Renick, W.H. vs. Chloe, "a person of colour" S.D. (184?) Lafayette 97/17

1 State of Missouri } Pleas in the circuit court
County of Lafayette } begun and held at the courthouse in the town
of Lexington in the County and State aforesaid
on the second Monday of August in the year of
our Lord One thousand eight hundred and thirty
eight before the Honorable John H. Ryland
Judge of said court —

Be it remembered that heretofore to wit — on the
28th. day of July A.D. 1838 Chloe a person of colour
by her attorney filed in the office of the clerk of
the circuit court for the County aforesaid a
Petition with an order thereon endorsed which
said petition and order are in the words
Petition and figures following to wit
"To the Honorable John H. Ryland Judge of the
Lafayette circuit court —
Your Petitioner Chloe a
free person of colour would respectfully beg leave
to represent unto your Honor. that on the 5th. day
of August A.D. 1808 a certain Nicholas Wren then
a citizen of the County of Warren and State of
Kentucky made and executed his last will
and testament. that at the time of said Wren
making his last will and testament as aforesaid
and up to the time of his death which took place
in or about the year of our Lord Eighteen hundred
and ten. Your Petitioner Chloe was during all
that time the proper slave and servant during her
natural life of said Wren as of his own property. that
by the provisions of said last will and testament
Your Petitioner was bequeathed and set free in the
year 1820 if the said Wrens wife Elizabeth should
decease before that time and if said Elizabeth

Should survive that time 1820 then to be set free at said Elizabeths decease. Your Petitioner States that said Elizabeth Wren died and depar=ted this life before the year 1820 and that your Petitioner served her as a slave till her death Your Petitioner also States that she is the same identical person named Chloe in said Will and for greater certainty refers to a copy of said will marked A and prays the same may be taken as a part of this her Petition. Your Petitioner would further state that a certain William Renick of Lafayette County has for many years held your Petitioner in Slavery since the death of said Elizabeth Wren and still sets up claim to your petitioner contrary to her will or consent and when in fact and truth your Petitioner is and of right ought to be free Your Petitioner there=fore prays your Honor to permit her to sue as a poor person to establish her freedom. And your Petitioner in duty will ever pray &c—

Chloe a free person of Colour

Will

Copy of Will marked A

In the name of God Amen

I Nicholas Wren of the County of Warren & State of Kentucky Farmer being in perfect health of body and of perfect mind and memory and calling into mind the mortality of my body and knowing that it is appointed for all men once to dye do make and ordain this my last Will and testament that is to say principally and first of all I give and recommend my soul into the hands of Almighty God who gave it and my body to the earth to be buried in a decent christian like burial at the

discretion of my executors. And as touching such worldly estate wherewith it hath pleased God to bless me with in this life. I give devise and dispose of the same in the following manner and form. First I give and bequeath to Elizabeth my dearly beloved wife all and singular my lands messuages & tenements together with Chloe a negro girl & so much of my stock and houshold goods as she shall choose by her freely to be possessed & enjoyed during her natural life and the residue of my estate to be sold and applied towards the support of Elizabeth my wife by my beloved sons, John & Isaac Wren whom I likewise constitute make and ordain executors of this my last will & testament

It is my will that in case Elizabeth my wife should decease before the year one thousand eight hundred and twenty, that Chloe the Negro girl should be set free at the date 1820. And it is my Will that she serve out her time with one of my executors (viz) my son Isaac Wren. in case I should decease before that time. And if the Sd. negro girl Chloe should have any increase previous to the said year Eighteen hundred and twenty. it is my Will that my Sd. Son Isaac Wren should raise the children until the arrive to the age of twenty one years. and then set them free also. and in case my wife Elizabeth should survive longer than the above named year 1820. It is my Will that the said negro girl Chloe serve till her decease and then be set free. and her increase serve my son Isaac Wren as above until the arrive to years of twenty one and then be set free also. And it is further my will that at the decease of my wife that my Executors raise out of my estate the sum of Eighteen pounds of good and lawful money of Kentucky

with interest from the year 1782 each executor keeping his proportion of the same in his hands for the purpose of discharging a foreign debt if it ever should be brought against the estate, and then to make an equal distribution of all my lands goods & chattels among all my children that may be living at my wifes death. And I hereby utterly disallow revoke and disannul all and every other former Testaments Wills legacies bequeaths & executors by me in anywise before named willed and bequeathed. ratifying and confirming this and no other to be my last will and testament— In witness whereof I have hereunto set my hand and affixed my seal this 5th day of August One thousand eight hundred and eight— Nicholas Wren (L.S.)

Signed sealed published and pronounced and declared by the Sd. Nicholas Wren as his last will and testament in the presence of us who in his presence and that of one another have hereto subscribed our names

Samuel Whitesides
John Whitsides
Jas. David Barke

Order State of Missouri } In Vacation July 24th
County of Johnson } ss 1838
Septh Judicial circuit }

To all whom it may concern Know ye. That I John H. Ryland Judge of the circuit court within and for the County of Lafayette in the circuit and State aforesaid do order

5 and allow the Petitioner Chloe to sue as a poor person in order to establish her right to freedom which for the purpose I also assign to her a Counsel for the purpose aforesaid Eldridge Burden Esqr. of Lafayette County the action to be brought in Lafayette Circuit Court— And in the second place. I do further order and command the Sheriff of Lafayette County to bring up the body of said Chloe the petitioner before me at my dwelling house in Lafayette County aforesaid on Tuesday next the 31st day of July instant. being induced to make this order in consequence of an affidavit of William Houp made before me to day and marked (A) which is to be filed with this petition in said Lafayette circuit court this 24th July A.D. 1838—

John F Ryland
Judge 6th Jud. Cir.

affidavit The Affidavit above refered to marked (A) is in the words and figures following to wit:—

"This affiant William Houp states upon oath that he verily believes that Chloe a free person of colour and her children Dick. Lewis Silas. Jack Emmy alias Cobbett Alias Emmy Cohett. Marion and one whose name is supposed to be Josse. who this day present their respective petitions to the Honorable John F Ryland Judge of the Lafayette circuit court to grant them leave to sue as poor persons to establish their freedom will be removed out of the jurisdiction of the Lafayette circuit court unless restrained by the court under heavy penalty. that a certain William Renick residing in the County of

Lafayette who sets up claim to said free persons of colour formerly lived in the ~~in the~~ adjoining County of Nicholas Wren in Kentucky about the time said Wren died in Warren County who then and there died and his will was duly recorded setting Chloe free in said Will, and that said Chloe was at the time of the death of said Wren his property and said Will was duly recorded in the clerks office of said Warren County court before said Renick moved to this country reference to a copy of said Will will show the time the same was recorded that on Yesterday morning said free persons of colour came to this affiants house in Lexington. That Strother Renick the son of said William Renick who transacts the business of said William and superintends. said negroes for his father arrived at this affiants house on Yesterday and attempted to get said free persons of colour out of the house and take them off. This affiant told said Strother they claimed their freedom and this affiant had the documents that set forth their freedom but Strother Renick appeared to pay no regards to it but still insisted and swore he would have them. this affiant told said Strother who had come to this affiants house with some eight or ten men for the purpose of taking the said free persons of colour, that they were afraid that he would not let them remain in the country and have a fair trial and if he said Renick would give bonds for their forth-coming at court, that he should have them that all they wanted was a fair trial and said Strother utterly refused to agree to any such proposition. And this affiant then told said

Strother Renick that if he would let them remain in this affiants possession that he would give goods and sufficient security for their forthcoming to court. that this affiant believed them to be free: and all he wanted was a fair trial but said Strother Renick also refused this proposition and still said that he would have them this affiant further states that he met said Strother Renick and his company on the road before they got to this affiants house and informed said Strother Renick of the claim said free persons of colour set up to their freedom and also that they wanted nothing but a fair trial, said Strother Renick appeared to be in a great rage and threatened that he would have them. this affiant verily believes from the above facts that said free persons of colour will be subjected to severity on account of their application for freedom and his opinion is further based upon these facts. that when said conversation took place before said Strother Renick got to this affiants house said Renick said that he would have said free persons of colour if he had to take them by violence. and this affiant was informed by Alpha W. Herring that said Strother Renick when he came to this affiants house for said free persons of colour swore if they did not come out of the house he would cut their throats

Wm H Hoop

Sworn to and subscribed before me on this the 24th July 1838 by Wm H Hoop—

John F Ryland
Judge 6th Jud. Cirt

and afterwards on the 30th day of said month of July 1838 the following warrant was filed in my office with the Sheriffs return thereon endorsed which said warrant and return is in the words and figures following to wit—

Warrant "The State of Missouri

To the Sheriff of Lafayette County in the State aforesaid — Greeting — Whereas I have ordered and allowed that Chloe a free person of colour as is said Dick a free person of colour as is said Lewis a free person of colour as is said Silas a free person of colour as is said Jack a free person of colour as is said Emmy alias Cobbett alias Emmy Cobbett a free person of colour as is said Marion a free person of colour as is said a free person of colour as is said whose name is supposed to be Jesse the last persons all said to be children of the first named Chloe who have filed their petitions for that purpose be permitted to sue as poor persons for their freedom in Lafayette circuit Court in the State aforesaid and Whereas William Hoy has this day made his affidavit before me the Judge of Lafayette circuit court as aforesaid by the facts stated in which I have become satisfied that by reason of the above petitions & suits the above persons may be restrained in the reasonable liberty of attending the Counsel whom I above assigned them and that they will be subjected to severity of treatment from the said Wm Renick and his agents and sons on account of their applications for freedom. and also that they are about to be removed out of the Jurisdiction of Lafayette circuit Court — These are therefore to Commands you to bring the said persons

9 of colour in this writ above named before me the Judge of Lafayette Circuit Court at my dwelling house the County of Lafayette aforesaid on Tuesday next the 31st. instant between the hours of two and six of the clock in the evening of that day then and there to be disposed of under the further order of said Judge and hereof fail not—

Given under my hand and private seal this 24th. day of July 1838 as Judge of Lafayette circuit court aforesaid— John F. Ryland [Seal]

Shffs Return

Sheriffs return

"State of Missouri — County of Lafayette

This is to certify. that I executed the within writ by taking into my custody the following named persons of colour namely Chas. Jack. Lewis Dick. Ben. Silas. Cobbett. and Marian in Lafayette County aforesaid. they were shewed to me to be the persons mentioned in the writ by William Kemp. after my taking them into custody they were claimed by Strother Renick and. afterwards at the request of said Renick and by the consent of E. Burden who was the Counsel for said persons I brought them before the Judge of Lafayette circuit Court on Saturday evening 28th. instant in Lexington in said County and they were ordered to be delivered over by said Judge to said Strother Renick and to William Renick Senr. they having given recognizances as the law directs the persons above named were taken into my custody on Friday about eleven of the clock in the morning. the 27th instant — Sheriffs fees $8.00

Danl. McDowell Sheriff

By Wiley Pool D. S. Sheriff —

and on the ~~said~~ 30th day of July 1838 a recogni-
zance was filed in my office taken of the defen-
dants in the above cause which is in the words
and figures following to wit—

Recognizance "Whereas Chloe a person of colour has petitioned
the Judge of the Lafayette Circuit Court in the State
of Missouri for leave to sue as a poor person in order
to establish her right to freedom. and Whereas the
said Judge has made his order on said petition
granting the leave to sue as a poor person and has
assigned to said petitioner Eldridge Burden Esqr
as Counsel— And Whereas in obedience to a writ
directed to the Sheriff of Lafayette County aforesaid
the said petitioner Chloe has this day been brought
before the Judge of said Circuit Court and the
persons who claim said Petitioner Chloe also
being present the Judge doth direct that the
claimants of said Chloe shall enter into recog
-nizance to the said State of Missouri with
sufficient security conditioned as the law directs
the writ above mentioned requires the Sheriff
to have the petitioner with seven others her children
before the Judge on tuesday evening next at
his dwelling house in Lafayette County aforesaid
But by consent of the party who claims the property
in said Chloe as well as the said Chloes counsel
the writ is returned on this day, Now therefore
we William Renick and Strother Renick
as claimants to said Chloe now offer Edwin M.
Ryland, William H. Russell and Fountain
Devisay as securities which the Judge approves
— And thereupon we the said William
Renick and Strother Renick as principals
and Edwin M. Ryland, William H. Russell

11 and Fountain Lewisay as securities ac-
knowledge ourselves to owe and stand indebted
to the State of Missouri in the just and full sum
of Eight hundred dollars to be levied our lands
and tenements goods and chattels to the use
of the said State to be rendered but to be
void on this express condition that the
petitioner Chloe shall during the pendency
of the suit for her freedom in Lafayette Circuit
Court against said Renicks have reasonable
liberty of attending her Counsel and the court
that she shall not be removed out of the
jurisdiction of Lafayette Circuit Court afore-
said where the suit is pending and that she
shall not be subjected to any severity on account
of her application for freedom - This twenty eighth
day of July in the year of our Lord One thousand
eight hundred and thirty eight

Wm Renick (Seal)
Strother Renick (Seal)
E.M. Ryland (Seal)
Wm H. Russell (Seal)
F. Lewisay (Seal)

State of Missouri
Lafayette County Set
Taken subscribed and
acknowledged before me
the Judge of Lafayette circuit
court this 28th day of July
in the year 1838

John H. Ryland Judge

And on the said 28th day of July in the year
of our Lord Eighteen hundred and thirty
eight Chloe a free person of colour by her
attorney Eldridge Burden Esq. filed her
Declaration in the office of the clerk of the

12 circuit court within and for the County of Lafayette in the State of Missouri against William Renick and Strother Renick of a plea of Trespass which Declaration is in the words and figures

Decltn. following to wit:— "In the Lafayette circuit court of August Term 1838. Lafayette County to wit— Chloe a person of colour by leave first had and obtained from the Judge of the Lafayette circuit court in vacation to sue as a poor person complains of William Renick seignior and Strother Renick being in Custody &c of a plea of Trespass For that the said William Renick and Strother Renick on the first day of July in the year of our Lord Eighteen hundred and thirty eight with force and arms to wit with sticks fists and cow hides made an Assault upon the said Chloe, to wit:— at the County of Lafayette aforesaid and then and there seized and laid hold of said Chloe and with great force and violence pulled and draged about her the said Chloe and then and there gave and struck the said Chloe a great many violent blows and Strokes. and also then and there forced and compelled the said Chloe to go from and, out of certain dwelling house situated and being at the County of Lafayette aforesaid into the public road there and then. and there forced and compelled her to go in and along divers public roads to certain other houses situated and being at the County of Lafayette aforesaid. and then and there imprisoned the said Chloe and kept and detained her in prison there without any reasonable or prabable cause whatsoever for a long space of time to wit for the space of two weeks then next following and the said plaintiff

13 Chloe in fact avers that before and at the time of committing of the grievances aforesaid the said Chloe was and still is a free person, and that the defendants held and still holds her in slavery contrary to the laws of the lands and against the will of the said Chloe, whereby the the said Chloe was then and there not only greatly hurt bruised and wounded but was also thereby then and there greatly exposed and injured in her credit and circumstances to wit- at the County of Lafayette aforesaid- And also for that the said William Renick and Strother Renick on the first day of July in the year of our Lord Eighteen hundred and thirty eight aforesaid with force and arms with fists. sticks &c made another assault upon upon the said Chloe to wit at the County of Lafayette aforesaid and then and there beat bruised and ill treated her the said Chloe and then and there imprisoned her the said Chloe and kept and detained her in prison there, without any reasonable or probable cause whatsoever for a long time to wit for the space of ten hours then next following and the said plaintiff Chloe in fact avers that before and at the time of the committing of the grievances aforesaid she was and still is a free person and that the defendants held and still holds her in slavery contrary to the laws of the lands and against the will of the said Chloe and other wrongs to the said Chloe then and there did against the peace and dignity of the State and to the damage of the said Chloe of One thousand dollars- and therefore she brings her suit &c- Burden Counsel for plaintiff

And afterwards to wit on the day of the filing of said Declaration our said clerk endorsed thereon a writ and also on said writ a copy of the order made by the Judge of Lafayette circuit court on the petition for freedom which said writ and order are in the words and figures following to wit—

Writ "The State of Missouri

To the Sheriff of Lafayette County

Greeting— You are hereby commanded that you summon William Renick Sr & Strother Renick if they be found in your County, that they be and appear before the Judge of our Lafayette circuit court at the Courthouse in the town of Lexington in said County of Lafayette on the first day of our next August term thereof then and there to answer unto the complaint of Chloe a free person of colour in an action of Trespass for false imprisonment as set forth in the foregoing declaration to the damage of the said Chloe in the sum of One thousand dollars and have you then there this writ And that you certify how you execute the same

(S.) Witness William Spratt clerk of our said court with his official seal hereto affixed at office in Lexington this 28th day of July 1838

Wm Spratt clerk

Order "State of Missouri }
County of Lafayette } ss In Vacation July
Sixth Judicial circuit } 24th 1838

To all whom it may concern know ye that I John H. Ryland Judge of the circuit court within and for the County of Lafayette in the circuit and State aforesaid do order and allow the Petitioner Chloe to sue as a poor person in order to establish her right to freedom for which purpose I also assign

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to her as counsel for the purpose aforesaid Eldridge Burden Esqr. of Lafayette County the action to be brought in Lafayette circuit court— and in the second place I do further order and command the Sheriff of Lafayette County to bring upp the body of said Chloe the petitioner before me at my dwelling house in Lafayette County aforesaid on tuesday next the 31st. day of July instant being induced to make this order in consequence of an affidavit of William Hons made before me to day and marked (A) which is to be filed with this Petition in said Lafayette circuit court This 24th. July A.D. 1838— John F. Ryland Judge 6th. Jud. Cirt

The above is a true and perfect copy of the original order endorsed on the petition filed in this cause by the Judge of our Lafayette circuit court

Wm. Spratt Clerk

Shffs Return. And afterwards to wit on the said second monday of August A.D. 1838 our said Sheriff Daniel McGowell Esqr. Sheriff of Lafayette County returned said declaration & writ with his return thereon endorsed as follows to wit— "This to certify that I saw William Renick Sr. and Strother Renick in Lafayette County on the 28th. day of July 1838 and after telling them that I had the within declaration & writ and order of the Judge of the Lafayette circuit court to read to them they refused to hear the same read and left me immediately which amounts to a a service of the same by the Statute of the State of Missouri— Sheriffs fee for the same $2.00

Danl McGowell Sheriff of Lafayette County

at which said August Term of said Lafayette circuit Court A. D. 1838 and on the 3rd day thereof the following proceedings were had to wit "Chloe a person of Colour ——— Plaintiff

vs } Trespass

William & Strother Renick — Defendants

Now at this day come the parties aforesaid by their attornies and the Defendants file their plea of not guilty and two special pleas in bar which said pleas are in the words and figures following to wit—

Pleas "William & Strother Renick }
ats }
Chloe a person of Colour }

1st And the said defendants come and defend the force and injury when &c and say that the said plaintiff her aforesaid action ought not to have or maintain against them said defendants because they say that at the time mentioned in said declaration to wit on the first day of July 1838 the said Chloe the said plaintiff was and ever since has been and now is a slave for life and the property of the said William Renick and this they said defendants are ready to verify Wherefore they pray Judgement if the said plaintiff ought to have or maintain the aforesaid action thereof against them said defendants

Douglass Wood & Burch Atys for Defds—

2nd And for a further plea in this behalf the said defendants say that the said plaintiff her aforesaid action ought not to have or maintain against them said defendants because they say that the said Chloe the said plaintiff at the time in said declaration mentioned to wit on the first day of July 1838 to wit at Lafayette County aforesaid

17 was and ever since has been and now is the property of the said William Renick and this they said defendants are ready to verify, wherefore they pray Judgment if the said plaintiff ought to have or maintain her aforesaid action thereof against them said defendants

Doniphon Wood & Burch Attys for Defts

And the said defendants for a further plea in this behalf come and defend the force and injury when &c and say that they are not guilty of the said supposed trespasses or any or either of them above laid to their charge in manner and form as the as the said Plaintiff hath above thereof complained against them and of this they put themselves upon the Country

Doniphon Wood & Burch attys for Defts

And afterwards to wit on the 4th day of said August Term 1838 (and 16th day of said month the following proceedings were had in court to wit—

Entry Chloe a person of Colour
Vs
William & Strother Renick

Issue Now at this day come parties aforesaid by their attornies And the plaintiff joins issue to the defendants plea of not guilty and also files her Special demurrer to the said defendants two special pleas in bar. and defendants join in Demurrer Whereupon all and singular the premises being seen and by the court here fully understood and mature deliberation being thereupon had it appears to the court here that said Special pleas of said defendants by them above pleaded in bar of said

plaintiffs action and the matters therein contained are not sufficient in law to bar said plaintiff from having or maintaining her aforesaid action against said defendants"

Which said Demurrer and issue are in the words & figures following to wit—

Chloe

vs

Demurrer William Renick and Strother Renick

Issue In the Lafayette circuit court of August Term 1838

And the said Chloe as to the first and seconds pleas of the said defendants by them above pleaded saith that the same and the matters and things therein contained in manner and form as the same are above pleaded and set forth are not sufficient in law to bar or preclude her the said Chloe from having or maintaining her aforesaid action thereof against them the said defendants And she the said Chloe is not bound by law to answer the same and this she the said Chloe is ready to verify. Wherefore for want of sufficient pleas in this behalf she the said Chloe prays judgment and her damages by her sustained on occasion of the committing of the said trespasses to be adjudged her and also her liberation— And for special cause of demurrer shews that the said pleas amount to the general issue. And also said pleas do not confess the facts they attempt to justify and is otherwise uncertain. informal and void

Burden & Young Attys. for Plaintiff

And the said plaintiff as to the plea of the said defendants by them thirdly above pleaded and whereof they have put themselves upon the country. doth the like

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Burden & Young attos. for pltff

Dec. Term 1838

And afterwards to wit on the 3rd day of the December term 1838 of our said court (being the 12th day of said month) an entry was made on the records of said court which is in the words and figures following to wit

Order

Chloe a person of colour Plaintiff
vs
William & Strother Renick Defendants
Trespass

Now at this day come the parties aforesaid by their attornies and upon motion of the plaintiff this cause is continued until the next term of this court. The costs of this continuance not to be taxed against the defendants - And it appearing by the records of this court that said Chloe, Lewis, Dick Silas, Ben, Jack, Mason, and Cobbett persons of colour have commenced separate suits against said defendants to establish their freedom and by agreement between the attornies of record for said plaintiffs and defendants - It is Ordered that the depositions taken by the parties in the cause of the said Chloe against said defendants may be read and used as evidence at the trial of each of the above mentioned suits so far as the same is applicable and that the notice and taking of depositions in the case of the said Chloe against said defendants shall be deemed a sufficient notice and taking in all the above mentioned causes,

And afterwards to wit at a term of said court continued and held at the Courthouse in the town of Lexington on the third day of

of the April term of said court being the 3rd day
Entry of said month A.D. 1839" come the parties aforesaid
by their attornies. And the defendants file their
motion to suppress the depositions taken by the
plaintiff in this cause, which said motion is sustain
ed by the court as to the Depositions taken in
the State of Kentucky. and overruled as to those
taken in the State of Illinois. And upon motion
of the plaintiff this cause is continued until
the next term of this court."

Which said motion to suppress depositions is
in the words and figures following to wit —
"Renicks
Motion Ats
to suppress Chloe a person of Colour &c
Depositions The said defendants by their attorney excepts to
the depositions of Nicholas Wren filed in this
cause on the 11th day of March 1839 and the
Depositions of Joseph Neville and others filed on
the 6th day of March 1839 and prays the court
to suppress the same and shows for cause
That said Depositions, nor any of them were
taken in pursuance of notice as required by law
and said notice did not give sufficient time as
required by law. That said depositions are
not authenticated as required by law. nor was
the official character of the officers taking said
depositions certified & attested as required by law
Doniphon & Wood Dfdt —

And afterwards to wit on the 7th day
of August 1839 at a court continued and
held at the courthouse in the town of Lexington

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for the County of Lafayette the following proceedings were had to wit

"Chloe a person of colour ——— Plaintiff

Entry vs Trespass

Wm & Strother Renick ——— Defendants

Now at this day come the parties aforesaid by their attonies. and said plaintiff files her affidavit and moves the court for a continuane of this cause. which said motion is sustained and cause stands continued until the next term of this court"

Which said affidavit is in the words and figures following to wit —

"The Defendant comes and moves the court for a continuance of this cause and makes oath and states that she cannot go safely to trial without the testimony of Neoma Harlow and Ruth Renick who are material witnesses for this affiant on the trial of the above cause. this affiant does not know any other person by whom she can prove the same facts she expects to prove by said witnesses. This affiant caused a subpoena to be issued by the clerk of this court for said witnesses on the 8th day of July 1839 and placed it in the hands of the Sheriff of Lafayette County. in which County said witnesses live And that said subpoena was served on said witne[illegible] the 10th day of July 1839. This affiant expects to be able to procure the attendance of said witnesses at the next term of this court.

This affiant does not make application for continuance of this cause for the purpose of vexation or delay. but because she cannot go safely to trial without the testimony of the above witnesses and that said witnesses are not absent by the consent procurement or collusion of this affiant

Chloe +

The within affidavit was subscribed and sworn to in open court by the within named Chloe a person of colour August 7th 1839 —

Wm Sprat Clerk

And afterwards to wit— at a term of said court continued and at the Courthouse in the town of Lexington on the 9th day of October 1839 being the third day of said term an entry was made on the records of said court which is in the words and figures following to wit

"Chloe a person of colour ——— Plaintiff

vs

William & Strother Renick ——— Defendants

Now at this day come the parties aforesaid by their attornies and by consent of parties this cause is continued until the next term of this court"

And afterwards to wit— at said next term of said court held on the 8th day of April 1840 at the Courthouse in the town of Lexington an entry was made on the records of said court in the words and figures following to wit—

"Chloe a person of colour ——— plaintiff

vs

Trespass

William & Strother Renick ——— Defendants

Now at this day come the parties aforesaid by their attornies and the defendants by their attorney moves the court & files affidavit for a continuance of this cause which said motion is sustained, and cause continued until the next term of this court at the costs of the defendants,

which said affidavit is in the words & figures following to wit ——

"Chloe } Lafayette circuit court
against }
William Renick & Strother Renick

The affidavit of Strother Renick one of the said defendants on application for a continuance. This affiant states that Robert Renick is a material witness for defendants on the trial of this cause and that he knows of no other person or persons by whom he can prove the same facts he expects to prove by said Renick. affiant further states that said Robert Renick is a citizen of the County of Lafayette that some six weeks or two months since affiant caused a subpoena to be served on said Renick by the Sheriff of Lafayette County to appear and give evidence in this cause at the present term of this court and had every reason to believe and did believe said Renick would have been in attendance but that said Renick is now absent from this county and as affiant is informed and believes is temporarily at Louisville or St Louis on business— that he expects said Renicks return in a few days at most in a few weeks and has no doubt he will be enabled to procure the attendance and evidence of said witness at the next term of this court, that he has used all proper and diligence to procure the attendance of said witness and did not know of his intention to leave the County not to return by this term that he is not absent by the consent or connivance of affiant And that the application is not made for vexation or delay but because the defendants cannot safely go to trial without the evidence of said witness,— Strother Renick

Sworn to and subscribed in open court this 8th day of April 1840

William Sprat clerk

"And on the day aforesaid an order was made by said court in the words following to wit

"Ordered by the court that William & Strother Renick produce Chloe, Lewis, Dick, Silas, Jack Ben, Marion and Cobbett the plaintiffs in their several actions against William & Strother Renick in this court for freedom at the courthouse in the town of Lexington on the first day of the next term of this court, and that they permit said plaintiffs to remain until otherwise ordered by this court"

And afterwards to wit at the August Term of said court 1840 and on the fourth day of said term being the sixth day of said month the following entries were made on the records in the words following to wit

"Chloe a person of colour ... Pltff

Vs

William & Strother Renick ... Defts

Now at this day come the parties aforesaid by their attornies and by agreement this cause stands continued until the next term of this court at the costs of the defendants"

"Ordered that William & Strother Renick the defendants in the above causes of Chloe and her children in their several actions against said Renicks be required to produce the said plaintiffs at the courthouse in the town of Lexington on the first day of the next October

term of this court ——

And afterwards to wit on the 8th day of October 1840 and on the fourth day of said October term the following proceedings were had to wit "Chloe a person of colour

vs

William Renick &
Strother Renick

Trespass

Now at this day come the parties aforesaid by their respective attornies and the following Jury come to wit: David Henton Jesse Hill. Sinclair Miller. James Atherberry (4) Jesse Cole, Arthur G. Going, David K. Palmer Joseph Greer (8) Willis Gaulden, Asa Atherberry John Wilson and Ebenezer W Pomeroy (12) twelve good and lawful men who were sworn to well and truly try the issue joined between the parties aforesaid. The plaintiff by her attorney moved the court to instruct the Jury, and instructions No 1, 2 & 3 were given by the court, to the giving of which the defendants objected. Then the defendants moved the court to give instructions No 1, 2, 3, 4, 5, 6, 7, 8, 9 10 & 11 to the Jury No 2 & 11 were given and each and all the others refused. The court then gave instructions No 1, 2 & 3 to all of which the defendants except and Sign their Bill of exceptions No 1 and prays the same may be signed sealed and made a part of the records which is done accordingly, and the Jury is permitted to disperse under charge of the court to meet tomorrow morning at 9 Oclock

And afterwards to wit on the 5th day of said October term 1840 being the 9th day of said month — "Come the parties aforesaid by their respective attornies. And also the Jury sworn on yesterday to try the issue between the parties aforesaid to wit: David Kenton Jesse Hill Sinclair Miller. James Atterberry, Jesse Cole Arthur G. Young, David K. Palmer. Joseph Greer Willis Gaulding. Asa Atterberry. John Wilson and Ebenezer W. Pomeroy who upon their oaths aforesaid do say "we the Jury find the defendants William Renick and Strother Renick guilty in manner and form as the said plaintiff hath complained against them and we find that the plaintiff Chloe was at the time of committing the said grievances in the declaration mentioned and still is a free person" and the Court suspends judgment until tomorrow morning" —

And afterwards to wit — on the 6th day of said October term 1840 being the 10th day of said month "Come the parties aforesaid by their attornies to hear the Judgment of the Court on the verdict rendered by the Jury on yesterday in this cause and the defendants by their attorney file their motion in writing to set aside the verdict of the Jury and grant them a new trial herein. whereupon the Court being sufficiently advised of and concerning the law arising on said motion considers that the law is for the plaintiff and overrules said motion and refuses to set aside said verdict and grant a new trial. And thereupon the defendants by their attorney tendered their bill of exceptions

which is signed and allowed and made a part of the record. It is therefore considered by the court that the said plaintiff Chloe recover her freedom and liberation of and against the said William Renick Sr and Strother Renick the defendants aforesaid, and that she be free and discharged of and from the service of the said defendants and all persons else claiming under said defendants by title derived ~~derived~~ after the commencement of this suit and that said plaintiff recover against said defendants her costs and charges about her suit in this behalf laid out and expended."

which said Bill of Exceptions No 1 is in the words and figures following to wit—

"Chloe

vs

Wm. Renick & Strother Renick

Be it remembered that upon the trial of this cause the plaintiff to sustain the issue joined on her part in this cause offered in evidence the following papers marked B & C "In the name
No. B of God Amen — I Nicholas Wren of the County of Warren & State of Kentucky (farmer) being in perfect health of body and of perfect mind and memory and calling into mind the mortality of my body and knowing that it is appointed for all men once to die do make and ordain this my last Will and testament that is to say principally and first of all I give and recommend my soul into the hands of Almighty God who gave it and my body to the earth to be buried in a decent Christian like burial at the discretion of my executors and as touching such worldly estate wherewith it hath pleased God to bless me

with in this life. I give devise and dispose of the same in the following manner and form first, I give and bequeath to Elizabeth my dearly beloved wife all and singular my lands messuages & tenements together with Chloe a negro girl & so much of my stock and household goods as she shall choose by her freely to be possessed & enjoyed during her natural life and the residue of my estate to be sold and applied towards the support of Elizabeth my wife by my beloved sons John and Isaac Wren whom I likewise constitute make and ordain executors of this my last will & Testament

It is my Will that in case Elizabeth my wife should decease before the year One thousand eight hundred and twenty. that Chloe the negro girl should be set free at the date 1820 - and it is my Will that she serve out her time with one of my executors (Viz) my son Isaac Wren. in case I should decease before that time, and if the Sd. negro girl Chloe should have any increase previous to the said year Eighteen hundred and twenty. it is my Will that my Sd. son Isaac Wren should raise the children until the arrive to the age of twenty one years and then set them free also, and in case my wife Elizabeth should survive longer than the above named year 1820 It is my Will that the said negro girl Chloe serve till her decease and then be set free and her increase serve my son Isaac Wren as above until they arrive to years of twenty one and then be set free also; and it is further my will that at the decease of my wife that my Executors raise out of my estate the sum of Eighteen pounds of good and lawful money of Kentucky with interest from the year 1782 each executor keeping his proportion of the same in his hands for the purpose of discharging

a foreign debt if it ever should be brought against the estate and then to make an equal distribution of all my lands goods & chattels among all my children that may be living at my wifes death. and I do hereby utterly disallow. revoke. and disannul all and every other former Testaments Wills legacies. bequeaths & executors by me in anywise before named willed and bequeathed, ratifying and confirming this and no other to be my last will and testament.

In witness whereof I have hereunto set my hand and affixed my seal this 5th day of August One thousand eight hundred and eight.

Signed sealed published and pronounced and declared by the Sd. Nicholas Wren as his last will and Testament in the presence of us who in his presence and that of one another have hereto subscribed our names

Nicholas Wren (SS)

Samuel Whitesides
John Whitesides
Jet— David Barbe

Warren County Sct, January County court 1810

This last will and Testament of Nicholas Wren deceased was proven by the oath of John Whitesides and David Barbe two subscribing witnesses thereto and ordered to be recorded—

Attest Jon.n Hobson C.W.C.C.

State of Kentucky }
Warren County } Sct I Jonathan Hobson clerk of the County court of Warren County in the State of Kentucky and Keeper of the records thereof do hereby certify that the above and foregoing contains a full

and perfect transcript of the record of the original last will and testament of Nicholas Wren deceased and also a full and perfect transcript of the record of the original certificate of the probate thereof as the same remain in my office — In testimony whereof I have hereunto subscribed my name and affixed the seal of said court this 14th day of September 1839 — Jonn Hobson

State of Kentucky }
Warren County } S.A. I Robert W. Lucas presiding justice of the County court of Warren County in the State of Kentucky in which said County the office of the clerk of the County court of Warren County is kept do hereby certify the foregoing attestation of Jonathan Hobson clerk of said court is in due form and by the proper officer — Given under my hand this 14th day of September 1839 —

Robert W. Lucas Presiding Justice

State of Kentucky }
Warren County } S.A. I Jonathan Hobson clerk of the County court of Warren County in the State of Kentucky do hereby certify that Robert W. Lucas whose name is subscribed to the foregoing certificate was at the time of subscribing the same presiding justice of the County court of Warren County in the State of Kentucky duly commissioned and qualified

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office this 14th day of September 1839

Jonn Hobson

No. C The State of Missouri

To any Judge Justice of the Peace or other Judicial officer of the County of Warren

in the State of Kentucky — Greeting — We reposing special confidence in your fidelity and circumspection in taking the depositions of witnesses on the part of the plaintiff to be read as evidence in a certain suit in our Lafayette circuit court in the State of Missouri now pending wherein Ishlad a person of colour is plaintiff and William Renick & Strother Renick are defendants — We therefore authorise you to cause to come before you such person or persons as shall be named to you by the said plaintiff and we also command you to examine such person or persons touching the matter in controversy and to reduce such examination to writing and return the same annexed to this commission to our said court with all convenient speed

Witness William Spratt clerk of our said court with his official seal hereto affixed at office in Lexington this 1st day of June 1840 —

William Spratt clerk

Endorsement — The execution of this commission appears by a schedule hereto annexed — Given at the office of the clerk of the County court for Warren County Kentucky this 1st day of July 1840 —

P. Donalson J. P.

Deposition of Witness produced sworn and examined on the first day of July 1840 between the hours of eight of the clock in the forenoon and six of the clock of said day at the office of the clerk of the County court of Warren County in the State of Kentucky before me Presley Donalson a Justice of the peace within and for the County aforesaid in a certain cause now pending in the circuit court of the County of

Lafayette in the State of Missouri between Chloe a person of colour plaintiff and Strother Renick and William Renick defendants on the part of the plaintiff —

Jonathan Hobson of lawful age being produced ~~and~~ sworn and examined on the part of the plaintiff deposeth and saith that he is now the Clerk of the Warren County court in the State of Kentucky, and has charge by virtue of his office the original Will of Nicholas Wren dec'd as also the record of said will & probate thereof that he has compared the annexed paper attested (as a copy) by him and marked in the margin at the bottom of the last page (A) with the original now on file in his office and also with the record of said Will also in this office and finds that said paper or writing thus marked is a true copy of the said will & record thereof — that this witness examined and compared said will with the copy "word for word" and found the copy correct and for better description of the copy the words "girl" should named then disallow & other are each interlineations —

This witness then compared in the same manner the writing on the third page of said paper marked A with the record of the probate of said Will now in his office & found it to be a correct copy & so certified and marked with the letter B in the margin

The witness again States that the said writings, that is the copy of the will and probate thereof are full true and perfect copies of said Will & of the original Record of the probate of the last will & testament of Nicholas Wren deceased copied from the records of the County court of Warren County in the State of Kentucky deposited and remaining in the

33 office of the clerk of said court the will as recorded in Book A page 191 and the records of the probate of said will in the minute or records of said court commencing with the January term 1810 ——

Jon.n Hobson

Sworn & subscribed to before me and in my presence on the day at the place and within the hours in this behalf aforesaid —— P. Donalson J P

Justices fee $1.00
witness claim 50 paid
1.50

I Presley Donalson a Justice of the peace within and for the County of Warren in the State of Kentucky do hereby certify that Jonathan Hobson the deponent resides in the County of Warren in the State of Kentucky that he was sworn to testify the whole truth of his knowledge touching the matter in controversy aforesaid that he was examined and his examination reduced to writing and by him subscri=
=bed in my presence on the day between the hours and at the place in this behalf aforesaid ——

P Donaldson J P

State of Kentucky
Warren County Sct I Jonathan Hobson clerk of the County court of said County of Warren in the State of Kentucky. do hereby certify that Presley Donaldson before whom the foregoing deposition was taken was at the time when the same was taken an acting Justice of the peace within and for the said County of Warren in the State of Kentucky and duly commissioned as such Justice

In testimony whereof I Jonathan Hobson clerk of the said Warren County court within and for said County of Warren in the State of Kentucky have hereunto signed my name and affixed the seal of said court the same being a court of record this 1st day of July 1840 – Jon.n Hobson

In the name of God Amen

I Nicholas Wren of the County of Warren and State of Kentucky farmer being in perfect health of body and of perfect mind & memory and calling into mind the mortality of my body and knowing that it is appointed for all men once to die do make and ordain this my last will and testament that is to say principally and first of all I give and recommend my soul into the hands of Almighty God who gave it, and my body to the earth to be buried in a decent christian like burial at the discretion of my executors - And as touching such worldly estate wherewith it has pleased God to bless me with in this life, I give devise and dispose of the same in the following manner and form first I give and and bequeath to Elizabeth my dearly beloved wife all and singular my lands messuages and tenements together with Chloe a negro girl and so much of my Stock and household goods as she shall choose, by her freely to be possessed and enjoyed during her natural life. and the residue of my estate to be sold and applied towards the support of Elizabeth my wife by my beloved sons John and Isaac Wren, whom I likewise constitute make and ordain Executors of this my last Will and testament. It is my will that in case Elizabeth my wife should decease, before the year one thousand eight hundred and twenty that Chloe the negro girl should be set free at that date 1820- and it is my will that she serve out her time with one of my Executors (viz) my son Isaac Wren in case I should decease before that time and if the said negro girl Chloe should have any increase previous to the said year Eighteen hundred and twenty it is my will

that my said son Isaac Wren should raise the children until the arrive at the age of twenty one years and then set them free also and in case my wife Elizabeth should survive longer than the above named year 1820 it is my will that the said negro girl Chloe serve till her decease and then be set free and her increase serve my son Isaac Wren as above until the arrive to years of twenty one and then be set free also—

And it is further my will that at the decease of my wife that my executors raise out of my estate the sum of eighteen pounds of good and lawful money of Kentucky with interest from the year 1782 each executor keeping his proportion of the same in his hands for the purpose of discharging a foreign debt if it ever should be brought against the estate and then to make an equal distribution of all my lands goods and chattels among all my children that may be living at my wifes death. And I do hereby utterly disallow revoke and disannul all and every other former testaments wills legacies bequests and executors by me in anywise before named willed and bequeathed ratifying and confirming this and no other to be my last will and testament

In witness whereof I have hereunto set my hand and affixed my seal this 5th day of August One thousand eight hundred and eight— Nicholas Wren Seal

Signed sealed published and pronounced and declared by the said Nicholas Wren as his last will and testament in the presence of us who in his presence and that of one another have hereunto subscribed our names

Samuel Whitesides
John Whitesides
David Barbee

Test Jno. Hobson Clk

Jr.

State of Kentucky
Warren County Sct

County Court January Term 1810

The last Will & testament of Nicholas Wren deceased was proven by the oath of John Whitesides & David Barbee two subscribing witnesses thereto and ordered to be recorded and on the motion of John Wren one of the executors therein named, the execution thereof is granted him he having taken the oath required by law and executed bond in the penal sum of $1200 with Thompson Briggs his security conditioned as the law directs

A Copy Test Jon.a Hobson clk

To the introduction of each of which said papers marked B & C the defendants objected, but the Court overruled the objection and permitted each and both of said papers to be read in evidence to the Jury. to the admission of which said papers as evidence the defendants excepted.

The plaintiff then offered and read the following paper marked A— "An act to reduce into one the several acts respecting Wills the distribution of intestates. Estates &c and the duty of Executors and administrators—

Section 1st. Be it enacted by the General Assembly that every person aged twenty one years or upwards being of sound mind and not a married woman shall have power at his or her will and pleasure by last Will and testament in writing, to devise all the estate, right, title, and interest in possession reversion or remainder which he or she hath or at the time of his or her death shall have of in or to land tenements hereditaments or annuities or rents charged upon or issuing out of them, so as

such last will and testament be signed by the testator or testatrix, or by some other person in his or her presence and by his or her directions: and moreover if not wholly written by himself or herself be attested by two or more competent witnesses subscribing their names in his or her presence—

Sec 2nd Saving to the widows of testators their dower in such lands, tenements rents or annuities according to the laws which shall not be prejudicial by any devise thereof——

Sec 3rd No devise so made or any clause thereof shall be recoverable, but by the testators or testatrix destroying, cancelling or obliterating the same or causing it to be done in his or her presence, or by a subsequent Will, Codicil or declaration in writing made as aforesaid: but every last will and testament made when the testator had no child living wherein any child he might have is not provided for or mentioned or if at the time of his death, he leave a child or leave his wife ensient of a child which be born, shall have no effect during the life of such after born child and shall be void unless the child die without having been married or before he or she shall have attained the age of twenty one years, when a testator having a child or children born at the time of making and publishing his last will and testament shall at the time of his death leave a child or children born after the making and publishing his said last will and testament or shall leave his wife ensient, the child or children so after born or the posthumous child or children of such child or children be unprovided for by settlement and be neither provided for nor disinherited but only pretermitted

by the last will and testament shall succeed to the same portion of the fathers estate as such child or children would have been entitled to if the father had died intestate towards raising which portion the devisees and legatees shall contribute proportionably out of the parts devised and bequeathed to them by the same will and testament—

Sec 4th" No person under the age of eighteen years shall be capable of disposing of his chattels by will

Sec. 5th" No nuncupative will shall be established unless it be made in the time of the last sickness of the deceased at his habitation or where he hath resided for ten days next preceding except where the deceased is taken sick from home and dies before he returns to such habitation nor where the value exceed ten pounds unless it be proved by two witnesses that the testator called on some person present to take notice or bear testimony that such is his will or words of the like report—

Sec. 6th" after six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a nuncupative will unless the testimony or the substance thereof shall have been committed to writing within six days after making the Will—

Sec 7th" No will in writing or any devise therein of chattels shall be revoked by a subsequent will codicil or declaration unless the same be in writing.

Sec 8th" any Soldier in actual military service or any mariner or seaman being at sea may dispose of his chattels as he might heretofore have done—

Sec. 9th" If any person shall subscribe his name as a witness to a will wherein any bequest as given

39 to him if the Will may be not otherwise proved the bequest shall be void and such witness shall be allowed and compellable to appear and give testimony on the residue of the Will in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the testators estate in case the will were not established so much of his said share shall be saved to him as shall not exceed the value of the legacy bequeathed to him—

Sec 10th The several County Courts shall have power to hear and determine all causes, matters, suits and controversies testamentary arising within their respective jurisdictions and to examine and take the proof of Wills and grant certificates thereof according to the methods and rules following that is to say. If any testator shall have a mansion house or known place of residence his will shall be proved in the Court of the County wherein such mansion house or place of residence is. if he hath no such place of residence, and lands be devised in the will it shall be proved in the County wherein the lands lie, or in one of them where there shall be lands in several Counties, and if he hath no such known place of residence and there be no lands devised then the will may be proved either in the Court of the County where the testator shall die, or that wherein his estate or the greatest part thereof shall be—

Sec 11th When any will shall be established to be proved the court having jurisdiction as aforesaid may proceed immediately to receive the proof thereof and grant a certificate of such probate If however any person interested shall within seven years afterwards appear and by his Bill in Chancery contest the validity of the Will

an issue shall be made up whether whether the writing produced be the will of the testator or not which shall be tried by a Jury whose verdict shall be final between the parties. saving to the court a power of granting a new trial for good cause as in other trials: but no such party appearing within that time the probate shall be forever binding. saving also to infants and feme Covets and persons absent from the State or non Compos mentus the like period after their respective disability Sec 12th It shall be lawful for the said Courts respe=ctively when any will shall be produced to them for probate. and any witness or witnesses attending the same shall reside out of the Commonwealth to issue a Commission or Commissions annexed to said Will and directed to the presiding judge of any Court of law. to any Notary Public. Mayor or other chief Magistrate of any City. Town Corporation or County where such witness or witnesses may be found empowering him to take and certify their attestations. if the person to whom any such Commission shall be directed shall certify in the manner such acts are usually authenticated by him that the witness or witnesses personally appeared before him and made oath or affirmation as the case may require. that the testator assigned and published the writing annexed to such Com=mission as his last will and testament or that some other person signed it by his direction. that he was of disposing mind and memory and that he or they subscribed their names thereto in his presence and at his request such oath or affirmation shall have the same operation and the Will

be recorded in like manner as if such oath or affirmation had been made in the County from whence such commission issued —

Sec 13th. Authenticated copies of Wills proved according to the laws of any of the United States or of countries without the limits of the same, and relative to any estate within this Commonwealth may be offered for probate in the said Court, but the bond and oath of the Executor or administrator with the Will annexed shall be changed from the bond and oath now required by law in such manner as to the said Court shall seem necessary and the proof to be made by the witnesses shall be conformed to the nature of the case but such will shall be liable to be contested and controverted in the same manner as the original might have been —

Sec 14th. All persons named as Executors in any such will shall after the copy thereof has been admitted to record as above directed be entitled to a probate of the said will in the same manner as if the original Will had been proved in such Court, and where there shall be no Executors named in the said will, or the Executors therein named shall of them refuse the Executorship the Court shall have the same power and authority to hear and determine the right of administration and to grant a certificate for obtaining letters of administration with the will annexed as if the original will had have been proven in Court,

Sec 15th. In all such trials by Jury the certificates of the oaths of the witnesses at the time of the first probate shall be admitted as evidence

to have such weight as the Jury shall think it deserves-
Sec 16th. No Renunciations will shall be proved within
fourteen days after the death of the testator nor until
his widow (if any) and next of kin have been
summoned to contest the same if they please,
Sec 17th If the Court having Jurisdiction as aforesaid
shall be informed that any person hath the
Will of a testator in his custody such Court may
summon the person and by proper process compel
him to produce the same,
Sec 18th If the Executors named in any will
shall all refuse the Executorships or being required
to give security as herein after mentioned shall fail
or refuse to give the same as herein after mentioned
shall fail or refuse to give the same which shall
amount to a refusal of the executorships in either
case the Court having jurisdiction as aforesaid
may refuse the proof of the Will and grant a certificate
for obtaining letters of administration with the same
annexed to the person to whom administration
would have been granted if there had been no will
of the deceased -
Sec 19th Before granting a certificate of the probat
of any will the executors or administrators with the
Will annexed as the case shall be shall in open
Court take the following oath to wit: "You shall
swear that this writing contains the true last
will of the within named ——— as far as you
know or believe and that you will well and truly
perform the same by paying first his debts and
then the legacies contained in the said will
as far as his goods, Chattels, and credits will extend -
and the law charge you, and that you will

43 make a true and perfect inventory of all the said goods Chattels and credits as also a just account when thereto required and also shall give bond in such penalty as will be equeal to the full value of the estate at least, and with such security as shall be approved of by the Court with the following conditions to wit: The condition of this obligation is. that if the said _____ Executor of the last will and testament (or administration) with the will annexed of all the goods Chattels and credits of _____ deceased do make a true and perfect inventory of all and singular the goods Chattels and credits of the said deceased which have or shall come to the hands or possession or knowledge of the said _____ or into into the hands or possession of any other person or persons for him and the same so made do exhibit into the _____ Court at such time as he shall be thereto required by the said Court and the same goods Chattels and credits do well and truly administer according to law, and make a just and true account of all his actings and doings therein when thereunto required by the said Court and further do well and truly pay and deliver all the legacies contained and specified in the said will as far as the said goods, Chattels, and credits will extend according to the virtue thereof and as the law shall charge him. then this obligation to be void or else remains in full force.

See 20th Which bond shall be to the Justices sitting in Court and their successors and shall not become void upon the first recovery but may be put in suit and prosecuted from time to time by and at the costs of any party injured by a breach

until the whole penalty be recovered thereupon.
Sec 21st " But when any testator shall have visible estate more than sufficient to pay all his debts and by will direct that his executors shall not be obliged to give security. in that case no security shall be required unless the Court shall see cause from their own Knowledge or the suggestions of Creditors or legatees to suspect the executors of fraud or that the testators personal estate will not be sufficient to discharge all his debts. and shall require security when the same shall be given before a certificate shall be granted notwithstanding any directions to the contrary in the testators will.
Sec 22nd " The powers of executors over their testators estates before probat of the will is not hereby restrained but shall continue as hereafter.
Sec 23rd " During any contest about a will or in the absence of executors. or whenever the Court from any other cause shall judge it convenient they may appoint any person or persons to collect and preserve the estate of any deceased until a probat of his will or administration of his estate be granted taking bond and security for collection of the estate and making an inventory thereof and safe keeping and delivering up the same when required to the executors or administrators.
Sec. 24th " When any widow shall not be satisfied with the provisions made for her by the will of her husband she may within one year from the time of his death before the Court having jurisdiction of the probat of his will aforesaid or by deed executed in the presence of two or more credible witnesses declare that she will not take or accept the

45 provisions made for her by which will or any part thereof and renounce all benefit which she might claim by the said Will and thereupon such widow shall be entitled to one third part of the slaves whereof her husband died possessed, which she shall hold during her life and at her death they and their increase shall go to such person or persons to whom they would have passed and gone if such declaration had not been made, and she shall moreover be entitled to such share of his other personal estate as if he had died intestate to hold to her as her absolute property, but every widow not making a declaration within the time aforesaid shall have no more of her husbands slaves and personal estate than is given her by his will.

Sec - 25th And that if any widow possessed of any slave or slaves as of the dower of her husband shall remove or voluntarily permit to be removed out of the Commonwealth such slave or slaves or any of their increase without the consent of him or her in reversion such widow shall forfeit all and every such slave or slaves and all other the dower which she holds of the endowment of her husbands estate unto the person or persons that shall have the reversion thereof, any law custom or usage to the contrary notwithstanding.

Sec 26th And if any widow possessed as aforesaid shall be married to a husband who shall remove or voluntarily permit to be removed out of this Commonwealth any such slave or slaves or any of their increase without the consent of him or her in reversion to enter into possess and enjoy all the estate which such husband holdeth in right of his wifes dower for and during the life

of the said husbands.

Sec 27th All original Wills shall be recorded and shall also remain in the Clerks office of the Court wherein they are respectively proved except during such time as they may be in any superior Court having been removed thither for inspection by Certiorari or otherwise after which they shall be returned to the said office.

Sec 28th When any person shall die intestate as to his goods and chattels or any part thereof after funeral debts and just expenses paid if there be no child one moiety, or if there be a child or children one third of the surplus shall go to the wife, but shall have no more than the use for her life of such slaves as shall be in her share and the residue of the surplus and after the wifes death the slaves in her share or if there be no wife then the whole of such surplus shall be distributed in the same proportions, and to the same persons as lands are directed to descend in and by an act of General Assembly entitled "An act directing the course of descents" nothing in this act contained shall be so understood so as to compell the husband to make distribution of the personal estate of his wife dying intestate, when any children of the intestate or their issue shall have received from the intestate in his lifetime any personal estate by way of advancement and shall choose to come into the distribution with the other persons entitled to such advancement shall be brought into hotchpot with the distributable surplus.

Sec 29th The several Courts respectively shall have the like jurisdiction to hear and determine the right of administration of the estates of persons dying intestate as is herein before mentioned as to the proof of Will in respect to the intestates place of residence or death or where the estate shall lie and shall grant Certificates

for obtaining such administration to the represen-
-tatives who apply for the same preferring first the
husbands or wife and then such others are next
entitled to distribution or one or more of them as the
Court shall judge will best manage and improve
the estate—

Sec 30th If no such person applies for administration
within thirty days from the death of the intestate the
Court may grant administration to any creditor or
creditors who apply for the same or to any other person
the Court shall in their discretion think fit but if
any will shall afterwards be produced and proved
by executors or the wife or other distributees who shall
not have before refused & shall apply for administration
the same shall be granted in like manner as if the former
had not been obtained.

Sec. 31st Before granting a certificate for the administration
of any estate the person or persons to whom the same
is granted shall in open Court take the following
oath to wit: You shall swear that ——— deceased
died without any will as far as you know or believe
and that you will well and truly administer all and
singular the goods, chattels and credits of the said
deceased, and pay his debts as far as his goods, chattels
will extend & the law require you, and that you
will make a true and perfect inventory of all the
said goods, chattels and credits & also a just
account when thereunto required so help you God.

Sec. 32nd And shall also give bond in a penalty at
least equal to the value of the estate and with such
security as shall be approved by the Court with the
following condition to wit: The condition of this obligation
is such that if the said ——— administrator
of the goods, chattels and credits of ——— deceased

do make a true and perfect inventory of all and singular the goods chattels and credits of the said deceased which have or shall come to the hands possession or knowledge of the said or in the hands or possession of any other person or persons for— and the same so made do exhibit unto the— Court— when he shall be thereunto required by the said court and such goods chattels and credits ~~as well and~~ truly administer according to law, and further do make a just and true account of his actings and doings therein when thereunto required by the said court and all the rest of the said goods chattels and credits which shall be found remaining upon the account of the said administration the same being first examined and allowed by the justices of the said Court for time being shall deliver and pay unto such persons respectively as are entitled to same by law and if it shall hereafter appear that any last will and testament was made by the deceased and the same be proved in court and the Executor obtain a certificate of the probat thereof and the said —— do in such case being required, render and deliver up his letters of administration then this obligation to be void, else to remain in full force which bond shall be payable to the sitting Justices and their successors and may be put in suit and prosecuted in like manner as is before directed in the case of Bonds. to be given by executors or administrators with the will annexed See 33rd But no security for any Executor or administrator shall be chargeable beyond the assets of the testator or intestate by reason of any omission or mistake in pleading or false pleading of such Executor or administrator.

Sec 34th If any court shall grant a certificate for obtaining administration of the estate of any person deceased without taking good security for the same as aforesaid to be adjudged of according to the apparent circumstances of the security when taken and not from subsequent accidents or discoveries thereof. the Justices of such court then setting shall be answerable to the person or persons injured for all loss or damage occasioned by the not requiring any or by the taking insufficient security recoverable with costs by action on the case in any court of record.

Sec. 35th. When securities for executors or administrators conceive themselves in danger of suffering thereby and petition the court for relief. the court shall summons the executor or administrator and make such order or decree thereupon to release and secure the petitioner by counter security or otherwise as to them shall seem just and equitable.

Sec 36th All certificates of probat or of administration attested by the clerk shall enable the executor or administrator to act and may be produced or given in evidence in any court within this commonwealth and be as effectual as any probat or letters of administration made out in due form nevertheless the clerks of the court shall when required by any executor or administrator make out such probat or letters in due form in the name of the first Justice of the court. which probat or letters shall be signed by such Justice and sealed with the county seal

Sec 37th Every court granting a certificate for a probat or administration shall nominate three or more appraisers in every County where any of the personal estate of the deceedant shall be who being sworn before a Justice of the peace for that purpose

shall truly and justly to the best of their judgment view and appraise all the personal estate to them produced and shall return such appraisement under their hands to the Court ordering the same which appraisement if signed by the executor or administrator may be considered as an inventory of such part of the estate as had heretofore come to his hands.

Sec 38th. Inventories and appraisements may be given in evidence in any suit by or against the executor or administrator but shall not be conclusive for or against him if other testimony be given that the estate was really worth or was bona fide sold for more or less than the appraisement.

Sec 39th. Each appraiser shall be entitled to thirty pounds of Tobacco pr day for his attendance to be paid by the executor or administrator and charged to the estate—

Sec 40th. Executors and administrators whither it be necessary for payment of debts or not shall as soon as convenient after they are qualified sell at public sale all such goods of their testator or intestate Specific legacies excepted. as are liable to perish be consumed, or rendered worse by keeping. giving such credit as they shall judge best and the circumstances of the estate will admit of taking bond and good security of the purchasers and shall account for such goods according to the sales. If more be sold than will pay the debts and expences the Executor or administrator may assigns the bonds for the surplus to those entitled to the estate and be discharged as to so much —

Sec 41st. If such perishable goods be not sufficient for paying the debts and expences

the executor or administrator shall proceed in the next place to sell the other personal estate disposing of the slaves last until the debts and expenses be all paid having regard to the privilege of Specific legacies —

Sec 42nd " Nevertheless if the testator direct his estate not to be appraised it shall be sufficient to return an inventory thereof only. and if he directs his estate not to be sold the same shall be preserved in specie unless a sale be necessary for the payment of debts —

Sec. 43rd " The dead victuals and liquors which at the death of any testator or intestate shall have been laid in for consumption in his family, shall not be sold by the executor or administrator but shall remain for the use of such family without account thereof to be made. If however before its final consumption any child shall leave the family such child shall have a right to carry with him an equal share of what shall then be on hand any live stock which may be necessary for the food of the family may also be killed for that use at any time before the sale division or distribution of the estate,

Sec. 44th " The sale and conveyance of lands devised to be sold shall be made by the executor or such of them as shall undertake the execution of the will if no other person be thereby appointed for that purpose or if the person so appointed shall refuse to perform the trust or die before he shall have completed it.

Sec. 45th " If any person shall die after the first day of March the servants and slaves of which he was possessed whether held for life or for other interest and which were employed in making a crop shall be continued on the plantation in the occupation

of the decedent untill the last day of December follow
=ing and then delivered to those who shall have a right
to demand the same and their crops shall be assets
in the hands of the Executors and administrators
subject to debts legacies and distribution of the
levies and taxes and their tools the expenses of feeding
them and their families to that time and delivering
them well clothed being first deducted and if such
servant or slave be held by the testator or intestate
for his lifetime only in that case the executor or admin
=istrator shall be obliged to deliver to those who are
entitled in remainder or reversion three barrels of
indian corn for every such servant or slave old
and young to be allowed in their account of
administration.

Sec. 46th. If a testator or intestate shall die after ~~the~~
the first day of March. all the emblements of his land
which shall be severed before the thirty first of December
following shall in like manner be assessed in the hands
of the executors or administrators. But all such emble
=ments growing on the lands on that day or at the
time of the death of the testator or intestate if that
event happen after the thirty first day of December
and before the first day of March shall pass with the
land to the heir devisee reversioner or remainder
man.

Sec. 47th. If there be a tenant for life of lands or slaves
let or hired to another at the death of such tenant for
life if that event happen after the first day of March
the lessee or person hiring shall hold the lands
and slaves untill the last day of December follow
=ing paying rent or hire to that time and in the
case of slaves delivering them well clothed.

Sec 48th. The rent of lands or hire of slaves shall

53 be apportioned between the executors or administrators of him who having a fee hold or other uncertain estate in the lands and the use for life or for other uncertain term in the slaves shall die before the rent or hire became due and him who shall succeed to the lands and slaves as heir devisee or person in reversion or remainder unless in the case of a devisee the contrary be directed by the testator.
Sec 49th The apportionment of a debtor. executor shall in no case be deemed and extinguishment of the debt unless it be so directed in the will.
Sec 50th No distribution shall be made of the intestates estate untill nine months after his death. nor shall any administrator be compelled to make distribution at any time untill bond and security be given by the person entitled to distribution to refund due proportions of any debts or demands which may afterwards appear appear against the intestate and the costs attending the recovery of such debts,
Sec 51st Executors and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased and other then administration and in extraordinary cases may be allowed such recompense for their personal trouble as the court on passing their accounts shall judge reasonable,
Sec 52nd The Executors and administrators of a Guardian of a Committee or of any other person who shall have been chargeable with of accountable for the estate of a Ward or an idiot or Lunatic or the estate of a dead person committed to their testator or intestate by a court of records. shall pay so much as shall be due for their testator or intestate to the Ward Idiot or Lunatic or to the legatees or persons entitled

to distribution before any proper debt of their testator or intestate.

Sec 53rd. Where any person shall die seized of lands held for life of another such person may by his or her last will and testament in writing made, proved as herein before directed for the devise of lands devise all his interest in such lands which shall if necessary be assessed in the lands of such devisee, and if no such devisee be made such lands for the residue of the term shall be assessed in the hands of the heir if it shall come to him by reason of a special occupancy in the same manner as lands descending in fee simple and if there shall be no special occupant it shall go to the executors or administrators of the person so dying seized and be assessed in their hands subject to debts legacies and distribution.

Sec 54th. Executors or administrators may be sued or be sued upon all judgments bonds or other specialties Bills, notes or other writings of their testator or intestate whether the executors or administrators be or be not named in such judgments and also upon all their personal contracts.

Sec 55th. Actions of Trespass may be maintained by or against Executors or administrators for any goods taken and carried away in the life time of the testator or intestate and the damages recovered shall be in the one case for the benefit of the estate and in the other out of the assets.

Sec 56th. Executors of Executors shall do and perform all things in the execution of the will of the first testator which shall remain undone at the death of the first executor and shall and may sue or be sued in all things respecting the estates in the same manner as such first

55 executor. could or might have sued, or be
sued -
Sec 57th If all the executors named in any last
will shall refuse to undertake the executorship
or being required to give security shall refuse to
give or be unable to procure the same and no
person will apply for the administration with the will
annexed or if no person will apply for the administration
of the goods and chattels of any intestate it shall be
lawful for the Court having jurisdiction of such
probat or administration as herein before mention
-ed after the expiration of three months from the
death of the testator or intestate, to order the Sheriff
of the County to take the estate into his possession
and make sale of so much thereof by public auction
as the payment of debts shall make necessary or
as shall be perishable or be directed by will
to be sold and all sales and conveyances
bona fide made by the Sheriff or his deputies in
consequence of such order shall be as effectual to the
purchasers as if they had been made by the testator
or intestate in his lifetime. The estate shall be sold
upon such credit as the Court shall direct and
upon public notice previously given the purchasers
giving bonds and good security for the payment ac
-cording to the limited time of credit The Sheriff
may sue if necessary for the recovery of debts
or of goods and chattels and shall make a true and
perfect inventory of the whole estate and an
account of sales and shall return the same together
with the bonds to the Court by whom he was
ordered to sell without delay who shall first
direct the payment of such debts as shall be
proved before them and proportion the assets

among the creditors without regard to the dignity of the debts where there shall not be sufficient to pay the whole and then order the surplus if any to the legatees or next of kin to the decedent according to the directions of the will or of this act whereupon the Sheriff or deputy shall assign the bonds and deliver the estate remaining unsold to the creditors or others according to such order retaining nevertheless his commissions which shall be the same upon the estate by him sold as is allowed for goods taken in execution and where the whole estate is not sold he shall moreover be allowed his reasonable expenses and disbursements in the cause of the part unsold.

Sec. 58th. All sales and conveyances of lands heretofore bona fide made by a Sheriff under an order of court where the lands had been devised to be sold and the Executor has had refused to act are hereby confirmed and made effectual against all persons claiming under the testator

Edm.d Bullock S.H.R.

Alex.r S. Bullitt Spea. of the Senate

Approved Feby 24th. 1797 James Garrard G.K.

By the Governor

Harry Toulmin Secretary

Commonwealth of Kentucky

Office of Secretary of State

Frankfort 9th. September 1840

I James Harlan Secretary of State of the Commonwealth of Kentucky do hereby certify that

57 the annexed and foregoing act of assembly contained on the annexed twenty pages entitled "An act to reduce into one the several acts concerning Wills, the distribution of estates &c and the duty of Executors and administrators" approved February 24th 1797 has been carefully examined and compared with original enrolled Bill in my office and is a true and correct copy of the same—

In testimony whereof I have hereunto set my hands and caused the seal of the Commonwealth to be affixed at Frankfort on the 9th day of September in the year of our Lord one thousand eight hundred and forty and in the 49th year of the Commonwealth.

James Harlan
Secretary of State.

Commonwealth of Kentucky
Executive office
Frankfort 9th September 1840

I Robert P Letcher Governor of the Commonwealth of Kentucky do hereby certify that James Harlan whose name is signed to the annexed and foregoing certificate was at the time of the writing thereof and now is Secretary of State of the Commonwealth of Kentucky duly commissioned qualified and acting as such and full faith and credit are and of right ought to be reposed in all his official acts, as well out of as in courts of Justice

In testimony whereof I have hereunto set my hand and caused the seal of the Commonwealth to be affixed at Frankfort on the 9th day

of September in the year of our Lord one thou=sand eight hundred and forty. and the 49th year of the Commonwealth

R. P. Letcher

to the reading of which said paper marked A the defendants made no objections—

The Plaintiff then read as evidence and to which the defendants made no objections the following depositions of Kezial Young Abraham Swyman. John Jones. Joseph Neville Isaac Wren. James Neville Nicholas Wren & David Yancy in papers marked No 1 No 2 & No 3

Depositions of witnesses produced sworn and examined on the 18th day of June in the year of our Lord Eighteen hundred and thirty nine between the rising and setting of the sun of that day at the house of Philip W. Grinstead in the County of Barren and State of Kentucky before me James Jameson a justice of the peace within and for the County aforesaid in a certain cause now pending in the circuit court of Lafayette County and State of Missouri between Chloe a person of colour plaintiff and William Renick Sr. and Strother Renick defendants on the part of the plaintiff

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[illegible] int[illegible] —

"Keziah Young of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith —

That she became acquainted with Mrs Elizabeth Wren while she resided at her sons Isaac Wren in Barren County several years before her death. She saw Chloe in the possession of the said Elizabeth Wren she had two children before the death of Mrs Wren one named Lewis and the other Dick Mrs Wren had possession of Chloe from the time I became acquainted with her until her death. After the death of Mrs Wren Chloe went to live with my uncle William Renick She had a husband at uncle William Renicks and that was one of the reasons of her going there to live. A short time after she went there she had another child a girl which was named Emma Cobbett. This deponent was present when Emma Cobbett was named. Chloe called upon a young lady to name her. she named her after herself Emma Cobbett. The young lady was named Emma Cobbett Slaughter. and the said child was generally called by her Uncles family. Cobbett. This deponent was at the house of her uncle William Renick the day he started to move to the State of Missouri and saw Chloe and the above named three children start with her uncle and family to Missouri. Chloe went to be with her husband who was also going to Missouri, her husbands name was Dick who was generally called little Dick and further this deponent saith not

Keziah Young

Sworn and subscribed to before me and in my presence on the day at the place and within the hours in that behalf aforesaid — James Jameson J. P.

Witnesses attendance 50 cts —

60 Abraham Swiman of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith That he was well acquainted with Nicholas Wren he lived in Warren County Kentucky and died there but the time he cannot state. This deponent knew Mrs. Elizabeth Wren the wife of said Nicholas Wren. This deponent lived about one and a half miles from Mr. Isaac Wren where the said Elizabeth Wren lived after the death of her husband. A short time after Mrs. Wren moved to her sons I saw Chloe in her possession and Chloe remained in the possession of the said Elizabeth Wren until the death of said Elizabeth Wren. The said Chloe was a tolerably black woman of low stature. Before the death of the said Elizabeth the said Chloe had two children. Shortly after the death of Elizabeth Wren Chloe went to William Renick's the defendants to live and took her two children with her and one a third was born at Renicks. I heard Isaac Wren and William Renick the evening before William Renick started to move to Missouri both say that Chloe the plaintiff was free and Renick said he had purchased of Wren the services of Chloe's three children to wit Lewis Dick and Emma Cobbett until they each arrived at the age of twenty one years and then they were free. And he stated that he was a going to take them to Missouri Mr Wren said that if Renick did not set the said Children free when they each arrived at twenty one years of age he would go or send to Missouri and see that they were set free, Renick replied that it would not be necessary for him to do so for he would see that they obtain their freedom when they respectively arrived at the age of twenty one years The defendant William Renick had lived in about one half of a mile from Isaac Wren for a great many years until a few months before he started to

61 moved to Missouri. and well knew that Chloe was a free woman. and never claimed her as his property on the contrary acknowledged her to be a free woman and further this deponent saith not

Abr. Twyman

Sworn and subscribed to before me and in my presence on the day at the place and within the hours in that behalf aforesaid — James Jameson J P

Witness attendance 50 cts —

John Jones of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith — That he is grandson of Nicholas Wren who lived in Warren County and died there in 1809 — He knew said Nicholas Wren from his earliest recollection — His deponent when a boy and a member of his fathers family living in Green County well recollects that his said grandfather Nicholas Wren stopped on his way from Mercer County where he formerly resided to Warren County where he then lived and staid all night with us. he had with him a negro girl named Chloe, He claimed said girl as his property. His deponent frequently afterwards saw said girl Chloe in the possession of the said Nicholas Wren up to his death. He never owned any other negro to the best of his knowledge and belief and he owned none for many years before his death except said Chloe. He heards said Nicholas Wren in his lifetime say that he intended to emancipate and set free said Chloe — His deponent further saith that after the decease of the said Nicholas Wren his Grandmother Elizabeth Wren moved to her sons Isaac Wren in Barren County Kentucky and brought the said Chloe with her and she remained in the possession of the said Elizabeth until her death which was in the year 1819 about the middle of April of that

year. That previous to his said Grandmothers death said Chloe had two children one named Lewis and the other named Richards or Dick and after the death of said Grandmother Chloe and her two children went to the defendants William Renick and a short time thereafter said Chloe had a daughter named Emma Cobbett. In the fall of 1819 this deponent moved to Missouri and removed back in the fall of 1820 on his way back in the State of Illinois he met the defendant William Renick moving to the State of Missouri. And the plaintiff Chloe was in company with the said William Renick, and further this deponent saith not —

John Jones

Sworn and subscribed to before me and in my presence on the day, at the place and within the hours in that behalf aforesaid —

James Jameson J. P.

Joseph Neville of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith — That he was acquainted with Nicholas Wren and also well acquainted with his wife Mrs. Elizabeth Wren after she moved to this County. She lived with her son Isaac Wren and had a negro woman named named Chloe living with her. Chloe was tolerably black: She was rather lower in height than usual. When this deponent knew her she was probably about twenty years of age she remained with Mrs. Elizabeth Wren until the said Mrs. Wrens death: After the death of Mrs. Wren Chloe went and lived with William Renick commonly called little Billy Renick she remained there until William Renick moved to the State of Missouri Chloe with her three children moved to Missouri with

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William Renick and last May was three years ago this deponent said said negro woman Chloe in the possession of the said William Renick or his son Strother Renick at their house in the State of Missouri. and again this deponent saw Chloe last October at the same place. Chloe had a husband named Dick commonly called little Dick who was in the possession of the said William Renick while he lived in this County. The children of the said Chloe were two boys and one girl. The said William Renick moved from this County to Missouri in the fall of 1820. And further this deponent saith not— Joseph Merill

Sworn and subscribed to before me and in my presence on the day at the place and within the hours in that behalf aforesaid

James Jameson J P

Witnesses attendance 50 cts

Isaac Wren of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith That he was well acquainted with Nicholas Wren; that said Nicholas Wren was his father, that said Nicholas lived and died in Warren County and State of Kentucky that he died in the year 1809 that this deponent was appointed by the said Nicholas Wren in his last will and testament one of his executors. but he never qualified as such executor. and never had as executor of said Nicholas, any thing to do with said Nicholas Wrens estate. This deponent at the death of his father lived in Barren County Kentucky and did not qualify. because of the distance he lived from his fathers residence, and because the estate

of the said Nicholas Wren was not embarrassed with debts or difficulties. and because John Wren the other Executor named in the said will lived in the immediate neighbourhood of said estate and qualified. This deponent further states that about the year 1800 or 1801 his father the said Nicholas Wren purchased the plaintiff Chloe. she was then about nine or ten years of age. His father had said Negro Chloe in his possession claiming her as his property until his death. After the death of said Nicholas Wren to wit:- in the Spring of 1810 this deponents mother Elizabeth Wren moved to this house in Barren County and brought with her the plaintiff Chloe: after living with the deponent with this deponent about one year. she the said Elizabeth Wren moved back to Warren County and took said Chloe with her She remained in Warren County a year or two and again moved to this deponents house and lived there until her death She died in April 1819 at this deponents house in Barren County. All the time she lived with this deponent she had Chloe in her possession and while she was in Warren County this deponent frequently saw Chloe there in her possession. This deponent saith further that all the debts of his father Nicholas Wren was discharged by the personal property of said Nicholas without consuming all his personal estate. She said was a tolerably black negro of low stature - After the death of the deponents mother the said Elizabeth. the said Chloe went to live with William Renick one of the defendants by the consent of this deponent Said William had possession of the husband of said Chloe and her husbands name was Dick While said Chloe lived in Kentucky she had three children two boys and one girl. Her

first child was born in the spring of 1813 and named Lewis. her second was born in the spring of 1817 and he was named Richard or Dick the third was born in the after part of the spring or fore part of the Summer 1819 and she was named Emma Cobbett. She was sometimes called Emma and sometimes Cobbett. In the fall of 1820 William Renick being about to move to the State of Missouri and to take with him the said Dick the husband of Chloe. And Chloe also wishing to go also; on the evening before the said Renick started to move this deponent sold to said Renick his interest acquired under the will of his father the said Nicholas Wren in the said three negro Children of said Chloe selling only the services of said three children until they each arrived at the age of twenty one years. This deponent saith that at the time of the contract aforesaid this deponent executed a conveyance of his title as aforesaid unto the said William Renick; and said Renick executed a memorandum setting out said contract dated the 20th day of October 1820. This deponent saith that said William Renick was well apprised and knew that the plaintiff Chloe was a free woman before they started to Missouri he was also informed and knew that the said Chloes Children were to be free when they arrive at the age of twenty one years. He also states that the memorandum above alluded to was written by John McFarran. and that the negro girl therein named Amy is the same as Emma Cobbett; and that the name Amy was inserted by mistake for Emma. And further this deponent saith not

Isaac Wren

Sworn and subscribed to before me and in my presence on the day at the place and within

the hours in that behalf aforesaid.—

James Jamieson J P

James Nevill of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith. That he was well acquainted with Nicholas Wren and also with Elizabeth Wren his wife that about the year 1810 the said Elizabeth Wren came to live with her son Isaac Wren of this County and brought with her a negro girl named Chloe and also personal property to a considerable amount that the said Chloe remained in the possession of the said Elizabeth Wren until the said Elizabeth Wrens death which happened about the year 1819. Shortly after the said Elizabeths death the said Chloe together with her two children Lewis and Dick went to live at William Renicks and shortly thereafter had a daughter named Emma and I believe she was sometimes called by the said Renicks family Cobbett. This deponent further saith that in the fall of the year 1820 the said William Renick moved to the State of Missouri and took the said Chloe and her said three children with him On the day before the said Renick started to move as above, a bargain was made between the said William Renick and Isaac Wren by which the said Isaac Wren transfered to the said Renick all his claim to the services of Chloes said three children until they each arrived at the age of twenty one years writings passed between them respecting the said bargain Renick gave to Wren a memorandum which is now before me and which is marked A and hereto annexed —

A

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Be it remembered that I Isaac Wren of Barren County and State of Kentucky hath this day sold unto William Renick of the County of Barren and State aforesaid three small negroes two boys & one girl one by the name of Lewis the other by the name of Dick & the girl by the name of Amy and hath made a Bill of Sale of said negroes to said Renick untill they arrive at the age of twenty one years each for the sum of One hundred and Eighty dollars to me in hand paid, In witness whereof I the said William Renick hath set my hand and seal this 20th day of October 1820

Test Wm Renick (Seal)

James Nevill
John McFeran

This deponent witnessed the said writing together with John McFerran who is since dead the said Memorandum is the same this deponent witnessed on that day he saw the said Renick sign the same; and knows his said signature to be genuine: at the time of the above bargain in the various conversations that took place between the said parties the said Chloe was recognized as a free woman, The said Chloe was tolerably black and under the ordinary size and further this deponent saith not

James Nevill

Witnesses claim 50 cts

Sworn and subscribed to before me and in my presence on the day at the place and within the hours in that behalf aforesaid

James Jameson I.P.

Nicholas W Jones of lawful age being produced Sworn and examined on the part of the plaintiff deposeth and saith —

That in last December in the town of Lexington in Missouri this deponent told William Renick one of the defendants that Uncle Isaac Wren requested said deponent to tell said Renick that he (Wren) was very much surprised that there was any difficulty about freeing Chloe and her children Renick replied that there would have been no difficulty about it if Wren had have come and talked with him on the subject as he should have done. This deponent asked Renick if he knew Chloe was entitled to her freedom. Renick replied. that he always understood So. This deponent asked Renick if he was aware that Chloe's three children whom he brought with him to Missouri were to be free at twenty one years of age. he replied he was. This deponent asked the said Renick if Uncle Isaac Wren executed to him a Bill of sale of the said three children He answered in the affirmative. This deponent, asked him if that Bill of Sale specified that they were to be free at twenty one years of age. He replied that it did; and went on to remark that he had forgotten that he had it until lately he found it among his papers. This deponent asked him why he had not set them free. He answered that he had no authority to set them free. neither did he wish to incur the responsibility of the security ship necessary thereto — Shortly afterwards in the same month. this deponent had another conversation with the said Renick at his residence Hatten repeated in substance the same as above stated. He further stated in substance that he always intended to set Chloe and her children

69 free after they had paid him for raising them
This deponent asked him. what amount of
service would be a sufficient compensation for
raising them. He said he thought those under
age should serve him till they were twenty one
years of age each. This deponent asked him if
those who had served over that age were entitled
to compensation for their overplus of service. He
answered. that he thought they were. The deponent
asked him how many children the said Chloe had
after she went to Missouri he answered four
This deponent observed I suppose she had seven
in all. He answered she has. This deponent
further saith that several days after the above con
=versation with William Renick. this deponent
had a conversation with Strother Renick the
other defendant in which he said he set up no claim
to Chloe the plaintiff and her children: that he was only
contending for them for his father. This deponent
saith that the above is the substance of what passed
between him and the defendants and further this
deponent saith not—

Nicholas W. Jones

Sworn and subscribed to before me and in my
presence on the day. at the place. and within
the hours in that behalf aforesaid

James Jameson J. P.

I James Jameson a Justice of the peace within and
for the County of Barren in the State of Kentucky
do hereby certify that Regiah Young Abraham
Twyman John Jones Joseph Neville Isaac Wren
James Nevill and Nicholas W. Jones the deponents
reside in the County of Barren in the State of
Kentucky that they were by me severally sworn to

testify the whole truth of their knowledge touching the matter in controversy aforesaid; that they were examined and their examination reduced to writing and by them respectively subscribed in my presence on the day between the hours and at the place in that behalf aforesaid. And I do further certify that the instrument of writing herein enclosed is the same writing that was shown to the said James Nevill on his examination and which is refered to by him in his deposition —

Justices fee $1.00 James Jameson J.P.

County of Lafayette

No 2 — The State of Missouri

To any Judge Justice of the peace or other Judicial officer of the County of Adams in the State of Illinois — Greeting — We reposing special confidence in your fidelity and circumspection in taking the depositions of witnesses on the part of the plaintiff in a certain suit in our Lafayette circuit court court in the State aforesaid, now wherein Chloe a person of colour is plaintiff and William Reniek Sr and Strother Reniek are defendants We therefore authorize you to cause to come before you such person or persons as shall be named to you by the said plaintiff and we also command you to examine such person or persons touching their knowledge of any thing relating to the matter in controversy and to reduce such examination to writing and return the same annexed to this commission to our said court with

11 all convenient speed — Witness William Spratt clerk of our said court with his official seal hereto affixed at office in Lexington this 24th day of December 1838 — Wm. Spratt clerk

Depositions of witnesses produced sworn & examined on the eighth day of January in the year of our Lord One thousand eight hundred and thirty nine between the rising and setting of the sun of that day at the house of Nicholas Wren in the County of Adams in the State of Illinois before me Henry Asbury a justice of the peace within and for the County aforesaid in a certain case now pending in the circuit court of the County of Lafayette in the State of Missouri between Chloe a a person of colour plaintiff and William Renick Sr. and Strother Renick defendants on the part of the plaintiff Nicholas Wren of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith —

Question by plaintiff — Were you or were you not acquainted with Nicholas Wren deceased who resided and died in Warren County Kentucky

Answer — my Grandfather Nicholas Wren resided in Warren County Kentucky about eight years next previous to his decease he resided about two years within one mile of my fathers residence, and about six years next preceding his decease within two hundred yards of my fathers residence. all of which time I resided with my Father John Wren and was well acquainted with my said grandfather Nicholas Wren deceased —

Question by plaintiff

How old were you at the decease of your grandfather Nicholas Wren —

Answer — I was about sixteen years of age
Question by plaintiff
State the time of your said Grand fathers decease — Answer he died about the latter part of the year of our Lord one thousand eight hundred and eight —
Question by plaintiff — State what you know respecting the Slave property of your said Grandfather Nicholas Wren dec'd —
Answer — my Grandfather Nicholas Wren to the best of my knowledge never owned but one Slave and her name was Chloe She was about seventeen or eighteen years old at the decease of the said Nicholas Wren above named, she was a small Sprightly girl. not of the blackest cast and She had very thin lips for a negro after the decease of my said Grandfather Nicholas Wren my Grand Mother Elizabeth Wren together with the said negro girl Chloe moved to Barren County Kentucky to reside with Isaac Wren son of the above named Nicholas Wren deceased and of the said Elizabeth Wren
I further State that my father John Wren was the acting executor of the last will and testament of my said Grandfather Nicholas Wren deceased and I have never heard of the estate being in debt with the exception of that foreign debt of eighteen pounds alluded to in the Will of my said Grandfather Nicholas Wren deceased the provisions for the payment of which was made and left in the hands of the Executors. and there was never any necessity for resorting to the sale of the said negro girl Chloe for the payment of that debt —
Nicholas Wren

73 State of Illinois Adams County ss I Henry Asbury a Justice of the peace within and for the County of Adams and State of Illinois do hereby certify that Nicholas Wren the deponent was by me sworn to testify the whole truth of his knowledge touching the matter in controversy aforesaid that he was examined and his examination reduced to writing and by him subscribed in my presence on the 8th day of January 1839 between the hours and at the place in this behalf first aforesaid

Jany 8th 1839 Henry Asbury J.P.

Justices costs writing 9¾ Oath 6¼ certificate 25 amt $1.25

Paid to me by Pltff — H. Asbury J.P.

State of Illinois
Adams County ss I Nicholas Wren clerk of the County Commissioners court in and for the County and State aforesaid do hereby certify that Henry Asbury before whom the foregoing Depositions were taken is now and was at the time of taking the same an acting Justice of the peace in and for said County duly commissioned and qualified. that full faith and credit is and ought to be given to all his official acts. and that his signature is genuine —

In testimony whereof I have hereunto set my hand and affixed the seal of the County Commissioners court at my office in Quincy this 8th day of January AD 1839 — Nichs Wren clerk C.C.C. A.C. Sees

State of Illinois Adams County ss I William Laughlin Presiding Judge of the County Commissioners court in and for the County aforesaid. do hereby certify that Nicholas Wren is now and was at the time of signing the foregoing certificate the clerk of said court duly commissioned and qualified

That full faith and credit is due to all his official acts his attestation in due form of law and his signature genuine — Given under my hand this 19th. day of January in the year of our Lord one thousand eight hundred and thirty nine —

William Laughlin J.P.

Depositions of witnesses produced sworn and examined on the 30th. day of July 1840 between the rising and sitting of the sun at the dwelling house of David Yancy in the County of Cooper and State of Missouri before me William Steele a Justice of the peace within and for the County aforesaid in a certain cause now pending in the circuit court of the County of Lafayette in the State of Missouri between Chloe a person of colour plaintiff and Strother Renick and William Renick defendants on the part of the plaintiff.

David Yancy of lawful age being produced sworn and examined on the part of the plaintiff deposeth and saith — That when I first knew Chloe the plaintiff in the cause she belonged to Elizabeth Wren the mother of Isaac Wren. and that I knew Elizabeth Wren about one year previous to her death and after the death of Elizabeth Wren Chloe lived with Isaac Wren and sometime after the death of Elizabeth Wren Chloe's third child was born (a daughter) which child was named Emma (after Miss Emma Lobbett Slaughter)

Chloe had two children previous to the death of Elizabeth Wren and their names were Lewis and Dick Capt William Wood and myself were called on by the above named Isaac Wren and William Renick to value a gray mare which was given from said Renick to

75 to said Wren as part pay for the services of the negroes transfered (which were Lewis and Dick Said Lewis and Dick were transfered till they were twenty one years of age. Myself and Capt Wood could not agree upon the valuation of the above mentioned nag. and we called in Col Thompson Crenshaw and the mare was valued to one hundred and five or six dollars This valuation took place at the house of the residence of William Renick in Barren County Kentucky the day before or day he started from Kentucky to Missouri and I think in the year 1819 or 1820 I did not see William Renicks family or the negroes above named start from Kentucky; but they; nor the negroes were never seen by me in that Section of Country since they were said to start. neither have I ever seen any of the negroes or said Renicks family until I saw them in Lafayette County Missouri the 5th. or 6th. day of last April at which time. I saw said Viley at the house of George Hoon in the town of Lexington. Lafayette County Missouri and recognized her to be the same woman of colour once in the possession of Elizabeth Wren dec'd Said Elisabeth Wren lived with Isaac Wren her son while I knew her. aand she died at his residence in Barren County Kentucky. And further this deponent saith not—

David Yancy

I William Steel a Justice of the peace within and for the County of Cooper in the State of Missouri do hereby certify. that David Yancy the deponent resides in the County of Cooper in the State of Missouri that he was by me sworn to testify the whole truth of his knowledge touching the matter

in troversy aforesaid that was examined and his examination reduced to writing and by him subscribed in my presence on the day between the hours. and at the place in that behalf aforesaid —

Wm. Steele J. P.

The Plaintiff then introduced Young Ewing as a witness. who was sworn and Stated that he first saw Chloe ~~Chloe~~ the plaintiff in 1820 when the defendant Wm. Renick came to the country. and that said Chloe came with said Wm. Renick —

The Plantiff then offered Mahlon Hall as a witness who testified that witness knew Nicholas Wren in Kentucky before the year 1810 that said Wren was then about sixty or seventy years of age. that he knew Chloe the plaintiff at that time that she was in the possession of said Nicholas Wren as his slave that he afterwards knew said Chloe in Kentucky when in the possession of Elizabeth Wren then the widow of the said Nicholas Wren. that Chloe the plaintiff now in the Courthouse is the same. Chloe who was then in the possession of said Nicholas Wren and afterwards of his said widow as before Stated. that said Elizabeth Wren died in Kentucky before he witness removed to Missouri and that he removed to this Country in the year 1819. that witness never knew but one negro in the possession of Nicholas Wren named Chloe and believes Chloe the plaintiff is the only negro said Wren ever owned and that said Chloe came to this Country with Wm. Renick and followed Dick her husband who was also with said Renick.

Mrs. Howe witness for plaintiff testified

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that she is the grand daughter of Nicholas Wren that said Wren never had but one negro named Chloe. that the plaintiff Chloe now before witness is the same Chloe that was owned by her grand father and her Grand mothers christian name was Elizabeth who died in Kentucky in 1819 that witness was there and helped lay her out. that Nicholas Wren died nine or ten years before said Elizabeth Wren and was 83 years old when he died that after the death of said Nicholas Wren the plaintiff was in the possession of her grand Mother until her death—

Wm Renick also witness for Plaintiff testified that she has known Chloe for 21 years. knew her when in the possession of Elizabeth Wren at Isaac Wrens in Kentucky and identified Chloe the plaintiff to be the same so in the possession of Elizabeth Wren,

David Ward also a witness for the plaintiff testified that in the fall of 1822 he had a conversation with defendant Wm Renick who told witness that the plaintiff Chloe had been willed free but no one would go her security. that she came to his house to live, and that Isaac Wren named in the Will as one of the Executors of Nicholas Wren told him to bring her out to this state with him. and that he did so—

George Nevill also witness for Plaintiff testified that he has known the plaintiff Chloe twenty two years when he first knew her. she was in the possession of Isaac Wren or Elizabeth Wren at the house of Isaac Wren in Kentucky. that he has known her ever since she has been

78) in this Country. that she came out with Wm. Renick and has been with him ever since. that he has frequently seen Chloe at work at Renicks and saw no difference between her and the other negroes both the defendants were her directors what to do and both seemed to control her and once Wm. Renick corrected her. that from appearance he would not have suspected but what she belonged to Strother Renick and William Renicks. that he did not know that Strother Renick gave any more directions than other members of the family. and that Strother Renick is the son of Wm. Renick and they have always lived together—

John McClothlin witness also for the Plaintiff testified that he has known Chloe ever since Wm Renick came to this County and has seen at work on Renicks farm and in their house just as other negroes sometimes directed by Wm. Renick & sometimes by Strother Renick that of late Strother seems to have been the superintendant that he has applied to Wm. Renick to hire a negro woman several times shortly after he came to this Country. he told witness that if Chloe had a mind she might go with him and he could pay her for it. that Chloe did so several times and witness paid her until she was satisfied—

Nathaniel Davidson also witness for the plaintiff testified that he was assessor for Lafayette in the year 1837 & 1838. that during those years the defendants lived together that both those years they gave in thirteen negroes and gave them in in Strother Renicks name. Strother did the

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business. but the old man was present & assisted once I called in Strothers absence. and the old man refused to give in a list of the property without Strothers presence —

Mr. Jones also a witness for Plaintiff testified that last December a year ago and since the commencement of this suit he had a conversation with the Defts Wm. Renick about Chloe & other negroes. in which he told said Renick that Isaac Wren had requested him to say to said Renick that he was sorry there was any difficulty about setting Chloe & her children free. said Renick replied that there would have been no difficulty if Hoy had come to him as a man ought to have done instead of running off the negroes. that said Renick stated that he had always understood Chloe was entitled to her freedom and that he intended to set her free. but he did not like to be responsible for her support. that he witness is a Grandson of Nicholas Wren and has frequently seen Chloe the plaintiff in the possession of his grandmother Elizabeth Wren in Ky —

Bryant Sanders also a witness for the plaintiff testified that he has known Chloe for 16 or 17 years during all which time she has been in the possession of Wm. Renick. She appeared at work just like the other servants. part of the time was in a Cabin on Mr Renicks place separate to herself. When defts lived on the old place Wm. Renick had control ~~within~~ the last few years Strother has taken the principal control on the farm and over the negroes,

Archibald Renick also witness for plaintiff testified that Chloe has been in the possession of Wm Renick who is father of witness for about 20 years

that Wm. Renick has always exercised acts of ownership over Chloe. never knew Strother to make any claim of ownership in Chloe but that Strother ordered her about just as he did the other negroes on the place. and both Wm. Renick and Strother seemed to have control. that he knew Elizabeth Wren. She died in Kentucky in 1818 or 1819. that he saw Chloe in the possession of Isaac Wren when Elizabeth Wren. wife of Nicholas Wren lived with said Isaac that Strother has had the superintendance of his father Wm Renick's place for 15 or 16 years. that Wm. Renick has been feeble and not much able to attend to business—

A. W. Kenning also a witness for the plaintiff testified that he was at Hamps when the defendant came there after the negroes. just before the suit was brought the negroes were then concealed Strother Renick abused Hamp for taking the negroes, and said that Hamp might as well have stole his negroes and several times on that occasion called them his negroes. Strother was at the house when the negroes were concealed and ordered them out Chloe the plaintiff was among them—

Keziah Renick also a witness for plaintiff testified that in the year 1838 her father was in possession of thirteen slaves including the plaintiff Chloe. and that thirteen including Chloe was all he had that year. that Wm Renick always claimed said Chloe as a slave. Chloe and the other negroes were under the control of Wm. Renick & Strother Renick and the witness as the one or the other might be at home that she knew Chloe when in the possession of

Elizabeth Wren when in Kentucky—

The defendants offered Henry Renick as a witness who was sworn as such and asked by the defendants the following questions, State if you have ever had any conversation with John Wren the Exr. of Nicholas Wren about the freedom of Chloe and State what it was; To the answering of this question plaintiffs Counsel objected and the Court sustained the objection, and refused to permit the said question to be answered. to which opinion of the Court the Defts excepted—

Robert Renick also witness for the defendants testified that in 1820 he saw in Isaac Wrens possession in Ky two mares a Grey and bay witness asked said Wren who rode said mares there he said no one had. that he had sold Chloe to Wm. Renick for said horses. witness knew the mares and knew they had been the property of Wm. Renick—

1st. This was all the evidence introduced or given by either party on the trial of this cause, The Plaintiff then asked the Court to give to the Jury the following instructions "The plaintiff moves the Court to instruct the Jury. that if they believe from the evidence that Nicholas Wren in his lifetime owned and possessed the plaintiff as his slave and that he the said Nicholas Wren made his will and that the plaintiff is the same negro mentioned in the Copy of the said will read to the Jury. and that Elizabeth Wren the wife the said Nicholas Wren died before the year 1820 and that the said Nicholas Wren was over the age 21 years

when he made said Will. and the said defendants or either of them at and before the commencement of this suit. had and held the plaintiff in slavery they must finds for the plaintiff against the defendants or defendant so holding her.

2nd. That under the Will of Nicholas Wren no act of the executors mentioned in said will. was necessary to be done by them to entitle the plaintiff to her freedom but that the said plaintiff was by said will entitled to her freedom whenever the contingencies in the time mentioned in said Will. by which she was to be free happened.

3rd. The plaintiff moves the court to instruct the jury that if they believe from the evidence that the plaintiff Chloe was the slave of Nicholas Wren deceased at and before his decease and that she is the same negro slave mentioned in the Will of said Nicholas Wren deceased copy of which was given in evidence and that Nicholas Wren at the time of making said will was over eighteen years of age. and that at the time of the commencement of this suit the defendants or either of them held her in slavery. and that Elizabeth Wren the wife of said Nicholas Wren died before the year 1820 they must find for the plaintiff

French Going & Burden Attys for plaintiff

To the giving of which the defendants objected but the court overruled the objections and gave said instructions

To which opinion of the court in overruling said objections and giving the instructions and each of them so asked by the plaintiff the defendants excepted —

The defendants then asked the court to give the jury the following instructions. The Defendants

1st" ask the court to tell the jury that there is no evidence given which shows that Nicholas Wren had power by the laws of the State of Kentucky to free his Slaves by will given in evidence & therefore that the jury must find for the defendants.

2nd" That the Statute of this State in relation to the emancipation of Slaves can have no effect in enabling the plaintiff in this case to recover

3rd" That before the jury could find the plaintiff free they must find that the executor who qualified under the will did proceed according to the laws of Kentucky to set her free

4th" That there is no evidence to show that the executor who qualified under the will ever did set the plaintiff free. as the will directed.—

5th" That the plaintiff having failed to show that there was a law in force in the State of Kentucky at the date of the Will or the death of the said Wren which authorized him to set the said plaintiff free therefore they must find for the defendants———

6th" That even if the law of the State of Missouri did apply to the case the plaintiff has given no evidence showing that the requisites of the said laws of this State on that subject have been complied with in this case therefore the jury must find for the defendants—

7th" That the plaintiff having been shewn to be a slave of Nicholas Wren who is proved to have died in Ky. and as there is no law proved to have been there in force in that State which authorises said Wren to set free the plaintiff she is still to be presumed a slave & the jury must find for the defendants—

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8 Before the plaintiff can be entitled to a verdict of freedom under the facts in this case by refering to the law of the State of Missouri proof must be given that the will of Nicholas Wren acknowledged in the circuit court of the County in Kentucky in which the said Wren resided or that the same was acknowledged by the said Wren in the said court.

9 Before the plaintiff can be entitled to a verdict in this case by supposing the law in Kentucky on the subject of emancipation of Slaves to be the same as the law of this State, the jury must find that the will of the said Nicholas Wren was either proved in the circuit court of the County in the State of Kentucky in which the said Wren resided or that it was acknowledged by him in the same & therefore if the jury finds from the evidence that it was neither proved or acknowledged in such court then they must find for the defendants.

10 In is the absence of proof of what the laws of the State of of Kentucky are on the subject of emancipation of Slaves the Statutes of this State on that subject are to govern in the decision of this case & unless all the requisites pointed out in said law are proved to have been fully complied with the jury cant find for the plaintiff in this case

11th That unless the jury finds from the evidence that the defendant Strother Renick at and before the commencement of this suit had and held the plaintiff in Slavery they must find said Defts Strother Renick not guilty

and that they may finds one defendant guilty and the other not guilty—

The ~~th~~ giving of which the plaintiff objected. the Court gave those numbered second & Eleventh and refused each and all the others so asked by the Defts to which several opinions of the Court in refusing to give said instructions so asked by the defendants. the defendants excepts

The Court then gave to the Jury the following instruction

"The Court instructs the jury that if they believe from the evidence that the laws of the State of Kentucky declare that no person under the age of eighteen years shall be capable of disposing of his chattels by will: Then they will consider that as equivalent to saying that persons over that age may dispose of their chattels by will

2nd That if they believe from the evidence that the laws of Kentucky did allow persons over the age of 18 years to make general disposition of their chattels by will at the time when the will of Nicholas Wren was made/ if from the evidence they believe such will ever was made) then the Court instructs them that under such power to make disposition of their chattels. it was competent for Nicholas Wren to manumit by will his slave Chloe—

3rd That even if the laws of the State of Missouri did apply to the case. the plaintiff has given no evidence showing that the requisites of the said laws of this State on that subject have been complied with in this case."

To all which opinions of the Court so given to the Jury as last aforesaid the defendants except and pray

that this their Bill of exceptions may — signed sealed and allowed and made a part of the records which is done accordingly.

John H Ryland (Seal)

Bill of Exceptions No 2 is in the words & figures following to wit:- "After the verdict was rendered by the jury in Court the defendants filed a motion to set aside the verdict. which motion reads as follows- "Reneks ads Chloe- The defendants come into Court & moved the Court to set aside the verdict of the jury and grant a new trial for the following reasons viz —

1- Because there was a Special & general issue joined between the parties in this case. and that the said verdict has not found as to the Special issue

2— Because there is no finding as to the issue joined on the Special plea.

3— Because the Court erred in allowing the papers offered by the plaintiff to be read to the jury-

4— Because the Court erred in giving the instructions asked by the plaintiff.

5— Because the Court erred in refusing to give the instructions asked by the defendants.

6— Because the Court erred in giving to the jury erroneous instructions—

Doniphon Wood & Wilson attys for deft

The Court overruled the motion to which opinion of the Court the defendants except & prays the Court — sign seal & deliver the several exceptions before in this Bill taken & made a part of the records in this Court which is done accordingly."

John H. Ryland (Seal)

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And afterwards to wit: at the said October Term of said Court, and on the 10th day of said month. being the 6th day of said term 1840 the following proceedings were had in this cause to wit

"Chloe a person of Colour
Vs Trespass
William Renick Sr. & Strother Renick

Now at this day come the said William Renick and Strother Renick by their agent Robert A. Renick and file an affidavit for and prays an appeal to the Supreme Court which is granted by the Court. And thereupon the said Robert A. Renick with Fountain Lewis and Andrew E. Renick his securities who are approved by the Court come into open Court and acknowledge themselves to owe and stand indebted to the plaintiff Chloe in the sum of three hundred dollars to be levied of their respective goods and chattels lands and tenements to be void in case that the appellants will prosecute their appeal with due diligence to a decision in the Supreme Court. and if the Judgment appealed from is affirmed or their appeal dismissed they will pay whatever costs have been recovered against them by the judgment of this Court or that they will otherwise perform the Judgment of the Circuit Court and that they will also pay the costs and damages that may be adjudged against them in the Supreme Court upon their appeal—

Which said application and affidavit is in the words and figures following to wit:—

"William Renick & Strother Renick
ads Suit for Freedom of Chloe
Chloe a woman of colour

The defendants

by their agent Robert A. Renick comes and makes application on the part of the Defendants and prays an appeal to the Supreme Court, and states & makes oath that such appeal is not made of vexation or delay but because the affiant believes that the appellants are aggrieved by the Judgment or decision of the court—

Robt. A. Renick

Subscribed and sworn to in open court this 10th of October 1840

William Spratt clerk

The following is a Bill of Costs in the above entitled cause which accrued at the following Terms of the Lafayette circuit to wit—

August Term 1838 To William Spratt clerk

For filing Petition 6¼ & copying Judges order 30¢		36¼
" filing Declaration & issuing writ		1.00
" appearance 20¢ filing 3 pleas 6¼		38¾
" filing Demurrer & one other paper		12½
" Issue joined to plea not guilty		25
" Judgment on Demurrer & entering same		50
" Commission to take Depositions		50
		$3.12½

August Term 1838 To Daniel McDowell Sheriff

For writ to bring Chloe plaintiff	$1.00	
" serving two Defendants	2.00	
" calling action & parties	.30	$3.30
		$6.42½

October

Chloe a person of colour

89 ~~Wm & Strother Renick~~ ~~Trespass~~

The following is a Taxation of costs in the above cause for October Term 1839 which was continued generally & for October Term 1840 when defendants took their appeal to supreme court & also the costs attending said cause, in procuring depositions which were not suppressed & Records from Kentucky Postage &c

Octr. Term 1839	To William Spratt clerk of said court		
	For appearance of parties	$ "	20
	" Motion to continue 25 & continuance 25	"	50
	" filing 2 precipes & issuing 4 Spo 50	2.	12
		$ 2.	82
	To Daniel McDowell Sheriff $6.42½	6	42½
		$ 9	24½
1840 Octr. Term			
	Appearance 20 & swearing Jury 25	"	45
	To Issuing 5 Spo,s 50	2	50
	" Swearing 12 witnesses 6¼	"	75
	" Order for Jury to disperse	"	25
	" Verdict and Judgment	"	75
	" Motion to set aside verdict	"	25
	" Order overuling same	"	25
	" filing instructions 2 papers	"	12½
	" filing 3 other papers	"	18¾
	" Motion for appeal 25 & filing Petition	"	31
	" Order granting an appeal	"	25
	" taking Recognizance	"	25
	" filing 3 papers 6¼	"	18¾
		$ 6.	52
	To Danl. McDowell Shff — $7.86¼	7	86¼
		$ 14	38¼
	" August Term 1838 — $6.42½	$.	¼
	Oct Term 1839 9.24½		
	Oct Term 1840 14.38¼		
	$30.05¼		

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	Amount brought forward		$30.05¼
Octr Term 1840	David Ward witness	$2.10	
	John McGlothlin Do	5.80	$7.90
	Costs in taking Depositions in Ky		
August Term 1838	To Clerk of Barren County Ky –	$1.00	
"	Justice Garrison for taking Depositions	1.00	
"	Witnesses attendance	2.00	
"	William Hoop postage on Comrs	" 31¼	
"	" " " on Depositions	2.00	
"	N. W Jones " "	.75	
"	Wm Spratt for issuing Commissions	1.00	
"	Henry Asberry Justice for taking Depositions in Illinois	1.25	$9.31¼
July 10th " 1839	" taking Depositions in Kentucky Justice & witnesses	$3.00	
	Postage paid on same by Hoop	2.00	$5.00
August Term 1840	To Costs of taking Deposition in Kentucky filed this term	$2.50	
	Postage on same	1.00	$3.50
Octo Term 1840	To William Hoop for copy of Probate laws of Kentucky	$8.00	

State of Missouri }
County of Lafayette } ss I William Sprat
clerk of the circuit court within and for
the County aforesaid do hereby certify that
the foregoing 90 pages contain a full true
and perfect transcript of the record and
proceedings in the above entitled cause of
of Chloe a person of colour against
William Renick Sr & Strother Renick
late pending in said court—

In testimony whereof I have
hereunto set my hand and
affixed the seal of said court
at office in Lexington this 10th
day of March AD 1841

William Sprat clerk

(12)

Chloe a person of colour

vs Transcript

Wm & Strother Renick

clerks fee for

Transcipt. $27,28

certificate & seal 50

$27.78

In the Supreme Court
of September Term 1841
Appeal from the
Lafayette Circuit Court

William Renick and
Strother Renick
against
Chloe a person of color. ——

And now at this day come the said appellants by their attorney and say that in the said record and proceedings and in giving the said judgement there is manifest error in this

1st Towit That by the said record and proceedings it appears that judgement was given for the said Chloe a person of color against the said William Renick and Strother Renick, whereas by the law of the land judgement ought to have been given for the said William Renick and Strother Renick against the said Chloe a person of color.

2nd There is also error in this towit that the Circuit Court erred in sustaining the demurrer of the said Chloe to the first and second special pleas in bar of the said William Renick and Strother Renick

3rd There is also error in this towit that the Circuit Court proceeded to final trial of the issue on the third plea of the said William Renick and Strother Renick not having first disposed of the issues of law arising on the demurrer of the said Chloe to the first and second special pleas in bar of the said William Renick and Strother Renick, and in this that the Court Court gave no judgement on the said demurrer of the said Chloe to the said first and second special pleas in bar of the said William Renick and Strother Renick.

4th There is also error in this, that the Circuit Court erred in overruling the objection of the said William Renick and Strother Renick to the reading of the papers marked B and C. to the jury, and in permitting the said papers marked B and C to be read to the jury as evidence.

5th There is also error in this that the Circuit Court erred in refusing to permit Henry Renick a witness for the defendants on the trial to answer the following question asked by the defendants to wit, "State if you have ever had any conversation with John Wren the executor of Nicholas Wren about the freedom of Chloe and state what it was?"

6th There is also error in this, that the Circuit Court erred in giving the 1st, 2nd and 3rd instructions asked by the said Chloe, to the jury.

7th That is also error in this, that the Court erred in refusing to give to the jury the 1st, 3rd, 4th, 5th, 6th, 7th, 8th, 9th and 10th instructions asked by the said William Renick and Strother Renick

8th There is also error in this, that the Court erred in giving to the jury, as given by the Court unasked by either party, instructions 1. 2 & 3.

9th There is also error in this, that the Court erred in overruling the motion of the said William Renick and Strother Renick to set aside the verdict and grant a new trial.

Wherefore for the errors aforesaid and for others appearing in the said record and proceedings, the said appellants pray that the said judgement be reversed, annulled and entirely for nothing esteemed and that they be restored to all things which they may have lost by reason of the said judgement, and that the

Court here proceed as well to the examination of the said record and proceedings as the said errors above assigned and that the said appellee join in error.

Doniphan Wood & Ryland
attys for appellants

William Renick & Brother Renick

vs

Chloe a person of color

Assignment of errors

Filed September
6th 1841 —
Wm Spratt clk

In the Supreme
Ohio a person of Color } Court Sept. term 1841
vs
Mother and William Renick

And now at this day comes the Appellee and says that in the Record and proceedings and in the rendition of the said judgment there is no error and that the said judgment ought not to be reversed annulled and for nothing esteemed but on the contrary the same ought to be affirmed in all things

French Reeder & Young
for Appellee

Chloe
vs
S D W Remick
Joinder in error

Filed September
7th 1841
Wm Spratt clk

Chloe a person of Color
vs
William and Stother Renick

The plaintiff a person of Color brought her suit in the Lafayette Circuit Court against the defendants, to recover her freedom. the defendants filed the general issue, and two special pleas in bar to the plaintiffs action. in one plea alledging that the plaintiff was, at the commencement of the suit, a Slave for life and the property of the defendant William Renick, and the other plea alledging that the plaintiff was the property of the defendant William Renick, the plaintiff joined issue on the plea of not guilty, and demured specially to the two special pleas that Court sustained the demurrer and gave judgment thereon for the plaintiff. It appears that Nicholas Wren late formerly of Warren County Kentucky owned the plaintiff as his slave, that said Wren made his will dated 5th day of August 1808. by which he directed that the plaintiff should serve his wife Eliyabeth until her, the said Eliyabeths death, and be set free and in Case the said Eliyabeth should die before the year 1820 that the plaintiff should serve his son Isaac Wren until that date 1820 and be set free and in Case the plaintiff should have any children before the year 1820 they to serve the said Isaac Wren till they respectively should arrive at 21 years of age and be set free, Nicholas Wren died in the year 1809 in Warren County Kentucky being 83 years of age and

Elizabeth Wren died in the year 1819, the plaintiff had three children before the year 1820. The plaintiff removed to this state in the year 1820 with defendant William Renick, bringing her three children with her. The defendant William Renick admitted before he left Kentucky that the plaintiff was a free woman and also admitted the same since the Commencement of this suit. The defendant Mother Renick disclaimes any right or title to the plaintiff. The plaintiff has had four other children since she came to this State and the defendants William Renick and Mother Renick have held the plaintiff and her children in slavery ever since she came to this state and so held them in slavery at the Commencement of this suit. On the trial the plaintiff read in evidence a certified copy of the Statute of Kentucky by which it appears any person over the age of 18 years may dispose of his chattels by will and that the County Court of the County of the known place of residence of the testator shall take probate of his will and grant a certificate of the same &c. and that all original wills be recorded and remain in the clerks office of the Court wherein they are respectively proved except during such time as they may be in any superior Court having been moved there for inspection by Certiorari or otherwise after which they are to be returned to the said office &c. The [redacted] plaintiff then offered to read in evidence a certified copy of the record

of the original will of Nicholas Wren deceased from the clerks office of the County Court of Warren County Ken. and the record of probate thereof, to the defendants objected; that Court overruled the objection and permitted the same to be read; the plaintiff also offered to read in evidence a sworn copy of the original will and also of the record of the original will, with the record of probate thereof, of Nicholas Wren deceased, by the clerk of the County Court of Warren County Kentucky the keeper of the records of said Court, the defendants objected, but the Court permitted the same to be read. ~~He had a verdict~~

The plaintiff has a verdict. The defendants moved to set aside the verdict and for a new trial for the following reasons

1st Because there was a special and general issue joined between the parties in this cause and that the said verdict has not found as to the special issue

2nd Because there is no finding as to issue joined on the special plea

3th Because the Court erred in allowing the papers offered by the plaintiff to be read to the jury 4th Because the Court erred in giving the instructions asked by the plaintiff

5th Because the Court erred in refusing to give the instructions asked by the defendant

6th Because the Court erred in giving to the jury erroneous instructions the circuit Court overruled the motion and refused to grant a new trial. The plaintiff contends that the Circuit Court Committed no error in refusing to grant a new trial 1st That the record shews that the issues upon the 1st and 2nd

pleas were found by the Court and judgment thereon given & rightly given for the plaintiff

2nd The Court Committed no error in allowing the papers marked B and C to be read by the plaintiff to the jury as evidence 1st ~~Stark Ev. page 193.~~
~~Stat. U.S. of 1790 cited in Stark Ev. note 1st page 190~~

3th The Court Committed no error in giving the instructions asked by the plaintiff

4th The Court Committed no error in refusing to give the instructions ~~as~~ asked by the defendants

5th ~~The Court Committed no~~ There is no error in the instructions given by the Court at least if there is the error is against the plaintiff

6th The Circuit Court Committed no error in sustaining the demurrer to the Special pleas of said defendant.

7th The Circuit Court Committed no error in in refusing to let the witness Henry Renick relate the Conversation he had with John Wren the executor of Nicholas Wren dec.

Authorities cited to sustain ~~the points~~ made by the plaintiffs - 1st Point 2nd Harris Entries page 348. See 5th Lillells Report page 118 Cockrans Exr. vs. Davis 2nd Point 1st Stark. Evi. page 193 = Statute of U States cited in first Stark Ev. page 190 note 1st = 1st Stark Ev. page 212 Statute of U State of 1804 cited on same page note 2nd

Hail vs Palmer and also 2nd Sen. Am. part 5th Vol. Mo Rep. page 403-

3rd point. See same authorities cited to sustain the 2nd point.

4th Point. Ralph a man of Color vs. Duncan. 3rd Vol. Mo Rep. page 194.

5th Point-

6th Point- 1st Chit. Plead. page 453. Revised Statutes of Mo 1835. page 286 Sec. 11

French Benders & Young for Appellee

Ichloe a person of color
vs
Wm & S Renick

Appellee's Brief

French Burden & Young
attor's for Appellee

In the Supreme Court
of Septr. Term 1841

William Reinick & Strother Reinick -
Against.
Chloe a person of Colour } Appeal from the Lafayette Circuit Court

The Defendant in Error sued the Plaintiff in error, by action of trespass, for her freedom - alledgeing among other things that she was a free person and that the ~~Defendant~~ Plaintiffs in error, held and detained her in Slavery -

The Plaintiffs in Error pleaded, three pleas, to wit two special pleas in Bar, and not guilty - see pages 16 & 17 of the transcript of the record - The Deft. in error, filed her demurrer to, the first and second pleas, and took issue on the third - Issue was joined on the Demurrer to the first & second pleas, and the issue on the Demurrer, was never disposed of by the Circuit Court, see pages 17 & 18, of the transcript,

On the trial, the Defendant offered, to read to the jury the papers as marked B & C. see pages, 27. 28. 29. 30. 31. 32. 33. 34. 35. & 36, to the reading of which Plaintiffs in error objected, but the court permitted the same to be read, & Plffs. in error excepted, see page 36. of the record -

On the trial the Deft. in Error to sustain her action, gave in evidence the will of Nicholas Wren of Warren County Kentucky, made proved and admitted to record in said County & State - Which contains the following clause "It is my will that in case

Elizabeth my wife should decease before the year one thousand eight hundred and twenty, that Chloe the negro girl should be set free at the date 1820. And it is my will that she serve out her time with one of my executors (viz) my son Isaac Brown in case I should decease before that time, and if the sd negro girl Chloe should have any increase previous to the said year eighteen hundred and twenty, it is my will that my said son Isaac Brown should raise the children until they arrive to the age of twenty one years and then set them free also and in case my wife Elizabeth should survive longer than the above named year 1820, It is my will that the said negro girl Chloe serve till her decease and then be set free and her increase serve my son Isaac Brown as above until they arrive to years of twenty one ~~and at the decease of my wife~~ and then be set free also," It is under this clause that the Defendant in Error, claims her right to freedom. The Plaintiff also gave in evidence a copy of an act of the General Assembly of Kentucky entitled, "An act to reduce into one, the several acts respecting wills, the distribution of intestates Estates &c, and the duty of Executors and Administrators" See page 86. The Defendant also, then identified the Deft in error, as the same negro girl, owned by said Nicholas Brown, at the time of the execution of said will, and as the same negro girl Chloe mentioned in the will. It also appears from the evidence that Elizabeth Brown the widow of Nicholas Brown, lived until sometime in the year 1819, when she died and that after her death, the Deft in error went to live with one of the Plaintiffs in error William Rennick. that in 1820 William Rennick

One of the Plaintiffs in error removed from Kentucky to Missouri and that the Defendant in error accompanied him and has remained with him ever since - and it is further proved, that said Rennick also brought with him the children of said Chloe, and has kept them ever since claiming them as slaves, and there is evidence conducing to show that he also claimed the Deft in error as a slave - There is also evidence conducing to prove that the Plff. in error Strother Rennick in conjunction with the said William Rennick at the time of the commencement of this suit held the Deft. in error, in slavery -

The Defendant in error, also provide tendered evidence, of what Isaac Wren had said about the freedom of Chloe, see Deposition of Abraham Turman page, 60 of the record, - And the Deft. in error who was Plaintiff below having closed her evidence the Plaintiffs in error, offered to prove by Henry Rennick the statements and admission of Isaac Wren about the freedom of the Deft. in error, which was objected to and the objection sustained see page 81.

On this state of Evidence, the Defendant in Error, prayed of the Court the following instructions, objected to Plffs. in error, but given by the Court - viz.

1. That if they believe from the evidence that Nicholas Wren in his lifetime owned and possessed the Plaintiff as his slave and that he the said Nicholas Wren made his will and that the Plaintiff is the same negro mentioned in the copy of the said Will read to the jury and that Elizabeth Wren the wife the said ~~Elizabeth~~ Nicholas Wren died before the year 1820

and that the said Nicholas Breen was over the age 21 years when he made said will and the said defendants or either of them at and before the commencement of this suit had and held the Plaintiff in slavery they must find for the Plaintiff against the defendants or defendant so holding her.

2nd That under the will of Nicholas Breen no act of the executors mentioned in said will was necessary to be done by them to entitle the Plaintiff to her freedom but that the said Plaintiff was by said will entitled to her freedom whenever the contingencies of the time mentioned in said will, by which she was to be free happened—

3rd That if they believe from the evidence that the Plaintiff Chloe was the slave of Nicholas Breen dec'd at and before his death and that she is the same negro slave mentioned in the will of said Nicholas Breen dec'd? Copy of which was given in evidence and that Nicholas Breen at the time of making said will was over 18 years of age and that at the time of the commencement of this suit the defendants or either of them held her in slavery and that Elizabeth Breen the wife of said Nicholas Breen died before the year 1820, they must find for the Pff.

The Plaintiff in error, thereupon asked the following instructions

1st That there is no evidence given which shows that Nicholas Breen had power by the laws of the State of Kentucky to free his slaves by will, given in evidence, and therefore that the jury must find for the Defendants—

2nd That the Statute of this State in relation to the emancipation of slaves can have no effect in enabling the Plaintiff in this case to recover—

3rd That before the Jury could find the Plaintiff free they must find that the Executor who qualified under the will, did proceed according to the laws of Kentucky to set her free.

4th That there is no evidence to show that the Executor who qualified under the will ever did set the Plaintiff free as the will directed.

5th That the Plaintiff having failed to show that there was a law in force in the State of Kentucky at the date of the will or the death of the said Wren, which authorized him to set the said Plaintiff free, therefore they must find for the Defendants.

6th That even if the laws of the State of Missouri did apply to the case, the Plaintiff has given no evidence showing that the requisites of the said laws of this State in that behalf have been complied with in this case therefore the jury must find for the Defendants.

7th That the Plaintiff having been shown to be a slave of Nicholas Wren who is proved to have died in Ky. and as there is no law proved to have been there in force in that State, which authorizes said Wren to set free the Plaintiff she is still to be presumed a slave and the Jury must find for the Defendants.

8th Before the Plaintiff can be entitled to a verdict of freedom under the facts in this case, by reference to the laws of the State of Missouri, proof must be given that the will of Nicholas Wren, acknowledged in the Circuit Court in the County in Kentucky in which the said Wren resided, or that the same was acknowledged by the said Wren in the said Court.

9th Before the Plaintiff can be entitled to a verdict in this case by supposing the laws in Kentucky on the subject of emancipation of slaves to be the

Land, as the Laws of this State, the jury must find that the will of the said Nicholas Brew, was either proved in the Circuit Court of the County in the State of Kentucky, in which the said Brew resided or that it was acknowledged by him in the same, & therefore if the Jury find from the evidence, that it was neither proved or acknowledged, in such Court then they must find for the Defendants.

10th In the absence of proof of what the Laws of the State of Kentucky are on the subject of emancipation of Slaves the Statutes of this State on that subject are to govern in the decision of this case & unless all the requisites pointed out in said Laws are proved to have been fully complied with, the jury cannot find for the Plaintiff in this case

11th That unless the jury find from the evidence that the Defendant Shelton Rennick at and before the commencement of this suit had and held the Plaintiff in Slavery, they must find said Defendant Shelton Rennick, not guilty, and that they may find one Defendant guilty and the other not guilty —

The Court gave the 2nd & 11th and refused all the others and the Plff in error excepted —

The Court then gave to the jury, the following instructions not prayed for by either party.

That if they believe from the evidence, that the Laws of the State of Kentucky declare that no person under the age of 18 years, shall be capable of disposing of his chattels by will, then they will consider that as equivalent to saying that persons over that age may dispose of their chattels by will

2nd That if they believe from the evidence that the Laws of Kentucky did allow persons over the age of 18

years to make general disposition of their Chattels by will at the time when the will of Nicholas Breen was made (if from the evidence they believe such will ever was made) then the Court instructs them that under such power to make disposition of their Chattels, it was competent for Nicholas Breen, to manumit by will his slave Chloe

3d That even, if the laws of the State of Missouri did apply to the case, the Plaintiff has given no evidence showing, that the requisites of the said laws, of this State on that subject have been complied with in this case,

To these instructions given by the Court the Plffs. in Error objected & excepted —

The Jury found a verdict for Deft. in error, which the Plff. moved the Court to set aside and for a new trial for reasons assigned in writing see page 86 — which was overruled by the Court and exceptions saved by Plffs. in error —

The Plaintiffs in error, will insist on the following points,

1st That there is no Judgement on the demurrer of the Deft. in error, to the special pleas in bar of the Plaintiffs in error, and that the issue in law remaining undisposed of arising on that demurrer, it was error in the Circuit Court to proceed to trial of the issue of fact on the 3rd plea — On this point see the following authorities. Statutes, State Mo. page 462, sec. 1. 1st Vol. Sec. Sup. C. Mo. page 501, State Mo. vs Gatherdolly Asto. Judgement on demurrer 360. 348. 293. Harris Entries 2nd Vol.

2nd It was error in the Circuit Court to admit as evidence, the paper marked B, see page of record 27.

This paper purports to be the will of Nicholas Ireu, and is not competent as evidence, because,

1st No evidence was adduced, that by the Law of Kentucky a Slave may be freed by will. and the proof as taken is not in conformity with the requisitions of the Laws of this State, See 1st Sec: page of the record 36

2nd If by the Laws of Ky. Slaves can be freed by will, the Clerks certificate is not full enough, it does not show the order of the Court nor does it show a proof of the facts required to establish a will. If the will was proven before the County Court the fact ought to appear on the record of the Court, here the Clerk on the back of the will only certifies that the will was ordered to record, and no transcript of the order is made, See the 1st Section of the act of the General Assembly of Ky, in force, page of the record. 36, See also 2nd Marshalls 144.

Second, It was error in the Court to admit as evidence the paper marked C. See page 31. of record. This paper is the deposition of Jonathan Hobson Clerk of the County Court of Warren County Ky, proving an exemined Copy of the will, with the probate thereof, in the same form, of the Certified Copy, and is inadmissible for the same reasons that would exclude the Certified Copy, and for the additional reason, that the Hobson, the deponent who was Clerk of the County Court, has only sworn that it was a copy, a certificate under his Official Seal being a higher grade of evidence.

Third, That the Circuit Court having permitted the Defendant in error, to give evidence as to what Isaac Ireu had said about the freedom of Chloe

(See page of the record 960. Dep. of Abr. Twyman,) refused to permit the Plaintiffs in error, to introduce the same proof by Henry Rumich, see page of the record 81. and that this was error.

Fourth, That the Defendant in error, to sustain her action for freedom, based on the said Will of said Nicholas Wren, must by competent evidence, prove that by the laws of Kentucky, a slave can be emancipated by will, and that there is no such proof in this case,

Fifth, That the Defendant in error having been shown to have been a slave of Nicholas Wren, who is proved to have died in Kentucky, and as no law is proved to have been ~~there~~ in force in that State which authorized the said Wren, to emancipate the Defendant in error by will, she is to be presumed still a slave.

Sixth, That in the absence of proof of what the law of the State of Kentucky is on the subject of emancipating slaves, the Defendant in error to avail herself of the benefit of the law of this State, must ~~prove~~ show that the will of Nicholas Wren was proved as required by the law of this State, and that all the requisites of the law of this State, in relation to the probate record of wills emancipating slaves have been complied with, and that the Defendant in error has failed to show this. See Statutes of Mo. page 587 sec. 1. 86 inclusive

Seventh, That the Def.t in error, was not emancipated by the will itself, but by the provisions of the will was to be freed, by the Executors on the happening

of certain contingencies and events, and that the executors having failed to emancipate, the Defts in error, as against the will, her remedy for freedom is in Chancery and not at Law—

See 3rd Littell 23 & Peters Reports.

Eighth That the Circuit Court erred, in overruling the motion of the Plaintiffs in Error for a new trial.

Wm. & Strother Reinick

vs.

Chloe

Brief of Plffs. in
Error by

Dompham Ryland Shood

Ky. Digest 608

4 Mo. rep. 450
Leap. vs Elliot

Mr Spratt,

Will please copy Bill of reception in case of Chloe vs. Rumicho — for Rumicho & deliver the same to him to be sent to us at Liberty

Demphan & Wood

Also in the Case of Fields vs. Hunter copy for Hunter Bill ~~[illegible]~~ for Hunter & send to him by mail or otherwise, as ~~[illegible]~~ practicable

Wood

Woods Instructions
to Clerk

Chlaes
vs Order for copy
of Exceptions
Renicks

W. & S. Renick v. Chloe a person of colour

Appeal from Cir. of Lafayette Co.

Opinion of the Court

The appellee instituted a suit in the Lafayette Circuit Court to recover her freedom. The declaration was in the usual form, & two special pleas & the plea of not guilty, were filed by the defendant below. The special pleas were demurred to, & upon which the ~~general~~ plea of not guilty. The demurrers were sustained by the Court, ~~& an judgment~~ a trial had upon the ~~general~~ plea of not guilty, and ~~given upon their; until the final judgment~~ in the case ~~upon the general issue~~ the plaintiff had a verdict & judgment.

The testimony is preserved by a bill of exceptions. It appeared, that the plaintiff was a slave of one Nicholas Wren of Warren county Kentucky, who died sometime in the year 1809, at an advanced age, having made his last will & testament. The will contained the following clause, "It is my will, that in case Elizabeth my wife should decease before the year 1820, Chloe the negro girl should be set free at the date 1820. And it is my will that she serve out her time with one of my executors (viz) my son Isaac Wren, in case I should decease before that time. And if the said negro girl Chloe should have any increase previous to the said year 1820, it is my will that my said son Isaac Wren should raise the children until they arrive to the age of twenty one years & then set them free also."

It appeared, that Elizabeth Wren died in 1819, & that before the year 1820, the appellee, Chloe, had three children. John Wren one of the sons & executors of his father's will qualified & acted as executor; but Isaac Wren, who lived in a remote county did not act. Isaac Wren however, it was proved permitted the woman Chloe & her three children to be taken by William Rennick, one of the appellants to Missouri, & a bill of sale was given by Isaac Wren conveying his interest in Chloe's children until they arrived at the age of twenty one years. It appeared, moreover, ~~that~~ from the testimony of Isaac Wren & others, that William Rennick, one of the appellants was fully apprized that Chloe was a free woman, & that her children were to be free at the age of twenty one. His acknowledgments to this effect, both before he left Kentucky, & during his ~~arrival~~ residence in this state, were given in evidence.

The copy of the will & given in evidence was proved in accordance with the provisions of the act of Congress of March 27th, 1804. The certificate of probate was as follows: "Warren county sct. January County Court 1810. This last will & testament of Nicholas Wren deceased was proven by the oath of John Whitesides & David Barbee two subscribing witnesses thereto and ordered to be recorded. Attest: Jonathan

Hobson Clerk W. C. C." Then follows the certificate of the Clerk, that the above is a full & perfect transcript of the record of the original certificate of the probate, as it remained in his office. The other necessary certificate ~~were~~ accompanied this, to which no objection was raised A sworn copy of the will was also offered & given in evidence.

The statute of Kentucky, entitled "An act to reduce into one the several acts respecting Wills the distribution of intestate estate &c." was also given in evidence. By that act it is amongst other things, that every person over the age of eighteen, being of sound mind & not a married woman, shall have power by last will & testament in writing, to dispose of his chattels, provided such last will shall be signed by the testator ~~or testatrix~~, or by some other person in his presence & by his directions, & if not wholly written by himself, be attested by two or more competent witnesses subscribing their names in his presence. It is further provided by the 36th section of the same act that "all certificates of probate or of administration attested by the Clerk shall enable the executor or administrator to act & may be produced & given in evidence in any court within the Commonwealth &c."

The depositions of several witnesses were read in the cause, conducing to prove the identity the negro woman, the admissions of the ~~plaintiffs~~ appellants & the fact

that the appellee was still held in slavery.

The Court instructed the jury that if they were satisfied that Nicholas Breen owned Chloe as his slave & that he made his last will as it was given in evidence & that Chloe is the same woman mentioned in said will, and that ~~Nicholas~~ Elizabeth Breen the wife of the said Nicholas died before the year 1820 & that the said Nicholas Breen was over the age of 21 years when he made his said will, & that defendant ~~appellant~~ or either of them at or before the commencement of this suit held the woman in slavery, they must find for the plaintiff. ~~Chloe~~. The Court refused to instruct the jury, at the instance of the Defendant, that there was no evidence given which showed, that by the laws of Kentucky, Nicholas Breen had any power to ~~it~~ liberate his slaves by will & that therefore the jury must find for the Defendant. The Court was also asked to say, that there was ~~that was~~ no evidence that the executor had who qualified under the will, had ever set the plaintiff free; but the Court refused to give this instruction but ~~it~~ instructed the jury that under the will, no act of the executor or either of them was necessary to set the plaintiff free, but that she became a free woman whenever the contingencies mentioned in the will happened. Many other instructions are found upon the record, but they seem to have no bearing upon the points

involved in this case.

The material points arising on this record are

1. Was the proof of the will & the probate thereof competent?
2. Were the ~~errors~~ instructions given by the Court correct.
3. The admissibility & ~~strength~~ sufficiency of the admissions of defendant to establish the freedom of the Plaintiff

First. No objections have been taken to the proof of the will, under the act of Congress of March 27 1804, except so far as it relates to the insufficiency of the certificate of probate. That certificate is supposed to be insufficient, because it does not shew the order of the Court, and does not contain a proof of the facts requisite to establish a will, under the first section of the act of the General Assembly of Kentucky, heretofore recited. The certificate of the Clerk states that the two subscribing witnesses (naming them) proved the will, & that the same was ordered to be recorded. This certificate forms a part of the copy of the record certified by the Clerk to be a full & perfect transcript of the record of the original certificate of the probate as it remained in his office. The 36th section of the act of Kentucky provides that all certificates of probate attested by the Clerk may be produced or given in evidence in any Court within that state. The form

of the certificate, & the facts necessary to be certified, are not pointed out by that statute. But the Justice whose certificate follows that of the Clerk, certifies that the attestation of the Clerk is in due form & by the proper Officer. The Clerk then certifies to the judicial character of the presiding Officer.

The certificate of the presiding Justice is conclusive evidence that the certificate of the Clerk is in due form & contains all the facts, which by the laws of that state, it should have recited certified. Nor can this Court go behind the certificate of the Clerk, & presume that any other or further order appears on the records of the county Court of Warren county, than what appears on the transcript certified by the Clerk & which transcript he certifies to be a full & perfect transcript. All the requisites of the act of Congress seem to have been fully complied with: the and the copy of the will & the probate thereof was competent testimony.

Second. The instructions of the Court assume the ground, that the Act of the General Assembly of Kentucky authorizing a man to dispose of his chattels by will, authorizes him to emancipate

his slaves, unless some statute prohibiting the same is shewn. They are predicated on the hypothesis, that a general power to dispose of chattels by will, includes a power to bequeath liberty to a slave; that species of property being regarded as personal property in most, if not all of the slave-holding states; ~~unless so~~ and that the courts of this state will not presume any restrictions upon this power, unless they be shown.

Whether slaves are to be regarded as chattels or real estate, is a question which in my opinion is calculated to throw no light upon this subject. They are in truth a species of property, sui generis, to be held, disposed of & regulated according to the laws of each particular state where slavery exists. In all slaveholding states colour casts the presumption of slavery, & until the contrary is shown a man or woman of colour is deemed to be a slave. I speak, of course, of the slave-holding states ~~of~~ this Union, & in reference to the judicial determinations of the courts of those States, including our own.

It is judicially known to the courts of this state, that certain States of this Union recognize & in their respective Constitutions the existence of Slavery within their limits. The general policy of such states, in relation to this subject, is a matter of

history. It is inconsistent with this policy, & with the safety of the State, that in a State where slavery is tolerated, embracing a class of people of a different race & different colour, from the citizens of those States, every slaveholder should be at liberty upon his own mere motion to emancipate his slaves, without the agent of the people of that State expressed through legislative enactments. No such power could be presumed by a court, consistent with the character of our political institutions.

~~Such left~~ Nor do I think any such power could be fairly inferred from an act authorizing individuals to dispose of their chattels. Admitting slaves to be chattels; & they are so regarded for many purposes, a power to dispose of chattels could not fairly be construed into a power to confer an important political right upon a slave. That power could only be exercised by the consent of the sovereignty. The master of the slave is not the only person concerned in such a privilege as this; the whole community are alike interested. If the legislature authorized a ~~in dis~~ citizen to dispose of all his real lands & tenements, it would hardly be contended that such an act would authorize a man to burn down his house situated in the midst of a large city, to the great damage & peril & destruction of his

neighbours' property. No more could a power to dispose of slaves be ~~construed into a~~ deemed a power to annihilate slavery, by converting ~~the~~ slaves into freemen.

~~At another~~ The act of the Kentucky Legislature, authorizing persons of a certain age to dispose of their chattels, did not therefore, in my opinion, authorize them to emancipate their slaves, and the appellee having produced on the trial no such law, the Court should have instructed the jury to find for the defendants.

Third. In relation to the admissions of the ~~plaintiff~~ defendants, the Court is of opinion, that such admissions, of themselves, are insufficient to authorize a verdict for the plaintiff. When a suitable foundation is laid for such testimony, the admission of a person holding another in slavery that he or she is free, is undoubtedly for many purposes legitimate evidence. They cannot of themselves prove the fact of freedom. If this were so, the consequences ~~would~~ are most apparent. It would only be necessary for the owner of slaves, however old & decrepit & worthless, to declare that his slaves were free, & ipso facto, they become free & could upon their declarations or admissions obtain their freedom

by a suit. This would clearly evade all legislative enactments, & conflict with the policy & indeed safety of all slaveholding states.

But if the law of a state allows a master to emancipate his slave, & points out the mode such emancipation is effected either by will or deed in conformity with the law, ~~such~~ the ~~testimony~~ admissions of the master, ~~of~~ or others holding the petitioner in ~~the~~ bondage would be evidence proper to go to a jury to show a compliance on the part of the slave with any conditions which the will or deed may have imposed. In the present case, if the plaintiff had shown that by the laws of Kentucky, a master could set his slave free by will, the admissions of the defendants could have gone to the jury to show ~~the~~ a compliance with the will by the executor. Supposing that by the terms of the will of Nicholas Wren, any act was necessary to be done by his executor ~~to~~ or by the plaintiff, before the plaintiff would have been by the will entitled to her freedom, the admissions of the executor or of the defendants would undoubtedly be good evidence to show a performance of such condition precedent.

Judgt. reversed & cause remanded

W. B. Napton

I concur

W Scott

In my opinion the judgment of the Circuit court ought to have been affirmed

G Tompkins

(33)

Renick

v.

Chloe

Opinion of the Court.