws their demand for a jury trial= =to be made - and submit the matters of fact as well as of law to the court, And the said cause having been submitted to the court, and the court having heard the pleadings evidence and argument of counsel, it is therefore considered by the court that the plaintiff R. F. Campbell do have and recover of the defendants George Newton and P. D. Sawyer, the three tracts of land and premises described in the plaintiffs petition as follows to wit: situated on the South side of the Colorado river, in Travis county and State of Texas, being parts of the San Del Valle Grant, and out of that portion of said grant divided by a decree of the District Court of Travis county, State of Texas, Spring term 1854, in the case of Thomas. H Jones vs Emily Rowe et al, and a portion of the lands set apart by said decree to the said Emily Rowe and the heirs of Robert Davis deceased, and more particularly described as follows to wit: =

First tract: Beginning at the S. W. corner of one hundred and 3 7/100 acres set apart to the said Emily Rowe - thence S. 57° 48' E 753 vrs, to the S. E. corner of same - Thence N 36° 48' E 158 vrs - Thence N 43° 58' W 25 vrs - Thence N 71° E 638 vrs to corner - Thence north with upper line of Thomas H. Jones tract to the river - Thence up the same with its meanders to the lower corner of 52 3/100 acre tract - Thence S 17° E 320 vrs to corner of same - Thence S 73° W 486 vrs to corner. of Thence S 37 1/2° W 260 vrs to corner. Thence N 32° W 475 vrs to corner - Thence N 30° E 126 vrs to corner on river - Thence up same to vrs to upper corner of said 120 35/100 acre tract - Thence S 38° W 326 vrs to the beginning - containing 68 4/100 acres of land,

Second tract — containing 18 3/4 acres and described as follows - Beginning at a

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Stake in a thicket the N.W. corner of 41 acres sold by Mrs Emily Rowe to Thomas H. Jones, from which a Pecan 14in in diameter bears S 59° 45' W 36 links, Black Jack 14 inches in diameter bears S 30° 44' W. 26 links - Thence N 46° W 125 chains to a stake, Thence N 4° 30'. E 1.43 chains to a stake, Thence N 57° W 8.21 chains to a stake - Thence N 43° 30' W. 355 chains a stake and corner continue at 4.63 chains a stake in a road - Thence N 71° E 26-84 chains to a stake - Thence S 78 links a stake - Thence S 43° 30' W 29.55 chains to the beginning -

Third tract: Beginning at the Northwest corner of the 121 35/100 acre tract before mentioned - Thence S 30° W along the line of J. T. Miller tract about 2100 vrs to corner of 115 acre tract sold by J. A. Wofford to W. T. Davis - Thence S. 60° E 315 vrs to corner - Thence N 34° E about 2100 vrs to the S line of the aforesaid 121 35/100 acre tract - Thence N 57° 48' W 442 vrs to the place of beginning - containing 135 acres more or less! -

It is further ordered adjudged and decreed by the court that the title to said premises be and the same is hereby divested out of the said defendant Jno Newton and the same is hereby forever vested in the said plaintiff R. F. Campbell. It is further ordered and decreed by the court that the plaintiff have his writ of possession for the premises aforesaid, and that the said plaintiff recover of the defendants all costs in this behalf expended, for which execution may issue,

5375 The State of Texas vs W. B. Middleton et al, It is ordered by the court that Plff have leave to file amended original petition and 1st Supplemental petition.

5381. James E. Boulden Extr vs L. B. Giles et al, It is ordered that Plaintiff have leave to file 1st amended original petition, and cause set for Nov 4th 1880

5400 R. J. Loring vs C. W. White. It is ordered by the court that defendant have leave to file 1st amended answer,

5409 Wm S. Ralph Supt-&c. of vs L. J. DuPree. It is ordered by the court that deft have leave to file 2nd amended original answer and make Mrs DuPree party and files motion as her answer.

5417. Wm H. Thaxton by &c. vs James A. Wann et al - Settled.

5439. Bettie P. Pope et al. vs Elbert Bacon et al. - Continued by agreement.

5522. Oscar Oberwiller vs Dennis Corrin - Defendant has leave to file 1st amended original answer.

4930 W. D. Bouck vs James P. Barron Continued by agreement

5400 R. J. Loring vs C. W. White, - . Plaintiff has leave to file 1st amended original petition Court adjourned till tomorrow morning 9 o'clock

October 26th 1880.

Court met pursuant to adjournment Present same as on first day Whereupon the following proceedings were had viz:

October 26th 1880.

5541 Joseph Rohrmueller. Exparte. Declaration of intention to become a citizen—
The State of Texas. County of Travis. Joseph Rohrmueller, being duly sworn
according to law, in the District Court of said County, doth declare that he was
born in the year A. D. 1840, in the Kingdom of Bavaria— Whence he emigrated, in
the year 1867, to the United States of America, and has selected the State of Texas, as
the place of his intended settlement: and he further declares, that it is bona fide
his intention to become a citizen of the United States, and of the State of Texas,
and renounces forever all allegiance and fidelity to any foreign Prince, potentate,
State or Sovereignty whatsoever, and particularly to the King of Bavaria, of
whom he was a subject.

$100 Jno Willis vs H. & T. C. R. R Co. On this day came the parties to this cause,
(Rec. book No 6 page 83) John Willis by his attorney, and the Houston and Texas Central Railway company
by the attorney Jorge Goldthwaite Esq, and thereupon by consent of parties the con
=tinuance of this cause heretofore entered was set aside, Whereupon the parties plain=
=tiff and defendant by agreement submit the matters in controversy as well of fact
as of law to the Court. and the Court having heard the pleadings, evidence and ar=
=gument of counsel doth assess the damages of plaintiff at Two hundred and fifty
($250.00) dollars, It is therefore considered ordered and adjudged by the court
that the plaintiff John Willis do have and recover of the defendant - the Houston
and Texas Central Railway Company the sum of Two hundred and fifty dollars,
with interest at 8 per cent per annum and all costs of suit for which execu=
=tion.

5542. Robert Thomas Jackson, Ex parte. Declaration of intention to become a citizen.
The State of Texas. County of Travis. Robert Thomas Jackson being duly sworn ac=
=cording to law, in the District Court of said County, doth declare that he was born in
the year A D 1844. in the Kingdom of England Whence he emigrated in the
year 1868 to the United States of America, and has selected the State of Texas
as the place of his intended settlement: and he further declares that it is
bona fide his intention to become a citizen of the United States and of the
State of Texas, and renounces forever all allegiance and fidelity to any Foreign
Prince, potentate, State and Sovereignty whatsoever, and particularly to Victoria
the Queen of England of whom he was a subject.

4887. J. R. Nixon vs H. & T. C. R. R. Co. Continued for the term.
4935 Carleton & Robertson vs Bingham Trigg - Continued generally.
5392. D. Weinberger & Wife vs H. & T. C. R. R. Co. Continued by agreement.
5400 R. J Laning vs C W. White. Plaintiff has leave to file supplemental petition
5404. D. Weinberger Guardian &c. vs H. & T. C. R. R. Co- Continued by agreement.
5440 Lizzie R. Swancoat et al. vs Thomas Riley. Defts have leave to file first sup=
=plemental answer..
4975 T L. Wroten vs Edward Green - Continued -
4499 James H. Link vs Austin City R. R. Co. on the 25th day of October 1880

October 26th 1880.

this Case having been regularly called for trial, came the parties thereto by their Attorneys and announced themselves ready for trial. Whereupon a jury of twelve good and lawful men, being duly sworn as required by law, and selected and impannelled for the trial of this Case. The parties thereupon read their pleadings and introduced their evidence and argument of counsel having been heard the Court charged the jury as to the law of this Case, whereupon said jury retired for deliberation, and on this 26th day of October 1880, said jury reported to the Court that they were unable to agree upon a Verdict. The Court therefore withdrew this Case from the jury and ordered a Mistrial to be entered herein.

Court adjourned till to morrow morning 9 o'clock

October 27th 1880.

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5036. G. Crow vs C. R. Johns & Co. Settled -

5200 William Ernst Rhein vs Austin City R. R. Co. This cause having been settled it is ordered by the Court that the same be dismissed at cost of Plaintiff and that execution issue accordingly -

5311 James. P. Randle et al vs James. M. Morphis. Continued by defendant.

Court adjourned till tomorrow morning 9 o'clock

October 28th 1880.

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5366. The State of Texas vs Mill Livingston et al. Continued by the State.

5409 Williams S. Rolfe Supt &c. vs L. J. DuPre. Continued by the Plaintiff.

Court adjourned till tomorrow morning 9 o'clock.

October 29th 1880

Court met pursuant to adjournment. Present same as on first day whereupon the following proceedings were had viz:

5381 James. E. Boulden & &c vs L. B. Giles et al. It is ordered that the defendants have leave to file 1st Supplemental answer.

5400 R. J. Loring vs C. W. White. And now at this day came both the parties to the above named cause, and it appearing to the court that heretofore on the 25th Oct 1880, the said plaintiff had leave to file his first amended petition, which was this filed by agreement of counsel on file in said cause, and in accordance with said order, on the same day (25th October 1880) leave was also given the said defendant to file his first amended answer thereto which was accordingly so filed in accordance with such order, and on the day following to wit: the 26th October 1880, the plaintiff was granted leave to file in said cause his first supplemental

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petition which he on that day accordingly filed in pursuance of said order, and now on the 28th of October 1880, a jury having heretofore been demanded in said cause, the case was regularly called for trial on the jury docket, and both parties appearing in person and by their attorneys announced themselves ready for trial on both the issues of law and of fact, and thereupon the said demurrer and special exceptions of the said defendant to said original and first amended petition of the plaintiff, which demurrer and exceptions were contained in the said defendants said first amended answer, came on to be heard and after argument of the same by both parties, the Court reserved its decision until this day, (the 29th October 1880,) and it now appearing to the Court that the said demurrer and exceptions of the said defendant are well taken in point of law, it is now ordered and adjudged by the Court that the said demurrer and exceptions of the said defendant be sustained, and thereupon the said plaintiff in open Court declining further to amend his pleadings, or take any further proceedings in said cause, it is therefore adjudged and ordered by the Court that the law on the pleadings is with the defendant, and that the said plaintiff take nothing by his said suit, and that the same be dismissed, and that the defendant go hence without day and recover of and from the plaintiff all the costs in this behalf expended for which execution may issue, and thereupon the said plaintiff at once in open Court excepted to the ruling and judgment of the Court and gave notice of appeal to the Supreme Court;

5544, Philipp Neumann, Ex parte — Declaration of intention to become a citizen. The State of Texas, County of Travis: Philipp Neumann being duly sworn according to law, in the District Court of said County, doth declare that he was born, in the year A. D 1840, in the Kingdom of Prussia whence he emigrated in the year 1875, to the United States of America, and has selected the State of Texas, as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign, Prince, potentate, State or Sovereignty whatsoever and particularly to the King of Prussia of whom he was a subject,

Court adjourned till tomorrow morning 9 O'clock

October 30th 1880

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had viz:

5538 Ephraim Peterson — Ex parte, Be it remembered that at the District Court for the County of Travis, State of Texas, held at the Court House thereof, in the city of Austin on the 19th day of October A D 1880, Ephraim Peterson a native of Sweden exhibited a petition, praying to be admitted to become a citizen of the United States: and it appearing to the court that he had declared on oath before in the city of Newark New Jersey on the day of A. D 1872. that it was bona fide

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his intention to become a citizen of the United States: and to renounce forever all allegiance and fidelity to any foreign prince, potentate State or Sovereignty whatsoever, and particularly to the King of Sweden of whom he was at that time a subject: and the said Ephraim Peterson having on oath declared, and also made proof thereof, agreeably to law, to the satisfaction of the court, that he had resided one year and upwards within the State of Texas and within the United States of America upwards of five years, both periods immediately preceding his application, and that during said periods of five years, he had behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and having declared on oath before the said court that he would support the constitution of the United States and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, State, and sovereignty whatsoever and particularly to the King of Sweden of whom he was before a subject; and having in all respects complied with the laws in regard to naturalization: Thereupon the said court admitted the said Ephraim Peterson to become a citizen of the United States, and ordered all the proceedings aforesaid to be entered in the records of said court.

5522. Oscar Obenauer vs Dennis Corwin. On the 27th day of October 1880. both parties being present by their attorneys came on to be heard the defendants demurrer to the plaintiffs petition, and the court being of the opinion that the law in the pleadings is with the defendant, ordered that said demurrer be sustained. Whereupon plaintiffs attorney asked for leave to file amended original petition which leave was granted to the plaintiff. and it was ordered by the court that the costs of this order and filing amended pleadings be taxed to the plaintiff.

5522. Oscar Obenauer vs Dennis Corwin. On the 28th day of October 1880. it was ordered by the court that defendant have leave to file 2nd amended original answer, and on the 29th day of October 1880. dft has leave to file 1st Supplemental answer.

4973 Joe H. Stewart vs Int. & Gr Northern R. R. Co. On the 26th day of October 1880. upon motion of plaintiffs attorney. it was ordered by the court that the plaintiff have leave to file amended original petition and supplemental petition, and thereupon both parties to this suit being present by their attorneys the defendants demurrer and special exceptions to plaintiffs pleading were submitted to the court. And the court having heard the argument of counsel. overruled said demurrer and special exceptions. Thereupon both parties announced themselves ready for trial, and a jury of twelve good and lawful men of Travis County having been empannelled. the pleadings evidence and argument of counsel of both parties were submitted to the jury: the court then duly charged said jury as to the law in this case. and said jury retired to consider of their verdict - and on the 28th day of October 1880 said jury came into open court and stated that they were unable to agree on a verdict - The court therefore ordered that this case be with drawn from the

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jury and that a mistrial be entered herein.

5545 August Lauder Exparte. Declaration of intention to become a citizen.
The State of Texas. County of Travis. August Lauder, being sworn according to law, in the District Court of said County, doth declare that he was born in the year 1843, in the empire of Germany, (Mecklenburg) whence he emigrated in the year 1865. to the United States of America, and has selected the State of Texas as the place of his intended settlement, and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounces forever all allegiance and fidelity to any foreign prince, potentate, State or Sovereignty, and particularly to the Emperor of Germany, and to the prince of Mecklenburg of whom he was a subject.

5546. Hermann Koff Exparte. Declaration of intention to become a citizen.
The State of Texas. County of Travis, Hermann Koff being duly sworn in the District court of said County, doth declare that he was born in the year A.D 1845 in the empire of Germany (Braunschweig) whence he emigrated in the year 1874. to the United States of America, and has selected the State of Texas, as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to any foreign prince, potentate, State or Sovereignty whatsoever, and particularly to the emperor of Germany and to the duke of Braunschweig of whom he was a subject.

5547. Ferdinand Straub- Exparte- Declaration of intention to become a citizen
The State of Texas. County of Travis. Ferdinand Straub being sworn according to law, in the District court of said County. doth declare that he was born in the year A.D. 1843 in the republic of Switzerland whence he emigrated in the year 1870 to the United States of America and has selected the State of Texas, as the place of his intended settlement; and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas and renounces forever all allegiance and fidelity to any foreign prince, potentate, State or Sovereignty whatsoever, and particularly to the republic of Switzerland of whom he was a subject.

5548 Johann Ernst Poldrack. Exparte- Declaration of intention to become a citizen.
The State of Texas, County of Travis. Johann Ernst Poldrack being duly sworn according to law, in the District court of said County, doth declare that he was born in the year A D 1843. in Saxony in the empire of Germany whence he emigrated in the year 1870 to the United States of America and has selected the State of Texas as the place of his intended settlement; and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to any foreign prince, potentate, State or Sovereignty whatsoever and particularly to the King of Saxony and to the emperor of Germany of whom he was a subject.

October 30th 1880

√ 5505. (Exec. docket 5 page 83)

The State of Texas. vs James. L. Gilder et al. On this the 30th day of October A. D. 1880. the above entitled cause coming on for trial the parties appeared by their attorneys and announced ready for trial, and no jury being demanded by either party the matters in issue were submitted to the court, and it appearing to the court after hearing the evidence that there is due the State of Texas the sum of Six hundred and forty two & 74/100 ($642.74) dollars in twist and the sum of two thousand eight hundred and thirty five 66/100 ($2835.66) dollars principal, and it further appearing to the court that the bond sued on herein is only for the sum of three thousand three hundred and forty ($3340.00) dollars- It is therefore considered ordered and decreed by the court that the State of Texas do have and recover of and from the defendants James. L. Gilder, L. H. J. Conner, F. S. Grimes, E. J. Busby and E. G Geismdorff the sum of three thousand three hundred and forty ($3340.00) dollars, and all costs in this cause expended for which execution may issue. It is further ordered and decreed by the court that the State of Texas do have and recover of and from the said principal defendant James. L. Gilder the further sum of one hundred and thirty eight & 40/100 ($138.40) dollars and that said sums of $3340.00. and $138.40 each draw interest from this date until paid at the rate of eight per cent per annum,
It further appearing to the court that all the defendants herein are sureties except James. L. Gilder, it is therefore ordered that the said defendants who are sureties herein shall have judgment over against the said James L. Gilder for whatever amount of this judgment they or either of them may pay, and that execution may issue in their favor therefor,

Thereupon Court adjourned till Monday November 1st 1880.

November 1st 1880.

Court met pursuant to adjournment. Present same as on first day. Whereupon the following proceedings were had Viz'

√ 5549. Johan Schmorl. Ex parte. Declaration of intention to become a citizen. The State of Texas, Travis County. Johan Schmorl being duly sworn according to law, in the District Court of said County, doth declare that he was born in the year A. D. 1838 in the empire of Germany. Whence he emigrated in the year 1868, to the United States of America and has selected the State of Texas as the place of his intended settlement.' and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to any foreign prince, potentate State or sovereignty whatsoever and particularly to the Emperor of Germany of whom he was a subject

November 1st 1880.

5550 Gustav Oberschelp. Ex parte. The State of Texas County of Travis. Be it remembered that at the District Court for the county of Travis aforesaid held at the court house thereof in the city of Austin on the 1st day of November A. D. 1880. Gustav Oberschelp a native of Germany exhibited a petition praying to be admitted to become a citizen of the United States: and it appearing to the court that he had declared on oath before the clerk of the Circuit Court of St Charles County Missouri on the 27th day of October 1875; that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince potentate State and sovereignty whatsoever, and particularly to the King of Prussia of whom he was at that time a subject: and the said Gustav Oberschelp having on oath declared, and also made proof thereof, agreeably to law, to the satisfaction of the court, that he had resided one year and upwards within the State of Texas, and within the United States of America upwards of five years both periods immediately preceding his application, and that during said period of five years, he had behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same and having declared on oath before the said court that he would support the constitution of the United States and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince potentate State and sovereignty whatsoever and particularly to the King of Prussia of whom he was before a subject: and having in all respects complied with the laws in regard to naturalization: Thereupon the said court admitted the said Gustav Oberschelp to become a citizen of the United States, and ordered all the proceedings aforesaid to be entered in the records of said court.

5551. Edward Steiner. Ex parte. The State of Texas. Travis County. Be it remembered that at the District Court for the County of Travis aforesaid, held at the court house thereof in the city of Austin on the 1st day of November A D 1880 Edward Steiner a native of Germany exhibited a petition, praying to be admitted to become a citizen of the United States: and it appearing to the court, that he had declared on oath before the clerk of the District Court in and for the County aforesaid on the 25th day of October A. D. 1872, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, State or sovereignty whatsoever, and particularly to the King of Prussia of whom he was at that time a subject; and the said Edward Steiner having on oath declared, and also made proof thereof, agreeably to law to the satisfaction of the court that he had resided one year and aforwards within the State of Texas, and within the United States of America upwards of five years, both periods immediately preceding his application, and that during said period of five years he had behaved as a man of good moral character, attached to the principles of the

principles of the Constitution of the United States, and well disposed to the good order and happiness of the same, and having declared on oath before the said Court, that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign power, potentate, State and sovereignty whatsoever, and particularly to the King of Prussia of whom he was before a subject; and having in all respects complied with the laws in regard to Naturalization: Thereupon the said Court admitted the said Edward Steiner to become a citizen of the United States, and ordered all the proceedings aforesaid to be entered on the records of said Court.

5551. Ernst Ferdinand August Marcuszahl. Ex parte, Declaration of intention to become a citizen. The State of Texas. County of Travis., Ernst Ferdinand August Marcuszahl. being duly sworn according to law, in the District Court of said County doth declare that he was born in the year A D 1852. in the Kingdom of Prussia whence he emigrated in the year 1875. to the United States of America, and has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign prince potentate State or Sovereignty whatever, and particularly to the King of Prussia of whom he was a subject.

5552. Mathias Goin. Ex parte. Declaration of intention to become a citizen. The State of Texas. County of Travis. Mathias Goin being duly sworn according to law, in the District Court of said County, doth declare that he was born in the year A. D. 1853. in the Kingdom of Bavaria in the empire of Germany whence he emigrated in the year 1871. to the United States of America, and has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States, and of the State of Texas. and renounces forever all allegiance and fidelity to every foreign power, potentate, State or Sovereignty whatever, and particularly to the King of Bavaria and to the Emperor of Germany of whom he was a subject.

5554 Johann Christian Wilhelm Rath. Ex parte. Declaration of intention to become a citizen. The State of Texas. County of Travis. Johann Christian Wilhelm Rath being duly sworn according to law, in the District Court of said County, doth declare that he was born in the year 1858 in the State of Hamburg in the empire of Germany whence he emigrated in the year 1871. to the United States of America and has selected the State of Texas as the place of his intended settlement: and he further declares that it is bona fide his intention to become a citizen of the United States and of the State of Texas, and renounces forever all allegiance and fidelity to every foreign power, potentate State or Sovereignty whatsoever, and particularly to the State of Hamburg and to

November 1st 1880

the Emperor of Germany of whom he was a subject

4953 Albert. S. Roberts vs Crockett Harbert et al. On the 6th day of October A D 1880 came the parties by their attorneys, the plaintiff by A. W. Terrell, the defendant Harbert by Hancock West & Stark and deft Fourman by S. A. Posey, and submit the matters in controversy as wel of fact as of law to the court; and the pleadings evidence and the arguments of counsel having been fully understood it is consid-ered by the Court that the said Plaintiff Albert. S. Roberts do have and recover of the said defendant R. J. Fourman the sum of ($1975) nineteen hundred and seventy five dollars principal and interest due to this date on the notes sued on in this case at the rate of one and one half per cent per month until paid, And it is further considered by the court that said plaintiff A S. Roberts do also have and recover from said Crockett Harbert judgment for said sum of ($1975.) nineteen hundred and seventy five dollars damages, for the wrongful taking and conversion of the property described in the pleadings in this cause and on which the plaintiff Roberts held a lien to secure the payment of the notes of defendant Fourman on which judgment is rendered herein, And it is further ordered that all money collected from deft Harbert on this judgment shall be a credit on the judgment against said deft Fourman for all which execution may issue, and that the defendants R. J. Fourman and Crockett Harbert pay all costs in this behalf expended for which execution may issue.

5451. John Rooney vs Kaumacher & Wilson. On the 29th day of October A D 1880 this cause being regularly called for trial, came the parties thereto by their attorneys and announced themselves ready for trial. Whereupon a jury of twelve good and lawful men being duly sworn as required by law, and elected and impannelled for the trial of this case - The parties thereupon read their pleadings and introduced their evidence, and argument of counsel having been heard the court charged the jury as to the law in this case. Whereupon said jury retired for deliberation, and on the 30th day of October 1880, said jury reported to the Court that they were unable to agree upon a verdict, The court therefor withdrew this case from the jury and ordered a mistrial to be entered herein. Court adjourned till Wednesday morning November 3rd 1880.

Wednesday Morning November 3d 1880

Court met pursuant to adjournment; Present same as on first day. Whereupon the following proceedings were had viz:

5527. Martha Revies vs George Bradshaw. On this the 3d day of November A D. 1880. came the plaintiff by attorneys and the said defendant George Bradshaw after having been duly cited by personal service according to law failed to appear and answer in this behalf but wholly made default, and plaintiff having announced ready for trial Mess Shuck and Smith attorneys at law at the request of the court appointed the said defendant as friend of the court, and no jury having been demanded by either party this cause is tried by the court without

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a jury. and the pleadings evidence, and argument of counsel having been heard and fully understood the Court is of opinion and finds and affirms that the material facts alleged in plaintiffs original petition in this cause are true. It is therefore considered ordered adjudged and decreed by the court that the marriage license issued by the clerk of the county court of Travis county Texas on the 22d day of October A D 1877. authorizing the celebration of the rites of matrimony between the defendant George Bradshaw, and the plff Martha Rivers and the marriage entered into by said parties in pursuance of said license about the same date are and each of them is and ever has been null and void and it is hereby so declared and the said marriage and marriage license are hereby set aside and shall ever be null and void, and the said plaintiff is hereby relieved from any obligation to the said defendant which she might have been under as his wife had said marriage and marriage license been lawful. It is further ordered that all costs in cause in this suit be taxed against said plaintiff and her next friend Rowan Clarke Jr. and that execution issue therefor in favor of the officers of the court.

Received from Supt Texas Ry Co the sum of $10.00 ten dollars for the use of Plff Lizzie R. Swancoat
Sept 1. 1881 D. H. Coleman
Returned to Thos. Riley - as fee Board May 18/82.

$ 3410 Lizzie R. Swancoat v R. J. Swancoat. vs Thomas Riley. And now on this the 30th day of October 1880. came on this cause in regular order for trial, and thereupon came the plaintiff by Walton Brown and Hill, their attorneys, and the defendant by Jones and Trigg his attorneys and in open court announced ready for trial, and the court having heard the plaintiffs orginal petition and defendants first supplemental answer thereto and the suggestion of defendant of improvements in good faith, together with plaintiffs exceptions to such plea of improvements in good faith. the said exceptions of plaintiff were overruled, to which ruling plff in open court excepted, and the parties by their said attorneys. thereupon announced themselves ready for trial on merits of the case, and thereupon came a jury of good and lawful men of Travis county to wit: Wm Smythe and eleven others, who having first been duly cautioned, tried empannelled and sworn according to law, heard the pleadings and all the evidence in the case the court adjourned till Monday morning at nine oclock - at which time the trial of said cause was resumed and the jury having heard the argument of counsel and the charge of the court retired to consider of their verdict; and afterwards returned into open court the following verdict to wit: "We the Jury find from the evidence that the dividing line between the J. M. Tribble and the W. Sargent Survey, is one running from the N. W. corner of the Tribble as established by the field notes and Patent submitted, and as claimed by the plaintiff in his petition, on a direct course South 60° East to the West line of the Minor Survey - And We further find that the defendant Riley is on the Tribble Survey, and We find for said defendant as compensation for his improvements in the Sum of $310 Three hundred and ten dollars and We place the value of the land at Ten dollars Wm Smyth Foreman" Which verdict having been received and approved by the court, it is therefore ordered adjudged and decreed, that the plaintiff Lizzie R. Swancoat, do have

November 3d 1880

and recover of and from the defendant Thomas Riley the following discribed premises to wit: Situate in the said County of Travis and discribed as follows, Three hundred and twenty acres of land being the North east end of a Twelve hundred and Eighty survey in the name of James. M. Tibble, and being all of the North East half of said Tibble survey lying North east of the partition line between Andrew Davidson and petitioners, the said James. M. Tibble survey being discribed as follows, "Beginning 316 varas S. 30° W from the W. corner of survey No 416, at a stone mound from which a cedar bears N 20° W 2 vrs another brs S 38° W 3½ vs, Thence N 60° W 2358 vs to a stone mound from which a cedar brs S 70° 14' East 15 vs, a live oak brs S 60½ W 2 vrs, Thence S 60° & crossing Spring Creek three times 2358 vs to a corner on the N.W. line of Surveys Nos 416 & 150. 306 4 vs to the place of beginning," and the said North east boundary line of said J. M Tibble survey to wit: a line beginning at the N. W. corner of said survey, from which a cedar brs S 70° 14' East 15 varas, a live oak brs S. 60½ W 2 vs. Thence S 60° & to the west line of survey No 416 in the name of Minor is hereby decreed and established as between the parties to this suit; to be the dividing line between the J. M. Tibble and Wm Sargeant Surveys. — and it is further adjudged and decreed that the defendant Thomas Riley has for more than one year before the bringing of this suit had adverse possesion in good faith of the following lands to wit: "part of the tract of land in the name of Wm Sargeant on Barton Creek in Travis County lying on the South side of the Creek and West and South West of the South west corner of the Isaac Perkins survey and West of the W H Miner survey except a ten acre block in the South East corner of the Sargeant survey, (being the Subdivision of the Sargeant survey on which the timber was sold to Teague by Mr. G. R. Forman and now owned by said Forman) the said land hereby conveyed being bounded on the North by the Creek and on the South, East and West by the Miner tract; the said ten acre block and the Tibble survey." and that said defendant had made permanent and valuable improvements thereon of the value of ($310) Three hundred and Ten dollars, over and above the value of the occupation and damages, and that the portion of said lands so claimed and held by said defendant conflicting with the lands of plaintiff and which portion is above adjudged to plaintiff is of the value of ($10) ten dollars & those of said improvements thereon made as aforesaid. It is therefore ordered that as to all the remainder of the lands adjudged to plaintiff except that claimed and held by the defendant and last above discribed. plaintiff may have the writ of possession but as to the portion thereof adjudged to be held and improved in good faith by defendant. it is ordered that no Writ of possession shall issue for the term of eighteen months from the date of this judgment unless the plaintiff shall within twelve months from the date of this judgment pay to the Clerk of this Court for the defendant the sum of Three hundred and Ten ($310) dollars to defendant adjudged to gether with legal interest thereon, but upon the payment thereof within said twelve months the Clerk shall issue a Writ of possession for the

November 3d 1880.

whole of said land to plaintiff adjudged. And if the plaintiff shall not within said twelve months make said payment, and within six months after the expiration of said year, the defendant shall pay to the Clerk of this court for plaintiff the sum of ten dollars the value of said land without reference to improvements, then shall the plaintiff be forever barred of her writ of possession and from ever having or maintaining any action whatever against defendant, his heirs or assigns for the said lands claimed and held in good faith as aforesaid by said defendant. And if the defendant or his legal representatives shall not within said Six months pay said sum as aforesaid, then it is ordered that plaintiff have her writ of possession for all of said premises as in ordinary cases.

It is further ordered that the plaintiffs have and recover of and from defendants all their costs in this behalf expended. For which execution may issue.

5382. A Dykes for the use of McDaniel & Co. vs East Texas Insurance Company.

It is ordered that plaintiff have leave to file amended original petition, and defendant has leave to file 1st Supplemental answer. Court adjourned till tomorrow morning 9 o'clock.

November 4th 1880

Court met pursuant to adjournment; Present same as on first day and time being no minutes of this date. Court adjourned till tomorrow morning 9 o'clock.

November 5th 1880

Court met pursuant to adjournment; Present same as on first day whereupon the following proceedings were had viz:

5382 A Dykes for the use of McDaniel & Co. vs East Texas Fire Insurance Co.

On this day came the plaintiff A Dykes in person and by his attorney J. W. Robertson, and also came the defendant the East Texas Fire Insurance company by its attorneys Mess Pleler and Maxey, and severally announced themselves ready for trial — And thereupon came on to be heard the general demurrer and Special exceptions of the defendant to the plaintiffs first amended original petition filed November 3d 1880 and the argument of counsel thereon being heard it is the opinion of the court that the law is for the plaintiff. it is therefore considered by the court that the said demurrer and special exceptions be overruled, to which ruling of the court the defendant excepts, And thereupon came on to be heard the plaintiffs general demurrer and special exceptions to the defendants original answer filed January 10th 1880, and the argument of counsel thereon being heard, it is the opinion of the court, that the law is for the defendant — It is therefore, considered by the court that the plaintiffs said general demurrer and special exceptions be overruled, to which ruling of the court the plaintiff excepts, And thereupon came on to be heard the defendants demurrer and exceptions to the plaintiffs first supplemental petition filed November 3d 1880, and the argument of counsel thereon being heard, it is the opinion of the court that the law is for the plaintiff, It is therefore considered by the court that said demurrer

Pd. Clerks fee for Recording Est Tex Ins Fire Ins. Co. per vouch. Dec 7 1880 Franklin Lindsey & Co. Dallas Co. #1466 Dec 30 - Clerks fee for this docket in this suit $1.00 J.W. Crockett Clerk for Dallas Co. Texas June 9, 1882.

November 5th 1880

and exceptions be overruled, to which ruling of the court defendant excepts. And thereupon came a jury of twelve good and lawful men, qualified jurors of Travis county, who being duly elected empannelled and sworn according to law, after hearing the pleadings, evidence argument of counsel, and charge of the court retired to consider of their verdict, and thereupon said jury returned into open court the following verdict to wit: "We Value the house at $1500.00. the furniture and fixtures at $450.00. the Stock at $150.00 $2100.00 / 3 / 700.00 / 2 / $1400.00. We find for the plaintiff judgment for $1400, to wit; $1000. on the house. $300. on the furniture and fixtures, and $100. on the Stock of liquors, J. C. Hurlet Foreman." and the said verdict being by the court in all things approved and ordered to be filed, it is therefore considered ordered, adjudged and decreed by the court that the said plaintiff A. Dyches do have and recover of the said defendant, East Texas Fire Insurance Company for the use and benefit of Page McDaniel and Martin McCarty, partners composing the firm of McDaniel & Co. the sum of Fourteen hundred dollars, with interest at eight per cent per annum, together with all costs in this behalf expended, and that he have his execution therefor,

5486 Joel A. Harris vs Jennette Harris. This cause coming on for trial, comes the plaintiff by attorney, and the defendant though duly served with citation fails to appear and answer, Whereupon this cause is submitted to the court, upon the pleadings and the evidence, from which it satisfactorily appears to the court that the material facts alleged in the petition are true, It is therefore adjudged and decreed by the court that the marriage between the said Joel A Harris and defendant Jennette Harris be dissolved, and the same is hereby dissolved accordingly, and the said parties are freed from the obligation thereof, And it is further ordered that the plaintiff is entitled to and shall have the custody, care and education of the infant Joel A. Harris, son of the parties in the pleadings mentioned, It is further ordered that the deft pay all costs of this suit for which execution may issue,

Court adjourned till to morrow morning 9 o'clock,

November 6th 1880.

Court met pursuant to adjournment; Present same as on first day. Whereupon the following proceedings were had. viz.

5205. E. W. Shands vs Milton Wallace, on October 16th 1880. upon motion of Pltffs attorney in this cause it is ordered by the court that the parties have leave to substitute lost papers.

5486. Joel. Harris vs Jennette Harris, on the 5th day of November 1880. The costs having been paid up to this date in this cause, upon motion of plaintiffs attorney it is ordered by the court that this cause be reinstated upon the docket;

5423. The State of Texas vs L. C. Connell et al. upon motion of defendants attorney it is ordered by the court that defendants have leave to substitute motion for new trial, and both parties being present by their attorneys, defendants said motion for a

November 6th 1880

new trial came on to be heard, and being duly considered by the court it was ordered by the court that said motion be overruled. The defendant by counsel then excepted to such ruling, and gave notice of appeal.

5382 A. Dyches for the use of McDaniel & Co vs East Texas Fire Insurance Company. The parties to this cause being this day present by their attorneys, the defendants motion for a new trial was submitted to the court, and said motion being duly considered was by the court overruled; defendant by counsel in open court excepted to such ruling and gave notice of appeal to the Supreme court.

5036 J. Crow vs. C. R. Johns & Co. By agreement of parties the continuance in this case was this day by the Court set aside & this case placed on the heel of the docket.

5485 C. C. Bartholomew vs. Joel T. Bennett et al. It was this day ordered that this case be placed on the heel of the entire dockett.

Court adjourned until Monday the 8th day of November A.D. 1880

November 8th 1880.

5375 The State of Texas vs. W. B. Middleton et al. It was this day ordered that the defendants have leave to file first supplemental answer and that the defendants have leave to file 2nd supplemental petition.

Court adjourned until to morrow morning 9 o'clk.

November 9th 1880.

Court met according to adjournment. The case of The State of Texas being still under consideration. Court adjourned until to morrow morning 9 o'clk.

November 10th 1880.

Court met according to adjournment. Present same as first day. Whereupon the following proceedings were had viz:

4953 A. P. Roberts vs. Crockett Tarbert et al. Both parties to this cause being this day present in open Court by their attorneys the defendants motion for a new trial in this behalf came on to be heard. And the Court having heard the argument of counsel, ordered that the judgment heretofore rendered in this cause be and it is hereby set aside and a new trial granted in this cause.

5428 John Todd vs. P. G. Kingsberry. Both parties being this day present by their attorneys came on to be heard the defendants motion for a new trial in this behalf. And the Court having heard the said motion and the argument of counsel, did order that said motion be and the same is hereby overruled. The defendant thereupon excepted to the ruling of the Court and gave then in open Court notice of

November 10th 1880.

to the Hon. Supreme Court.

5382 A. Dykes for use of Mc Darnell & Co vs. East Texas Fire Insurance Company. The Court having this day heard the plaintiffs motion to reform the judgment in this case rendered at the present term of this Court, did order that the said motion be & the same is overruled, to which ruling of the Court the plaintiff by counsel excepted.

5375 The State of Texas vs W. B. Middleton et al., On this the 10th day of November A.D. 1880, came the plaintiff by attorneys, and it appearing the court that the defendant W. B. Middleton had not been served with citation in this cause, and the death of the said W. B. Middleton having been suggested and plaintiff having alleged and proved his death says she will no further prosecute her said suit against said defendant, but discontinues the same as to him; and the defendants D. C. Carrington, A. G. Rogers R. B. Coleman, W. P. Evans, W M. Evans, A. B. Powell, H. H. Thompson, W. L. Rogers and A. W. Landers having appeared by attorneys, this came on to be heard the demurrers of the defendants to the plaintiffs amended original petition, and first supplemental petition; and the argument of counsel thereon being heard it is the opinion of the court that the law is for the plaintiff. It is therefore considered by the court that the said demurrers be overruled, And this came on to be heard the demurrer of plaintiff to defendants first supplemental Answer and the argument of counsel thereon being heard, it is the opinion of the court that the law is for the defendants. It is therefore considered by the court that the said demurrer be overruled, And this came on to be heard the demurrer of plaintiff to the defendants amended original answer, and the argument of counsel thereon being heard, it is considered by the court, that the said demurrer as to the seventh and tenth divisions of the said amended original answer be overruled, and sustained as to the fifth- sixth- eighth- and ninth- divisions of said amended original answer, Whereupon defendants ask leave to file a trial amendment to their said amended original answer, which is accordingly granted, and the said trial amendment having been filed it is considered by the court that the plaintiffs demurrers to said amended original answer be all overruled, and both parties having announced ready for trial: thereupon came a jury of good and lawful men to wit: Geo. W. Walling and eleven others, who being duly empannelled and sworn according to law, and having heard the pleadings, evidence, argument of counsel and charge of the court upon their oaths return into the court the following verdict- to wit: "We the jury find for Plaintiff in this case the Sum ($916.47) principal, and $280.95 interest: ($280.95) making a total of $1197.42. Geo. W. Walling Foreman" It is therefore considered ordered adjudged and decreed by the court that the plaintiff the State of Texas do have and recover of and from the said defendants, D. C. Carrington, A. G. Rogers, R. B. Coleman, W. P. Evans, W. M. Evans, A. B. Powell- H. H. Thompson, W. L. Rogers and A. W. Landers the sum of One thousand one hundred and ninety Seven and 42/100 dollars, with interest thereon from this date

November 10th 1880

at the rate of eight per cent per annum, together with all costs in this behalf expended, and that plaintiff have his execution. It is further ordered that execution issue for the use of the officers of the court against the said defendants for all costs in this behalf incurred.

5381. James D. Boulden Executor etc. vs. L. B. Giles et al. On the 5th day of November A.D. 1880, both parties to this cause being present by their attorneys came on to be heard the defendants general and special demurrers to plaintiffs pleadings, and the argument of counsel thereon having been heard it was the opinion of the Court that the law is with the plaintiff. It was therefore ordered by the Court that said general & special demurrers to plaintiff's pleadings be overruled. Thereupon both parties announced ready for trial, and a jury of twelve good and lawful men having been duly empannelled & sworn, the parties read their pleadings to said jury. The plaintiff then proceeded to introduce his testimony to which testimony the defendant by counsel objected. And the Court sustaining said objections the plaintiff asked to be allowed to take a non suit in this behalf. It was thereupon ordered by the Court that a non suit without prejudice be granted to plaintiff in this behalf, and that said plaintiff pay all costs in this behalf incurred.

5381. Jas. D. Boulden Dec'tr vs. L. B. Giles et al. On this 10th day of November A.D. 1880 both parties by their attorneys being present in Court, came on to be heard the motion of the plaintiff in said cause that the judgment of non suit entered heretofore on the 5th day of November A.D. 1880 in said cause and the order dismissing same from the docket of said Court be set aside, and said cause be reinstated on said docket, and said motion having been heard and fully understood by the Court, it is considered ordered and adjudged by the Court that said judgment of non suit and order of dismissal be set aside and held for naught and that said cause be reinstated on the docket of this Court and stand for trial in its regular order thereon, and that said plaintiff pay all costs heretofore incurred in said cause and all costs of said motion.

Court adjourned till tomorrow morning 9 o'clock.

52

November 11th 1880

Court met pursuant to adjournment. Present as on first day. Whereupon the following proceedings were had, viz:

5429 (Civil Docket 85) The State of Texas, vs L. L. Lintchfield et al. Be it remembered that on the 8th day of October A.D. 1880, the above styled and numbered cause being called for trial, the plaintiff appeared by its attorneys, and the defendants failed to appear either in person, by attorneys or by answer: and it appearing

November 11th 1880

the Court that the defendants had all duly accepted service of process, the Court upon demand of plaintiffs counsel awards judgment by default against L. L. Crutchfield as principal and H. Horton. W. H. Vanderburg as Sureties, and awards a Writ of enquiry to be executed at some subsequent day of the term, to ascertain the amount, and on the 11th day of November A D 1880 the Writ of enquiry coming on to be executed and it appearing to the Satisfaction of the Court &c. that L. L Crutchfield as principal and H. Horton, G. W. Vanderburg, L. P. Adamson and Wm Harrell as sureties, are justly indebted to the State of Texas in the full and just Sum of $724.59/ Seven hundred and twenty four and 59/100 dollars principal and interest, after deducting all credits to which they are entitled, it is therefore ordered adjudged and decreed, that the State of Texas do have and recover of and from the defendants L. L. Crutchfield as principal, and H. Horton, G. W. Vanderburg, L. R. Adamson and Wm Harrell as sureties the said Sum of $724 59/100 together with interest thereon at the rate eight per cent per annum from and after this date, and also all costs of suit for which execution may issue.

3375 The State of Texas. vs W. B. Middleton. Both parties to this cause being this day present in open Court by their attorneys. the plaintiffs Motion for a new trial in this behalf came on to be heard, And the Court having heard the argument of counsel, ordered that the verdict and judgment heretofore entered in this cause be set the same are hereby set aside and a new trial granted in this cause,

The foregoing Minutes of this term have been by me examined and are hereby approved. This the 11th day of November A D 1880

E B Turner
Judge

The bar will take notice that I shall be absent after the 12th inst and such action will be taken by it as may be deemed necessary—

E B Turner
Judge

November the 13th 1880.

The State of Texas } In the District Court of Travis County, Texas.
County of Travis } of Texas on the 13th day of November A.D. 1880.

Whereas the Honorable E. B. Turner Judge of the 16th Judicial District of the State of Texas, on the 11th day of November A.D. 1880 made public announcement that he would be absent from said Court after the 12th day of November A.D. 1880 and caused to be entered in the minutes of the Court the following order to wit: "The bar will take notice that I shall be absent after the 12th inst and such action will be taken by it as may be deemed necessary E. B. Turner Judge." And it appearing that the said Hon. E. B. Turner Judge of the 16th Judicial District is now absent from said Court and unwilling to hold the same and it appearing further that the business of the Court for the term is not completed, and in order that there might be no failure to proceed with the business of the Court, the practicing lawyers of this Court present thereat, did thereupon proceed under the Statute to elect from among their number a Special Judge of said Court - And thereupon the Sheriff of Travis County did make proclamation at the Court House door, that the election of a Special Judge of said District Court was about to take place by the practicing lawyers present thereat. - And thereupon the clerk of said Court did proceed to make out a roll or list of the practicing lawyers of said Court present thereat, and the following are the names of such practicing lawyers present and participating in such election to wit: 1 E. P. Phillips 2 F. W. Chandler 3 R. H. Ward, 4 Geo Pendexter, 5 D. J. Moore, 6 W. M. Mc Gregor, 7 Doadley Wooten, 8 L. A. Posey, 9 Sam Fisher 10 Woodridge, 11 T. P. Maxey, 12 R. M. Russel, 13 W. Terrell 14 Jno W. Robertson, 15 Jno H. Stewart 16 Osceola Archer, 17 F. J. Searcy, 18 D. E. Thomas, 19 C. Von Borlowitz, 20 Julius Dalman, 21 N. G. Kelley, 22 Jno R. Rector, 23 W. P. Gaines, 24 C. L. Johns, 25 B. F. Church, 26 Fred Carleton, 27 F. G. Morris, 28 A. M. Jackson, 29 A. J. Peeler, 30 James Neill, 31 Joseph Lee, 32 B. Teigg, 33 J. P. Whitehead, 34 John F. Jones, 35 Isaac Friedrich, 36 D. W. Greene, 37 T. P. Sneed. And thereupon the said practicing lawyers present and participating in said election did proceed to organize and to hold said election, the same being made by ballot as provided by law and at such election there were (37) thirty seven ballots polled and cast and declared as follows to wit: For Jno W. Robertson there were polled (21) twenty one ballots, for James P. Berts there were polled (15) fifteen ballots, and for F. W. Chandler there was polled (1) one ballot. And the said Jno W. Robertson having received a majority of all the votes cast at said election, was duly declared elected as special Judge of the District Court of Travis County for the remainder of the present term thereof. And thereupon the said Jno W. Robertson

son appeared and the oath of office prescribed by the Constitution and laws of this State was duly administered to him by the clerk of said Court, which said oath was reduced to writing and signed by the said Jno W. Robertson, and filed among the records of said Court. To all of which proceedings I do hereby certify. Witness my hand this the 13th day of November A.D. 1880.

Allen
Clerk District Court Travis County. Tex.

November the 13th 1880.

Court opened at 10 o'clk A.M. Present the Hon. Jno W. Robertson Special Judge of the District Court of Travis County presiding, & Hall Brown clerk of said Court & Dennis Brown Sheriff of said County, whereupon by order of said Judge Court was adjourned until Monday the 15th inst. 9 o'clk A. M.

November 15th 1880

Court met pursuant to adjournment. Present Same as on the 13th November A. D. 1880. And there being no Civil business to record of this date, Court adjourned till to morrow morning at 9 O'clock.

November 16th 1880.

Court met according to adjournment. Present same as on yesterday Whereupon the following proceedings were had viz!

5508 Mary C. Wardlow. vs Thomas Wardlow. On this day coming on to be heard the Motion of Plaintiff to reinstate this cause, and it appearing to the Court that this cause had been dismissed by mistake as the service had not been perfected. It is therefore ordered that said cause be and the same is hereby reinstated upon the docket. Court adjourned till tomorrow morning 9 o'clock.

November 17th 18th and 19th and 20th

Court met each day pursuant to adjournment. Present same as on the preceding day Whereupon on the 20th the following proceedings were had viz!

* 5496 Florence Whitis vs Rufus Whitis et al. On this day it was ordered by the Court that the time for the Commissioners of partition to make their report in this cause be extended to November 25th 1880.

+ 5496 Florence Whitis vs Rufus Whitis et al. And now on this day came on to be heard the report of Flavius Everett, P. De Cordova and Joseph Spence who were appointed by this Court on October 9th 1880. as Commissioners to divide and partition the property hereinafter described between the parties to this

November 20th 1880

suit; The plaintiff Mrs Florence Whitis. appearing by counsel, and the defendants by their guardian ad litem John. B. Costa. The report of said Commissioners is as follows. to wit: Mrs Florence Whitis. vs Rufus Whitis. Mary Whitis. John Whitis. Florence Whitis, Gertrude Whitis. Charles W. Whitis and Thomas. P. Whitis. In the District Court of Travis County Texas. October Term A D 1880.

To the Hon Judge of said Court.

We the undersigned Commissioners appointed by this Honorable Court on the 9th day of October A. D. 1880. to partition among the parties hereto the following described property to wit: Out Lots Nos Ten.(10) Eleven (11), Twelve (12) Thirteen (13) Fifteen, (15) Sixteen (16) and Seventeen (17) in Division "D" of the Out Lots of the city of Austin, Save and except the homestead of the Plaintiff Mrs Florence Whitis, which is described as follows to wit: about Seven and one half 7½ acres together with the improvements thereon, out of the aforesaid out lots Nos. Twelve (12) and Thirteen (13) above described, commencing at the N.E. corner of lot No 17 in Block No 9. Division "D" of the out lots of the city of Austin. thence with the West line of Berlin Street Sixty feet across Lavaca Street for the beginning corner, Thence at right Angles to the West line of Berlin Street 572 feet, Thence at right angles 572 feet, Thence at right Angles 572 feet, Thence at right Angles 572 feet to the place of beginning: beg leave to submit the following as our report to wit: We employed a competent surveyor to survey and divide all of said property herein before described, save and except the above described homestead. and the above described out-lot No Ten, into Blocks and lots, as is more particularly shown by the plat made by said Surveyor of said survey hereto attached marked Exhibit "A". and the same is made a part of this report. That by reason of the locality and nature of said Out Lot No Ten it was impracticable to out divide the same into Blocks and lots as was done with the remainder of said property. That in allotting said property aforesaid to the several parties hereto entitled to the same, save and except said aforesaid Out Lot No Ten. We have so allotted the same by the discription contained in said plat:- We have divided the said aforesaid property herein partitioned into eight (8) Shares of the following description and estimated value. to wit:

Share number one contains Lots Nos 1. 2. 3. 4. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22, 23, 24, 29. 30. in Block No 9. of the estimated value of $300.00 per Lot. $6600.00

Block No Ten compose of 32. Lots of the estimated value of $250.00 per lot $8000.00

Block No 13. of the estimated value of 1800.00

Lot No 3. in Block No 2 of the estimated value of 250.00

Out Lot No Ten in Division "D." of the out lots of the city of Austin of the estimated value of 500.00

Total, $17.150.00

Share No 2 contains Lots Nos 1. 2. 3. 30, 31 & 32. in Block No 11. of the estimated value of $175. per lot: $1050.00

Lots 16. & 17. in Blocks No 12. of the estimated value of $150.00. per lot: 300.00

November 20th 1880.

Block No 14 of the estimated value of $300.00,
Lot No 2 in Block No 5. of the estimated value of 200.00
Lots Nos. 3. 4. 5. and 6. in Block No 7. of the estimated value of $150. pr lot 600.00
Total $2450.00

Share No 3 Contains Lots Nos 4. 5. 6. 27. 28. & 29. in Block No 11. of
the estimated value of $175.00 per lot $1050.00
Lots Nos 7. 8. 9. 10. & 11. in Block No 4 of the estimated value of $200. per lot 1000.00
Lots Nos 12. & 21. in Block No 12 of the estimated value of $150. per lot 300.00
Lot No 2. in Block No 8 of the estimated value of 100.00
Total $2450.00

Share No 4. Contains Lots Nos 12. 13. 14. 19. 20. & 21 in
Block No 11. of estimated value of $175 cts per Lot. $1050.00,
Lots Nos 7 & 26. in Block No 12. of this estimated value of $150. per lot 300.00
Block No 15 of the estimated value of $ 450.00
Lots Nos 4. 5. and 6. in Block No 6 of the estimated value of $50. pr lot 450.00
Lot No 6 in Block No 4. of the estimated value of 200.00
Total. $2450.00

Share No 5 contains Lots Nos 7. 8. 9. 24. 25. & 26 in Block No 11.
of the estimated value of $175. per lot $1050.00
Lots Nos 10. 11. 22. & 23. in Block No 12 of the estimated value
of $150.00 per lot. 600.00
Lots Nos 1. 2. & 3. in Block No 6 of the estimated value of $150. per lot 450.00
Lot No 11. in Block No 3 of the estimated value of 150.00
Lot No 3 in Block No 5. of the estimated value of 200.00
Total $2450.00

Share No 6 contains Lots Nos 10. 11. 22. & 23. in Block No 11 of
the estimated value of $175. per Lot $700.00
Lots Nos 8. 9. 24 & 25 in Block No 12 of the estimated value of
$150. per lot 600.00
Lots Nos 7. 8. 9. 10 and 11 in Block No 6 of the estimated value of $150. per Lot 750.00
Lots No 3. 4. 5. & 6 in Block No 8. of the estimated value of $100.00 per Lot 400.00
Total $2450.00

Share No 7. contains Lots 15. 16. 17. & 18 in Block No 11 of the
estimated value of $175. per Lot $700.00
Lots Nos 4. 5. 6. 27. 28. & 29. in Block No 12. of the estimated
value of $150. per Lot 900.00
Lot No 9. in Block No 8. of the estimated value of 100.00
Lots Nos 4. 9. & 10. in Block No 5. of the estimated value of $200 p. Lot 600.00
Lot No 8 in Block No 3 of the estimated value of $150. 150.00
Total $2450.00

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Share No 8. contains, Lots Nos 1. 2. 3. 13. 14. 15. 18. 19. 20. 30. 31. & 32. in Block No 12. of the estimated value of $150. per Lot $1800.00

Lot No 9. in Block No 3. of the estimated value of, 150.00

Lot No 5. in Block No 4. of the estimated value of $200. 200.00

Lots Nos 1. 10. & 11. in Block No 8. of the estimated value of $100. p. Lot 300.00

Total- $2430.00

We have allotted Share Number one to the plaintiff Mrs Florence Whitis, Share Number Two, to Rufus Whitis. Share Number three to Mary Whitis Share Number Four to John Whitis, Share Number five to Florence Whitis defendant; Share Number Six to Gertrude Whitis, Share Number Seven to Charles. W. Whitis and Share Number eight to Thomas. P. Whitis, That Your Commissioners have been engaged in making said partition and in making this report two days and they ask that they be allowed therefor the Sum of ($18.$^{75}/_{100}$) Eighteen $^{75}/_{100}$ dollars, That they have had to pay J. H. Dinkins the Surveyor who surveyed the above property the Sum of $30.) Thirty dollars, and they ask that said sums be allowed them, Your Commissioners further state that they find that the homestead as defined in the decree of partition contains by actual measurement eight acres, and that in making this partition they have in no manner included said homestead or any part thereof

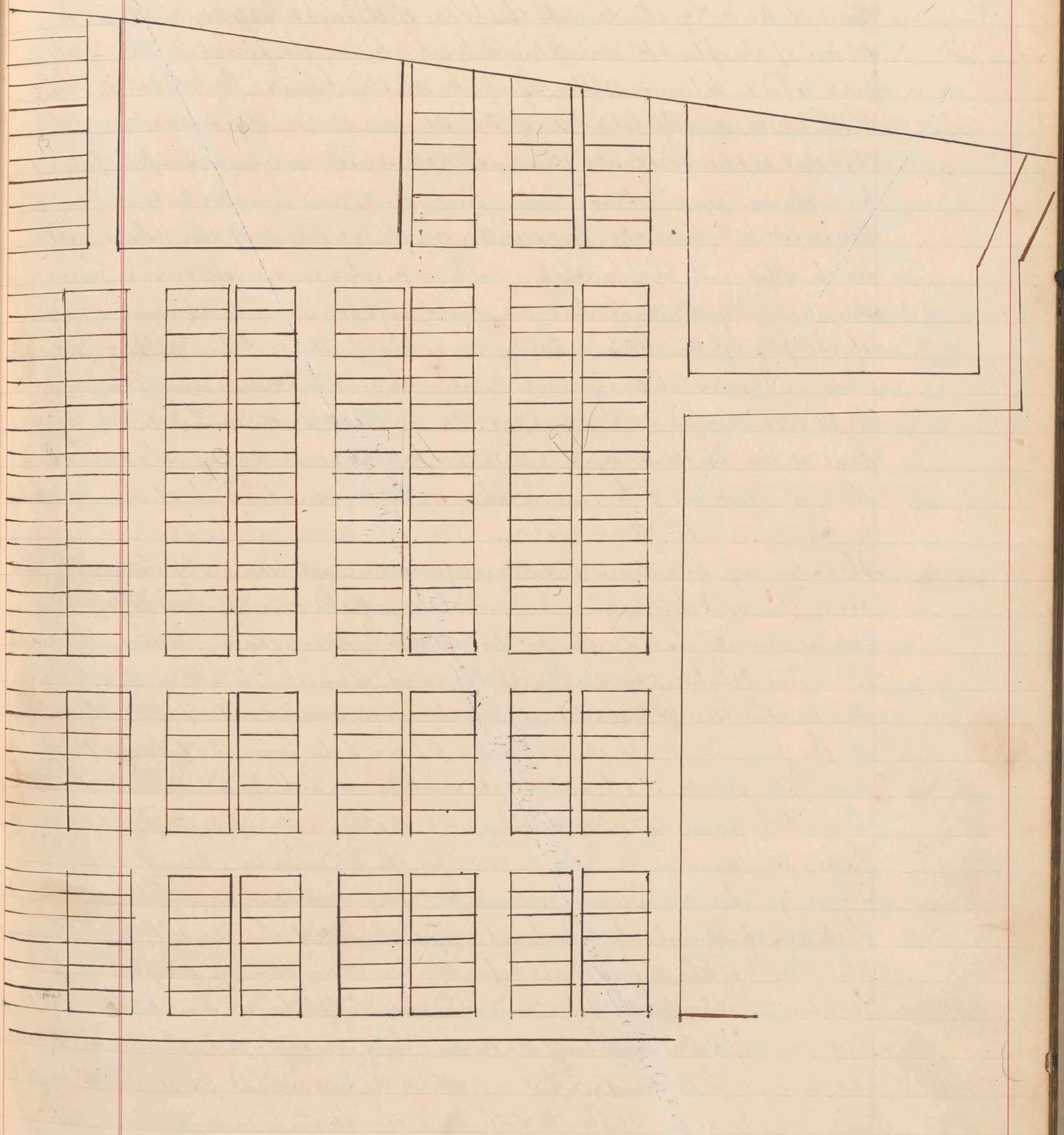
P. De Cordova.
Flavius Carroll
Joseph Spence

Sworn to and subscribed before me this the 19th day of Nov A D 1880

(Seal)

J. W. Lawrence
Notary Public Travis Co. Tex.

And no objection being made or filed to said report by any of the parties hereto, and the partition of said property as made in said report appearing to the court to be fair and just and in strict accordance with the decree of partition entered in this cause on the 9th day of October 1880, it is therefore considered ordered adjudged and decreed by the court that said report be and the same is in all things hereby confirmed, It is further considered ordered adjudged and decreed by the court that all of the right title interest and claim of the defendants Rufus Whitis, Mary Whitis, John Whitis, Florence Whitis, Gertrude Whitis, Charles. W. Whitis, and Thomas. P. Whitis in and to lots Nos 1-2-3-4-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-29-& 30- in Block No 9.- Block No 10, composed of Thirty Two lots- Block No 13.- Lot No 3- in Block No 2, and out Lot No (10) Ten in Division D. of the Out Lots of the city of Austin- be and the same is hereby divested out of them and vested in the plaintiff Mrs Florence Whitis- It is further considered, ordered, adjudged



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and decreed by the Court that all of the right title interest and claim of the plaintiff Mrs Florence Whitis, and of the defendants, Mary Whitis, John Whitis, Florence Whitis, Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis, in and to lots, 1. 2- 3- 30- 31- and 32. in Block No 11. and Lots Nos 16 & 17. in Block No 12- and Block No 14. containing Six lots from 1. to 6. inclusive, and Lot No 2 in Block No 5. and lots Nos 3- 4- 5- & 6. in Block No 7. be and the same is hereby divested out of them and vested in the defendant Rufus Whitis, It is further considered, ordered, adjudged and decreed by the Court that all of the right title interest and claim of the plaintiff Mrs Florence Whitis and the defendants Rufus Whitis, John Whitis, Florence Whitis, Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis in to Lots Nos 4- 5- 6. 27.- 28 & 29. in Block No 11- and Lots Nos 7.- 8- 9- 10- & 11 in Block No 4. and Lots Nos 12 and 21. in Block No 12. and Lot No 2 in Block No 8 be and the same is hereby divested out of them and vested in the defendant Mary Whitis,

It is further considered ordered adjudged and decreed by the court that all of the right title interest and claim of the plaintiff Mrs Florence Whitis and of the defendants Rufus Whitis, Mary Whitis, Florence Whitis Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis in and to lots Nos 12- 13- 14- 19- 20 & 21- in Block No 11. and Lots Nos 7. and 26 in Block No 12, and Block No 15. containing Eleven Lots from No 1 to No 11. inclusive, and Lots Nos 4- 5 & 6 in Block No 6. and Lot No 6 in Block No 4 be and the same is hereby divested out of them and vested in the defendant John Whitis,

It is further considered, ordered adjudged and decreed by the court that all of the right title interest and claim of the plaintiff, Mrs Florence Whitis and of the defendants Rufus Whitis, Mary Whitis, John Whitis, Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis in and to Lots Nos 7- 8- 9- 24- 25- & 26 in Block No 11. and Lots Nos 10. 11. 22- and 23 in Block No 12. and Lots Nos 1- 2 & 3 in Block No 6. and Lot No 11. in Block No 3 and Lot No 3- in Block No 5. be and the same is hereby divested out of them and vested in the defendant Florence Whitis,

It is further considered ordered, adjudged and decreed by the court that all of the right title interest and claim of the Plaintiff Mrs Florence Whitis and of the defendant Rufus Whitis Mary Whitis, John Whitis, Florence Whitis Charles W. Whitis and Thomas P. Whitis in and to Lots Nos 10- 11- 22- and 23- in Block No 11- and Lots Nos 8- 9- 24- and 25 in Block No 12- and Lots Nos 7- 8- 9- 10- & 11 in Block No 6, and Lots Nos 3- 4- 5- & 6 in Block No 8, be and the same is hereby divested out of them and vested in the defendant Gertrude Whitis,

It is further considered, ordered adjudged and decreed by the court

November 20th 1880.

that all of the right title interest and claim of the Plaintiff Mrs Florence Whilis and of the defendants Rufus Whilis, Mary Whilis, John Whilis Florence Whilis Gertrude Whilis and Thomas P. Whilis in and to Lots Nos 15-16-17 & 18 in Block No 11. and Lots Nos 4-5-6-27-28- and 29 in Block No 12, and Lot No 9 in Block No 8- and Lots Nos 4-9- and 10- in Block No 5, and Lot No 8 in Block No 3 be and the same is hereby divested out of them and vested in the defendant Charles W. Whilis,

It is further considered ordered adjudged and decreed by the court that all of the right title interest and claim of the Plaintiff Mrs Florence Whilis, and of the defendants Rufus Whilis, Mary Whilis, John Whilis, Florence Whilis Gertrude Whilis and Charles Whilis in and to Lots Nos 1. 2- 3- 13- 14- 15. 18- 19- 20- 30- 31- & 32 in Block No 13, and Lot No 9 in Block No 3, and Lot No 5 in Block No 4 and Lots Noo 1- 10- & 11 in Block No 8 be and the same is hereby divested out of them and vested in the defendant Thomas P. Whilis-

It is further considered ordered adjudged and decreed by the court that the report of said Commissioners aforesaid together with the plat thereto attached and made a part thereof be and the same is hereby made a part of this decree, and the discription of said property as there given is hereby adopted as a full and particular discription of the property hereby partitioned.

It is further considered ordered adjudged and decreed by the court that the plaintiff Mrs Florence Whilis pay one half of the costs in this behalf incurred- and that the defendants pay the remaining one half. For which the officers of court shall have their execution, The costs hereby allowed by this decree besides the costs of court are as follows to wit: John. B. Costa the Guardian ad-litem of the minor defendants, the sum of ($30) Fifty dollars; the Commissioners the sum of ($18 75/100) Eighteen & 75/100 dollars and J. N. Dilkins the sum of ($30) Thirty dollars.

Court adjourned until Monday the 22nd 1880.

November the 22nd 1880

Court met according to adjournment. Present same as on November the 13th & Court adjourned until to morrow 9 o'clk A.M.

November the 23rd 1880.

Court met according to adjournment. Present same as on November 13th Whereupon the following proceedings were had viz:

The foregoing entries having been read in open Court by me examined and found correct it is now ordered that the same be approved and Stored as a part of the

minutes of the present term of this Court.
J. W. Robertson Presiding Judge.

November the 24th 1880.

Court opened at 9 o'clk A.M. Hon. Jno W. Robertson Judge of the 15th Judicial District of the State of Texas presiding, and C. Hallmann Clerk of the District Court of Travis County & Dennis Corwin Sheriff of Travis County being present, the following proceedings were had viz:

Sc. Jac. No 23. (Crim. No 4154.) (Ex D.S. page 84)

The State of Texas vs. Charles Cannon et als. This cause being this day called for trial, came the State by her Attorney but the defendants came not but wholly made default, and it appearing to the Court that the said defendant Charles Cannon with W. R. Baker and C R Perry as sureties did on the day of A.D. 1875 enter into an appearance bond payable unto the State of Texas, in the penal sum of ($3000.00) three thousand dollars, payable jointly & severally, condidioned that the said principal should well and truly make his personal appearance before the Hon. District Court of Travis County, at the Court House thereof, in the City of Austin on the first Monday in October 1875 and there remain from day to day and from term to term of said Court, until discharged by due course of law to answer the State of Texas upon an indictment in said Court filed wherein he is charged with murder; and it further appearing to the Court that at the May term 1879 of said Court, and on the 26th day of May A.D. 1879, the aforesaid cause being called for trial, the said defendant Charles Cannon and his said sureties W. R. Baker and C R Perry failing to appear, the said appearance bond was declared forfeited, and judgment nisi entered of record against them. And it appearing to the Court that writs of scire facias had been properly issued against said sureties, and that an alias writ of scire facias had been duly served upon the said surety W. R. Baker summoning him to appear before this Court on the first Monday in October A.D. 1880 then and there to show cause why the aforesaid judgment nisi should not be made final against him, and it further appearing to the Court that the other said surety C R Perry could not be found & that no service of the writ of scire facias can be had upon him, it was upon motion of the County Attorney ordered by the Court that this cause be and the same is hereby dismissed as to the said C. R. Perry, and it was further ordered, adjudged and decreed by the Court that the said judgment nisi be and is hereby made final and absolute as against the said Charles Cannon and said W. R Baker, and that the State of Texas do have and recover of and from the said Charles Cannon as principal and of & from the said

November the 24th 1880.

W. R. Perry as surety the sum of ($3000.00) three thousand dollars and all costs of this proceeding for which let execution issue.

S. C. M. No. 61. (ci. No. 4752) (45 T. 84)

The State of Texas vs. Bud Dooling alias Jim Dow et. als. This cause being this day called for trial, came the State by her attorney, but the said defendant Bud Dooling alias Jim Dow failed to appear and answer in this behalf, and he and his sureties B. F. Low, J. M. Dowlearn and Rufus Dowlearn being distinctly called three times at the Court house door by the Sheriff still failed to appear and answer, but wholly made default, and it appearing to the Court that the said defendant Bud Dooling alias Jim Dow as principal with B. F. Low, J. M. Dowlearn and Rufus Dowlearn as sureties, did on the 5th day of January A.D. 1880 enter into a recognizance payable unto the State of Texas in the penal sum of ($400.00) four hundred dollars, payable jointly and severally; conditioned that the said principal should well and truly make his personal appearance before the Honorable District Court of Travis County at the Court house thereof in the City of Austin, on the 9th day of February A.D. 1880 and there remain from day to day, and from term to term of said Court, until discharged by due course of law, to answer the State of Texas upon an indictment filed in said Court, wherein he is charged with having committed the crime of assault with intent to kill and murder; and it further appearing to the Court that at the January term 1880 of said Court and on the 9th day of February A.D. 1880 the aforesaid cause being called for trial the said defendant Bud Dooling alias Jim Dow failing to appear the said recognizance was declared forfeited and judgment nisi entered of record against said principal and said sureties. And it appearing that (the original writs of scire facias not having been served) alias writs of scire facias had been properly issued against each of said sureties, notifying them to be and appear at the October term 1880 of this Court to show cause why said judgment nisi should not be made final, and that proper service thereof was had upon all the aforesaid sureties; — and the parties as aforesaid failing to appear, It was ordered adjudged and decreed by the Court, that the said judgment nisi be and the same is hereby made final and absolute, and that the State of Texas do have and recover of and from the said Bud Dooling alias Jim Dow as principal and from the said B. F. Low, J. M. Dowlearn and Rufus Dowlearn as sureties the sum of ($400.00) four hundred dollars jointly and severally, together with all costs of this suit, for which let execution issue.

November the 24th 1880.

Sc. Jac. No 63 (cr. No 5095)

Sc. Jac. No 67. (cr. No 5095) (& D No 5 p 85)

The State of Texas vs. Thomas M. Childers et als. Continued for service.

The State of Texas vs. Thomas M. Childers et als. This cause being this day called for trial, came the State by her attorney, but the defendants come not but wholly make default, and it appearing to the Court, that the said defendant Thomas M. Childers, as principal with Thomas M. Roberts, F. M. Childers and Edmund Pierson, as sureties did on the 28th day of April A.D. 1880 enter into an appearance bond payable unto the State of Texas in the penal sum of ($500.00) five hundred dollars payable jointly & severally conditioned that the said principal should well and truly make his personal appearance before the Honorable District Court of Travis County at the Court house thereof at the City of Austin on the first Monday in May A.D. 1880 and there remain from day to day and from term to term of said Court until discharged by due course of law to answer the State of Texas upon an indictment in said Court filed, wherein he is charged with having committed the felony of "swindling, by acquiring money of higher value than ($20.00) twenty dollars by means of fraudulent representation, with the intent to appropriate said money to his said Thomas M. Childers use" And it further appearing to the Court that at the May term 1880 of said Court and on the 7th day of June 1880 the aforesaid cause being called for trial the said defendant Thomas M Childers failing to appear, the said appearance bond was declared forfeited and judgment nisi entered of record against the said principal and his sureties. And it further appearing to the Court that writs of scire facias had been properly issued against all of said sureties and had been duly served upon the sureties Thomas M. Roberts and Edmund Pierson, summoning them to appear before this court on the first Monday in October 1880 then and there to show cause why the aforesaid judgment nisi should not be made final and absolute against them, but that the other said surety F. M. Childers had not been served with said writ of scire facias, (the Sheriff not being able to find said sureties, as shown by said Sheriffs return) it was upon the motion of the County Attorney ordered by the Court that this cause be and it is hereby dismissed as to the said F. M. Childers, and it was further ordered, adjudged and decreed by the Court, that the said judgment nisi be and the same is hereby made final and absolute as against the said Thomas M. Childers, Thomas M. Roberts and Edmund Pierson, and that the State of Texas do have and recover of and from the said Thomas M. Childers as principal and of and from said Thomas M. Roberts and Edmund Pierson as sureties the said sum of ($500.00) five hundred dollars jointly and severally together with all costs of this suit for which

November the 24th 1880.

let execution issue.

Sc. J. No 69. Ver. 5575. The State of Texas vs. W. H. Griffin et al. Continued.

Sc. J. No 70 Ver. 5576. The State of Texas vs. W. H. Griffin et al. Continued.

Sc. J. No 71. Ver. 5578. The State of Texas vs. Dick Phillips et al. Dismissed.

5496 Florence Whitis vs Rufus Whitis et al. On motion of Plaintiffs and by agreement of all parties to this suit it is ordered by the court that the order heretofore made in this cause on the 20th day of November A. D, 1880, allowing the Commissioners of partition until the 25th of November 1880, to make their report be and the same is hereby set aside, and now on this day ordered by the court that said time to make their final report be extended to the 25th November A.D. 1880,

5496 Mrs Florence Whitis vs Rufus Whitis. Mary Whitis. John Whitis. Florence Whitis Gertrude Whitis. Charles W. Whitis & Thomas P. Whitis, And now on this day came on to be heard the motion and agreement of the plaintiff and all the defendants therein, the said plaintiff appearing in person and by attorneys the said defendants by their Guardian ad litem John. P. Costa, to set aside the decree rendered herein on the 20th day of November A.D. 1880, And it appearing to the court that same should be done, It is therefore considered ordered adjudged and decreed by the court that said decree aforesaid be and the same is hereby set aside, And now on this day came on to be heard the report of Flavius Evenil, P. D. Cordova and Joseph Spence who were appointed by this court on October 9th 1880, as commissioners to divide and partition the property hereinafter described between the parties to this suit, The plaintiff Mrs Florence Whitis appearing by counsel and the defendants by their guardian ad litem John. P. Costa, The report of said Commissions is as follows to wit!

Mrs Florence Whitis.
vs No 5496
Rufus Whitis
Mary Whitis
John Whitis
Florence Whitis
Gertrude Whitis
Charles W. Whitis &
Thomas. P. Whitis

In the District Court of Travis County
Texas October Term A D 1880.
To the Hon Judge of said Court!

We the undersigned Commissioners, appointed by this Honorable Court on the 9th day of October A.D, 1880, to partition among the parties hereto the following described property to wit: Out Lots Nos Ten (10) eleven (11) twelve (12) Thirteen (13) Fifteen (15) Sixteen (16) and Seventeen (17) in Division "D" of the out Lots of the city of Austin, save and except the Homestead of the Plaintiff Mrs Florence Whitis, which is described as follows, to wit: about 7½ Seven and half acres together with the improvements thereon, out of the aforesaid out lots Nos (12) twelve and Thirteen (13) above described, commencing at the N. E. corner lot No 17 in Block No 9. Division "D" of the out lots of the city of Austin, thence run with the West line of Berlin Street sixty feet across Laurel Street for the beginning

November 24th 1880.

corner, Thence at right Angles to the West line of Berlin Street 572. feet Thence at right Angles 572 feet, Thence at right Angles 572. feet, Thence at right Angles 572 feet to the place of beginning: beg leave to submit the following as our report to wit: We employed a competent surveyor to survey and divide all of said property herein before described, save and except the above described homestead and the above described out Lot No Ten into Blocks and lots, as is more particularly shown by the plat made by said surveyor of said survey hereto attached marked Exhibit "A" and the same is made a part of this report, That by reason of the locality and nature of said out Lot number Ten it was impracticable to subdivide the same in to blocks and lots as was done with the remainder of said property, That in allotting said property aforesaid to the several parties hereto entitled to the same, save and except said aforesaid out lot No Ten, we have so allotted the same by the discription contained in said plat, We have divided the said aforesaid property herein partitioned into eight (8) shares of the following discription and estimated value, to wit:

Share Number one contains Lots Nos- 1- 2- 3- 4- 9- 10- 11- 12- 13- 14- 15- 16- 17- 18- 19- 20- 21- 22- 23- 24- 29- and 30. in Block No Nine (9) of the estimated value of $300. per Lot:— $6600.00

Block No Ten composed of 32 Lots of the estimated value of $250. per lot. 8000.00

Block No 13. of the estimated value of 1800.00

Lot No 3 in Block No 2 of the estimated value of 250.00

Out Lot No Ten in Division "D" of the out lots of the City of Austin of the estimated value of 500.00

Total. $17.150.00

Share No 2 contains lots Nos 1- 2- 3- 30- 31- & 32. in Block No 11. of the estimated value of $175. per lot $1050.00

Lots 16 & 17. in Block No 12. of the estimated value of $150. per lot 300.00

Block No 14 of the estimated value of 300.00

Lot No 2, in Block No 5 of the estimated value of 200.00

Lots Nos 3- 4- 5- & 6- in Block No 7. of the estimated value of $150. per lot 600.00

Total $2450.00

Share No 3. contains Lots Nos 4- 5- 6- 27- 28- & 29- in Block No 11- of the estimated value of $175. per Lot $1050.00

Lots Nos 7- 8- 9- 10- 11- in Block No 4, of the estimated value of $200. per lot. 1000.00

Lots Nos 12. & 21- in Block No 12. of the estimated value of 150 per lot 300.00

Lot No 2. in Block No 8 of the estimated value of 100.00

Total $2450.00

Share No. 4. contains Lots Nos 12. 13. 14. 19. 20. & 21 in Block No 11. of the estimated value of $175. per lot $1050.00

Lots Nos 7 and 26 in Block No 12. of the estimated value of $150. per lot- 300.00

November 2nd 1880.

Block No 15 of the estimated value of $450.00
Lots Nos 4. 5. & 6. in Block No 6. of the estimated value of $150. per lot. 450.00
Lot No 6 in Block No 4. of the estimated value of 200.00
Total. $1450.00

Share No 5 contains Lots Nos 7. 8. 9. 24. 25. & 26 in Blocks
No 11 of the estimated value of $175. per lot; $1050.00
Lots Nos. 10, 11. 22. & 23. in Block No 12 of the estimated value of
$150 per lot. 600.00
Lots Nos 1. 2. & 3. in Block No 6. of the estimated value of $150. per lot 450.00
Lot No 11. in Block No 3. of the estimated value of 150.00
Lot No 3 in Block No 3. of the estimated value of 200.00
Total — $1450.00

Share No 6 contains Lots Nos 10. 11. 22. & 23. in Block No 11,
of the estimated value of $175. per lot $700.00
Lots Nos 8, 9, 24, & 25; in Block No 12. of the estimated value of $150 per lot. 600.00
Lots Nos 7. 8, 9, 10 & 11, in Block No 6; of the estimated value of $150. per lot 750.00
Lots Nos 3-4-5-& 6- in Block No 8 of the estimated value of $100. per lot. 400.00
Total $2450.00

Share No 7 contains Lots 15-16-17-& 18 in Block No 11 of
the estimated value of $175. per lot $700.00
Lots Nos 4, 5, 6- 27. 28. & 29. in Block No 12 of the estimated value
of $150. per lot. 900.00
Lot No 9 in Block No 8. of the estimated value of 100.00
Lots Nos 4, 9. & 10 in Block No 5. of the estimated value of $200. per lot 600.00
Lot No 8 in Block No 3. of the estimated value of 150.00
Total. $2450.00

Share No 8 contains Lots Nos 1. 2. 3. 13. 14. 15 18. 19 20.
30. 31. & 32. in Block No 12. of the estimated value of $150.00 per lot $1800.00
Lot No 9 in Block No 3. of the estimated value of 150.00
Lot No 5. in Block No 4. of the estimated value of 200.00
Lots Nos 1. 10. & 11. in Block No 8. of the estimated value of $100. per lot 300.00
Total $2450.00

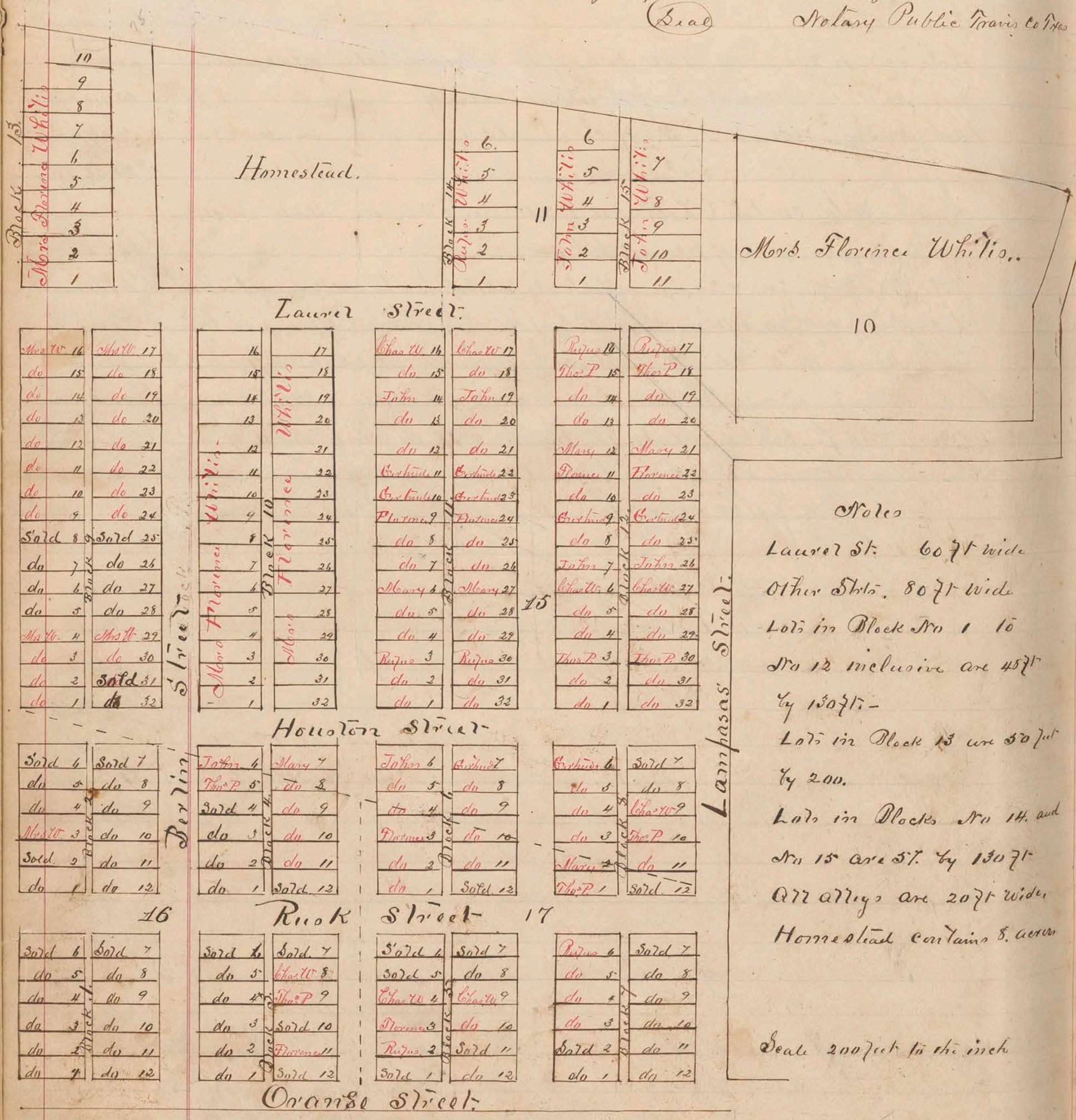
We have allotted Share number One to the plaintiff Mrs Florence Whitis
Share number Two to Rufus Whitis, Share Number three to Mary Whitis,
Share number four to John Whitis, Share number five to Florence Whitis
defendant. Share number Six to Gertrude Whitis,, Share number Seven to
Charles W. Whitis and Share number eight to Thomas P. Whitis,
That your Commissioners have been engaged in making said partition and
in making this report (2) two days, and they ask that they be allowed
therefor the sum of ($18.75) Eighteen dollars & 75 cents. That they have
had to pay J. H. Dinkins the surveyor who surveyed the above

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property the Sum of ($30) Thirty dollars, and they ask that said sum be allowed them. Your Commissioners further State that they find that the Homestead as defined in the decree of partition contains by actual (measurement) eight acres, and that in making this partition they have in no manner included said Homestead or any part thereof.

P. D. Cordova
Flavius Evans.
Joseph Spence.

Sworn to and Subscribed before me this the 19th day of Nov A.D. 1880. J. U. Lawrence
(Seal) Notary Public Travis Co Texas



November 24th 1880.

And no objection having been made or filed to said report by any of the par=
=ties hereto, and the partition of said property as made in said report appearing
to the court to be fair and just and in strict accordance with the decree of par=
=tition rendered in this cause on the 9th day of October 1880., it is therefore considered
ordered adjudged and decreed by the court that said report be and the same is
in all things hereby confirmed, It is further considered ordered, adjudged
and decreed by the court that all of the right title interest and claim of the
defendants to Rufus Whitis, Mary Whitis, John Whitis, Florence Whitis, Gertrude
Whitis, Charles W. Whitis and Thomas P. Whitis, in and to lots Nos 1-2-3-4-
9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-29 & 30 in Block
No 9. Block No 10, composed of Thirty Two lots, Block No 13, — Lot No 3 in Block
No 2, and out lot No(10) Ten in Division "D" of the Out Lots of the city of Mus=
=kin be and the same is hereby divested out of them, and vested in the plaintiff
Mrs Florence Whitis, It is further considered ordered adjudged and decreed
by the court that all of the right title interest and claim of the Plaintiff
Mrs Florence Whitis and of the defendants Mary Whitis, John Whitis, Florence
Whitis, Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis in and
to lots 1-2-3-30-31- and 32. in Block No 11. and Lots Nos 16. & 17.
in Block No 12. and Block No 14, containing Six lots from 1 to 6. in clu=
=sive; and Lot No 2. in Block No 5 and Lots Nos 3-4-5-& 6-in
Block No 7. be and the same is hereby divested out of them, and vested
in the defendant Rufus Whitis,

It is further considered ordered adjudged and decreed by the court that
all of the right title interest and claim of the plaintiff Mrs Florence Whi=
=tis, Charles W. Whitis and Thomas P. Whitis in and to Lots Nos 4. 5.
6-27.-28-& 29 in Block No 11, and lots Nos 7. 8. 9, 10, & 11 in Block
No 4. and lots Nos 12. and 21. in Block No 12, and Lot No 2. in Block
No 8, be and the same is hereby divested out of them, and vested in the
defendant Mary Whitis,

It is further considered ordered adjudged and decreed by the court that
all of the right title interest and claim of the Plaintiff Mrs Florence
Whitis, and of the defendants Rufus Whitis, Mary Whitis, Florence Whitis
Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis in and to lots
Nos 12. 13. 14. 19. 20 & 21. in Block No 11. and Lots Nos 7. and 26.
in Block No 12, and Block No 15. containing eleven lots from 1 to 11
in clusive, and Lots Nos 4. 5. & 6. in Block No 6, and lot No 6
in Block No 4. be and the same is hereby divested out of them, and
vested in the defendant John Whitis,

It is further considered ordered adjudged and decreed by the court
that all of the right title interest and claim of the plaintiff Mrs

November 24th 1880

Florence Whitis, and of the defendants Rufus Whitis Mary Whitis John Whitis, Gertrude Whitis, Charles W. Whitis and Thomas P. Whitis in and to Lots Nos 7. 8. 9. 24-25- & 26- in Block No 11. and Lots Nos 10. 11. 22. and 23. in Block No 12. and Lots Nos 1-2 & 3 in Block No and Lot No 11. in Block No 3. and Lots No 3 in Block No 5 be and the same is hereby divested out of them and vested in the defendant Florence Whitis,

It is further considered ordered, adjudged and decreed by the court that all of the right title interest and claim of the plaintiff Mrs Florence Whitis, and of the defendants Rufus Whitis, Mary Whitis, John Whitis Florence Whitis, Charles W. Whitis and Thomas P. Whitis and to Lots Nos 10-11- & 22. and 23. in Block No 11- and Lots Nos 9. 24 and 25. in Block No 12. and Lots Nos 7-8. 9. 10 & 11. in Block No 6, and Lots Nos 3-4-5 and 6. in Block No 8. be and the same is hereby divested out of them and vested in the defendant Gertrude Whitis,

It is further considered ordered adjudged and decreed by the court that all of the right title interest and claim of the Plaintiff Mrs Florence Whitis and of the defendants Rufus Whitis Mary Whitis John Whitis. Florence Whitis, Gertrude Whitis and Thomas P. Whitis in and to Lots Nos 15. 16. 17. & 18. in Block No 11. and Lots Nos 4. 5. 6. 27. 28 & 29 in Block No 12. and Lot No 9 in Block No 8, and Lots Nos 9 & 10. in Block No 5. and Lot No 8. in Block No 3. be and the same is hereby divested out of them and vested in the defendant Charles W. Whitis,

It is further considered ordered adjudged and decreed by the court that all of the right title interest and claim of the plaintiff Mrs Florence Whitis and of the defendants Rufus Whitis. Mary Whitis. John Whitis, Florence Whitis, Gertrude Whitis and Charles W. Whitis in and to Lots Nos 1. 2. 3. 13. 14. 15. 18. 19. 20. 30. 31. & 32. in Block No and Lot No 9 in Block No 3. and Lot No 5 in Block No 4. and Lots Nos 1. 10. & 11. in Block No 8. be and the same is hereby divested out of them and vested in the defendant Thomas P. Whitis

It is further considered ordered adjudged and decreed by the court that the report of said commissioners aforesaid together with the plat thereto attached and made a part thereof be and the same is hereby made a part of this decree, and the discription of said property as therein given is hereby adopted as a full and particular discription of the property hereby partitioned.

It is further considered ordered adjudged and decreed by the

November 24th 1880

court that the plaintiff Mrs Florence Whitis pay one half of the cost in this behalf incurred, and that the defendants pay the remaining one half for which the officers of court shall have their execution, The costs hereby allowed by this decree besides the costs of court are as follows towit: John D. Costa the Guardian ad litem of the minor defendants, the sum of Fifty (50) dollars, the commissioners the sum of Eighteen 75/100 ($18.75) dollars and J. H. Dickies the sum of Thirty dollars.

Court adjourned Friday Morning 26th November A. D. 1880.

November 26th 1880.

Court met pursuant to adjournment; Present same as on the 24th inst. Whereupon the following proceedings Were had Viz:

5489. Nancy J. Smith vs George Smith, This cause being called for trial on this the 26th day of November A. D. 1880, came the plaintiff by her Attorney and announced ready for trial and it appearing to the court that the defendant George Smith has by his Waiver and Answer in Writing signed by him and on file among the papers in this cause waived service of citation and consented that this cause may be tried at this term of this court; and answered by general denial, and a Jury not having been called for by either party, and the cause being submitted to the court without a jury, and the court having heard the pleadings and evidence and considering that the plaintiff is entitled to relief as prayed for in her petition and as by law ordered, It is therefore ordered adjudged and decreed by the Court that the bonds of matrimony heretofore existing between the plaintiff Nancy J. Smith and the defendant George Smith be and the same are hereby dissolved and that the custody and education of the three minor children Thomas J. Smith and William Hannah Smith be and are hereby awarded to the plaintiff and that the defendant pay all costs of this suit for which execution may issue.

4795. John C. Duval et al vs Robert Cruzbaur, In this cause comes now the master appointed herein to sell the property set off to John C. Duval and Florida G. Howard and reported that he had under the former decree of this Court rendered on the 5th June 1880, to Thomas Kirkpatrick and J Cummuth one hundred and twenty five acres out of the William Porter one third league in Hays County Texas enumerated in the said decree as No 3 of lands allotted to the plaintiffs for the price of four dollars per acre, on the following terms, One hundred and fifty dollars to be paid in cash and the remainder three hundred and fifty dollars, to be secured by his notes retaining the vendors lien of one hundred and twenty five dollars each, one payable on or before the 20th November 1881, the other on or before the 20th November 1882 bearing interest from date of confirmation till paid at the rate of twelve per cent per annum, and it appearing the land aforesaid was sold at its fair

November 26th 1880

valuer it is adjudged and decreed that said sale be confirmed and that the Trustee W. Von Rosenberg make to the said purchasers a conveyance for said land describing the same upon the compliance by them with the terms of sale aforesaid. It is further ordered that said Trustee be authorized to trans for the said notes to George W Dampsen the beneficiary in said deed upon his taking them as satisfaction pro tanto of the claim he has against the lands of John L. Duval and Florida H. Howard embraced in the foredecree. It is ordered that all other matters not embraced in this decree be continued for the further order of the court.

5417. Wm H Thaxton by his next friend Wm Thaxton. vs James A. Wren et al.

This cause being called for trial on the 24th day of November A.D. 1880. the parties appeared in person and by their attorneys and announced ready for trial upon questions of law as contained in the defendants Special exceptions, and the court after hearing Argument thereon, and taking the same under advisement on the 26th day of Nov 1880, sustain said Special exceptions of defendants to plaintiffs petition as follows: 1." To so much of the petition as claims damages for loss of time, expenses of attending upon this suit &c. 2 To so much of the petition as claims attorneys fees"

"3. To so much of the petition as asks a recovery against James A. Wren and the sureties on his official bond - First because the action on the bond is improperly joined with the action against Cluff and others for the recovery of the property alleged to have been wrongfully seized and damages for its detention,

"Second - Because the District Court of Travis County has no jurisdiction over Wren and his sureties on his bond in an action on the bond upon the facts stated in the petition,

4th The demurrer is also sustained as to the right of Wm H. Thaxton to maintain this action by his next friend Wm Thaxton, The demurrer as to the other grounds not covered by the foregoing is overruled,,

To Which rulings of the court the plaintiff then and there excepted,

Upon motion of plaintiff it is ordered by the court that the plaintiff have leave to file in this cause his first supplemental petition, and that this cause be passed to be taken up for trial on the 6th day of Dec

The defendant also excepted to the rulings that were adverse to them.

Court adjourned until to morrow morning 9 o

November the 27th 1880.

Court met according to adjournment. Present same as on the 24th day of November 1880. & no business on civil docket having been transacted Court adjourned until Monday the 29th inst.

November the 29th 1880.

Court met according to adjournment. Present same as on the 24th day of the present month. Whereupon the following proceedings were had viz:

It was this day ordered by the Court that the following persons viz: F. Wilburn, August Liebert & M. M. Johnson be and they are hereby appointed Jury Commissioners for the present term of this Court and that they be summoned to appear before this Court on Monday the 6th day of December A.D. 1880 then and there to select jurors for the January term 1881 of this Court both for civil and criminal cases.

Court adjourned until to morrow morning 9 o'clk.

November the 30th 1880.

Court met according to adjournment. Whereupon the following proceedings were had. viz:

51/76 R. B. Hubbard Governor etc. vs. A. J. Ward et als. The Honorable Jno W. Robertson judge of the 16th Judicial District of the State of Texas having heretofore been of counsel in this cause and thereby being disqualified to try this case, and such fact having been certified to his Excellency the Governor of the State of Texas, and the said Governor having appointed and duly commissioned the Honorable James H. Burts as Special Judge to try and determine this case, he, the said Honorable James H. Burts did on this day duly qualify as such special Judge.

The foregoing entry having been examined in open Court is hereby approved

Special Judge

Court adjourned until to morrow morning 9 o'clk

December 1st 1880.

51/76 R. B. Hubbard Govr etc. vs. A. J. Ward et al. The Hon. James H. Burts special judge presiding, this case was this day called for trial, and it was ordered that this case be set for the 13th day of this month for trial. Court adjourned until to morrow 9 o'clk A M.

The foregoing entry having been examined in open Court is hereby approved.

Special Judge.

December 2nd 1880.

Court met according to adjournment. Present same as on November 24th 1880. And Court adjourned until to morrow morning 9 o'clk

December 3d 1880.

Court met according to adjournment Present same as on 24th day of November 1880 And Court adjourned until to morrow 9 o'clk A.M.

December 4th 1880.

Court met according to adjournment & no proceedings on the civ
docket being had Court adjourned until Monday the 6th inst 9 o'clk A

December 6th 1880.

Court met according to adjournment. Present same as November 24th 18
Whereupon the following proceedings were had viz:

5537. Jesse Griffin vs. Ellen Griffin. This day the above entitled cause
coming on to be heard and it appearing to the Court That the
citation in said cause was duly served and that said cau
stood for trial at the present term of this Court - the order
continuance for service was therefore set aside. - And it app
ing to the satisfaction of the Court that the plaintiff and def
dants are residents and citizens of said County and have bee
for more than twelve months before the institution of this su
and that said plaintiff and defendant were legally united in
bonds of matrimony on 31th day of December A.D. 1875 an
further appearing to the satisfaction of the Court that the d
dant Ellen Griffin in the month of April A.D. 1877 voluntarily
the bed and board of plaintiff with intention of abandoning
and from that time until this date has refused to live with
plaintiff and has actually lived separate and apart from said pl
tiff for more than three years: It is therefore ordered adjudg
and decreed that the bonds of matrimony heretofore existing betwe
plaintiff Jesse Griffin and the defendent Ellen Griffin be and the
same are hereby annulled and that said parties be divorced fro
said bonds, and that said plaintiff pay all costs in this behalf

5417. William H. Thaxton by next friend etc vs. James A. Wren et al. Ordered that plaintiff have leave
(original amended) petition Court adjourned until to morrow morning 9 o'clk.

December 7th 1880.

Court met according to adjournment. Present same as on the 6th
day of November 1880. The trial of case William H Thaxton by ne
friend vs James A. Wren was commenced and pending said trial Court ad
journed until to morrow 9 o'clk A. M.

December 8th 1880.

Court met according to adjournment. Present same as Novbr 24th
Whereupon the following proceedings were had viz:
On this 8th day of December 1880 it was ordered by the Court
That J. C. White be and he is hereby appointed as one of
the Jury Commissioners of this Court in place of August Siebe

December 8th 1880

who is reported by the Sheriff as sick and that said Wright be summoned to appear before this Court on to morrow morning 9 o'clk then & there to serve as such Jury Commissioner.

Court adjourned until to morrow morning 9 o'clk.

December 9th 1880

Court met according to adjournment. Present same as on 8th day of November 1880 Whereupon the following proceedings were had.

Jury Commissioners. The following three citizens of Travis County, viz: F. Wilburn M. M. Johnson & J. B. White heretofore duly appointed as jury commissioners were this day duly sworn and empannelled as jury commissioners by the Court & were instructed as to their duties and ordered to select the necessary jurors for the next term of this Court viz: a grand jury, and petit juries for the 3rd 4th 5th 6th 7th 8th and 9th week for said next term and also a petit jury for the 11th week of the present term of this Court.

5473. Joseph Harrell vs. Thomas Smith & E. Smith. Upon motion it was ordered that defendant have leave to file 1st amended original answer.

5485. E. L. Batchelor vs. Joel A. Bennett et al. Ordered that the plaintiff have leave to file 1st supplemental petition.

5514. Victoria C. Burke vs. The Houston & Texas Central Railway Company. Now on this 9th day of December 1880 came on to be heard defendants motion in this cause filed December 7th 1880 for leave to make other defences, and in connection therewith and at the same time came on to be heard plaintiffs motion filed December the 9th 1880 to strike out defendants answer filed in this cause December the 4th 1880. — And the Court after hearing said motion and fully considering the same, orders and decrees that defendants said motion to make other defences be and the same is hereby overruled to which defendant excepted, and the Court further orders and decrees that plaintiffs said motion to strike out said answer of defendant filed December 4th 1880 be so far sustained that defendant shall only make defence under said answer as to the quantity & value of the goods and property in controversy in this case as provided in the judgment of this Court on October the 16th 1880 at this term of this Court, to which ruling the defendant excepted.

5531 D. R. Ayers vs. Wm C. Walsh Commiss. Continued.

5417 William R. Thaxton by his next friend Wm William Thaxton vs. James A. Wren & P. P. Cluff et al. This cause coming on to

December 9th 1880.

to be heard and for trial both plaintiff and defendants appear in Court in person and by attorney and announced ready for trial upon the issues of law. And the motion of defendants to strike out plaintiffs amended petition coming on to be heard and after hearing same read and argument of counsel the Court is of the opinion that in this action no recovery can be had upon the official bond of said defendant James K. Wren, and to that extent said motion is sustained and as to the other grounds said motion be and same is overruled to which rulings both parties except. And plaintiff Wm. P. Thaxton has leave to file a trial amendment tendering of special guardian to prosecute this suit and said bond being tendered and offered the same is by the Court approved. And both parties having announced ready for trial upon the issues Whereupon came a jury of twelve good and lawful men viz J. M. Mansfield and eleven others who being duly selected empannelled and sworn according to law, and after hearing the pleadings of both parties read and hearing all the evidence and testimony adduced by both plaintiff and defendants and hearing the arguments of counsel upon both sides and having heard and received the charge of the Court retired to consider of their verdict and afterwards returned into open Court the following verdict to wit: "We the jury find for the defendant and find the value of said 26 mares to be (#450.00) four hundred and fifty dollars and we find actual damages in favor of P. P. Bluff and against the plaintiff in the sum of two hundred ~~dollars~~ (#250.00) dollars. Decbr 9th 1880. J. M. Mansfield Foreman." Whereupon after reading of said verdict by the clerk and at the request of plaintiff the jury was by the Court polled and each and every juror responded that said verdict was his verdict. Whereupon it is ordered adjudged and decreed by the Court that said verdict be and is in all things confirmed. And It is further ordered adjudged and decreed by the Court that all of the said defendants viz Jas K. Wren, P. P. Bluff P. A. Mc Means, E. L. Mc Gehee, J. R. Watson, Charles Bock, W. Bock, and W Soode go hence without day and that they recover of the plaintiff William P. Thaxton all costs in this behalf expended for which execution may issue. And it further appearing to the Court that on the 22nd day of March A.D. 1880 at the instance and upon the affidavit of plaintiff a writ of sequestration was issued in this cause commanding the proper officer to take into his possession the following described property viz 26 head of mares marked and branded as follows

This cause having been appealed to the Supreme Court and afterwards on the 4th day of May 1881 the judgment of the Court below was affirmed with interest thereon from and after the 24th day of March 1880 at the rate of six per cent per annum until paid and the costs of appeal in the sum of ($191.70) one hundred and ninety one & 70/100 dollars. And it appearing to the Court that the full amount due on said judgment - viz Principal sum of $450.00 four hundred and fifty dollars with interest thereon from and after the 24th day of March 1880 at the rate of six per cent per annum until paid and the sum of ($191.70) one hundred and ninety one & 70/100 dollars Costs of appeal in the Supreme Court - This May 24th 1881. J. P. Greaves Clk By Deputy

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twelve of said mares are branded thus: 3T known as a bridle bit, one of them is branded thus ℄ and S on hip, one branded ℄ one branded ℄ and SP. one branded Δ and S on hip three branded Δ two branded Δ and S on jaw, one branded Δ and S on hip, one branded ⊕, one branded T/T, one branded ⊓⊓ J, one branded ⊓H, each of said mares being branded in addition to the above brands thus + on hip and shoulder,- and that said attachment was by said officer levied upon said property on the 24th day of March A.D. 1880, and that to entitle plaintiff to said writ on the 20th day of March A.D. 1880 plaintiff Wm H. Thaxton entered into and gave bond in terms of the law in the sum of $1400"" with Jas B. Thaxton R. S. Caperton and Felix D. Smith as his sureties thereupon conditioned as the law requires. And it further appearing to the Court by the finding of the Jury that said writ of sequestration was wrongfully issued and that said P. P. Cluff by reason thereof has sustained damages in the sum of two hundred and fifty $250"" dollars; Wherefore it is ordered adjudged and decreed by the Court that the defendant P. P. Cluff do have and recover of and from the plaintiff William H. Thaxton and his said sureties upon said sequestration bond viz: James B. Thaxton, R. S. Caperton and Felix D. Smith the said sum of two hundred & fifty ($250"") dollars and all costs of this suit for which an execution may issue. And it further appearing to the Court that on the day of April 1880 said plaintiff William Thaxton entered into and gave a bond for the replevy of said above described 26 mares in the sum of $1400"" fourteen hundred dollars with Jas B. Thaxton, R. S. Caperton and Arnold Klein as sureties thereupon in terms of the law & conditioned as the law requires which said bond was approved on 6th day of April 1880 and the said 26 head of mares were then and there delivered into the possession of plaintiff, and it further appearing to the court that the value of said property and mares as assessed by the jury is of the value of four hundred & fifty dollars: It is therefore ordered adjudged and decreed by the Court that said defendant P. P. Cluff do have and recover of and from the said plaintiff Wm H. Thaxton and his said sureties James B. Thaxton R. S. Caperton and Arnold Klein jointly and severally the said sum of four hundred and fifty dollars for which execution may issue, provided the plaintiff Wm H. Thaxton shall have the right at any time within ten days after the rendition of this judgment to the Sheriff of this Court the above described 26 head of mares or any portion thereof and

December 9th 1880.

the Sheriff shall receive said property, if the same has not been injured or damaged since the replevy and receipt to the plaintiff for and shall immediately deliver said property to the defendant P. P. Cluff and the said plaintiff shall upon filing with the in the cause the receipt of the Sheriff be credited by the clerk upon this judgment of $450.00 with the value of the property returned.

5485. D. L. Bartholomew vs. Joel A. Bennett et al. Ordered that defendants have leave to file amended original answer and cause continued by the defendant.

Court adjourned until to morrow morning 9 o'clk.

December 10th 1880.

Court met according to adjournment. Present same as on 14th November.

Whereupon the following proceedings were had viz:

5036. J. Brown vs. C. R. Johns & Co. Continued by consent.

5522. Oscar Bennett vs. Lewis Bowen. Continued.

5523. J. T. Chandler vs. P. C. Cain and Annie Tillman. J. W. Roberts the Judge presiding, being of counsel herein, is disqualified to try this cause.

5473. Joseph Farrell vs. Thomas Smith and E. Smith. Continued by

5561. Joel M. Martin vs. James A. Wren, P. P. Cluff et al. Continued by agreement.

Court adjourned until to morrow morning 9 o'clk.

December 11th 1880.

Court met according to adjournment. Present same as on 14th day of November.

Whereupon the following proceedings were had viz:

5519 Upton Swingly vs. Wesley Johnson et al. Upon motion of plaintiffs attorney it was this day ordered that this cause be dismissed and that the plaintiff Upton Swingly pay all costs in this behalf incurred for which execution may issue.

Jury Commissioners. On this day came into open Court the jury commissioners F. Williams M. M. Johnson & J. C. White and presented to the Court the list of Grand Jurors and the list of petit jurors for the 3rd 4th 5th 6th 7th 8th & 9th weeks of the next term of this Court. The Court delivered said lists to the clerk of this Court and administered to him the oath prescribed by law, & also delivered to the clerk of the County Court the list of all jurors, as prepared by said jury commissioners for the use of the County Court jury commissioners, & also administered to said clerk the oath in regard to said jury lists as required by law. Court adjourned until Monday the 13th inst.

December 13th 1880.

Court met according to adjournment. Present same as on November 24th 1880. Whereupon the following proceedings were had viz:

5417. Wm H. Thaxton by his next friend William Thaxton vs. James A. Wren P. P. Cluff et al. On this the 13th day of December A.D. 1880 came on to be heard plaintiffs motion for a new trial, filed in this cause on the 11th day of December 1880 and the Court after hearing the same read and argument of counsel thereon, overruled said motion for a new trial and refused to grant the same to which ruling of the Court the plaintiff then and there excepted and in open Court gave notice of appeal, afterwards to wit on the same day came on to be heard plaintiffs motion in arrest of judgment, which after being considered by the Court was overruled, to which ruling the plaintiff then and there excepted and gave notice of appeal to the Supreme Court in open Court. — Court adjourned until to morrow 9 o'clk A.M.

December 14th 1880.

Court met according to adjournment. Present same as on November 24th 1880
Court adjourned until to morrow morning 9 o'clk.

December 15th 1880.

Court met according to adjournment. Present same as on November 24th 1880
Whereupon the following proceedings were had viz:

5513. The State of Texas vs George W. Michael et al. Plaintiffs demand having been settled in full, this case was this day dismissed upon the motion of plaintiffs attorney. Court adjourned until to morrow 9 o'clk A.M.

December 16th 1880.

Court met according to adjournment. Present same as on Novbr 24th 1880
Whereupon the following proceedings were had viz:

5466 The State of Texas vs. The International & Great Northern Rail Road Company. By agreement of counsel this case was set for trial for the 2nd day of February A.D. 1881.

5538. Joseph Spence Jr. Ex parte. On the 11th day of Decmbr 1880, Joseph Spence Jr. having made application before the District Court of Travis County Texas for a permanent license to practice as an Attorney and Counsellor at law in the District and all inferior Courts of the State of Texas, and having produced the certificate as required by law that he is twenty one years of age, and that he has a good reputation for moral character and honorable deportment; and the Court being satisfied upon the examination in open court and by the report of the Committee appointed for that purpose of the legal qualifications of the Applicant; it was ordered by the court that his name be enrolled as an Attorney

December 16th 1880.

of this court and that a license issue to him accordingly.
1517/6. R. B. Hubbard Govr. etc. vs. Andrew J. Ward et al. The Honorable James H. Burts Special Judge presiding, it was ordered that plaintiff and defendant both have leave to file amended pleadings and that the trial of this case be again postponed until Saturday the 18th day of December A.D. 1880. The foregoing entry having been examined in open court is hereby approved.

Special Judge

Court adjourned till tomorrow morning 9 o'clock.

December 17th 18th 1880.

Court met each day pursuant to adjournment. Present same as on the 20th day of November A. D. 1880. Whereupon on the 18th the following proceedings were had viz:

555 Victoria C. Burke. vs The Houston & Texas Central Rail Road company.

The above entitled cause came on to be heard on Saturday December 11th 1880. Upon the writ of inquiry heretofore awarded in the same at this term of the court, and occupied the time of the court from the 11th to the 18th of December 1880 inclusive, and the parties plaintiff and defendant appeared by their attorneys and announced ready for trial, Thereupon came a jury of good and lawful men to wit: E. P. Haigler and seven others, who being duly and regularly empannelled & sworn according to law to try said cause, after hearing the pleadings evidence and argument of counsel and charge of the court retired to consider of their verdict on the 18th of December 1880, and on same day returned into open court the following verdict "We the jury find for the plaintiff and assess the damages at $20.500.00 twenty thousand five hundred dollars, E. P. Haigler Foreman"

It is therefore considered by the court that the Plaintiff Mrs Victoria C. Burke do have and recover of the defendant the Houston and Texas Central Railway Company the sum of Twenty thousand five hundred dollars ($20500.00) with interest thereon at the rate of 8 per cent per annum, together with all costs in this behalf expended and that she have her execution. It is further ordered that execution issue in favor of the officers of court for all costs in this behalf incurred

Thereupon Court adjourned till Monday morning 9 o'clock.

Monday December 20th 1880.

Court met pursuant to adjournment. Present the Hon James H. Burts Special Judge Presiding and there being no minutes to be recorded of this date court adjourned till tomorrow morning at 9 o'clock.

December 21st 1880.

Court met pursuant to adjournment. Present same as on November 24th 1880. Whereupon the following proceedings were had viz:

December 21st 1880

5514 Mrs Victoria C. Burke. vs The Houston and Texas Central Railway Co. Both parties being this day present by their attorneys, came on to be heard the defendants motion for a new trial in this behalf, and the court having heard the said motion and neither counsel desiring to argue the same, and the court after due consideration did order that said motion be and the same is hereby overruled. The defendant thereupon excepted to such ruling of the court and gave him in open court notice of appeal to the Supreme Court,

5573 Henry E. Shelley Exparte. On the 20th day of December A. D. 1880, Henry E. Shelley having made application before the District Court of Travis County Texas for a permanent license to practice as an attorney and counsellor at law, in the District and all inferior courts of the State of Texas, and having produced the certificate required by law that he is twenty one years of age, and that he has a good reputation for moral character and honorable deportment; and the court being satisfied upon examination in open court, and by the report of the committee appointed for that purpose of the legal qualifications of the applicant it was ordered by the court that his name be enrolled as an attorney of this Court and that a license issue to him accordingly,

Thereupon Court adjourned till tomorrow morning 9 oclock

December 22nd 1880.

Court met Pursuant to adjournment, The Hon James H. Burts Special Judge presiding. and there being no minutes to be recorded. Court adjourned till tomorrow morning 9 oclock,

December 23d 1880

Court met Pursuant to adjournment, The Hon. James H. Burts Special Judge presiding, and there being no minutes to be recorded of this date Court adjourned till tomorrow morning 9 oclock,

December 24th 1880.

Court met pursuant to adjournment, Present same as on the 24th day of November A. D. 1880. Whereupon the following proceedings were had: Mandate of the Hon Court of Appeal. Filed this 24th day of December 1880

No 3. The State of Texas. vs Mark Tiner et al. - The State of Texas. To the District Court of Travis County Greeting: Before our Court of Appeals on the 17th day of November A. D. 1880 the cause upon writ of Error to revise or reverse your judgment between Mark Tiner et al Plffs in Error, and the State of Texas Defdt in Error was determined: and therein our said Court of Appeals made its order in these words: No 1249. This cause coming on to be heard on the motion submitted by the Asst Atty Gen'l to dismiss the Appeal, and the same being duly considered of by the

December 24th 1880.

Court is sustained. because the bond misdescribes the judgment and because no brief was filed in the court below as required by law.. it is therefore ordered adjudged and decreed by the court that the appeal be dismissed and that Plff in Error and their surety W. M. Walton pay all costs in this behalf expended and this decision be certified below for observance. Wherefore, We command you to observe the order of our said Court of Appeals in this behalf, and in all things to have it duly recognized. obeyed and executed. Witness the Hon John. P. White Presiding Judge of our said Court of Appeals. with the seal thereof annexed at the city of Austin this 21st day of December A. D 1880. James. L. White Clerk. By A. F. Folwell. Deputy Clerk. (Seal)

The foregoing entries made on and since the 24th day of November A. D. 1880. having been read in open court. examined and found correct were this day approved by the Court. and further ordered that they stand as part of the minutes of the present term of this Court. December 24th 1880. 1.30 P. M.

Geo. W. Robertson
Judge 16th Judicial Dist of Texas.

Court adjourned till Monday the 27th inst 9 o'clock A. M.

Monday December 27th 1880.

Court met pursuant to adjournment; Present the Hon James. H. Burts presiding and there being no minutes to record of this date. Court adjourned till to morrow morning 9 o'clock.

December 28th 1880

Court met pursuant to adjournment; Present the Hon James. H. Burts Special Judge presiding. Whereupon the following proceedings were had viz:

5176. R. B. Hubbard Gov etc. vs A. J. Ward et al.- Commission of the Hon James. H. Burts. as Special Judge to try the above entitled case.

In the name and by the authority of the State of Texas. To all to whom these presents shall come. Greeting: Whereas, it has been made known to me, in the manner prescribed by law, that A. J. Walker Judge of the 16th Judicial District is disqualified from trying the following cause now pending in the District Court of Travis County in the State of Texas. Numbered and entitled as follows.. R. B. Hubbard Governor of Texas. vs Ward Dewey & Co.,

Now. therefore, I O. M. Roberts, Governor of Texas, having full confidence in the integrity and ability of James. H. Burts of Travis County, do. by virtue of the authority vested in me by the laws of this State, hereby appoint the said James. H. Burts he being a person learned in the law, Special Judge to try and determine the above specified cause; And I hereby give and

December 28th 1880

grant to him the said James H. Burts, all the rights, powers, privileges and emoluments appertaining to said Appointment, In testimony Whereof, I have to sign my name and caused the seal of State to be affixed, at the city of Austin the 27th day of December A D 1880. O. M. Roberts, Governor of Texas.

Seal By the Governor, John D. Templeton, Secretary of State

Thereupon Court adjourned till tomorrow morning 9 Oclock.

December 29, 1880

Court met on each of the above days pursuant to adjournment, and there being no Civil procedings to be recorded of these dates Court adjourned till tomorrow morning 9 Oclock.

December 31st 1880,

Court met pursuant to adjournment; Present the Hon James H. Burts Special Judge presiding, Whereupon the following procedings were had viz:

1516. R. B. Hubbard Gov &c. vs A. J. Ward, Edward C. Dewey, Nathan Patton, Geo. W. Patton, John. J. Hand, Benjamin. W. Walker, Thomas. W. Olson, Robert B. Templeman, John Summers, Patrick Fitzwilliam, John S. Sellers and William E. Parker.- On this 18th day of December 1880, came the plaintiff by attorney Hess Peeler & Maxey and A. T. McKinney and the defendants by attorneys Messrs. Hancock & West and E. J. Davis, and a jury was partially empannelled and the cause adjourned over to December 20th 1880: and on said last named day the panel of the jury consisting of S. O. Cloud and Eleven others good and lawful men was completed and were duly empannelled and sworn according to law, And afterwards to-wit on the 21st day of December A D 1880, came on to be heard plaintiffs exceptions to defendants 2nd amended answer, and said exceptions were overruled and plaintiff excepted, and at the same time came on to be heard the defendants exceptions to the plaintiffs third supplemental petition and the said exceptions were sustained, and to the ruling of the court sustaining the same plaintiff excepted, and upon the sustaining of said exceptions the Court granted leave to plaintiff to file a trial amendment, And afterwards to-wit: on the 22nd day of December A. D. 1880. plaintiff filed a trial amendment, and on the same day defendant filed by leave of the court their second supplemental answer, and upon the filing thereof and on the same day plaintiff filed a motion to strike out said supplemental answer, and upon the hearing the court overruled said motion to strike out, to which ruling plaintiff excepted, And on the same day to-wit: December 22nd A. D. 1880, came on to be heard defendants exceptions to plaintiffs trial amendment and upon hearing the court overruled defendants exceptions to second paragraph of said trial amendment and sustained defendants exceptions to which and each paragraphs of said trial amendment, to which ruling of the court sustaining said exceptions to said which and each paragraphs of plaintiffs trial amend-

December 31st 1880

mnt Plaintiff excepted, And on the same day to wit: December 22nd 1880 the Court on the Application of the defendants appointed E. P. Phillips Esq a competent person to take down the testimony in the case,, And the trial of said cause having been procured with from day to day excepting Sundays and excepting the 25th day of December A.D 1880. from its beginning to wit, from the 18th day of December A.D 1880 down to and including the 31st day of December A.D 1880, the said cause was on said last named day after the argument of counsel and under the charge of the Court submitted to the said Jury, who after having retired to consider of their verdict came into Court on said last named day and rendered the following verdict "We the Jury Find for the plaintiff and assess the damages against the defendants Ward, Dewey and Patton at Fifteen thousand dollars, We find for the other defendants the entries on the bond — Dec 31st 1880. D. O. Cloud Foreman"

It is therefore considered by the Court that the said plaintiff for the use of the State of Texas do have and recover of the defendants A. J. Ward, E. C. Dewey and Nathan Patton the sum of Fifteen thousand dollars with interest from the date of the rendition of this judgment at the rate of eight per centum per annum to gether with plaintiffs costs in this behalf expended and that plaintiff have execution therefor. It is further considered by the Court that the defendants

Geo W. Patton

John J. Hand, Benjamin W. Walker, Thomas W. Elson, Robert B. Templeman Patrick H. Fitzwilliams, John S. Sellers, John Summers, and William E. Parker go hence without day and that they be adjudged as released from all liability on the writing obligatory and cause of action sued on by plaintiff in this case,,

And on the 31st day of December 1880, the Motions for new trial, both of the defendants (Lessees) and the plaintiff coming on to be heard on said day last named, both of said Motions were by the Court overruled — And thereupon both the plaintiff and the defendants A. J. Ward, E. C. Dewey and Nathan Patton in open Court gave notice of appeal to the Supreme Court in terms of the law.

All of the foregoing entries on the minutes of this Court in case No 5176 of R. B. Hubbard Governor &c. vs Andrew J. Ward et al. entered at this term of Court having been read in open Court examined and found correct, now approved by the Court and ordered that they stand as a part of the minutes of this term of Court. January 1st 1881

Jas. H. Bunton
Special Judge

Court

January 1st A. D. 1881

Court met pursuant to adjournment, Present the Hon A. S. Walker Judge of the 16th Judicial District of Texas presiding. Whereupon the following proceedings were had Viz:

5303 Rachel C. Levy et al vs Geo. W. Stephens et al, And now on this day

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January 1st 1881.

come the parties plaintiffs and defendants by their respective counsel and representing to the court that by reason of mutual mistake the decree herein rendered on the 5th day of October 1880 is erroneous and pray the court that the same be set aside, it is accordingly ordered that the same be set aside. and all the parties aforesaid coming the court doth further order and decree after hearing the pleadings and evidence and admission of the several parties plaintiffs and defendants, said cause having been again submitted to the court, that the plaintiffs Rachel L. Levy, Lewis F. Levy and E. H. Lambard are as against said defendants the owners of and entitled to the possession of the following lands described in the original petition herein filed viz: 1st a tract of 1280. acres of land situated in the County of Lampasas and State of Texas described in the patent issued by the Republic of Texas to Albert M. Levy December 31st 1845 (being survey No 94) and being No 133. Vol 3. in the records of the Genl. Land office of the State of Texas. 2nd a tract of land containing 640 acres and lying in the county of Medina and State of Texas described in the patent issued to Albert M. Levy on the 3d day of March 1847, and numbered 24. in Vol 2 of the records of the Genl Land office of the State of Texas being survey No 449, and 3d all that part of the Headright survey of one league of land lying in the counties of Travis and Caldwell in the State of Texas patented to Albert M. Levy June 17th 1841 and being No 306 in Vol of the records of the Genl Land office of the State of Texas (being known as survey No 5) on the waters of Cedar creek except the following tract viz - 270 acres out of the A M. Levy headright survey last mentioned commencing at a point on the Southern line of said league on the old San Antonio road at a corner of 400 acres of land conveyed by A.M. Levy to G. W. Ward 17th Dec 1842 about 850 varas S 80 West from the East corner of said league - Thence N 45° W 850 varas with South West line of said 400 acres, Thence S 83 W. 2250 varas more or less to the S. W. line of said league, Thence with said line S. 45 E. 850 varas to the original South corner of said league, and thence with the San Antonia road according to the boundary of said league as given in the patent, to the place of beginning, and the court doth further order and decree that the deed from Rachel L. Levy and Abraham Levy to Geo W Stephens dated June 7th 1871 mentioned in plaintiffs original petition be set aside and annulled and that defendants Geo W. Stephens and Ramo Parker be forever divested of all right title interest and claim whatsoever in and to all and every part of said 1280 acre tract in Lampasas County and said 640 acre tract in Medina County and all parts of said A.M. Levy headright survey in Travis and Caldwell counties except said 270 acre tract last described, and that plaintiffs Rachel L Levy, Lewis F. Levy and E. H. Lombard be declared vested with full title to the same in fee simple as against said defendants

January 2d 1881

and that defendants Geo W Stephens and Parmis Parker be declared
vested with full title in fee simple to said 270 acre tract as last described
and plaintiffs Rachel M. Levy Lewis F. Levy and E. H. Leonard
be henceforth divested of all right title interest and claim to the said
270 acre tract and that each of said parties have possession of the
tracts decreed to them respectively as aforesaid, and that the plaintiff pay
all costs in this behalf expended except the costs of this. Which is taxed
to the defendant.

And thereupon no further business to be transacted this term of this court
and the foregoing entry having been read in open court examined and found
correct was approved by the court and ordered that the same stand as
a part of the minutes of the present term of this court; and further ordered
that this court do now stand adjourned till the next regular term
thereof January 1st 1886.

A. S. Walker
Judge 16th Judicial
Dist. Ct.

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