Jennings, William by guardian Alsop, Thomas B vs Stephens, Laurence C. 1840 ? / Cooper Co 121/8

Lunatic ^ Livestock, Slaves

William Jennings by Thomas B Alsop his Guardian vs In Chancery Laurence C Stephens

Pleas had in the Circuit Court for the County of Cooper in the State of Missouri on the Chancery side thereof, before the Honorable William Scott Judge of said Court.

Be it remembered that heretofore towit, on the twenty second day of June in the year of our Lord Eighteen Hundred and thirty nine William Jennings, by his Guardian Thomas B. Alsop filed his Bill in the Cooper Circuit Court on the Chancery side thereof, against Laurence C Stephens which said Bill reads as follows towit."

Bill "To the Honorable William Scott Judge of the Circuit Court in and for Cooper County in the State of Missouri. In Chancery sitting. William Jennings a Lunatic, by Thomas B. Alsop, duly appointed and acting Guardian of said Jennings, both resident Citizens of Shelby County in the State of Tennessee Humbly Complaining, respectfully sheweth unto Your Honor. That the said William Jennings some time in or about the year of our Lord 1819 Migrated from the State of Tennessee with his family to the County of Cooper aforesaid, and brought with him a large personal Estate Consisting of Slaves, Money and divers other articles of property. That he remained as a Citizen of said

County of Cooper until some time in the Month of March 1838, when he said Jennings removed back to the County of Shelby in said State of Tennessee, where he and his wife, the only white member of his family are residing - intending to make a permanent residence there during the remaining part of their lives - The Climate of Tennessee being much more agreeable to their Constitution and General health, than the Climate of Missouri, which from its irregularity, had been the means of causing much bodily affliction by disease to the said William Jennings for several years next preceding his removal back again to Tennessee.

Your orators further state that at the time the said William Jennings left the State of Missouri to return to the State of Tennessee as aforesaid, he was diseased in body, in so much, that at times thereafterwards, when occasional paroxysms of the disease would occur (which were rare) the mind of the said William would become affected, and slight delirium would be produced - Continuing however for but short periods - Your orators further state that the said Jennings since his removal to Tennessee hath recovered his bodily health but hath almost entirely lost his mind & memory, and hath thereby become utterly incapable of managing & conducting his own affairs and business - and in consequence thereof, heretofore that is to say on the first monday in March last past at ~~the~~ a County Court holden in and for said County of Shelby at the Court House in the Town of

Raleigh, before the Honorable John Pope Chairman, Reuben Massey and Williamson Bonner, Justices thereof. Certain proceedings were instituted in said Court before said Justices in due form of law, upon an inquisition of Lunacy charged to exist and be upon & with said William Jennings, upon which said inquisition so instituted such proceedings were thereupon afterwards had, whereupon at a subsequent Term of said Court, it was found adjudged and determined by said County Court, that the said William Jennings was a Lunatic and mentally incapable of transacting his own affairs and business. Whereupon the said County Court at a subsequent Term thereof, viz. on the first Monday in May 1839 upon said finding, in due form of law did appoint Your orator Thomas B. Alsop Guardian to the said William Jennings and of his Estate, which said Guardianship Your Orator Thomas B Alsop accepted and took upon himself, and thereupon on the sixth Day of May last entered into Bond, with Emanuel Baker and John Ralston, his securities, in the penal sum of ten thousand five hundred Dollars payable to the Justices of said County Court or the survivor, or survivors of them, their executors &c, in Trust for the benefit of the said William Jennings - Conditioned for the faithful performance of all and every the duty of such Guardian according to law; all of which will more fully and at large appear by reference to a copy of the record & proceedings of the said County Court upon said

inquisition of Lunacy which is herewith exhibited marked number One (1) as part and parcel of this Bill of Complaint. Your orators further represent that the said William Jennings has but three Children living viz. Martin Jennings, his only son, Susan Woods wife of Charles Woods, and Cynthia Davis, wife of Philip C Davis, all of whom are over the age of Twenty One Years. The former a resident Citizen of Shelby County, Tennessee, and the two latter with their respective husband and families of Children, in said County of Cooper. To all of whom the said William Jennings some time prior to his removal from Missouri to Tennessee as aforesaid, had made ample provision by donating to them all the lands which he owned in this State, Consisting of his home well improved Farm, which he donated to his Daughter Susan Woods and her heirs, Containing about the quantity of three hundred and sixty acres of about the value of ten dollars per acre. And a tract of about the same number of acres and of about like value which the said William Donated to the said Cynthia Davis and to her heirs and one hundred and sixty acres of land to his said Son Martin and his heirs, of about the value of Eight Dollars per acre. as also did he the said William donate to and distribute among his said three Children at various times prior to his said removal to the state of Tennessee, divers large sums of Money and Slaves, and other valuable property, administering to their wants and necessities from time to time, as a parent, and making

them as happy and easy in all things as his Circumstances and Condition in life would permit. After all of which, and at the time of his departure from Missouri for Tennessee as aforesaid, he the said William Jennings was possessed of a large personal estate Consisting of divers horses Cattle, hogs, sheep, Household & Kitchen furniture of great value, and of money, Chases in action and of Divers Slaves - and among other slaves, of the following, viz. of Slave James of about the value of seven hundred Dollars - of Isaac of the value of seven hundred Dollars of slaves Phebe & Charlotte Women of about the value of one thousand Dollars - of slaves Lee, Jacob and Daniel of about the value of one thousand three hundred dollars and of William, James and Mary Jane of about the value of four hundred and fifty Dollars. Which said slaves and said other property the said William Jennings left behind him and within said County of Cooper, with a view, & the intention of having the same Conveyed to his place of residence in Tennessee, after having selected the same - Yours orators further states that shortly after the said William Jennings had removed from said County of Cooper to Tennessee as aforesaid, one Laurence le Stephens of said County of Cooper, combining & Confederating with the said Charles Woods and Philip E Davis to cheat, defraud and to convert to their own use, the aforesaid slaves, together with sundry notes & Chases in action, amounting in the

whole to the sum of seven hundred and seven-
-teen Dollars & thirty Cents - due to the said William
Jennings from divers persons not now known or
recollected by your orators - as also to obtain & con-
-vert to their own use the sum of two hundred
and ninety Dollars in Cash of the said William
Jennings under the false pretence of preserving
from waste and preventing a loss of said Slaves
Chases in action and money - he the said
Laurence C. Stephens on or about the 23° day
of last July at the County of Cooper aforesaid
took into his possession the said Slaves, Chases
in action and money last above mentioned,
And thence hitherto hath hired out the said
slaves for large sums of money, that is to say, for
the sum of one thousand Dollars which he the
said Laurence C. Stephens hath collected & recei-
-ved - as well also, as the said sum of seven hun-
-dred and seventeen Dollars, & thirty Cents, all
of which money, together with the said sum of
two hundred and ninety Dollars, amounting in
the whole, to the sum of nineteen hundred and
sixty Seven Dollars and thirty cents, together
with the above named negroes, slaves, he the
said Stephens hath in his possession. The same
being the property of the said William Jennings
and which he the said Stephens, although hitherto
often demanded and requested at the County of
Cooper aforesaid, hath refused to deliver and
surrender up either to the said William Jennings
or to your orator Thomas B. Alsop his Guardian

Your orators further represent unto your Honor, that the said Stephens sometimes alleges and pretends to Your orators, that he has no wish to Convert or dispose of the Slaves, or Monies by him received as aforesaid to his own use, but that he will deliver the same up to the said William Jennings, or to your orator Thomas B. Alsop as Guardian as aforesaid, at any time when directed so to do by your Honor. at other times said Stephens peremptorally, and positively Stated to Your orators that he will not under any circumstances whatever, deliver the same to either of your orators - Your orators further state that they have been informed and believe the fact so to be, that the said Laurence C. Stephens has by some mysterious means procured himself to be appointed by this Honorable Court at the last November Term of this Court, Curator of the estate of the said William Jennings and now pretends to hold the estate, consisting of the Money & negroes above specified under the order of the Court so appointing him - Your Orators further State that the said William Jennings and his said wife, Polly Jennings are very old - the said William being about seventy two years of age, and the said Polly about the same age - that they are unable to obtain the necessary means of living by their labour that they had for Many years prior to their removal to Tennessee, lived at their ease, having

had servants to wait upon them, and money and every thing needful of the good things of the world to render them comfortable and happy in declining life. That since their removal from Missouri to Tennessee, the home of their own choice, they have been destitute of every comfort of life, Except those granted ~~him~~ them by their kind and hospitable son, Martin Jennings, who has a large Family of Children to maintain, and whose fortune is by no means ample - The said Stephens refuses them their servants that they have nurtured and raised from childhood, to wait upon them, He refuses them their money or so much thereof, as will met the most ordinary expenditures and debts contracted for them by their son, and since he hath been appointed Curator of the estate by this Honorable Court, he hath obtained possession of notes of seven hundred and seventeen dollars & some cents made by said Martin Jennings for the payment of that amount to his said Father, among which notes is one amounting to the sum of about two hundred and fifty dollars which said Jennings made to said Woods & Davis, without any consideration and which said Woods and Davis assigned to said William Jennings contrary his consent and knowledge, & placed in the hands of said Stephens, who had full knowledge of all these facts, & under a pretence of doing his duty as Curator as aforesaid, hath

brought suit upon this last mentioned note in the said Cooper Circuit Court against him the said Martin Jennings, and threatens to Coerce the payment thereof by the most rigorous means of the Law - and dividingly objects to an allowance to said Martin Jennings, by way of set off or otherwise, for monies advanced by said Martin, or for debts paid or Comforts and necessaries by him furnished his most afflicted and helpless Parent as aforesaid - at the same time withholding suits against others alike indebted to said William Jennings.

All which actings and doings of the said Laurence C. Stephens and his said Confederates are Contrary to Equity and good Conscience and manifestly tend to the injury and oppression of the said William Jennings, and Your orator Thos B Alsop his Guardian.

prayer. In Tender Consideration whereof, and for as much as your orators are remidilys in the premises by the rules and rigours of the Common Law and Can only have relief in Equity where such matters are properly Cognizable To the End therefore that the said Laurence C and his Confederates when discovered may upon their several and respective oaths true and perfect answers make to all and singular the premises as if the same were herein again repeated, and interrogated, according to their and each of their knowledge remembrance and belief, and more partic

-ularly that the said Laurence C Stephens may set forth and discover - Whether the said William Jennings at the time he left Missouri for Tennessee as aforesaid was not the owner of the above specified slaves. & Whether he did not leave them behind him within the County of Cooper Whether the said Negroes are not still the property of the said William Jennings? Whether he does not hold said negroes in Trust for said William Jennings - Whether he has not hired them out as above set forth - & received large sums of money for their hire, & Whether he has not the same on hand and if not in whose hands is it - and how much does it amount to. How much other money has he collected, and other money received of and belonging to him said William Jennings - And that the said Laurence C Stephens may set forth on his oath and fully render and account of all the money and property of and belonging to the said William Jennings of every kind and nature whatever which hath come to his hands as Trustee or otherwise. And may it please the Court upon the final hearing of this Cause to Compel the said Laurence C Stevens, who your orators pray may be made dependant herein, to surrender up to your orator Thomas B Alsop, Guardian as aforesaid, to and for the use of the said William Jennings, Lunatic as aforesaid and for the use of his aged wife, the said several negroes and every of them, together with all the money and all other the property which he hath in his hands of the said William Jennings & that upon the final hearing of this Cause that

the Court may grant such other & further relief in the premises, as shall seem meet and Equitable. May it please the Court to grant unto your orator the writ of summons requiring the said Lawrence C Stephens to be and appear in this Court on the first day of the next Term thereof. and then and there answer this Bill - and stand to and abide all such orders and decrees as your honor shall make herein. And your orator in duty bound will ever pray &c.

William Jennings by
Thomas B Alsop his
Guardian
P R Hayden
Solicitor.

Exhibit No 1.

Be it remembered that at a County Court begun and held at the Court House in the Town of Raleigh in and for the County of Shelby in the State of Tennessee on the first monday in March 1839 John Pope Chairman Reuben Meafey & William Bonner Justices of the peace in and for said County Composing said Court the following is of Record to wit. Ordered that the Sherriff summon a Jury of Inquisition to Consist of Twelve freeholders to examine into and report upon the Lunacy of William Jennings and that the proceedings therein be reported to the next Term of the Court - and afterwards to wit at a County Court began and held at the Court house in the Town of Raleigh in Shelby County in the State of Tennessee on the first Munday in aprile 1839 John Pope Chairman Williamson Bonner Reuben Meafey J Bradley Benjaman Sandford Thomas Holeman & M Allen

Turner Persons John Ralston Jr Meapey & Jas Rose Justices Composing said Court the following is of record towit. The undersigned free holders of Shelby County State of Tennessee summoned and sworn for the purpose of inquiring into the mental Condition of William Jennings after a full investigation find him a lunatic & altogether disqualified to transact any business successfully and therefore intitled to the benefit of the Law provided in such cases. We also from the best testimony in our power find no property in this County. But that he is possessed in the State of Missouri of personal property istimated at nine thousand seven hundred & sixty nine dollars no real estate. Witness our hands this 15 March 1839. Benjamin Sandford Andrew Rembert Samuel Douglass H Brooks B Dunkin Joel McLemore Robert Wear William Ross A Snead T B Alsop A Dubose Charles Crenshaw Jury. And at an other time towit, at a County Court began and held at the Court house in the Town of Raleigh in the County & State aforesaid on the first Munday in May 1839 John Pope Chairman Williamson Bonner & Reuben Meapey Justices of the peace in and for said County & State Composing said Court the following is recorded towit, "Ordered that Thomas B Alsop be and is hereby appointed Guardian to William Jennings who has been reported to this Court a lunatic by a Jury of Twelve free holders under an act of the general assembly of the State of Tennessee in such case made & provided and thereupon the sd Alsop Came into Court and entered into bond and security for the faithful discharge

of his duties as guardian aforesaid which Bond is here Copied Towit. State of Tennessee Shelby County.
Know all men by these presents that we Thomas B Alsop Emanuel Baker & John Ralston all of Shelby County in the State aforesaid are held and firmly bound unto the Justices of the County Court for the County aforesaid in the sum of Ten thousand five hundred dollars to be paid to the said Justices or their survivor or survivors of them their executors or administrators in trust for the benefit of the person hereafter named Committed to the Care of the said Thomas B Alsop to which payment well & truly to be made we bind ourselves and each of us each and every of our heirs executors & administrators jointly & severally firmly by these presents sealed with our seals & dated the 6th day of May 1839. The Condition of the above obligation is such that Whereas the above bound Thomas B Alsop is Constituted & appointed Guardian to William Jennings reported to be a Lunatic by a Jury of Twelve free holders under an act of the general assembly of the State of Tennessee in such Case made & provided. Now if the said Thomas B Alsop shall faithfully execute his Guardianship by securing & improving all the Estate of the said William Jennings that shall Come into his possession for the benefit of the said William Jennings until he shall be required to render a plain and true account of his Guardianship on oath before the Justices of our said Court and deliver up and pay the order of this Court all such

Estate or Estates as he may be possessed of or to such persons as may be lawfully empowered or authorised to receive the same and the profits arising therefrom then this obligation to be void otherwise to remain in full force and virtue.

T B Alsop (Seal)
Emanuel Baker (Seal)
John Ratston (Seal)"

And upon the filing of the said Bill, and upon the same day and Year the said Complainant filed the following Bond for Costs. towit, "Know all men by these presents, that William Jennings, a Lunatic by Thomas B Alsop his Guardian is about to commence a suit in Chancery in the Cooper Circuit Court in the State of Missouri against Laurence Stephens to recover certain slaves and other property from said Stephens belonging to said Jennings. Now therefore we the said Alsop principal and Thomas Russell & John Porter do by these presents acknowledge ourselves held and firmly bound to pay all Costs which may accrue and be adjudged against the Complainant in said suit. Signed sealed and delivered this 22d June 1839.

Bond for Costs

T B Alsop (Seal)
John Porter (Seal)
(Seal)"

Upon which said Bill of Complaint the Clerk of said Cooper Circuit Court Issued the following subpoena in chancery. towit, "

Subpoena in Chy

"The State of Missouri
To the Sheriff of Cooper County

Greeting: You are hereby Commanded to summon Laurence C. Stephens that he be and appear here before the Hon the Judge of the Cooper Circuit Court (sitting as a Court of Chancery) on the first day of our next Term thereof (which will Commence and be holden at the Town of Boonville in said County on the second Monday in July next) then and there to answer unto William Jennings (a Lunatic) who hath sued by Thomas B. Alsop his Guardian in a certain Bill of Complaint in our said Court filed against him. And hereof You fail not. And have You then and there this writ.

Witness Robert P. Clark clerk of our said Court at office this twenty second day of June Eighteen hundred and thirty nine.

L S

Robert P. Clark Clk
By Bennett C. Clark
D C.

Upon which said Bill and subpoena in chancery the sheriff made the following returns to wit.

Shff. 1st return "I Certify that I served the within subpoena in Chancery on Laurence C Stephens by reading the same to him in Cooper County on the 22nd day of June 1839. James Hill sheriff of Cooper Cty
By N C. Peters his deputy

2nd I Certify that I served the within bill in Chancery on Laurence C. Stephens by delivering a true Copy

of the Same to him in Cooper County on the 22nd day of June 1839.

James Hill Sheriff of Cooper County

By Newton C Peters his Deputy."

And afterwards Towit, at a Circuit Court opened begun and held at the City of Boonville within and for the County of Cooper aforesaid, sitting as a Court of Chancery, on the eighth day of July in the Year of our Lord Eighteen hundred and thirty nine, the said defendant filed his demurrer to the said Complainants Bill, which said Demurrer reads as follows towit.

Demurrer "The Demurrer of Laurence C Stephens the defendant to the Bill of Complaint of Allsop and William Jennings a lunatic who sues by said Allsop as his guardian, Complainants-

"This defendant by protestation not confessing or acknowledging all or any of the matters in and by the said Bill set forth and Complained of to be true in manner and form as the same are therein and thereby set forth and alledged, says he is advised that there is no matter or thing in the Complainants said Bill of Complaint contained, good and sufficient in law to call the defendant to account in this Honorable Court for the Same but there is a good Cause of Demurrer thereunto, and he does demurr thereunto accordingly, and for Causes of Demurrer says, that the Complainants said Bill of Complaint, in Case the same were true which this defendant does in no wise admit, Contains not any matter of Equity, whereon this Court Can ground any Decree, or give the Complainant

any relief or assistance as against him, this defendant. Wherefore and for divers other errors and defects in the Complainants said Bill of Complaint contained, and appearing on the face thereof, this defendant does, as aforesaid, demurr in law thereunto, and humbly crave the judgment of this honorable Court, whether he is compellable or ought to make any answer thereunto, otherwise than as aforesaid: And this defendant humbly prays to be hence dismissed with his Costs and charges in this behalf most wrongfully sustained.

Adams & Wilson attys
for Deft.

And afterwards towit, on the thirteenth day of July in the Year aforesaid, whilst said Court was in session the following entry was made upon the record of said Court towit. "Now at this day comes here into Court the said parties by their solicitors, and the demurrer of the said defendant to the Bill of the said Complainant, being argued, and the matters of Law arising thereon, being seen and by the Court here fully understood and mature deliberation being thereupon had, it seems to the Court here, that the Law is with the said defendant.

Demurrer sustained

It is therefore ordered and adjudged by the Court here that the said Complainants Bill be dismissed, without prejudice, and that the said defendant recover against the said Complainant his Costs and charges in this behalf laid out and expended.

Appeal And the said Complainant now here moves the

Court to grant him an appeal: And the Court doth thereupon grant an appeal to the Supreme Court of the State of Missouri, as prayed for by the said Complainant."

State of Missouri } ss.
County of Cooper } I Robert P. Clark Clerk of the Circuit Court within and for the County aforesaid do hereby Certify that ~~I recorded the~~ the foregoing seventeen pages Contain a full true and Complete transcript of the record and proceedings in the Cause therein set forth as fully and amply as the Same now remains in my office.

In testimony whereof I the Clerk aforesaid have hereunto set my hand and Seal of Said Court at office in the City of Boonville this Eighteenth day of January in the Year of our Lord Eighteen Hundred and Forty.

Robert P. Clark Clerk
By Bennett C Clark
D C

Copying.
4590 words $4.59
Certificate & Seal 50
$509

No. 12

Spring Term 1840.

William Jennings
by his Guardian
Thos B Alsop
vs
L C Stephens

filed 30th January
1840
Robt P Clark
Clk