

Madden, Thomas &  
Madden, James

v. Cook, Nathaniel et al

1858

Washington

409/8

Old Box 600/26

Oct 18 58

F 1857

aff  
sett

R-Thomas C. Johnson

Madden's Heirs v. Madden's Adm. & Heirs

O: no error in charging interest  
measur in preventing app bill  
for partition & sale of lands  
in Kells Co.

Thomas Madden Sr. deceased  
bill of chancery to bring all  
heirs to hotchpot, obtain  
settlement of assets, sale of  
lands, & equalization of  
heirs in dis.  
both appealed

10  
State of Missouri  
County of Washington

Be it Remembered that on  
the 11<sup>th</sup> day of March 1847. there was filed  
in the office of the Clerk of the Circuit Court  
of said County. a Bill in Chancery which is  
in the words and figures as follows to wit.  
"D.  
Bill"

To the Honorable the Circuit Court  
Within and for the County of Washington.  
The Petition of Thomas Madden and James  
Madden of the State of Arkansas. for himself &  
administrator of Philip D Madden. Respectfully  
Sheweth that in the early part of the year 1838  
Thomas Madden Senior Departed this life  
intestate leaving the following Heirs to wit.  
Richard Maddens. Honor. Cook. wife of Nathaniel  
Cook. Thomas M Storins the Son of his Daughter  
Margaret Storins Deceased who was in her life  
time the wife of Jacob Storins also Deceased  
and Francis Smith and Thomas Smith the Grand  
Children of the said Margaret. their Mother.  
Susan the Daughter of said Margaret being  
that time Dead. of Whom Thomas Smith is since  
Dead Without Children. Thomas. one of your  
Petitioners Ann M'Clanahan. James the other  
of your Petitioners W<sup>m</sup> J. Madden. Philip D.  
Madden. Malachi and Charles Madden. That

the above named Nathaniel Cook. and  
 Richard Madden. became the administrators  
 of the Estate of the said Thomas Madden  
 Deceased and sold the personal property that  
 Richard Madden. has since Departed this life  
 And Nathaniel Cook. is now the only administrator  
 That Richard Madden. at his Death left the  
 following Children Matilda now a Widow  
 Honor. who intermarried with Charles Madden  
 Rachel. who intermarried with Thomas Holmes.  
 Thomas Madden Margaret who intermarried  
 with William Holmes. Charles and Josephine  
 Thomas Madden. and Thomas Holmes. are the  
 Administrators of the said Richard Estate.  
 That William A Madden. has Transferred and  
 Conveyed his interest in the Estate to Adam Q  
 Stewart. That Philip Q Madden Died without  
 issue and Honor. Cook. is also Dead  
 leaving Children both since the Death of the  
 said Thomas Madden. Your Petitioners further  
 shew. that the said Thomas Madden. left both  
 personal and Real Estate. That the sales of the  
 personal Estate including Slaves and Money  
 on hand at the time of his Death. Amounted to  
 some Six thousand three hundred Dollars.  
 That Cash. was collected a short time after his  
 Death to the amount of about. Two thousand and  
 fifty Dollars. and there was an obligation of  
 George. Maxton Secured by Mortgage on Real  
 Estate in St Louis for the sum of four thousand  
 Dollars payable on the 1<sup>st</sup> of November 1845.

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estate in St Louis for the sum of four thousand dollars payable on the 1<sup>st</sup> of November 1875  
 With Interest at Six per Cent payable Annually  
 That the Real Estate belonging to Said deceased  
 in Washington <sup>and St. Genevieve</sup> County has been Sold. and the  
 Money arising therefrom amounting to upwards  
 of Six thousand Dollars. will become due next  
 October and November. That the Real Estate of  
 Deceased in St Louis and Falls Counties remains  
 Unsold. Your Petitioners further shew. that the  
 Said Thomas Madden Senior in his life time adv-  
 -anced his Children unequally owing in a good  
 Measure to neglect in executing conveyances.  
 To Some of his Children he advanced as your  
 Petitioners believe a full Share of his Estate while  
 to others he advanced a comparatively small  
 Amount. With the Consent and approbation of some  
 of his Children. The Said Thomas Madden made  
 advancements to the Children of his Children instead  
 of his Children when his Children were still living.  
 He also advanced to the Children of his Daughter  
 Margaret Morine who died some years before him.  
 In the end thereof that a Just Distribution of  
 the Estate of the Said Thomas Madden Senior may  
 be made to all the heirs and their Legal Representa-  
 -tives. Your Petitioners pray. that the Several heirs  
 and the Legal Representatives of the heirs of the late  
 Thomas Madden. may be made parties to this Petiti-  
 -on that is to say. the administrators and the Children  
 of the Said Richard Madden late of the Seniors

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County Deceased Matilda. Honor. and her Husband  
 Charles Madden Rachel and her Husband Thomas  
 Holmes. Thomas Madden. Margaret. and her  
 Husband Williams Holmes. Jun. Charles and  
 Josephine Madden. the two last being Infants.  
 And William Holmes Senior being their Guardians  
 Nathaniel Cook. in his Capacity of Legal Represent-  
 -tator of his Deceased Wife Honor. and as Surviving  
 Administrator of the Said Thomas Madden Senior  
 Thomas M. Strins and Francis Smith the Child and  
 Grand Child of Margaret the Deceased Daughter  
 of the Said Thomas Madden. Sen. the Said Francis  
 being an Infant and under the Guardianship of his  
 Uncl. Thomas M. Strins and W. McManahan Adam  
 D. Stewart the Legal Representatives of Wm. J. Madden  
 Malachi Madden. and Charles Madden. That Each  
 of the Surviving Children or their Representatives.  
 who may Choose to Come in for Partition and a  
 Distributive Share. of the Said Tho<sup>s</sup>. Madden's Estate.  
 may upon Oath State what Money and Property.  
 and its Value the Said Tho<sup>s</sup>. Madden Deceased  
 in his life time gave to them by way of advancements  
 or to the Grand Children of the Said Thomas with the  
 Consent and approbation of the Parent or at the  
 Parents Request. and generally what Money Slaves  
 or other personal property or Land and the Value  
 thereof. the Said Thomas Madden Senior in his  
 life time gave to them severally. or to their several

"5"

families And your Petitioners State that they  
have Received by way of advancements as follows.  
The Said Thomas. has a Tract of Land in the  
Rich Woods. in Washington County of the Value of  
Eight Hundred Dollars, and which he sold for  
that Sum. The Number of Acres he is Now unable  
to State And he also Received a Slave named Peter  
of the Value of Six hundred Dollars. as may be  
fully seen by Reference to the affidavit of your  
Petitioner Thomas. herewith filed Marked A and  
is prayed to be taken as a part of this Bill and  
the Said James Madden. the Other of your  
Petitioners received a tract of Land in the Rich  
Woods. Washington County Containing about  
Four hundred Acres. and of the Value of Five  
hundred Dollars. also a slave named Joe. of  
the Value of Six hundred Dollars. and the other  
personal property and the use of a slave for  
some Months. worth some. One hundred and  
fifteen Dollars. more, as will more fully and  
at large appear by Reference to the affidavit  
of the Said James on file in this Cause Marked  
B and prayed to be taken as a part of this  
Bill. They further State that the above is all  
they Received of their Father either Money  
personal or Real Estate. And your Petitioners  
pray that that the property received by Such of the  
Children of the said Thomas. as may Choose

" 5 "

to Come for a Distributive Share of Said Estate. May be accounted for in the final Distribution of Said Estate. And - And. all the heirs receive as nearly as practicable an equal Share Counting in what was already been received by them formerly. And if the personal assets should be insufficient to make each heir equal to the one who has Received the largest Amount from Tho Mudders in his life time that the fund arising from the Sale of Lands in Washington and the Genesee Counties or so much thereof as may be necessary may be applied to make all the heirs of the said Thomas equal. And if the above mentioned fund should be insufficient to render the said heirs equal. that this Bill may be retained until such time as the Lands in St Louis and Ralls Counties may sold. And that fund or so much thereof as may be necessary may be applied to render said heirs equal. And if any of the heirs of the said Thomas Mudders. after being duly notified should fail to answer. as to how much they or the person. through whom they claim may have received and its value in the life time of the said Thomas. that they may be forever barred from receiving or claiming any share in the said Estate.

Your petitioners further pray, that the said Nathaniel Cook. may be required to state

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the Amount of Assets belonging to said Estate  
in his hands as surviving administrator of  
what said Assets consist and that he state  
particularly what each of the heirs of the said  
Thomas owes to the Estate. And the time the several  
debts became due. And also that he state what  
Amount has been paid to each of the heirs of  
said Estate since the death of the said Thomas  
And your Petitioners further pray, that the Money  
to become due for the Lands belonging to said Estate  
in Washington and the Genesee Counties be when  
collected paid over into the hands of a receiver to  
be appointed by the Court to be Distributed under  
the Order of this Court for the purpose of equal-  
izing the Shares of the several heirs of said  
Estate. And should the Money arising from  
the sales of the Lands in the above named Counties  
be found insufficient for the purpose of Rendering  
the Shares of the several heirs equal. that the  
Court would Cause to be applied to that purpose  
so much of the Money as may hereafter arise  
from the Sale of the Lands in St Louis & Palls  
Counties as will make the several Shares  
equal. and for such other and further relief  
in the premises as Justice may require or to  
this Honorable Court shall seem meet and  
as in duty bound &c

Wm Tripell Solicitor  
for Complainants

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Summons.

Washington County, Mo

The State of Missouri  
 To the Sheriff of Said County Greeting We  
 Command you that you Summon Ann  
 M<sup>c</sup>Clanahan Malachi Madden and Charles  
 Madden & Mon or his Wife that they severally  
 be and appear before the Judge of our Circuit  
 Court - Sitting as a Court of Chancery at a  
 Court to be held at the Court House in the  
 Town of Potosi in and for Said County on the  
 third Monday of April next then and there  
 to answer the Complaint of Thomas Madden  
 and James Madden & have you then and there  
 this writ.

Witness Israel M Gready Clerk  
 of our said Court at office this  
 11<sup>th</sup> day of March 1847  
 Israel M Gready Clerk

Sheriff's  
Return

Served the within writ on Charles Madden by  
 delivering to him the said Charles Madden a true copy  
 of the within Bill and writ to the said Charles  
 being the first one of the within named defendants  
 that I served the within summons on. Served in  
 Washington County March 17<sup>th</sup> 1847, also served  
 on Mon or Madden the Wife of the aforesaid  
 Charles Madden by Reading the within Bill and

"9"

Writ to her the Said Minor Madden in Washington County March 17<sup>th</sup> 1847 also Served on Ann McClanahan by Reading the Writen Bill and Writ to her the Said Ann. McClanahan in Washington County March 18<sup>th</sup> 1847. & also Served on Malachi Madden by offering to Read the Writen Bill and Writ to him the Said Malachi Madden. and him the Said Malachi Madden Refusing to hear the Same Read in Washington County March 25<sup>th</sup> 1847.

S. W. Purris Sheriff  
of Washington County

And afterwards on the 23<sup>d</sup> of October 1847.  
The Plaintiff filed their amended Petition  
which is in the words and figures as follows.  
To Wit.

Amended

Petition

An Amendment to the Bill of Complaint of  
Thomas Madden & James Madden. two of the  
Heirs of Thomas Madden. Deceased. against St  
Cook and other Heirs and Distributors of Thomas  
Madden. Deceased filed by leave of the Court and  
Consent of Parties to be inserted after the Word  
"Serving" in the middle the third line from the bottom  
of the second page in the original Bill opposite  
the X. on the margin. And the Said Complainants  
are that the Said Thomas Madden Senior in his  
Life time at the Request and with the Consent and

"10"

Approbation of Ann W<sup>ch</sup> Clananan one of his  
Distabatus And by way of advancement to her gar.  
to Thomas W<sup>ch</sup> Clananan And Francis A. W<sup>ch</sup> C  
lanahan four hundred arpents of Land as Tenants  
in Common or two hundred arpents severally to  
Each of them Situate in the County of Jefferson  
it being a part of a Tract of Land of Eight  
hundred arpents Confirmed to Said Thomas  
Madden and Said Land was and is of the Value of  
three Dollars per arpent or Twelve hundred Dollars  
in all: And further the Said Thomas Madden  
Senior in like manner as above Stated gave to  
Ann W<sup>ch</sup> Clananan a Daughter of the Said Ann  
W<sup>ch</sup> Clananan a negro named Ann aged about  
three years and of the Value of one hundred  
and fifty Dollars. And a negro Woman or Girl  
named Mary aged about fourteen years and  
of the Value of Five Hundred Dollars

W. Truett Solicitor

Sheriff's  
Return.

Served the within Amended Bill on Mrs.  
Ann W<sup>ch</sup> Clananan by Delivering to her the said  
Mrs Ann W<sup>ch</sup> Clananan a Certified Copy of  
the within Bill in Washington County Jan.  
5<sup>th</sup> 1848.

S. M. Purris Sheriff

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And afterwards on the 7<sup>th</sup> day of September 1847. The answer of Ann M<sup>rs</sup> Clanchan to said Bill was filed which is in the words and figures as follows to wit:

Thomas Madden & James  
Madden  
vs.  
Nathaniel Cooks et al.

In the Circuit Court  
of Washington County.

Answer of Ann  
M<sup>rs</sup> Clanchan

The Several Answer of Ann M<sup>rs</sup> Clanchan to the Bill of Complaint of Thomas and James Madden Complainants. This respondent. Saying and answering to herself allowed every excep- tion to the many imperfections and misstatements in said Bill of Complaint contained for answer. Thereto or to so much thereof as she is advised of is retained for her to make answer unto the Answers and says - it is true as alleged in said Bill that she is one of the heirs of Thomas Madden Deceased and this respondent admits that the Several Heirs of said Thomas as well as the Estate of Deceased. as far as she knows is correctly set forth in said Bill of Complaint This Respondent further answering states and Shews here to the Court that her Father gave to her Husband for her about three hundred and Twenty acres of Land some twenty years ago as well as this Respondant can remember which

"12"

was worth at the time between two and three Dollars per acre. This Respondent also received from her father about the year 1815 or 1816 a Negro Girl, <sup>named Ann</sup> aged 13 years of the value of three hundred Dollars. also one horse worth sixty Dollars. two Milch Cows. & other stock supposed to be worth seventy five Dollars. This was all the property or Real Estate given by the said Thomas to this Respondent. by way of advancement or otherwise in the life time of the said Thomas. The said Deceased gave to this Respondent no money nor did he give to her children. Any Real or Personal Estate with the Consent or approbation of this Respondent which Estate would have been given to this Respondent by said Thomas if it had not been thus disposed of. by the Consent as aforesaid This Respondent leaving to the Court and apart of her Knowledge Understanding and belief answered so much of the Complainants Bill of Complaint as it was material for her to make answer unto prays. to be here dismissed with her lawful Share of the Estate of said Thomas now deceased & thereby place in hotitpot the Estate Rec<sup>d</sup> by her by way of advancements And also prays. to be dismissed with her Reasonable Costs on this behalf expended. And as in duty =  
= bound

13" She shall ever pray.

Ann M<sup>rs</sup> Clarrahan

Affidavit.  
Ann

Washington County 3 Feb 47

I personally appeared before the Undersigned a Justice of the Peace within and for the County aforesaid Ann M<sup>rs</sup> Clarrahan Respondent in the Amended Answer. And made oath that the facts stated in the said Answer is of her own knowledge are true and the facts stated from the information of others she believes to be true.

Ann M<sup>rs</sup> Clarrahan  
Sworn and subscribed before.

Me. this 26<sup>th</sup> day of August 1847.

Naron Pinson Justice of the Peace

And afterwards on the 21<sup>st</sup> Day of October 1847. The Answer of Malachi Madden to said Bill was filed which is in words and figures as follows To Wit.

Malachi Madden's

Answer.

The Answer of Malachi Madden to the Bill of Complaint of James Madden and Thomas Madden.

This Respondent saving and Reserving to himself all benefit of exception &c. for Answer to so much of said Bill as he is advised that

It is material for him to answer unto. Saith that  
 he Received from his Father by way of advancements  
 or his family at his Request have.  
 Received the following Property To Wit. First  
 a Tract of Land in Little Rich Woods (a part of a  
 Concession to his Father) Containing Two hundred  
 and Ninety four acres. And of the Value. of One  
 Thousand Dollars: he afterwards sold the same Tract  
 of Land to his Father and his father again gave  
 the same tract to him and he Values this second  
 Transfer. at the same Sum. to Wit. One thousand  
 Dollars. This tract when first given him he  
 sold to his Father in Consideration of a Mill and  
 a Tract of Land. adjoining Containing about  
 forty Eight acres. And his father afterwards  
 gave him Land adjoining the Mill Tract suf-  
 ficient to make the quantity of Four hundred  
 and Twenty Six acres. this additional Tract  
 he believes was of the Value. of Seven hundred  
 and fifty Six Dollars. His Father also gave  
 him another Tract of Land near or adjoining  
 the two last mentioned Tracts Containing One  
 hundred and sixty Eight. And one half acres.  
 which was worth independent of assumption  
 -ent for which he paid his Brothers Philip and  
 Charles. Two Dollars per acre. or three hundred  
 and thirty seven Dollars. The three last mention-  
 ed tracts were situat in Ste Genevieve County. and

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15"

on the Waters of the Crauf. He also Received  
Another tract Situate on the Bois Roule.  
Bottoms in Perry County Called the Morgan  
Tract Containing One hundred and fifteen  
Acres. Which he Values at the same. he sold it  
for. to wit One hundred and fifty Dollars. Also  
Another tract in Bois Roule Bottoms Called  
the Mc Lain tract Containing Seventy One. and  
two thirds acres. which he also Values. at the  
Same he sold it for. to wit. the sum of three  
hundred and fifty five Dollars. He also Received  
One Negro man named George. of the Value  
of three hundred Dollars. one. More. of the value  
of Twenty five Dollars. and six head of Cattle of  
the <sup>aggregate</sup> Value. of Forty Two Dollars. The above is all  
the Land Money Negroes. and other property.  
Which he or any other person by his Request.  
Consent or approbation Received from his  
Father in his Life time by way of advancement  
and now having fully Answered. all the obliga-  
tions and Requirements in said Bill Contained  
he Prays. to be hence Discharged with his  
proper Distributors share. of his Fathers Estate  
And as in Duty &c.

Malachi Masten

Washington County "Set"

Personally appeared in Open.

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Court Malachi Madden. who being duly sworn upon his oath. Says that the foregoing Statement of the Amount of Property Received from his Father in his Life time and its Value is true according to the best of his Remembrance information and belief.

Malachi Madden

Sworn to before me.

this 21<sup>st</sup> Oct. 1847.

J. W. Greedy. Clerk

And afterwards on the 21<sup>st</sup> Day of October 1847. The Answer of Thomas Madden to said Bill was filed which is in the words and figures as follows To wit:

Thomas Madden

Answer.

Thomas & James Madden.

vs.

J. Cook. and others.

In the Circuit Court of Washington County.

The Answer of Thomas Madden Jr. One of the Administrators of the Estate of Richard Madden Deceased and One of the Children and heirs of the said Richard. This Respondent Answering to so much of said Bill as he is advised it is material for him to answer. Saith that he was no person.

17<sup>th</sup>

Knowledge as to what his Grand Father Thomas Madden gave to his Father in Richard Madden by way of advancements. but he is informed and believes that his Father Received by way of advancements the following Property To wit, a Tract of Land in the Rich Woods. Containing Three hundred and Five Acres. And of the Value of One thousand five hundred Dollars. Also One Negro Man. Bonaparte of the Value of six hundred Dollars. a negro Girl named Marguerite aged about Eight Years. And of the Value of Two hundred and fifty Dollars.

Respondent further States that the said Thomas Madden. In Decease did not. did not according to the best of his Knowledge information and belief give any other property by way of advancements to his Father in his life time nor did the said Thomas give any thing to him at his Fathers Request. or with his Consent or approbation. nor has he within Respondents Knowledge ever given any thing to his brother or sisters or to any person for their use. except as above stated. And he hereby Claims the Distributive Share. in his Grand Fathers Estate belonging to his Father as one of the administrators of his Fathers Estate. And he further prays that this his Answer. may Received as the Answer of his General

18<sup>th</sup> Sisters and of his Brother - Charles Madden.  
his Sisters are named as follows. Matilda  
Widow of James Henderson. Anna Wife  
of Charles Madden. Rachel wife of  
Thomas E. Holmes. Margaret Wife of  
Wm J. Holmes. And Josephine Madden.  
Who is an infant Under the age of Twenty  
One Years. And unmarried And this  
Respondent now <sup>having</sup> fully answered all the  
allegations in said Bill of Complaint  
Contained prays that the proper share of  
his Grand Fathers Estate may be Decreed  
to him And to his Brother and Sisters

Thomas Madden  
State of Missouri  
Washington County

Personally appeared  
before the Undersigned Clerk of the Circuit  
Court within and for the County aforesaid  
Thomas Madden who being duly sworn  
upon his oath says - that the statements  
made in the foregoing answer are true  
so far as they are made from his own knowledge  
and so far as said statements are made from  
information derived from others  
he believes to be true

Thomas Madden  
Sworn to before me

this 18<sup>th</sup> day of October 1847

Israel McGready  
Clerk

"19" And afterwards on the 22<sup>d</sup> day of October 1847  
The answer of Nathaniel Cook. to Said  
Bill was filed Which is in words and figures  
as follows. To wit.

Answer of  
Nath<sup>l</sup> Cook.

The Separate Answer of N Cook to the Bill  
of Complaint of James Madden and Thomas  
Madden against the Remaining Heirs of Thomas  
Madden Senior Deceased.

This Respondent having and Reserving to  
himself all manner of benefit of Exception & in  
Answer to so much of the said Complainants  
Bill as he is advised that is material for him  
to Answer unto Except as administrator Answering  
saith that he and his wife Received in the life  
time of the said Tho<sup>s</sup> Madden by way of  
advancements the following property. One  
Negro Girl aged about Six years and of the Value  
of Two hundred Dollars. One Yoke of Oxen of  
the Value of Forty Dollars. Six Cows worth Twelve  
Dollars Each or seventy Two Dollars in the aggregate.  
Four Sheep worth four Dollars Each. Making sixteen  
Dollars. Seven hogs worth three Dollars Each. Making  
Twenty One Dollars. And bed and furniture worth  
Forty Dollars. all the above property was Received in  
1803. about the Year 1834 or 5 he Received another  
Negro Girl aged about Six years. and of the Value  
of Two hundred Dollars. and this is all the property

211" that has been Received by him or his Wife by way of advancements from the said Thomas Madden. in his life time nor has any of his Children or any other persons Received any property from the said Thomas Madden. at his Request or With his Consent or approbation And now having fully Answered all the obligations in said Bill which it is necessary for him as a Distributee of the said Thomas Madden to Answer. prays to be hence Dismissed with his lawfull share of said Estate.

Nat Cook

Affidant of

Nat Cook

Personally appeared in open Court Nathaniel Cook. who being duly sworn upon his oath Says that the facts set forth in the foregoing Answer to the Bill of Complaint of Thos James Madden. are true according to the best of his Remembrance information and belief Sworn to before me. Nat Cook  
this 22<sup>d</sup>. 1847.

J M Gready Clk

Answer of And afterwards on the 23<sup>d</sup> Day of October 1847  
A D Stewart. The answer of A D Stewart was filed which is in the words and figures as follows To Wit.

211 James & Thomas Madden.

vs.  
Adam Duncan Stewart  
& Others.

Bill of Complaint  
In Chancery

Answer of Ad Stewart  
Adam D Stewart a Defen.

- dant. in the above entitled Cause. Saving and  
Reserving To himself Now and at all times here  
- after all and all Manner of Exception to the many  
& Gross errors. Misstatements irregularities and  
imperfections in the Said Bill of Complaint  
Contained for Answer to the Same. That  
for himself he is totally ignorant of the Circum-  
stances in Said Bill of Complaint alleged  
Nor can he of his own Knowledge speak of  
Any of them except that in the Year 1843.  
William S Madden & Wife conveyed to him  
all of the Interest Title and Claim of Said William  
S Madden. in and to the Real and Personal  
Estate. Whereof his father. Thomas. Madden died.  
Seized and possessed. The precise date of Said  
Deed is not remembered and it having been sent  
to Falls County to be Recorded and not Returned  
to this Respondent. he cannot ascertain the  
same. And for the purpose of ascertaining as nearly  
as possible the facts whereof he is Required to  
speak. in his Answer. he was sent to William  
S Madden. aforesaid a Copy of the Said Bill  
of Complaint and procured his Answer thereto

"22" which is hereto Annexed And he prays it  
May be taken as part of his, this Respondents  
Answer, And having thus Answered this  
this Respondent prays to be hence dismissed  
with his Reasonable Costs

Adam D Stewart being duly Sworn Says on  
his Oath that the facts Stated in the aforesaid  
Answer are to the best of his Knowledge and  
belief true and truly Stated.

Ad. Stewart,  
affiant Sworn To and subscribed before  
of Ad Stewart Me. a Justice of the Peace for  
the County of St Louis & State  
of Missouri this 21<sup>th</sup> October 1847  
Geo. H. Hilde Justice  
of the Peace St Louis  
County Missouri

And afterwards on the 23<sup>rd</sup> Day of October 1847  
The Answer of William J Madden was filed  
Which is in the Words and figures as follows  
To. M. T.

Answer of. The Answer of William J Madden  
W. J. Madden One of the Defendants to the Petition or Bill of  
Complaint of Thomas Madden & James Madden of them  
self. And Administrator of Philip D Madden of the  
State of Arkansas. Complainants.

This Defendant now and at all times hereafter

Q31

Saving and Reserving to himself all Manner of Advantage and Benefit of Exception to the Many Errors and Imperfections Contained in the said Bill of Complaint of the said Complainants for Answer thereto or so much or such part thereof as the Defendant is abused it is material for him to make Answer unto he Answering saith it is true as stated in said Bill that this Defendant did transfer and Convey to Adam Stewart all of the Defendants interest in the Estate of his Father and that his Father the said Thomas Madden at the time of his Death left both personal and Real Estate but as to the Amount Realized from the Sale of said personal Property or the Cash Collections mentioned in said Bill this Deponent has no definite Knowledge - He therefore leaves said Complainants to prove the Allegations of the said Bill in this Respect if it be material so to do.

And this Defendant further Answering saith that his Father the said Thomas Madden in his lifetime (but at what precise time this Deponent cannot now recollect) divided a quantity of Land containing about four thousand acres in the County of Washington in the State of Missouri known as "the Rich Woods" tract into Ten parts or lots of which this Defendant received One Lot or share of the Value of about Eight

Two hundred Dollars. And the other Children each  
Received a share or lot; This Defendant further  
Answering saith that he also Received from his  
Father another tract of Land containing about  
four hundred Acres in Perry County in the State  
of Missouri (Boonville) of the Value of about  
One thousand Dollars at that time And also  
One Negro Girl who was at the time this Defendant  
Received her. Valued at four hundred Dollars and  
in a very low State of health in which State  
she lingered during two years. And upwards  
and ultimately died of the sickness she then  
had. This Defendant further saith that at  
the time he Received said Negro Girl he objec-  
ted to taking her for the Reason that this Defendant  
did not believe that she would ever Recover. But  
this Defendants Father urged the Defendant to  
take the Negro Girl as he was not in a situation  
to keep her And promised if she should die  
to give this Defendant another Negro in her  
stead; And this Defendant further Answering  
saith that sometime between the years Eighteen  
hundred and Eighteen hundred Eighteen and Twenty  
Three. While this Defendant lived with his  
Father his Father of this Defendant) determin-  
ed to divide a portion of his Property Among  
his Children his intention being (as this Defend-  
-ant. of his own Knowledge States to make all.

25<sup>th</sup> his Children. Equal. in gifts from him up to that time. That for that purpose his Father gave notice to all of his Children to attend him at his Residence upon a day appointed by him. on which day. but few were present. That the Father of this Defendant. then made the following Division of property Among his Children to wit To Nathaniel Cook and Josiah M<sup>r</sup>. Blanehan he gave one Tract of Land in the County of St. Genevieve in the State of Missouri of one thousand arpens. Known by the Name of the old place. to Richard Madden. Thomas Madden and James Madden Two thousand arpens. of Land. in the said County of St. Genevieve. upon the River Adams. and known by the Name of "the Pine Wood Tract." to Jacob Morine and Josiah M<sup>r</sup>. Blanehan. Eight hundred arpens of Land. in Jefferson County. in the State of Missouri known as "the Snashing Tract." to Philip Madden. Malachi Madden. Charles Madden. and this Defendant. he gave three tracts of Land in Perry County aforesaid containing (to the best of this Defendants Knowledge and belief about fourteen thousand arpens. of which the four hundred arpens. herein <sup>before</sup> stated to have been Received by this defendant from his said Father was the share. or portion of said three Tracts which was Received by this Defendant. And

26. this Defendant further Answering, saith that his Father the said Thomas Madden senior in his lifetime obtained for his sons Richard Madden and Thomas Madden and James Madden while they were minors a Grant for two thousand four hundred arpens of Land in the County of Saint Genereux aforesaid Situate upon the head waters of the Saline Creek.

And this Defendant further Answering saith that the said Richard Madden, Thomas Madden and James Madden, occupied and used the aforesaid "Pine Wood Tract" of Land up, untill the Death of this Defendants father and took from it a vast amount of timber that they erected upon said tract Mills which (to this Defendants Knowledge) they kept Running and at work for many Years. And this Defendant further saith that the said Richard Thomas and James are in this Defendants Opinion justly entitled to said tract of Land a Deed to which through inattention or otherwise they neglected to obtain And this Defendant further saith that in his opinion and belief the said Nathaniel Cook and Josiah W<sup>o</sup> Blanchard are justly entitled to the aforesaid tract of Land given to them by this Defendants Father and known as the "Old Place".

27<sup>th</sup> And this Defendant further answering  
saith. he did sometime about the year Eighteen hundred  
and Twenty Six pay a medical Bill which  
was due by his father of Two hundred and forty  
Dollars. and during the year Eighteen hundred and  
Twenty three Twelve hundred bushels of Corn.  
worth Twenty five Cents per bushel Amounting  
to Three hundred Dollars.

And this deponent denies all fraud  
Combination or Conspiracy where with he may  
be or is charged by the said Complainants.  
Said Bill of Complaint or Petition without  
this that any other matter or thing in  
the said Bill or Petition contained. And  
that herein and hereby, well and sufficiently  
answered unto: <sup>as averted traversed or denied is true</sup> Confessed to the best of this  
defendant Knowledge, information or belief  
all which this defendant is ready to maintain  
And pray, as the honorable Court shall  
direct And that his Distributive Share of his  
Fathers Estate may be decreed to him. And  
And humbly Prays to be hence dismissed  
with his Reasonable Costs And Charges.  
by him in this behalf. Most wrongfully  
Sustained

M. J. Madden.

Wisconsin Territory }  
La Fayette County. } *So Be it Remembered*

281 that on the 14<sup>th</sup> day of September AD 1847  
before me Robert E. Campbell Clerk of the  
District Court in and for La Fayette County  
Wisconsin Territory Personally Came William  
J. Madden whose name appears to the foregoing  
Answer in Chancery and being duly sworn  
says that he has Read over the foregoing Answer  
and that the facts therein contained are true  
to the Best of his Knowledge and belief

In Witness Whereof I have hereunto  
Set my hand and the Seal of said  
District Court at Shallburg in  
said County of La Fayette this 14<sup>th</sup>  
Day of September AD 1847.

Robert E. Campbell Clerk  
Dist' Court La Fayette Co.  
"H. S."

Territory of Wisconsin  
County of La Fayette

I Charles Dunn Judge  
of the first Judicial District in and for the Territory  
of Wisconsin including said County of La  
Fayette do hereby Certify that Robert E. Campbell  
whose name is Signed to the within Certificate  
was at the Making and signing thereof and  
now is Clerk of the District Court in and for  
said County of La Fayette in said Territory  
duly appointed and qualified that the

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within Signature purporting to be his is genuine  
And his Said Certificate in due form of Law.  
given under my hand this 15<sup>th</sup> day of September  
A.D. 1847.

Chas. Dunn Judge 1<sup>st</sup> Jud. Dis. W.D.

And afterwards on the 7<sup>th</sup> Day of ~~September~~ <sup>January</sup> 1848.  
the Answer of Thomas M. Morine was filed  
which is in the words and figures as follows To Wit

Answer of  
Thos M Morine

Washington County of  
In the Circuit Court sitting  
as a Court of Chancery

The Several Answer of Thomas M. Morine  
one of the Defendants to the bill of Complaint  
of Thomas Madden and James Madden who  
Sues for himself and also as administrator of  
Philip O. Madden Deceased a Complainants

This Defendant now and at all times  
hereafter saving and Reserving to himself  
all and in all Manner of benefit and advantage  
of exception to the errors, uncertainties and  
imperfections contained in the said Bill of  
Complaint for Answer thereto or to so much  
thereof as he is advised it is material for him  
to make Answer unto Answering Says.

That in or about the year 1835 the said  
Thomas Madden Senior gave to this Defendant.

"30"

About Six hundred and forty acres. of Land situate in what is commonly called Rich Woods Settlement in the County of Washington State of Wisconsin. At the time this Defendant Received said tract of Land it was mostly in a Wild and unimproved State and Condition and this Defendant believes it was worth about thirteen hundred Dollars. and not more. He also Received from the said Thomas Madden Jr in his lifetime a Black Mare worth about fifty Dollars. and not more. This Respondent denies it material and proper to Remark here that before he had Received said last mentioned property he had several times gone to the City of St Louis on the business and at the Request of the said Thomas Madden Jr and had on three occasions in part borne and paid his own Expences. while gone with his own funds. for which he had never Received any thing from the said Thomas Madden Jr and that when said mare was given him he supposed it was by way of compensating him for the services and outlays. above mentioned

This Defendant further says. that he has been informed and believes. that his Mother Margaret had before her Death Received from the said Thomas Madden Jr

31" a Negro Girl Slave. aged about Eight years  
 Named Anne. worth at the time about Two  
 hundred and Twenty five Dollars. And not  
 more. And that he has also heard and  
 believes that his said Mother has also Recei-  
 -red from her said Father some after she  
 was married Two or three Cows. And some  
 household furniture worth in all about Seventy  
 five Dollars. And not more. And this Defend-  
 -ant, <sup>states that he</sup> does not know of Any other property  
 Real or personal. or Money Received by his said  
 Mother or his Father of the said Thomas Madden  
 senior nor does he know that the property Received  
 by his Mother as herein <sup>before</sup> stated was gain by way  
 of advancements nor has he Received any Mo-  
 -ney. or property of the said Thomas Madden  
 other than that stated and set forth herein before  
 And this Defendant having answered as above  
 pray this Hon. Court to protect his interest in  
 the Premises

I Braek. Robbins  
 sol<sup>r</sup> for Tho<sup>s</sup> M<sup>r</sup> Morine

Affidavit of  
 Tho<sup>s</sup> M<sup>r</sup> Morine

State of Missouri  
 County of St. Genevieve.

Thomas M<sup>r</sup> Morine the above  
 named Defendant

Makes oath, that the matters  
 and things contained in the above Answer. so  
 far as stated from his own knowledge are true

32" And so far as Stated from information to belie  
- us. them to be true

Thos. M. Haine

Sworn to and subscribed  
before me the Undersigned  
Clerk of the Circuit Court  
in and for the County of Ste.  
Genevieve State of Missouri  
At said County this 10<sup>th</sup> Day  
of December A.D. 1847

I St. Louis John clk.  
St. Genevieve. Cir. Ct. Mo.

And afterwards on the 7<sup>th</sup> Day of January  
1848 the Answer of Francis J. Smith was  
filed which is in words and figures as follows.  
To Wit

Washington County Pa.  
In the Circuit Court sitting as a  
Court of Chancery

The Answer of Francis J. Smith An infant  
Under the age of Twenty One Years. by Thomas  
M. Haine his Guardian One of the Defendants.  
to the Original Bill of Complaint of Thomas  
Madden and James Madden of the State of  
Arkansas. who Sues for himself and also as  
Administrator of Philip Q. Madden Deceased

Answer of  
Francis J. Smith

33<sup>rd</sup> Complainants

This Defendant answering by his said Guardian faith that for the most part he is a stranger to all and singular the matters and things in the <sup>Said</sup> Original Bill of Complaint contained and that this Defendant is an infant under the age of Twenty One Years. And claims such Interest in the premises as he is entitled to and submits his interests to the protection of the Honorable Court. But nevertheless this Defendant has been informed and does believe that his Great Grand Father the said Thomas Madden senior did in his lifetime give to this Defendant. And his Brother Thomas Smith since deceased about Two Hundred Arpents of Land Situate on the Swashing Creek in Jefferson County Missouri he supposes to be worth about four hundred Dollars. And not more. This Land having been given to this Defendant and the said Thomas Smith in Common the interest of this Defendant acquired from the said Thomas Madden Jr. as aforesaid in the said was only one half equal to one hundred arpens only. This Defendant would also state that he has been informed that the Title of the said Thomas Madden Sr to said Land. And the Title of this Defendant acquired from him is not good and valid but in

34<sup>th</sup> Dispute And imperfect so that this Defendant  
Cannot say in reality say that he has ever  
Received Any thing of positive Value from  
the said Thomas Mudden Senior But this  
Defendant submits the facts and prays this  
Hon<sup>ble</sup> Court to protect his interest in the  
Premises

A. Black Robbins Sol.  
Thomas M Worine Guardian  
of J. J. Smith.

State of Missouri  
County of St. Genevieve }  
Thomas M Worine Guard  
ian of the above named Infant Francis J  
Smith was on the 10<sup>th</sup> Day of December 1847  
Sworn before me that he had Read the  
fore going Answer And that he is informed  
and Verily believes that the facts therein  
stated are true Thomas M Worine Guardian  
of J. J. Smith.

Sworn And subscribed to  
before me the Undersigned  
this the 10<sup>th</sup> day of Dec:  
1847<sup>th</sup> at in the County of  
St Genevieve Mo.

J. W. Sully John Clerk  
of the St Genevieve  
Circuit Court

35<sup>th</sup> And afterwards on the 17<sup>th</sup> day of April  
1848. The Answer of W. Cook Surving  
Administrator of Thomas Madden was filed  
which is in the words and figures as follows To the

Answer of.

W. Cook Surving

Adms. of Thos.

Madden.

James Madden in his own right and  
as Executor of Thomas Madden deceased

vs.

W. Cook and other Heirs of Thos Madden  
deceased.

The Answer of Nathaniel Cook  
Surving Administrator of Thomas Madden  
deceased as such Administrator.

This Respondent having been Answer to so much  
much of said Bill of Complaint as he is  
advised that it is material for him to Answer  
Says that in his first Annual Settlement he  
Charged himself with Six thousand one hundred  
and seventy nine Dollars. 00 Cents which was  
the Amount of sales of all the personal property  
belonging to the Estate including Slaves with  
two thousand Seventy two Dollars. 33 Cents the  
Amount of Cash Collected in a short time  
after the taking out letters of Administration with  
a note on John Edwards dated April 3<sup>o</sup> 17.97  
for forty three Dollars. With a note on Benjamin  
Wells bearing interest from Aug 1<sup>st</sup> 1828 for  
\$1200 George Merton bond payable in 1875

30<sup>th</sup> With Interest Annually for four thousand Dollars  
Thomas Farpleys Due Bill for Eighteen Dollars  
31 Cents with the Cash on hand at the Time  
of his Death amounting to One hundred and  
thirty six Dollars and 5 Cents also an account  
on Malachi Madder for two hundred and sixty  
Two Dollars 78 Cents amounting in all to  
the sum of thirteen thousand nine hundred  
and twelve Dollars, 13 Cents. At this Settlement  
he obtained a credit for the sum of thirteen hun-  
- dred and thirty Dollars which left a Balance  
in his hands to be accounted for of Thirteen thou-  
- sand five hundred and Eighty two Dollars  
and thirteen Cents He is also Chargeable  
in addition with the sum of the Slaves belonging  
to the Estate from Jan. 1839 to May 1<sup>st</sup> of the  
Same Year amounting to the sum of One hun-  
- dred and sixty one Dollars and fifty Cents  
He is also Chargeable with the Interest accru-  
- ing on Geo Mortons Bond above named for  
ten years Commencing Nov 2<sup>nd</sup> 1838 and Ending  
Nov 2<sup>nd</sup> 1847<sup>th</sup> amounting to the sum of two thou-  
- sand four hundred Dollars of two hundred  
and forty Dollars per Annum. An account  
of which is here exhibited Marked A. Making  
An aggregate of fifteen thousand four hun-  
- dred and seventy three Dollars, 53 Cents to  
to be accounted for by him<sup>self</sup> Respondent.

3<sup>11</sup>

is entitled to the following Credits first the  
Note on Benjamin Wells has so far been unavailing  
and will probably always remain so This Respondent  
Went to Virginia the Residence of the said Wells  
for the Purpose of collecting said Debt. but  
said Benjamin was insolvent the best he could do  
was to take a new note with F. A. Wells. as  
security adding interest and making in all  
the sum of two thousand and twenty four  
Dollars. which note is herewith Exhibited Ma  
rked G. An Account of this note he is enti  
tled to a Credit for the sum at which he is  
charged to wit. Twelve hundred Dollars. He  
is also entitled to a credit for the Amount of  
John Edwards Note for forty three Dollars.  
Also for the Amount of Tho<sup>s</sup> Darpleys Due  
Bill for Eighteen Dollars and 31 Cents which  
is herewith Exhibited Marked D. He is also  
entitled to a credit of Two hundred and  
sixty two Dollars 78 Cents the Amount of  
Malachi Muddens Account which it appears  
has been paid These Debts are all un  
availing at least for the present and amount  
to the aggregate sum of fifteen hundred  
and twenty three Dollars and nine Cents.  
At his first Annual Settlement he was  
<sup>allowed</sup> a Credit by the County Court to the Amount  
of thirteen hundred and thirty Dollars.

38" Consisting of the following items. Eight hundred  
- And thirty Dollars paid to Thomas James  
- And Philip Madden. as Distributors of the Estate  
- See Two hundred Dollars paid to Ann McC  
- lanahan Two hundred to Malachi Madden and  
- And. And. One hundred to W<sup>m</sup> Milam administ  
- rator of Ruben Smith for the Benefit of Francis  
- And Thomas Smith. heirs of the said Thomas  
- Madden. Deceased. He was also at that time  
- entitled to a further Credit of Fifty Dollars  
- for a Coffin produced as per. Voucher N<sup>o</sup> 1. Seven  
- Dollars for ~~Carriage~~ Carriage. Crying sale. And hiring Shaws.  
- paid Samuel Palmer. as per Voucher N<sup>o</sup> 2. And  
- also. at least Two Dollars. for fees. paid John Briskey  
- Clerk of the County Court. for which he either  
- has not taken a Receipt or he has lost or mislaid  
- the same. Making an aggregate of fifty  
- Nine Dollars. On his second settlement the  
- County Court. allowed him a Credit of  
- Seven hundred and Eighteen Dollars and forty three  
- Cents. Consisting of the following items. Cash  
- Paid for Redeeming the Ralls. Lands forfeited  
- the State for Taxes One hundred and seventy Dollars  
- 2 Cents for One hundred. and Twelve Dollars.  
- paid John Scott. on an allowance. Thirty two  
- Dollars 31. Cents. for Taxes paid on Land in  
- St Louis County for advertising three Dollars  
- and fifty Cents. Records fees One Dollar.

39<sup>o</sup>

And fifty Cents Money, for Distributed to himself and Richard Madden four hundred Dollars, at this settlement he was also entitled to a further Credit of Two Hundred Dollars the Amount Distributed to W<sup>m</sup> J Madden who has since assigned his interest to Adam Stuart for which sum he has not now a <sup>Receipt</sup> ~~Receipt~~ - Although W<sup>m</sup> J Madden Received the Money for fifty Dollars 79 Cents paid for Taxes upon the Pulls Sands as per Voucher No 3. Taxes paid on a lot in St Genesie Co. twenty three Cents <sup>as per vouchers</sup> No 4. Nine Dollars and 96 Cents Clerks fees paid Samuel Harrison as per Voucher No 5. and one Dollar office fees as per Voucher No 6. Making together the sum of two hundred and fifty two Dollars 48 Cents which added to the former Amount of Credits makes the aggregate of the Credits without Commission four thousand three hundred and Eighty three Dollars. To these Credits add the sum of Nine hundred <sup>Eighty Eight</sup> Dollars forty one Cents Commission at six per Cent on sixteen thousand four hundred and seventy three Dollars and sixty three Cents the aggregate of the personal appts Make a Credit of five thousand three hundred and seventy one Dollars and forty one Cents the aggregate of his Credits <sup>which</sup> taken from the aggregate

No. 11 of the Debts bears the sum of Eleven thousand and one hundred and two Dollars to be accounted for.

This Balance that stands charged to the Administrator consists of the following items George Moxton's Bond for four thousand Dollars. one which Interest at 5 per Cent is due from Nov. 2<sup>d</sup>. 1847. The amount of articles purchased at administrators sale by Josiah W. Clanchan twenty one Dollars. and six one fourth Cents. Amount purchased by Jas W. Clanchan one hundred and twenty two Dollars. sixty two and one half Cents. James W. Clanchan. note for fifty two Dollars. Francis W. Clanchan note for Seventy one Dollars. a second note of Francis W. Clanchan for three hundred and sixty seven Dollars. the price of a slave purchased by him at the sale of slaves. also. Six hundred Dollars the price of a slave purchased at the sale by Josiah W. Clanchan. amounting in all to the sum of Twelve hundred and thirty <sup>three</sup> ~~eight~~ Dollars. 58 <sup>3</sup>/<sub>4</sub> Cents which with the interest on the several sums. amounting to six hundred and thirty three Dollars. seventy Cents. on the Twelfth Day of March 1848. Amos W. Clanchan has agreed to account for. as a part of his Distributive share in said Estate the interest however subject to such modification

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as shall be just as Compared with similar Charges against the several heirs as will more fully and at large appear by Reference to her a document filed herewith Marked A. And is prayed to be taken as a part of this Answer.

Thomas Madden Sr. purchased at the sale of the personal property to the amount of six hundred and forty four Dollars. and Twenty five Cents the Interest on which from June 21<sup>st</sup> <sup>1839</sup> to March 20<sup>th</sup> 1848. Amounts three hundred and thirty five Dollars one Cent. The said Thomas Madden has since Died leaving his property to James Madden his brother. Philip Madden another of the Children of the said Thomas Madden purchased at the sale of the said Thomas a negro boy named Henry at the sum of seven hundred and fifty five Dollars. Philip Madden is since dead. and James Madden <sup>is</sup> his administrator the Interest on this Debt. from July 10<sup>th</sup> 1840. Amounts to three hundred and forty Eight Dollars 10 Cents to March 20<sup>th</sup> 1848. The said Philip's note for this Amount is herewith filed Marked B and is prayed to be taken as part of this Answer. Malachi Madden purchased at the sale of the personal effects to the amount of two hundred and Eighty Dollars. fifty five Cents the Interest on which from June 21<sup>st</sup> 1839. to March 20<sup>th</sup> 1848. Amounts to one hundred and forty five

42<sup>11</sup> Dollars. Eighty Eight Cents. Respondent also holds his note for thirty Dollars 2 1/2 Cents. due December 25<sup>th</sup> 1838. this interest on which to March 20<sup>th</sup> 1848. amounts to sixteen Dollars Ninety nine Cents which is herewith Exhibited Marked <sup>C</sup>. He also holds another note on said Malachi ~~Madden~~ for sixteen Dollars payable May 1<sup>st</sup> 1839. the interest on which to the 20<sup>th</sup> of March 1848. amounts to Eight Dollars and Fifty three Cents which is herewith Exhibited Marked <sup>D</sup>. There was also purchased by Malachi Madden. in the name of the administrator a Negro Woman and Child. at Eight hundred Dollars. the interest on which amounts to three hundred and sixty nine Dollars thirty three Cents. Richard Madden purchased at the sale of Negroes a Negro Man. named Isaac at the sum of nine hundred Dollars. interest on which from July 10<sup>th</sup> 1840. to March 20<sup>th</sup> 1848. amounts to four hundred. fifteen Dollars fifty Cents. Also he holds R. Maddens note for fifty Dollars. due December 25<sup>th</sup> 1838. the interest on which to March 20<sup>th</sup> 1848. amounts to twenty seven Dollars. seventy Cents. Also said Respondent holds the note of Thomas Madden the son of Richard Madden. and one of the administrators of his estate for the sum of fifty Dollars and fifty Cents payable May 1<sup>st</sup>.

43<sup>11</sup>

1840. the Interest on which amounts to twenty  
Three Dollars and ninety Cents which note is  
herewith Exhibited Marked "E". Also the said  
Richard Madden Receiver as administrator  
Received the sum of Eighty Dollars a part of  
the Interest accruing upon the four thousand  
Dollars bond of George Moxton above mentioned  
Also William Holmes a son in Law of the  
Richard Madden purchased a Negro man be-  
- going to the Estate named Don. for the sum of  
Eight hundred and ten Dollars for which he  
Executed his note with Thomas E Holmes and  
- the son in law of the said Richard as his security  
which note the said Richard directed should  
not be sued upon and the payment thereof  
and also promised that he would see said note  
paid in the settlement of the said Tho Maddens  
Estate, the Interest on this note to the 24<sup>th</sup> of  
March 1848. amounts to the sum of three hundred  
Seventy three Dollars and ninety five Cents and  
is herewith Exhibited Marked "C". An old Neg-  
- ro <sup>man</sup> named Harry. It was agreed by all the heirs  
be set free. and it was agreed that he should be  
bid in by his Daughter Betsy a free woman.  
which was done accordingly at the price of  
One hundred Dollars. It was not expected by  
the heirs that this Debt should be collected.  
and this Respondent is entitled to a credit

44<sup>11</sup> for that amount Respondent bid in a Negro  
Girl, <sup>named</sup> Cynthia at the sale of the Negroes for Charles  
Madden at the sum of two hundred and Eighty  
Dollars. the interest on which from July 10<sup>n</sup>  
1840. the Expiration of the Credit to the 21<sup>th</sup>  
of March 1848. amounts to the sum of One  
hundred and twenty Eight Dollars. and ten  
Cents. This Debt. this Respondent agrees  
may be Charged to him since Charles Mad-  
den does not come in for a share in the Estate.

The interest on the Debts of the McClanahan  
which Ann. W. McClanahan has assumed  
amounts to the sum of Six hundred and thirty  
three Dollars. and seventy Cents. The Interest  
on Thomas Madden's Debt. amounts to three  
hundred and thirty five Dollars. and one Cent

The Interest on Philip Madden's Debt amounts  
to three hundred and forty Eight Dollars. and  
fifty four Cents. The aggregate of the Interest on  
Malachi Madden's four Debts above mentioned  
amounts to five hundred and forty Dollars  
seventy three Cents. The Interest on Richard  
Madden's. Thomas Madden's son. and Wm Holmes  
his son in Law amounts to the sum of Eight  
hundred and forty One Dollars. and five Cents.

The Interest on the price of the Negro purchased  
by Respondent for Charles Madden amounts  
to the sum of One hundred and Twenty Eight.

4511 Dollars, ten Cents amounting with aggregate to the Sum of two thousand Eight hundred and twenty seven Dollars. and thirteen Cents from which Deduct Commission at six per Cent amounting to One hundred and sixty nine Dollars. Sixty two leaving a net balance on the Interest account of twenty six hundred and fifty seven Dollars. and fifty one Cents. independent of the Interest on Geo Mootons bond already stated

This Defendant further States that he is informed and believes that his administrator Richard Madsen Deceased is properly charged with the further sum of One hundred and eighty Dollars. Received by. from the proceeds of personal property which was paid to him by Francis A. McClanahan. who after the Death of his father Josias McClanahan. had possession and collected of the proceeds of the sale of the personal Estate.

And this Defendant further states that Josias McClanahan in his lifetime. And after his death of Francis A. McClanahan and perhaps James McClanahan. living near the place from where the said Thomas McClanahan did acted as the agent of the administrator in Renting the Farm of the said Thomas. and James McClanahan. went into possession of the farm. or perhaps. was in possession of the

40<sup>th</sup> farm. at the time of the Death of said Thomas  
Under an agreement with him of the matters  
connected with the farm. Respondent is not at  
present. able to give any account. He has call-  
ed. to see said Francis McElanahan to give  
him an account of the Renting and <sup>the</sup> Crop  
Raised on the farm. in the year 1838. when the  
said Thomas Died and the subsequent years  
up to 1846. when the Land was sold. but has  
not been able. as yet to see him to get any  
Statement of the account. Respondent believes  
that the farm. for one or two years. of the time  
lay idle and that it would for the other year  
produce about forty to Eighty Dollars per year.

This shows Respondent of the Rents and acc-  
ount of which is not given for the Reasons  
above stated. The sum of thirteen thousand  
five hundred seventy nine Dollars. Security  
three cents in the form of Demands. against  
the several Distributors With Mortgages <sup>not</sup> made  
yet due. to be accounted for by this Respon-  
dent with such modifications of the Charge  
of interest as the Court shall see proper.

He does not consider himself Responsible  
for the Rents further than the same have or may  
hereafter come into his hands. He is however  
willing to use diligence in attempting to  
procure a settlement of the account and

4<sup>th</sup> Make Collection if Possible Practicable  
This Respondent now having fully answered the several allegations in the said Bill that concerns him as surviving administrator of the Estate of Thomas Madden and having personally answered as heir and Distributee he prays to be discharged with his proper share of said Estate.

Nat Cook. Surviving  
adm of Tho Madden

affidant  
of N Cook

Personally appeared in Open Court. Nathaniel Cook, who being duly sworn upon his oath says - that the statements made in the foregoing Answer, are true as far as the same are made from his own knowledge, and as far as said statements are made from information derived from others he believes to be true.

Nat Cook

Subscribed and sworn to  
before me this 17<sup>th</sup> day of  
April 1848.

Wm. A. Matthews cky

Exhibit

A

Exhibit A mentioned in N Cooks adm<sup>r</sup> Answer was as follows.  
Mr George Morton.



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Answer of  
M<sup>r</sup> Gready  
Adms of P<sup>r</sup> Mad  
dew

And afterwards on the 2<sup>d</sup> day of May 1857  
the Answer of M<sup>r</sup> Gready adms of Philip  
Madden was filed which is in the Words and  
figures as follows to Wit

Thomas J. James Madden } In the Circuit Court  
vs. } of Washington County  
W. Cook and others } In Chancery.

The Answer of Israel M<sup>r</sup>  
Gready Public administrator and in Charge  
of the Estate of Philip Madden Dec<sup>d</sup>

This Respondent answering to much of  
the said Complainants Bill of Complaint as  
as he is advised is material for him to make  
Answer unto Answering saith That he has  
no personal knowledge of the said Philip Madden  
dec<sup>d</sup> Receiving any thing from his Father Thomas  
Madden dec<sup>d</sup> by way of Advancements And pray  
that the said Complainants maybe held to strict  
proof And that this Hon<sup>l</sup> Court will protect his  
interest in the Premises And that the Distributors  
Share of Philip Madden dec<sup>d</sup> in his Fathers  
Estate may be decreed to him

Israel M<sup>r</sup> Gready Pub Adm<sup>r</sup>  
in Charge of the Estate of Philip  
Madden Dec<sup>d</sup>

affidavit of State of Missouri }  
Israel M<sup>r</sup> Gready, County of Washington } <sup>th</sup> Personallly appeared before

50

the Undersigned Clerk of the Circuit Court in and for the County aforesaid Israel M<sup>e</sup> Gready and makes oath that the statements in in the foregoing are true so far as they are made from his own knowledge are true and so far as stated from the knowledge of others he believes to be true

Israel M<sup>e</sup> Gready

Sworn to before me this  
2<sup>d</sup> day of May 1851.  
Wm A Matthews Clerk  
By Sam Harrison D.C.

And afterwards on the 21<sup>st</sup> day of April 1848 the following order appears of Record in said Cause.

Order for Shiff to pay money & for other purposes.

James Madden in his own Right and Executor and Devisee of Thomas Madden. vs. Nathan on this Day Comer the Complainant by his Solicitor and the Miss and Legal Representatives of Thomas Madden Sr. Deceased & their Respective Solicitors And it appearing to the Court that Nathaniel Cook as surviving administrator has in his hands One thousand and seventy One Dollars and sixty two Cents for Distribution and also that there is fifteen Hundred Dollars or more in the hands of the Sheriff of St. Genevieve County

51<sup>n</sup>

arising from the sale of Lands in that County  
also for Distribution And it appearing further  
that Nathaniel Cook has Received less by  
way of advancements on account of his  
Wife Honor than Any of the Other Heirs and  
that Francis Smith a Minor whose Guardian is  
Thomas W Morine has Received next less than  
either of the Others And that William Madden  
whose Legal Representative is Adam Stewart  
has Received the next less with the exception of  
Complainant who is indebted to the Estate for  
the purchase of the Land in Washington County  
It is therefore ordered that the said Nathaniel  
Cook Retain in his hands for his own use the  
above mentioned sum of One thousand seven  
One Dollars and fifty two Cents And that the  
Sheriff of St Genevieve County pay over the amo  
-unt of money in his hands arising from the  
sale of Lands belonging to said Estate, the sum  
of six hundred and sixty one Dollars to Nathaniel  
Cook, the sum of three hundred <sup>and twenty six</sup> Dollars to  
Adam Stewart or his Order And the sum of  
five hundred and thirteen Dollars to Thomas W  
Morine as Guardian of Francis Smith And this  
Cause Continued

And afterwards on the 12<sup>th</sup> day of April 1849  
The following appears of Record in said Cause

52<sup>nd</sup> Tho<sup>s</sup> & Jas Madden.

Death of James

vs.

Death of James Mas

Madden suggested heirs of Tho<sup>s</sup> Madden Esq<sup>r</sup> den suggested and  
And Adms. entered Mason Tripell administrator of James Mad  
appeared. - den in his own Right and as Deusee of Thomas  
Madden Jr, Dec<sup>d</sup> Come into Court and entered  
his appearance in this Cause.

adm<sup>r</sup> of Philip

Madden appe

arance Entered

Now at this Day Come Israel W<sup>o</sup> Soady  
administrator and in Charge. as administrator  
of Philip Madden Deceased Come into Court  
And entered his appearance in this Cause

And at the Same term being the 14<sup>th</sup> day of  
April 1849<sup>th</sup> the following order appears of  
Record in Said Cause

Order for certain

Money to be

distributed

Mason Tripell Adms of  
James Madden in his own  
Right And as Deusee of Tho<sup>s</sup>  
Madden.

vs.

Now at this Day  
Come the Parties afo  
resaid by their  
Respectiv Solicitors

The heirs of Thomas Madden Esq<sup>r</sup>. And it appearing  
to the Satisfaction of the Court that there are  
sufficient assets belonging to said Estate in the  
form of the bond of George Moxton which Remains  
unsold. And the Bond of James Madden deceased  
to Distribute to Each Heir who has Received less  
than four thousand one hundred Dollars by May.

53<sup>3</sup>

of Advancements or by the purchase of Property belonging to the Estate or Cash from the Administrator or by the Order of this Court. Such sum as added to the Receipts and Monies above mentioned will Render their Receipts equal to Forty one Hundred Dollars. And it appearing that James Madden has Received by way of Advancements. And by the property purchased at the sale of the personal property of the said Thomas Madden deceased with interest upon the purchase money of the Personal Property And Cash paid him by the admr. the sum of Twenty five hundred and Ninety five Dollars. and Twenty Cents and that Thomas Madden Sr. has from the same sources. Received the Sum of two thousand Six hundred and fifty five Dollars. and Nine ty two Cents. and that the said Thomas Madden Sr. has Departed this Life leaving all his property to James Madden. It is therefore ordered that said Mason Tripell as Administrator of said James Madden in his own Right and as the Heir of Thomas Madden. be Charged as having Received from said Estate the sum of two thousand Nine hundred and forty Eight Dollars. and Eighty Eight Cents which will make the Receipts of the said Thomas and James Madden from the said Thomas Madden's Estate. Equal to Four thousand One hundred Dollars. each. And that the Bond of the said James Madden. in the hands.

54<sup>th</sup> of S. W. Purris Sheriff of Washington County  
for the purchase money of the Lands belonging  
to said Estate in this County be Credited with  
the sum of Twenty Nine hundred and forty Eight  
Dollars. Eighty Eight Cents. And it appearing  
further that the bond of George Moreton here-  
tofore Ordered to be sold at par Cannot be dis-  
posed of according to said Order. It is therefore  
further ordered that Nathaniel Cook Sheriff  
Adm<sup>r</sup> of Thomas Maddox's Assigns such por-  
tions of the Bond of George Moreton to any of  
the heirs who have Received less than the sum of Forty  
One hundred Dollars as will make the Receipt  
of such heir equal to forty One hundred Dollars  
for an entire share. if such heir is willing to Rec<sup>e</sup>  
in the same at par Nathaniel Cook and Nancy  
W<sup>m</sup> Clankhan are Excepted from this Order.  
for the Reasons that issues Respecting their advancem<sup>ts</sup>  
are undisposed of. And this Cause contin-  
ued.

And on the 12<sup>th</sup> day of October 1849. the following

Order for Sheriff  
of St. Genesee Co.  
to pay money

Order appears of Record in said Cause.

Ordered by the Court that William G  
Varnum Sheriff of St. Genesee County pay  
to Adam D Stewart a assignee of William D.  
Maddox the balance in his hands arising from  
the sale of Lands in St. Genesee County am-  
ounting to the sum of two hundred and twenty

55. four Dollars and twenty five Cents And the Cause  
Continued "

And on the Same Day the following Orders, ap-  
pears of Record.

allegations  
against Ann  
M. Clancham.  
And Crofs Bill  
against N. Cook  
Dismissed

Now at this Day Came the Complainant by  
their Solicitor and Demisses the additional alleg-  
ations filed Against Ann M. Clancham,  
Now at this day Comes Ann M. Clancham  
by her Solicitor and Demisses her Crofs Bill  
as to N. Cook

And afterwards on the 4<sup>th</sup> Day of May  
1830 the following Order appears of Record

order to sell  
Mortons bond

Now at this Day. Come the said Complainant  
And Shows to the Court that a Sale of the Bond  
for four thousand Dollars against George Morton  
And payable to the Estate of the said Thomas Mad-  
den in the year 1875. with Interest payable Annually  
cannot be sold at par in pursuance of said  
Order of this Court made at the Assize Term  
1849. And the Court being satisfied that Nathaniel  
Cook the administrator is Confined and has  
for some months been Confined to his house from  
sickness And it appearing further that said  
bond will have to be sold for the purpose of dis-  
tributing said Estate to the several parties entitled



5<sup>th</sup>

Interests in said Estate And move the Court to  
rule the Administrator Nathaniel Cook to Report  
to this Court a full and true Account of his  
Administration of said Estate And that he  
file and show to this Court a full and true ac-  
count of his Administration Payments Receipts  
And Disbursements with a Detailed Statement  
of the Amounts Received And paid Out for all  
purposes And further that he make and file  
an Inventory of the Real And Personal Estate  
of the Said Thomas Madden Deceased De-  
scribing the Quantity Quality Situation And  
Title of the Real Estate And also make and file  
a full and perfect Inventory Description And  
Appraisement of all the Goods Chattels Money-  
Books Papers And evidences of Debt belonging  
to or Due the said Estate as also the Debts now  
due to said Estate or to become Due the names  
of the Debtors the Date And nature of the Contract  
the Amount of Interest due thereon And the  
Rate of Interest And also that the Said Cook state  
and show an Account to this Court wherein shall  
be stated and set forth the Amount of the princi-  
pal and interest which he has Received for said  
Estate of whom Received And when And on  
what Account Received And how the Same has  
been disposed of paid out or applied - as  
also all the hire And Rents for Real And

58<sup>th</sup> Rents for Real and Personal Estate of Whom  
And When Received And how paid out And  
Applied And Also Whether the Whole or any  
of the Moneys that have been Received from  
or for said Estate Real or Personal, have been  
paid out to the Creditors of said Estate or dis-  
tributed to the Heirs Legates or assignees of  
interest in said Estate - And When And how  
paid out And to Whom And further Whether  
Any And if Any What Amount of Money  
has been kept And retained in the hands of  
said Cook And Why so retained And from  
what time to what time or put out at interest  
And at what Rate - And to Whom And for  
what length of time

And that he also file a full and perfect  
Statement and Sale Bill of all and singular the  
Sales made And hire of Negroes if Any, and  
Rents of the Personal Estate slaves and Real  
Property And when And how made And to Whom  
sold And when And the Amount of all such  
Sales Rents And hire - And for to Require the  
said Administrator to give additional Bond

Scott & Young attys  
for Menard & Talley  
Gale & Blackledge  
attys for the Heirs

59. And on the 18<sup>th</sup> Day of June 1857. The following  
Order was made in said Cause.

Motion

overruled Now at this Day come the parties by their  
attorneys - and the Motion and Affidavit of Ann  
McClanahan. to Requir<sup>e</sup> St Cook. Adm<sup>r</sup> of  
Thomas Madden Sr Deceased to give an addition  
al. bond. as Adm<sup>r</sup> of said Dec<sup>d</sup>. & for other pur-  
poses. being submitted to the Court. And Mat<sup>r</sup>ia  
-el deliberation thereof had. It is Consideration  
by the Court that the same be overruled.

And on the Same day. the Report of Adam  
D Stewart was. affirmed as follows.

Report of It is Ordered that the Report of the Special  
a D Stewart Commissioner. Adam D Stewart of the sale of the  
affirmed Bond and Mortgage of George Morton belong-  
ing to the Estate of Thomas Madden be in all  
things affirmed And that the proceeds of said  
Bond be in his hands. Amounting to the Sum of  
Three thousand four hundred. and forty Dollars  
be paid and Distributed by him as follows. that he  
Retain for his services as Commissioner the Sum  
of Fifty Dollars. And the Sum of One thousand  
forty nine Dollars and seventy five Cents as the  
assignee of William S Madden. in trust in  
Thomas Maddens Estate that he pay to Ann.

Co. 9 M'Clanahan. Or Order. a Distributee of said  
estate the Sum of six hundred and thirty seven  
Dollars. and sixty One Cents. that he pay to  
Thomas M'Wrens Or Order. the sum of five  
hundred and fifty Dollars. that he pay to  
Francis Smith Or Order the sum of Eight  
hundred and ninety three Dollars That he  
pay to Nathaniel Cook. Or Order the Sum of  
two hundred and fifty nine Dollars. and  
sixty four Cents. And that Nathaniel Cook.  
Retain in his hands. as a Distributee the sum  
of six hundred and ninety Dollars. and thirty  
four Cents Reported as in his hands as a commis-  
sioner And this Cause Set for hearing at the next  
Term. And Continued

And afterwards on the 25<sup>th</sup> Day of June. 1852  
the following proceedings were had..

Order of Sale

of Sands. in Now on this day. Came the parties aforesaid by  
St Louis. their Respective Solicitors And it appearing to the  
                     Satisfaction of the Court. that the personal estate and  
the proceeds of the Real Estate so far as sold. is in-  
sufficient to equalize the Receipts of the Heirs  
of the Said Thomas. M'adew. Senior taking into  
consideration the unequal advancements made  
by him to his Children in his life time And it  
appearing further that the following Sands. in

01" St Louis County belongs to the Estate of the said Thomas Madden. Sr. Dec<sup>d</sup>. to Lots No two and three of the subdivisions of a tract of Land on Lake. Creek. Coeurc. in Township forty six North Range Four and five East. of the fifth principal Meridian containing together Six hundred and four Acres. And Eighty Nine hundredths according to the Plat of the subdivisions made in the proceedings for Partition between Coleman Rogers Thomas Madden and William Hempstead and on file in the Office of the Clerk <sup>of the</sup> Circuit Court of St Louis County. America to the Report of Sales. in said Cause. as made by. Uri Musick. Warranty.

Jappentington and Frederick Nyale. Commissioners appointed by the Circuit Court of said County to make Partition between said Parties of a Tract of Land supposed to contain Two ~~hundred~~ <sup>Thousand</sup> Arpents. which was a part of a larger tract containing Twenty six hundred Arpents. Granted by the Spanish Government to Antoine Reynald. which has been confirmed by the United States. and surveyed under their Authority.

At the Sale under Partition the said Thomas Madden. became the purchaser of said Lots. No<sup>s</sup>. Two and Three as may be seen by Reference to the said Commissioners Deed. Recorded in the Records Office of St Louis County. Book B. No<sup>s</sup>. 2. Pages 164 and following to which

0211 Reference is had. Antoine Reynold. Currye de  
Courage of said Land to Charles Hempstead by  
Deed bearing Date March 3<sup>d</sup> 1818. And Recor-  
ed in the Proper office And Thomas Madden  
Acquired Title to One undivided third part  
of said Hempsteads Interest. by purchase at  
Sheriffs sale. of said Hempsteads Interest made  
July 31. 1831. as is Shown. by the Sheriffs Deed  
to him Recorded in the Records Office of St.  
Louis County in Book. D. pages 128. And follow-  
ing) Also the ~~an~~ undivided third part of a  
Tract of Two hundred and forty four Acres.  
And One half. Confirmed to Madame Nicolle  
Les Bris Situate South West of. and about one  
Mile from the City of St Louis Also the undivided  
half of One hundred and sixty acres. of Land  
situate near the City of St Louis it being a  
New Madrid Location made to include the North  
East fractional quarter of section Twenty One. Town-  
ship forty five North of Range seven East. and  
so much of the South East quarter of same sec-  
tion as to make up. One hundred. and sixty acres  
said Location was. made June 16<sup>th</sup> 1818. by  
E. H. Delauris as the Legal. Representative  
of Robert Masters by Virtue of Certificate  
No 368. Thomas Madden. acquired Title to  
the Two last. Described tracts by Virtue of a  
Sheriffs sale for the foreclosure of a mortgage

031

from Charles J. Hempstead to Thomas Madden.  
The Sheriff's Deed is Recorded in Book 2,  
pages 128 and following. It is therefore ord-  
ered adjudged and Decreed that the Land above  
Described be Sold and the Proceeds be Distributed  
Among the Several Heirs of the Said Thomas  
Madden Deceased entitled thereto or their  
Legal Representatives according to the Order of  
the Court here after to be made. And that James  
Conway, of the County of St Louis be appointed and  
his is hereby appointed Commissioner of the  
Court with full power to sell and convey the same.  
That Said Commissioner Cause the Crier Come  
Tract to be subdivided into Lots of fifty  
Acres more or less as shall seem to him advantage-  
ous to the parties interested that Said Land shall  
be Sold during the <sup>of the Crier</sup> term or Common Pleas  
Court of St Louis County to the highest bidder  
upon a Credit of Twelve Months except Ten per  
Cent of the purchase Money. Which be Required  
to be paid in hand, the purchaser will be Required  
to give bond with approved Security for the  
purchase Money. We shall Cause Said Land  
to be advertised in some News Paper printed in  
St Louis and also by hand bills set up in public  
places through the City and County at least  
Sixty days before the day of Sale. The Said  
Commissioners upon the payment of the pur-

The said Money. Shall execute Decree for the  
 Lands Sold. Conveying all the Right which  
 the said Thomas Madden had in said Lands  
 at the time of his Death. And hold the  
 Proceeds thereof. Whom Collected subject  
 to the further Order of this Court and  
 further to Report his proceedings to the next  
 Term of this Court. To which time this Cause  
 is Continued.

And afterwards on the 25<sup>th</sup> Day of October 1853.  
 The Report of the sale of the Land in St Louis  
 County was filed which is as follows. To wit.

Commissioners Report of Sale of Land in St Louis County.	M. Tripell Adm. of Adam D Stuart. et al.	Washington Circuit Court.	
		Statements of Costs & Expenses	
	Paid by Samuel Conway, Commissioner		
	To Cash P <sup>d</sup> for Louis Intelligencer	per Voucher N <sup>o</sup> 1.	\$ 14 00
	" P <sup>d</sup> Wm H Coggins for Making Plats Voucher N <sup>o</sup> 2		4.00
	" P <sup>d</sup> Augenger. Des. Western per Voucher N <sup>o</sup> 3.		8.95
	" P <sup>d</sup> Sacy Clerk. Voucher N <sup>o</sup> 4.		1 75
	" P <sup>d</sup> Isaac Woods Surveyor. per Voucher N <sup>o</sup> 5		75.50

05

"	Print & Print Customers for Making Sale. And for Drawing of Deeds. as per Voucher No. 5.	50.00
"	" P <sup>o</sup> for Pasting Bills thro' of City and County per Voucher.	2.00
To	Commission An Amt of Sale at 2 1/2 per Cent.	119.64
		<hr/>
		\$ 275.84
	Two per Cent Rec <sup>d</sup> by Me.	478.57
	Balance on hand	<hr/>
		\$ 202.67

I expect that Mr Bates. attorney will  
Charge for his services for preparing advertisements  
H. I. also. Remark that the Costs of Advertise-  
ing Under the former Order of Sale. are not in-  
cluded in the Abov. And that the above Costs are  
Correct.

St. Louis Oct. 21<sup>st</sup> 1853. Sam<sup>l</sup> Conway. Com

State of Missouri County of St. Louis

Mason Fupell Adm<sup>r</sup> of  
James Madden in his own  
Right and as Deuce of  
Thomas Madden Dec<sup>r</sup>

vs.

Adam Q. Stuart Assignee of  
William J. Madden. W. Fupell  
adm<sup>r</sup> of St. Cook Dec<sup>r</sup> Malachi

In the Circuit  
Court of  
Washington  
County

66 Maddon. Ann M Clauahan  
Thomas W. Morins Fra<sup>s</sup> Smith } State of  
And Otho Weirs And Legal Repre. } Missouri  
sentatus of Thomas Maddon }  
Sun<sup>d</sup> Dec<sup>r</sup> 4<sup>th</sup>

Samuel Conway of St Louis County  
the Commissioner Appointed in the above  
entitled Cause at the April Term 1853 of the  
Washington Circuit Court Make Report of  
his afo<sup>re</sup> and proceedings Under said Order as  
follows to wit.

In Compliance with said Order  
I did on the 16<sup>th</sup> day of August 1853 Cause the  
Real Estate mentioned in said Order to be ad-  
vertised for sale by a advertisements inserted in  
the Weekly St Louis Intelligencer a News Paper  
printed in the City of St Louis And also by  
hand Bills set up throughout the City and Coun-  
ty of St Louis a copy of which said advertise-  
ments is hereto attached and makes part of this  
Report. And agreeable to said advertisement  
I did on the 20<sup>th</sup> day of October 1853 at  
the North front Door of the Court house in the  
City and County of St Louis State of Missouri dur-  
ing the sitting of the St Louis Circuit Court  
being the April Term 1853 of said Court  
Expose to sale at Public Auction to the highest  
Bidder On the Terms in said Order mentioned the

Of the Said Real Estate Described in Said Order  
having first caused the Cree. Cozier Tract to  
be subdivided as directed in Said Order, a plat  
of which subdivision is herunto Attached and  
Makes Part of this Report at which said time  
and place Benjamin F. Stout became and was  
the highest & best bidder for the Tract marked upon said  
Plat. N<sup>o</sup>. 1, containing 59 <sup>38</sup>/<sub>100</sub> Acres. at the price  
& sum of Seven <sup>50</sup>/<sub>100</sub> Dollars per Acre. Amounting  
to \$5211. <sup>34</sup>/<sub>100</sub> Also James B. Hatch became & was  
the highest & best bidder for the Tract N<sup>o</sup>. 2. Con-  
taining 58 <sup>8</sup>/<sub>100</sub> Acres. at the Price and Sum of Seven  
<sup>25</sup>/<sub>100</sub> Dollars Amounting to the sum of Four Hund-  
red & Twenty six <sup>34</sup>/<sub>100</sub> Dollars And also at said  
time & place Philip S. Sabbaum became & was  
the highest and best bidder for the Tracts marked  
upon said Plat N<sup>o</sup>s. 3, 6, 10 and 11. The Tract  
N<sup>o</sup>. 3. Containing 54 <sup>90</sup>/<sub>100</sub> Acres. Tract N<sup>o</sup>. 6. Con-  
taining 52 <sup>9</sup>/<sub>100</sub> Acres. The Tract N<sup>o</sup>. 10. Containing  
35 <sup>44</sup>/<sub>100</sub> Acres. And Tract N<sup>o</sup>. 11. Contains 89 <sup>90</sup>/<sub>100</sub> Acres  
at the price and sum following To wit for Tract  
N<sup>o</sup>. 3. Seven <sup>75</sup>/<sub>100</sub> Dollars per acre. Amounting to  
\$425 <sup>47</sup>/<sub>100</sub> Tract No. 6. the price & sum of seven  
<sup>25</sup>/<sub>100</sub> Dollars per acre. Amounting to \$450 <sup>15</sup>/<sub>100</sub> for Tract  
N<sup>o</sup>. 10 the price and sum. of \$8 <sup>25</sup>/<sub>100</sub> Dollars per acre.  
Amounting to the sum of \$292 <sup>28</sup>/<sub>100</sub> And for Tract  
N<sup>o</sup>. 11. the price and sum of \$8 <sup>75</sup>/<sub>100</sub> per acre Amou-  
nting to \$786 <sup>52</sup>/<sub>100</sub> -

68<sup>th</sup>

And also at said time and place Mason  
Frisell became & was the highest and best  
bidder for the tracts marked upon said Plat as  
N<sup>o</sup> 4. 5. 7. and 9. the tract N<sup>o</sup> 4. Contains 53.  
<sup>38</sup>/<sub>100</sub> Acres. the tract N<sup>o</sup> 5. Contains 48.<sup>16</sup>/<sub>100</sub> Acres the  
Tract N<sup>o</sup> 7. Contains 51.<sup>92</sup>/<sub>100</sub> Acres. And the Tract  
N<sup>o</sup> 9. Contains 34.<sup>27</sup>/<sub>100</sub> Acres. at the prices and  
sums following, To wit, for tract N<sup>o</sup> 4 the price  
& sum. of \$ 8.<sup>50</sup>/<sub>100</sub> per acre. Amounting to the sum  
of \$ 453.<sup>70</sup>/<sub>100</sub> for tract N<sup>o</sup> 5 the price & sum. of seven  
Dollars. per acre. Amounting to the sum of \$ 337.  
<sup>12</sup>/<sub>100</sub> for Tract N<sup>o</sup> 7. the price and sum. of six  
<sup>75</sup>/<sub>100</sub> Dollars Amounting to the sum of Three Hun  
dred and fifty <sup>46</sup>/<sub>100</sub> Dollars. and for Tract N<sup>o</sup>  
9 the price and sum. of seven <sup>25</sup>/<sub>100</sub> Dollars. Amo  
unting to the sum. of Two hundred and forty eight  
<sup>45</sup>/<sub>100</sub> Dollars. And also at said time and place  
Henry W. Williams became and was the highest  
and best bidder for the Tract marked upon said  
Plat N<sup>o</sup> 8. Containing 56.<sup>71</sup>/<sub>100</sub> Acres. at the price  
and sum. of Eight Dollars per acre Amounting  
to the sum of \$ 453.<sup>68</sup>/<sub>100</sub> And also at the said  
time and place. Adam D. Stuart became &  
was the highest and best bidder for the Tract.  
Secondly. Described in said Advertisement  
at the price and sum. of Forty Dollars.

And also at said time and place Fran  
klin S. Ridgely became and was the highest

0911

and best bidder for the Tract thereby Presented  
in said advertisement at the price and sum of  
One Dollar The said Real Estate was therefore  
then and there stricken off and sold to said several  
purchasers for said sums and amounting in the  
aggregate to the sum of Four thousand seven hun-  
dred and eighty five <sup>77</sup>/<sub>100</sub> Dollars (\$4785 <sup>77</sup>/<sub>100</sub>).

And by Virtue of the power Vested in  
me by said Order I have made and Executed to  
the said purchasers Deeds for said Real Estate  
and have Received from the said purchasers Ten  
per Cent of the said purchase Money, and have  
taken from them Bonds with security for the  
Payment of the Remainder of the purchase Mo-  
ney Twelve Months after Date viz from the day  
of sale. And I herewith file a Statement of the  
Costs and Necessary Expenses attending said sale  
together with a charge for my services and ask  
that the Court confirm my proceedings in  
the premises and allow to me the said Costs  
& Expenses. All of which is Respectfully  
submitted.

Saml Conway Com<sup>r</sup>

Page No 1.

Surveyed a tract of 604 <sup>89</sup>/<sub>100</sub> Acres of Land in  
the name of Madden, which was in Two  
Lots adjoining & by the Original Plat in the Clerk's  
Office of the Circuit Court of St Louis County.

70<sup>th</sup> State of Missouri is Designated as Lot No 28.  
3. of a Larger tract. tract. Confirmed to Antoine  
Reynolds lying and situated between the two lower  
lower Lakes in T. 46 R. Range 5 E. of the 5<sup>th</sup>  
principal Meridian

Survey. Lot No 1. Containing 69 <sup>38</sup>/<sub>100</sub> Acres  
of Land. Beginning at a post. Corner to  
Dr. Delany. Also a Corner to the Original Lots  
No 1. S. D. from which an Elm 22<sup>in</sup> Diameter bears  
S. 53. W. 32. links distant & Do. 16<sup>in</sup> Diameter bears  
N. 59. E. 24 links distant Thence East along the  
Southern line of the Original a former survey of  
Lot No 1. Now Owned by Williams 21 1/2 Chains  
to a post on the Western edge of lower Lake from  
which an Elm 16<sup>in</sup> Diameter bears S. 76 1/2. W. 23  
links & a Spruce 10<sup>in</sup> Diameter bears. N. 35 1/2. W. 64  
links links distant thence with meanders of  
West bank of lower Lake. the following Courses and  
Distances S. 21 1/2. E. 400. Chains S. 14 E. 9. 50  
Chains S. 6 E. 9. 50. S 1 W. 3. 18 Chains Corner  
to Lot. No 1 & 2. from which an ash 10<sup>in</sup> Diameter  
bears. S. 88. W. 38. links & a Hickory 18<sup>in</sup> Diameter  
bears. N. 25 W. 23 links distant Thence  
S. 79 W. along the line between Lots No 1 & 2.  
31. 50. Chains to a post Corner. to Lots No 2 & 3.  
38. 89. Chains to a post set in Dr. Delany's  
Eastern boundary Corner. to Lot No 3. from which  
an Elm 8<sup>in</sup> Diameter bears S. 28 E. 22 links

71<sup>a</sup> Distant & an Elm 12<sup>th</sup> Diameter bears N 69 E 40  
links distant Thence N 33 1/4 E along Dr Delamp  
line 21.73 Chains to the Beginning Sand level  
Soil good for Cultivation Timber Ash. Cottonwood  
Nickony Elm & Sycamore. Undergrowth Pawpaw.  
Spice wood Swamp Dogwood & Vines

Page 2<sup>nd</sup>  
Survey of Lot No 2<sup>nd</sup> Containing 58 <sup>81</sup>/<sub>100</sub>  
Acres of Land.

Beginning at the Corner Lots No 2 & 4,  
on the Western bank of Lower Lake. A post from  
which an Ash 10<sup>th</sup> Diameter bears N 7 1/2 W. 33.  
Links distant & An Elm 14<sup>th</sup> Diameter bears S. 57. W.  
47 Links Distant Thence N. 79 W. between Lots 2  
& 4 33.19. Chains to a post set in the Eastern  
boundary line of Lot No 3. from which an Ash. 30  
<sup>th</sup> Diameter bears N 10 1/2 E. 18 Links Distant and  
an Elm 24. <sup>th</sup> Diameter bears S. 3 W. 30 1/2. Links  
Distant Thence N. 10 1/2 E. along Eastern boundary  
line of Lot No 3. 1855. Chains to a post corner  
to Lots No 2 & 3 on South Edge of a Cotton tree  
6 feet Diameter thence S. 79 E. between Lots No 1 & 2  
30. 50. Chains to a post corner Lots No. 1 & 2. on  
the West Edge or Margin of Lower Lake for which  
an Ash 10. <sup>th</sup> Diameter bears S. 88 W. 38 Links  
distant & a Nickony 18<sup>th</sup> Diameter bears N 25  
W. 23. links distant. Thence with the Meanders

72<sup>nd</sup> of the Lake. the following Courses & Distances  
S. 3 N. 500 Chains S. 4 1/2 E. 400 Chains S. 4 N.  
8.69 Chains to the beginning. Sand Seal Soil  
Rich Suitable for Cultivation Timber plenty. Ash,  
Cottonwood Elm Hickory & Buckeye. Underground  
faw paw. Spice Wood & Vines

Survey of Lot No 3. Containing 54<sup>90</sup>/<sub>100</sub>  
Acres of Land.

Beginning at a Post Corner. Set in the  
Eastern Boundary. Line of Dr. Delany's 800. Acre.  
Tract Com. to Lots No 1 & 3. from which an Elm  
8<sup>in</sup> Diameter bears S. 28 E. 22 links distant  
& an Elm 12<sup>in</sup> Diameter bears N. 69. E. 40 links  
Distant. Thence S. 79. E. 39. Chains to a post  
Corner to Lots No 2 & 3. on the south east side  
of an Elm. 6 feet Diameter. thence S. 10 1/2 N.  
along Lot No 2. 18.50. to a post Corner. to Lots  
No 2 & 4. 35.00. Chains to a post Corner. to Lots No  
2, 3, 5 & 6. from which an Ash 8<sup>in</sup> Diameter  
bears N. 31. N. 50 links & an Elm 4<sup>in</sup> Diameter  
bears S. 53. N. 50 links distant. Thence N. 79. N.  
23.00 Chains to a post Corner to lots No 3 & 6. set  
in the Eastern line of Dr. Delany's from which  
an Elm 10<sup>in</sup> Diameter bears S. 3 E. 33 links & a  
Hickory 14<sup>in</sup> Diameter bears N. 79 E. 39 links  
distant Sand and Timber as before

73.

Survey of Lot No 4. Containing 53<sup>38</sup>/<sub>100</sub> Acres of Land

Beginning at a Post Corner to Lot No 4 & 5. On the Western Bank of the lower Lake. from which An Elm 24 in Diameter bears S. 72 N. 4 1/2 links Distant & An Elm 10 in Diameter bears N. 8. 3/4. E. 40 links distant Thence N 79 W along the line between Lots No 4 & 5 - 31.62 Chains to a post Corner to Lots No 3, 4, 5 & 6. from which An ash 8 in Diameter bears N. 31. W. 50 links distant & An Elm 4 in Diameter bears S. 53. W. 56 links Distant Thence N. 10 1/2. E. Along the Eastern boundary line of Lot No 3. 16.50 Chains to a post Corner to lot No 2 & 4. from which An ash 30 in Diameter bears N. 10 1/2 E 18 links Distant. And An Elm 24 in Diameter bears S. 3 W. 30 1/2 Links Distant S. 79 E. along the line between Lots No 2 & 4 - 33.19 Chains to a post on Western Edge of lower Lake from which An Ash 10 in Diameter bears N. 76. W. 33 links Distant Thence with the meanders of the Lake. the following Courses and Distances S. 17 1/2 W. 2.62 Chains S. 11 1/2 W. 3.50 Chains S. 17 W. 10.37 Chains to the Beginning. Land here Soil Rich good Bottom Land Timber. Ash. Elm Cottonwood Box Elder & Andycamore Undergrowth Spice paw paw & Vines

Survey of Lot No 5. Containing 48<sup>16</sup>/<sub>100</sub> acres of Land

74<sup>th</sup> Beginning at a post. On the Western Bank of  
 Sarny Lake. Corner to Lots No 5 & 7. From which a  
 Redwood 5<sup>th</sup> Diameter bears N 29<sup>th</sup> E. 21<sup>th</sup> links dis-  
 tant and an Elm 10<sup>th</sup> Diameter bears S 23. 14 links  
 distant Thence N 79 W. 28. 33 Chains to a post.  
 Corner to Lots 5 & 7. from which an Elm 14<sup>th</sup> Diameter  
 bears S 83<sup>th</sup> E. 21. links distant & a fycamore 30<sup>th</sup>  
 Diameter bears S 36<sup>th</sup> E. 28 links distant Thence  
 N. 10<sup>th</sup> E. along the Eastern boundary of Lot No 6,  
 16.00 chains to a post Corner to Lots 3, 4, 5, & 6 from  
 which an Ash 8<sup>th</sup> Diameter bears N 31 W. 60 links  
 distant & an Elm 4<sup>th</sup> Diameter bears S. 53 W. 56.  
 Links distant Thence S. 79 E. between Lots No  
 4 & 5. 31. 62 Chains to a post. Corner on the Lake  
 to Lots No 4 & 5. from which an Elm 21<sup>th</sup> Diameter  
 bears S. 72 W. 42 links distant Thence with the  
 Meanders of the Lake. S. 23<sup>th</sup> W. 5. 00. S. 19. W. 8. 00  
 Chains S. 25<sup>th</sup> W. 3. 34 chains to the Beginning  
 Land Seal, Soil Rich & Suitable for Cultivation  
 Timber Ash. Elm. Cottonwood Box Elder fycamore  
 & Hickory Under Growth as before

Page 74<sup>th</sup>  
 Survey Lot No 5 (Containing) 52<sup>th</sup> Acs.  
 Acres of Land. Beginning at a Post Corner  
 to Lot No 6 & 8. on the Eastern Margin of the  
 Upper Lake from which a Blackwalnut 28<sup>th</sup>  
 Diameter bears S. 63 E. 10 Links distant & an Ash

75. 8<sup>in</sup> Diameter bears N. 62 E. 25 links distant.  
 Thence S. 79 E. between lots 5 & 8. = 28.60 Chains to a  
 post from which an Elm Diameter bears N 58  
 W. 27. Links distant And an Ash 6<sup>in</sup> Diameter  
 bears S. 15 W. 69 Links distant thence N 10 1/2 E.  
 23.00. Chains to a post Corner to Lots 3, 4 & 6.  
 from which an Ash 8<sup>in</sup> diameter bears N 31 W  
 60 links distant & an Elm 4<sup>in</sup> diameter bears S  
 53 W. 56. Links distant, Thence N 79 W 23.00  
 Chains to a post Corner to Lots 3 & 6. on Delany's  
 Eastern Line from which an Elm 10<sup>in</sup> Diameter  
 bears S. 3 E. 33 Links distant & a Hackberry 14<sup>in</sup>  
 diameter bears N 79 E. 39 links distant. Thence  
 S. 33 1/4 W. along Dr. Delany's Line 15 43 Links  
 to a Post Corner of Dr. Delany's on the upper  
 Lake from which a Cotton tree 30<sup>in</sup> diameter bears  
 N 45 W. - 17 links distant And an Elm 16<sup>in</sup> bears  
 S 30 E. 30 links distant Thence with the mea-  
 -nders of the Lake to the following Courses. & Distances  
 -ces of 6 W. 5.00 Chains S. 11 1/4 W. 3.94 chains to the  
 beginning Sand level. Soil Rich suitable  
 for Cultivation Timber Ash Elm Cottonwood  
 Black Walnut Hackberry & Hickory Some  
 Sycamore.

Survey of Lot No 7, containing  
 51. 100 Acres of Sand  
 Beginning at a post S. E. Corner on the  
 Lake. And Corner to to Lots No 7 & 9. from which

7<sup>th</sup> Co An Elm 8<sup>in</sup> diameter bears N. 58 $\frac{1}{2}$  W. 19 links  
 distant & a sycamore 22<sup>in</sup> Diameter bears S. 72 W.  
 16 links distant. Thence N 79 W. 23.22. Chances  
 to a Post Corner to Sots 7 & 9 from which a  
 Box Elder 12<sup>in</sup> Diameter bears S. 34 $\frac{3}{4}$  E. 24 links  
 distant & a Box Elder 10<sup>in</sup> diameter bears N. 24 E  
 35 links distant thence N. 10 $\frac{1}{2}$  E. 20.00 chains  
 to Corner, Sots 5 & 7. from which an Elm 14<sup>in</sup> bears  
 S. 85 $\frac{1}{2}$  E. 21 links & a sycamore 31<sup>in</sup> Diameter  
 bears S. 36 $\frac{1}{2}$  E. 28 links distant Thence S. 79 E.  
 28.33 Chains to a post on the bank of the Lake  
 Corner to Sots N<sup>o</sup> 5 & 7, from which a Redwood  
 5<sup>in</sup> diameter bears N. 29 $\frac{1}{2}$  E. 20 $\frac{1}{2}$  links dist,  
 & an Elm 10<sup>in</sup> diameter bears S. 32 E. 14 links  
 distant Thence meander along the Lake the following  
 courses & Distances S. 24 W. 10.00 Chains at 7.21  
 the corner between 2 & 3 of the Original survey S.  
 25 $\frac{1}{4}$  W. 10.67 Chains to the Beginning Land here  
 soil Rich suitable for Cultivation Timber ash Hick  
 -ory Elm sycamore Cottonwood Box Elder under  
 -growth Pawpaw Spice wood Redbud & Vines

Survey of Lot N<sup>o</sup> 8, Containing  
 50.70 Acres of Land

Beginning at a post Corner set on the Eastern  
 margin of the Upper Lake at the lower end  
 of old Orchard Corner to Sots N<sup>o</sup> 8 & 11, from which  
 a Honey Locust 8<sup>in</sup> Diameter bears N. 81. E. 33.

277<sup>th</sup> Links Distant R. do. 8<sup>th</sup> diameter bears S. 5 3/4 E  
53 Links distant Thence S. 79 E. 28.18 Chains to a  
Post Corner to Lot No 8 & 11. on the Western boundary  
line of Lot No 9. from which An Ash 10<sup>th</sup> diameter  
bears N. 59 W. 3 Links distant & a Chin copin Oak  
24<sup>th</sup> diameter bears S. 88 W. 38 Links distant, Thence  
N. 10 1/2 E. 21.00 Chains to a Post Corner to Lots 6 & 8.  
from which An Elm 10<sup>th</sup> diameter bears W. 58 W.  
27 links distant And An Ash. 6<sup>th</sup> diameter bears  
S. 15 W. 69. Links distant, Thence N. 79 W. along  
the line between Lots No 6 & 8. = 28.60<sup>th</sup> Chains  
to a post on the Upper Lake. Corner to lot No 6 &  
8 from which a Blackwalnut 28<sup>th</sup> diameter bears  
S. 63. E. 10 links distant & An Ash. 8<sup>th</sup> diameter  
bears N. 62 E. 25 links distant, Thence with the  
meander of the Lake through Lot 8. S. 5 W. 3.56  
Chains S. 11 1/2 W. 11.50 Chains S. 7 1/2 W. 4.96 Chains  
to the beginning of this lot includes a little of  
the meander of an old field soil Rich suitable  
for Cultivation Timber Ash Elm Spruce as. Cotton  
wood. Blackwalnut & Box Elder.

Page No 6<sup>th</sup>  
Survey of Lot No 9. Containing 34<sup>th</sup> Acres  
of Land.

Beginning at a post Corner to Lot No  
7 & 9. from which a Box Elder 12<sup>th</sup> diameter bears  
S. 34 3/4 E. 24 links distant & a Box elder 12<sup>th</sup> diameter

78. bears ~~724~~ E. 35 links distant. Thence § 79 E  
 between Lots 7 & 9. 23. 22. Chains to a Post Corner  
 to Lots 7 & 9, on the Western Bank of the lower Lake  
 from which An Elm 8<sup>in</sup> Diameter bears N 68<sup>1</sup>/<sub>2</sub>  
 N. 19. Links distant. & a Sycamore 22<sup>in</sup> diameter  
 bears § 72 N. 16 links distant. Thence with the  
 Meanders of the Lake the following Courses and  
 Distances § 30 N. 11.00 Chains § 34<sup>1</sup>/<sub>4</sub> N. 7. 23 Chains  
 to a Post Corner to Lots 9 & 10, on the Lake from  
 which an Ash 8<sup>in</sup> diameter bears § 69 N. 25 links  
 distant & an Ash 8<sup>in</sup> Diameter bears N 53. N. 32.  
 links distant Thence N 79 N. 16 53 Chains to Corner  
 to Lots No 9. & 10. on the Eastern line of Lot No 11.  
 from which An Ash 12<sup>in</sup> Diameter bears N 35<sup>3</sup>/<sub>4</sub> E.  
 66 Links distant And An Elm 22<sup>in</sup> diameter bears  
 § 75 E. 47 Links distant Thence N 10<sup>1</sup>/<sub>2</sub> E. 17.00  
 Chains to the Beginning Sand level soil Rich  
 suitable for Cultivation Timber Ash Elm Sycamore  
 Walnut Boxelder & Cottonwood Undergrowth. Parsnip  
 Spicewood Reduts and Vines

Survey Lot No 10. Containing  $35 \frac{44}{100}$  Acres  
 of Sand.

Beginning at a Post Corner to Lots No  
 9 & 10, in the East boundary line of Lot No 11, from  
 which An Ash 12<sup>in</sup> Diameter bears N 35<sup>3</sup>/<sub>4</sub> E. 66.  
 links distant & An Elm 22<sup>in</sup> diameter bears § 75 E  
 47 links distant. Thence § 79 E. between lots 9 &

79<sup>th</sup> 10. = 16.53. Chains to a post Corner to lots 9 & 10  
On the West Margin of Lower Lake from which an  
Ash 8<sup>in</sup> Diameter bears S. 69<sup>W</sup>. 25 Links distant  
& An Ash 8<sup>in</sup> Diameter bears N. 53<sup>W</sup>. <sup>32</sup> Links distant  
Thence with the Meanders of the Lake } 24<sup>W</sup>. 7.20  
Chains } 29<sup>W</sup>. 10.00 Chains } 25<sup>W</sup>. 4.05 Chains  
to the Creek or Discharge between the lakes. } 78<sup>W</sup>.  
11.40 Chains to a post on the flough between the  
lakes Corner to Lots 10 & 11. N 11<sup>W</sup>. E. along Sub 11. =  
25.34 Chains to the Beginning Sand Soil  
Soil Rich Suitable for Cultivation Except  
about 5 Acres Near the flough which is too wet.  
Timber Ash Elm Sycamore & Willow Undergrowth  
as before.

Survey of Sub No 11. Containing  
87.700 of Land

Beginning at a post Corner to Lots  
No 10 & 11. on the flough. Craven Lake from  
which a Willow 10<sup>in</sup> Diameter bears N 38<sup>W</sup>. E. 29  
Links distant. & a Cotton tree 25<sup>in</sup> diameter bears.  
N on N. 17. links distant Thence N. 10<sup>W</sup>. E. 35.34  
Chains to a post Corner to Lots No 8. & 11. from  
which an Ash 10<sup>in</sup> Diameter bears N 59<sup>W</sup>.  
3 links distant and a Chincopin Oak 24<sup>in</sup>  
Diameter bears S 88<sup>W</sup>. 38 Links distant; Thence  
N. 79<sup>W</sup>. between Lots 8 & 9. 11 2818 Chains to  
a post on the East Edge of Upper Lake from  
which a Honey Locust. 8<sup>in</sup> Diameter bears.

80. N 81. E. 33 links distant & 50. 8 in diameter bears  
S 5 3/4 E. 53 links distant Thence with the Meanders  
of the Lake S 7 1/2 W. 504 Chains S. 11 1/2 W. 9.00  
Chains S 3 W. 4.50 Chains S 20 E. 5.00 Chains S 30  
E. 8.33 Chains S. 46 E. 7.00 Chains S 21. E 11.00  
to the Slough N. 82 E. 4.00 Chains North 3.66  
Chains N 78 E. 5.10 Chains to the Beginning of  
This Lot Contains an Old Field of about 20  
Acres called an Old Orchard about 15 Acres of  
this Lot is too wet for Cultivation the track is high  
dry Sand & suitable for Cultivation except the  
wet part mentioned Timber plenty except the  
Old field Undergrowth as before.

Note Witnesses are all marked with an Iron  
with the No. of the Lot in which the Tree stands  
September 4<sup>th</sup> 1852.

Isaac Woods Surveyor.

There is a Plat of Survey which is attached  
to the foregoing Report which is not copied

And afterwards on the 25<sup>th</sup> day of June  
1852. the following appears of Record in said <sup>Cause</sup> which  
is in words and figures as follows. To Wit.

*Cause argued*  
and *submitted* parties by their respective solicitors and the  
*stated under* Court after hearing the evidence adduced  
*advisement* by the parties and the argument of Counsel  
and not being fully advised as to a Decree

It took time to advise until the next term of the Court. And Continued

And afterwards on the 27<sup>th</sup> day of August 1852 the following appears of Record in said Cause which is in words and figures as follows to wit

order to suspend As appearing to the Court here that the Mins of former Order Honor Cooks Wife of Nathaniel Cook formerly for sale of Sands Honor Madden And Daughter of Thomas Madden in St Louis Co. decessed And the Mins of James Madden decessed are not made Parties herein. It is Ordered that the former Order made in this Cause at the last Term for the Sale of Certain Sands lying in St Louis County be suspended until the said Mins can be Regularly made Parties herein And this Cause Continued

And afterwards on the 28<sup>th</sup> of October 1852 the following appears of Record in the abov Cause which is as follows to wit

Mr. The following M. Tripell Executor of Nathaniel Cook of St Louis decessed come into Court And enters his Appearance and Appearance in this Cause.

Order of Now at this day come the parties by their Res Publication pecteri Attorneys And it appearing to the Court.

82<sup>u</sup> from the affidavit of Mason Tripell that James  
Cook John Cook Philip Cook and Crastus Cook  
Children and heirs of Mona Cook Dec<sup>d</sup> and  
Thomas <sup>Madden</sup> Philip Madden Sarah A. Madden  
Margaret A. Madden Laura A. Madden and  
John Perry and Mary his wife formerly Mary  
Madden Children and heirs of James Madden  
Dec<sup>d</sup> Martha M. Saunders and her husband  
John Saunders. Antoina M. Saunders said  
Martha M. and Antoina being Grand  
Children of Mona Cook Deceased are all  
Now Residents of the State of Missouri. It is  
therefore Ordered that they be notified that  
James Madden since Deceased and Thomas  
Madden since Deceased, heretofore Commenced  
a suit in Chancery in the Circuit Court of  
Washington County. the General Object and  
Nature of Which is to obtain Partition of the  
Real Estate and a Distribution of the remaining  
personal Estate which were of the late Thomas  
Madden. See Dec<sup>d</sup> Among the several Heirs and  
Distributors of said Dec<sup>d</sup> and to that end for  
a sale of certain Lands lying in St. Louis and  
Ralls Counties. And that unless they be and  
appear on or before the Sixth day of the  
next Term of this Court at a Court to be  
held at the Court house in the Town of Potosi  
in and for said County of Washington on the

83<sup>o</sup> Monday before the Last Monday of April next  
Said Bill will be taken as Confessed. And a  
Decree entered accordingly it is further  
Ordered that a Copy of this Order be pub-  
lished for Eight Weeks Successively in  
Some News Paper Published in this State  
the last insertion to be at least four weeks  
before the first day of said Term and  
Continued

Order to  
Issue <sup>Seis</sup> <sub>in Ha.</sub>

On Motion It is Ordered by the  
Court that a Scirefacias issue herein to Sarah  
H. Cook. Antonia Cook. Mary A. Cook. Zachari-  
ah T. Cook and Alvin Cook. Children and  
Heirs of Alvin Cook Dec<sup>d</sup> who was a son and  
one of the Heirs of Maria Cook Dec<sup>d</sup>. Ralf G.  
Cook. Maria Cook. John D. Cook. Samantha J.  
Cook. and Mary A. Cook. Children and heirs  
of Nathaniel Cook Jr. Dec<sup>d</sup>. who was son and  
one of the Heirs of Maria Cook. of Maria Cook.  
Dec<sup>d</sup>.

And afterwards on the 26<sup>th</sup> day of April 1853,  
the following appears of Record in the above  
Cause in words and figures as follows. To Wit

Proof of Nav at this day came the parties by their attorneys  
Publication and the Plaintiffs made proof to the satisfaction of  
the Court that the Order of Publication heretofore

It is made in this Cause as to the Now Resident Defendants  
Name & therein has been duly published as the  
Law Requires

Now at this Day came Ralph Cook  
ap<sup>l</sup> Guard<sup>n</sup> Minor Cook, Mary A Cook and Samantha J Cook.  
Minor Heirs of Nathaniel Cook, Deceased  
Whereupon the Court appoint W Tripell Guar-  
dian for said Minor Heirs

And afterwards on the 27<sup>th</sup> April 1853 the follow-  
ing appears of Record in said <sup>Cause</sup> as follows To wit

Now at this Day come the parties by their  
Appointed Attorneys and appearing to the Court that the  
Guard<sup>n</sup> ad litem Scirefacias issued in this Cause for the purpose  
of Heirs. of Making <sup>Certain</sup> ~~and~~ Minor Heirs Parties herein  
has been duly served therefore the Court appoint  
Mason Tripell ad litem for Sarah J Cook  
Antonia Cook, Mary A Cook, Zachariah  
Cook, and Min Cook, Children and Heirs of  
Min Cook Deceased and John D Cook Son of  
Nathaniel Cook, Jr. Deceased and Philip Madden  
Sarah A Madden Margaret A Madden and  
Laura A. Madden. Children and Heirs of James  
Madden Deceased

Order of sale Now at this Day come again the Parties by  
said in ft. their respective Solicitors and the Court being  
Lous County.

Renewed.

Now satisfied that all the Parties interested are made  
 Parties herein. It is therefore Ordered that the Order  
 of sale heretofore made in this Cause be and the same  
 is hereby Renewed And it appearing to the satisfac-  
 tion of the Court that the Personal Estate and the  
 Proceeds of the Real Estate so far as sold is insu-  
 fficient to equalize the Receipt of the Heirs of the  
 said Thomas Madden Senior taking into Considera-  
 tion the unequal Advancements made by him to his  
 Children in his life time And it appearing fur-  
 ther that the following Lands in St Louis County belong  
 to the Estate of said Thomas Madden Sr Deed  
 In Wet Lots No Two and Three of the subdivisions  
 of a Tract of Land on Lake Creek Course in  
 Township No Forty six North Range No Four and  
 Five East of the Fifth Principal Meridian Con-  
 taining together six hundred and four Acres and  
 Eighty nine hundredths according to the Plat  
 of the subdivisions made in the proceedings for  
 Partition between Coleman Rogers Thomas Mad-  
 den and William Hempstead. And on file  
 in the Office of the Clerk of the Circuit  
 Court of St Louis County annexed to this Report  
 of Sales in said Cause as made by W Musick  
 Martley Sappington and Frederick Nyall Com-  
 missioners appointed by the Circuit Court of  
 said County to make Partition between said  
 Parties of a Tract of Land supposed to contain

86. Two Thousand Arpens. Which was<sup>as</sup> Part of a  
Larger Tract Containing Twenty six Hundred Ar  
pens. Granted by the Spanish Government to Antoine  
Reynaet. Which has been Confirmed by the United  
States and Surveyed Under their Authority at the  
Sale under Partition the said Thomas Madden be  
came the purchaser of said Lots Nos<sup>2</sup> Two and Three  
As may be seen by Reference to the said Com  
missioners Deed Recorded in the Records Office  
of St Louis County Book B. N<sup>o</sup> 2 pages  
164 and following to which Reference is had  
Antoine Renals conveyed said Land to Charles  
Nempstead by deed bearing date March 3<sup>d</sup>  
1818. And Recorded in the Proper Office and  
Thomas Madden acquired title to one Undivided  
Third part of said Nempsteads Interest by  
purchase at Sheriffs sale of said Nempsteads  
interest made July 31<sup>th</sup> 1830 as is shown by the  
Sheriffs Deed to him Recorded in the Records  
Office of St Louis County in Book 2 pages  
128 and following also the Undivided one third  
part of a Tract of Two Hundred and Forty  
Four Arpens. and a half Confirmed to Maddam  
McCole. Les. Bois situate South West of and  
about One Mile from the City of St Louis.  
Also the Undivided One half of One hundred  
and sixty Acres of Land situate near the  
City of St Louis it being New Madrid

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Location made to include the North East fractional Quarter of section Twenty One Township Forty Five North of Range seven East And so much of the South East Quarter of said section as to make up One hundred and fifty Acres. said Location was made June 16<sup>th</sup> 1818. by C. F. Delauney as the Legal Representative of Robert Mastus by virtue of Certificate N<sup>o</sup> 368.

Thomas Madden. Acquired Title to the two last Described Tracts by virtue of a Sheriff sale for the foreclosure of a Mortgage from Charles. F. Hempstead to Thomas Madden. the Sheriff's Deed is Recorded in Book. 2 Page 128 and following. It is therefore Ordered adjudged and Decreed that the Land above Described be sold and the proceeds thereof be Distributed among the several Heirs and Legal Representatives of the said Thomas Madden Sr. dec<sup>d</sup> entitled thereto according to the Order of this Court hereafter to be made. And that Samuel Conway of the County of St Louis be appointed and he is hereby appointed Commissioner of the Court with full power to sell and convey the same that said Commissioner Cause the above Course Tract to be subdivided into lots of Fifty Acres More or Less as shall seem to him advantageous to the Parties interested that said Lands shall be sold during the Session of the Circuit or Common Pleas Court of St Louis County.

88. To the highest bidder on a Credit of Twelve Months  
 The Except Ten per Cent. of the purchase Money  
 Which is Required to be paid in hand the purcha-  
 ser will be Required to give Bond with approve  
 security for the purchase Money. We shall  
 Cause said Land to be advertised in some News  
 Paper Printed in St Louis And also by hand bills  
 Set up in Public places through the City and  
 County at Least sixty Day before the day of  
 sale. the said Commissioner upon the payment  
 of the Purchase Money shall execute a deed <sup>or Deeds</sup> for  
 the Lands sold Conveying all the Right which  
 the said Thomas Madden had in said Land  
 at the time of his death. And hold the proceeds  
 thereof when Collected Subject to the further Order  
 of this Court. And further that he Report his proce-  
 dings in this behalf to the next Term of this  
 Court to which time this Cause is Continued

And afterwards on the 4<sup>th</sup> day of August 1854  
 the Court made and filed a Settlement &  
 Calculation of the Amount coming to Each  
 Heir. which is as follows "To W. T."

Calculation of  
 the Amt. coming  
 to Each Heir  
 Final Settlement of St Courts Adminis-  
 trator of Thomas Madden Sen<sup>r</sup> Dec<sup>d</sup>  
 Made in the Case of James Madden &  
 Others vs. St Courts & Others in the Washington

89<sup>th</sup> Circuit Court. With the Calculations of Interest on Each item brought down to the 30<sup>th</sup> day of October AD 1854.

Storck Adm<sup>r</sup>. In Account with Estate. Cr.

	Dr	Cr
To Amt. Sale of Person at Property including slaves After deducting of 5669.98 part of same due by the Distributors and not proposed to be collected	509 68.	
Interest from 9 <sup>th</sup> May 1845 to this date	289 64	
To Cash Received of Tucker Walsh 1832	33.	
Interest from 9 <sup>th</sup> May 1845	1041 27	
To Cash on hand at time of death of testator	136 05	
Interest from 9 <sup>th</sup> May 1845.	77 28.	
To accruing Interest Received on Geo. Martens bond for the years. 1838. 39. 40 41. 42. 43. 44. 45. 46. 47. 48. 49 + 50	3120 00	
Interest from <sup>the</sup> date of the several receipts	1946 40	
By. Cash Paid Richard Madden		200 00
Interest from 9 <sup>th</sup> May 1845.		113 66.
" Cash paid Taylor on the Order of Wm J Madden.		200 00
" Interest from 9 <sup>th</sup> May 1845.		113 66.
" Cash to Malachi Madden		200 00
Interest from 9 <sup>th</sup> May 1845.		113 66.
" Cash to James Madden		276 66
Interest from 9 <sup>th</sup> May 1845		157 38.
" Cash to Philip Madden		276 66.
Interest from 9 <sup>th</sup> May 1845.		157 38.

	Dr	Cr.
90 " " Cash to Thomas Madden.		276 66
Interest from 9 <sup>th</sup> May 1845.		157 38
" Cash to W <sup>m</sup> Milam Guardian of F Smith.		100 00
Interest from 9 <sup>th</sup> May 1845.		56 83.
" Taxes in Ralls Co.		170 00
Interest from 9 <sup>th</sup> May 1845.		96 63.
Carried Over.	8952 65.	2666 38.
Continued Amounts Prot Over.	8952 65	2666 38.
By Cash to John Scott		112 10
Interest from 9 <sup>th</sup> May 1845.		64 65.
" Taxes in St Louis County.		32 31.
Interest from 9 <sup>th</sup> May 1845.		18 44
" Cash to Sam Harrison Clerks fees.		9 96
Interest from 14 <sup>th</sup> March 1848.		3 89
" Cash for Taxes in St Genevieve Co.		73.
" Cash to Geo B Stuart for Coffin		50 00
Interest from 9 <sup>th</sup> May 1845.		28 41
" Cash to Saml. Latimer		7 00
Interest from 9 <sup>th</sup> May 1845.		3 96
To Am't reciev'd for sales of flans.	161 50.	
Interest from 9 <sup>th</sup> May 1845.	91 77.	
By Cash for Taxes in Ralls Co.		40 79
Interest from 16 <sup>th</sup> September 1845.		23 10
" Cash to Geo <sup>d</sup> Pratts.		1 00
" Interest on Mortgages bond rec'd by B Madden		80 00
Interest from May 9 <sup>th</sup> 1849.		45 46
" Expenses of Trip to Virginia to collect the Wells Note		150 00

911

" Com<sup>ms</sup> p<sup>ro</sup> on of 14622.63  
 " Amt Paid Am<sup>r</sup> M<sup>r</sup> Clana<sup>n</sup> hant  
 Interest from 9<sup>th</sup> May 1845.  
 Total Amts  
 Deduct Credits

Dr.	Cr.
---	731 13.
---	200 00
---	113 66
<u>\$9105 92</u>	<u>4383 17</u>
4383 17	
4722 75	

A Statement Exhibiting the several Amounts Received by the said Deceased Respet<sup>ly</sup> in by way of Advance and the Amount of Cash Received by Cook from the Administrator and from all other sources in the Depts of Thomas Muddew Sen. the Amount of Cash. Ones indebted to the Estate by no to o other wise being charged to them as Cash. Received of the Estate and the Amount found in the hands of the Administrator St Cook. being also charged to him as Cash Received with the accruing Interest on the various Amounts brought Down to the 30<sup>th</sup> day of October 1854.

St. Cook.	Dr. Several Amts	Total
" Amt found in his hands as above stated	4722 75	---
" Amt Rec <sup>d</sup> by way of Advancement	589 00	---
" Cash Rec <sup>d</sup> of Stuart of M <sup>r</sup> cards <sup>of</sup> M <sup>r</sup> orton's bond	259 64	---
Interest from 18 <sup>th</sup> June 1851.	52 52	---
" Cash Rec <sup>d</sup> of sale of Land in St <sup>r</sup> Senouin Co	661 00	---
Interest from 20 <sup>th</sup> April 1848.	258 89	6542 80

Q. 211

Richard Madden Dr.				
To Amt Received by way of Advancements	2350	00		
" Cash Rec <sup>d</sup> of Adm <sup>r</sup> 9 May 1845	200	00		
" Interest from 9 May 1845	113	66		
" Note to the Adm <sup>r</sup> due 25 <sup>th</sup> Dec <sup>r</sup> 1838.	50	00		
Interest from 25 Dec <sup>r</sup> 1838.	47	50		
" Indebtedness for Negro Man purchased at adv <sup>ts</sup> sale	900	00		
Interest from 10 <sup>th</sup> July 1840.	772	50		
" Note of W <sup>m</sup> Holmes due 10 <sup>th</sup> July 1840 assumed	810	00		
Interest from 10 <sup>th</sup> July 1840	744	18.		
" Amt of Interest on <sup>the</sup> Mortar Land Received	80	00		
Interest from 9 <sup>th</sup> May 1845.	45	46		
Note of Thomas Madden Sr assumed	50	50		
Interest from 1 <sup>st</sup> May 1839.	46	96	6210	76.

Malachi Madden Dr.				
To Amt Received by way of Advancements	3959.	00.		
" Cash Rec <sup>d</sup> of the Adm <sup>r</sup> 23 <sup>rd</sup> May 1838	200	00.		
Interest from 23 <sup>rd</sup> May 1838	197	00		
" Note to Adm <sup>r</sup> due 1 <sup>st</sup> May 1839.	16	00		
Interest from May 1 <sup>st</sup> 1839.	14	85		
" 2 <sup>nd</sup> Note to Adm <sup>r</sup> due 25 <sup>th</sup> Dec <sup>r</sup> 1838.	30	00		
Interest from 25 <sup>th</sup> Dec <sup>r</sup> 1838.	28	50		
" Indebtedness on acct <sup>s</sup> for property purchased at sale	280	53		
Interest from 20 <sup>th</sup> June 1839.	258	07		
" Indebtedness for Negro Woman & Child purchased at sale	800	00		
Interest from 10 <sup>th</sup> July 1840.	686	66.	6470	63.

930

James Madden Dr.				
To Amt Rec <sup>d</sup> by way of Advancements	1215	00	---	---
Cash Rec <sup>d</sup> of the adm <sup>r</sup> : 25 <sup>th</sup> May 1838	276	66	---	---
Interest from 25 <sup>th</sup> May 1838	272	33	---	---
Note to Sheriff in Purchasing Richwood Tract after deducting of 125.85 Costs of 1504.80 <sup>d</sup> Thos Madden adm <sup>r</sup>	2769	33	---	---
Interest from 21 <sup>st</sup> Oct. 1847	1172	34	---	---
Interest on 1504.80 from 21 <sup>st</sup> Oct 47 to April 49	134	17	5839	87

Philip Madden Dr.				
To Amt Rec <sup>d</sup> by way of Advancements	3005	00	---	---
Note to the adm <sup>r</sup> due 10 <sup>th</sup> July 1840	735	00	---	---
Interest from 10 <sup>th</sup> July 1840	630	66	---	---
Cash Rec <sup>d</sup> of Adm <sup>r</sup> : 25 <sup>th</sup> May 1838	276	66	---	---
Interest from 10 <sup>th</sup> July 1840	272	33	4919	67

Thomas Madden Dr.				
To Amt Rec <sup>d</sup> by way of Advancements	1400	00	---	---
Cash Rec <sup>d</sup> of Adm <sup>r</sup> : 25 <sup>th</sup> May 1838	276	66	---	---
Interest from 25 <sup>th</sup> May 1838	272	33	---	---
Intell <sup>l</sup> disp. by acct <sup>s</sup> for prop <sup>ty</sup> purchased	644	25	---	---
Interest from 25 <sup>th</sup> Dec <sup>r</sup> : 1838	612	04	---	---
Cash Rec <sup>d</sup> of Estate for James Madden adm <sup>r</sup>	1504	80	---	---
Interest from 10 <sup>th</sup> April 1849	501	55	5211	65

94 <sup>th</sup> Ann. M <sup>r</sup> Clanchan Dr		Dr		
To Amt Rec <sup>d</sup> by Way of Advancements	1395	00.		
Amt due by Josiah M Clanchan on Acct <sup>s</sup> assumed	21	06.		
Interest from 25 <sup>th</sup> Dec <sup>r</sup> 1838.	19	96		
Amt due by Jas <sup>s</sup> M Clanchan on acct <sup>s</sup> assumed	122	62.		
Interest from 25 <sup>th</sup> Dec <sup>r</sup> 1838.	113	22		
Note due by Jas <sup>s</sup> M Clanchan assumed.	52	" "		
Interest from 23 <sup>d</sup> Dec <sup>r</sup> 1838.	49	40		
Note due by Francis M Clanchan assumed	71	00.		
Interest from 1 <sup>st</sup> May 1839.	66	03		
2 <sup>d</sup> Note of Francis M Clanchan assumed	367	00.		
Interest from 10 <sup>th</sup> July 1840.	315	06.		
Amt due by Josiah M Clanchan for plan Eliza	600	00		
Interest from 10 <sup>th</sup> July 1840	575	00		
Cash Rec <sup>d</sup> of sum of sale of Motors land	637	61.		
Interest from 18 <sup>th</sup> June 1851.	128	56.		
To Cash Rec <sup>d</sup> of A <sup>m</sup> rs	200	00		
Interest from 9 <sup>th</sup> May 1845.	113	66.	4787	18.

Thomas M Harris Dr				
To Amt Rec <sup>d</sup> by Way of Advancements	1450	00		
" Cash Rec <sup>d</sup> of the sale of Motors land	530	00.		
Interest from 18 <sup>th</sup> June 1851.	110	91.	2110	91

William J. Madden stands against Dr.				
To Amt Rec <sup>d</sup> by way of Advancements	1800	00		

95

" Cash Rec <sup>d</sup> by Taylor on draft of W. Madden	Dr	00	---	---
Interest from the 1 <sup>st</sup> June 1840.		173	00	---
Cash Rec <sup>d</sup> of Proceeds on Mortons bond.		1049	75	---
Interest from 18 <sup>th</sup> June 1837.		212	56.	---
Cash Rec <sup>d</sup> of Sheriff of St. George Co 20 <sup>th</sup> April 1848		326	00	---
Interest from 20 <sup>th</sup> April 1848.		126	68	---
Cash Rec <sup>d</sup> 15 <sup>th</sup> Nov 1849, from Sheriff of St. George Co.		224	26.	---
Interest from 15 <sup>th</sup> Nov <sup>r</sup> 1849		66	71.	4178 96

Francis Smith Dr

" Cash Rec <sup>d</sup> by way of Advancements		350	00	---
Cash Rec <sup>d</sup> by Melan Guard <sup>r</sup> 11 July 1839		100	00	---
Interest from 11 <sup>th</sup> July 1839		91	83.	---
Cash Rec <sup>d</sup> of proceeds of sale of Mortons land		693	00	---
Interest from 18 <sup>th</sup> June 1837.		139	75	---
Cash Rec <sup>d</sup> of Sheriff of St. George Co.		573	00	---
Interest from 20 <sup>th</sup> April 1848,		200	92.	2288 30

Recapitulation

Not Cook has in hands as adm <sup>r</sup> &				
Otherwise Received		6543.	80.	
Rich <sup>d</sup> Madden has Received		6210	76.	
Malachi Madden "	"	6470	63.	
James Madden "	"	5839	87	
Philip Madden "	"	4919	67	
Thomas Madden "	"	5211	65	
Ann M <sup>rs</sup> Clannahan "	"	4787	18	
William J. Madden "	"	4178	96	

96<sup>4</sup>

Thomas M. Norine	2110 91
Francis Smith.	2288 50
Total Amt Received by the Distributors	\$48,561. 93.
Net Amt Now on hands. Arising from Sale of Lands in St Louis County after deducting off \$275.84 the Costs of Sale.	4509 93
Whole Amount of the Estate.	\$53,071. 86.
Divide \$53086. 61. by 9. Leas. Each Share. Math.	\$5896. 84

The following table exhibits the Amounts Received by Each Distributor Respectively more or less than a share. And what Amount is now due to S. by Each Respectively

Names of Distributors	Amt Received	Amount Received by Each	
		more than a share	less than a share
Nathaniel Cook	6543 80	646 93	---
Richard Madden	6310 76	313 89	---
Malachi Madden	6470 63	573 76	---
James Madden	5839 87	---	57 00.
Philip Madden	4919 67	---	977 20
Thomas Madden	5211 65	---	685 22
Ann McClanahan	4787 18.	---	1108 69.
William I Madden	4178 96	---	177 91
Thomas M Norine's share	2110 91.	---	837 52.
Francis I Smith. do.	2288 50	---	659 93.

The proceeds of the sale of Lands in St Louis County amounting after deducting Cost

97<sup>th</sup>

"is appropriated as a pica to James, Philip Thomas  
 to \$4,379.93, And, William L. Madden Ann  
 McClanahan, Thomas M. Morine and Francis  
 Smith as follows.

James Madden is entitled to	37	02
Philip Madden " "	691	50
Thomas Madden " "	485	41
Ann McClanahan " "	11117	12
Adam Stuart assignee of W <sup>m</sup> S. Madden	1215	05
Thomas M. Morine	608	00
Francis Smith	467	92
	4511	02

After the above amounts shall have been <sup>received</sup> by the  
 Distributors the Amount yet due to each by each  
 will stand as follows.

Name of Distributor	Amts		Amounts Received	
	Received		more than a share	less than a share
Nathaniel Cook	6543	80	646	93
Richard Madden	6210	76	313	89
Malachi Madden	6470	63	573	76
James Madden	5876	89		19
Philip Madden	3611	17		285
Thomas Madden	3697	06		199
Ann McClanahan	5794	30		102
Adam Stuart assignee	5394	01		502
Thomas M. Morine	2718	91		229
Francis Smith	2756	42		192

98. And afterwards on the 4<sup>th</sup> day of November, 1854, the following appears of Record in the Above Cause which is in the words and figures as follows. To Wit.

Final  
Decree. And now came again the <sup>final</sup> general parties by their respective Attorneys and the Court being now sufficiently advised of its decision and Decree herein and having fully investigated and adjudged the accounts of Administration of the said Administrator Nathaniel Cook, as well also of the General Distributes for the Amounts are Chargeable with in the further Distribution and partition of the Remain~~ing~~ personal assets and other Property of said Estate doth adjudge and Declare that Mr Cook the administrator has in his hands of the assets of said Estate unadministered after allowing all credits he is justly entitled to the sum of Five thousand seven hundred and Twenty Two Dollars and seventy five Cents (\$5722.75). And that he has Received by way of Advances in the life time of the testator and from other sources of the Estate since his death the further sum of Eight hundred and Twenty One Dollars and five Cents (\$821.05), Making the aggregate sum of six thousand five hundred and Forty three dollars and eighty Cents (\$6543.80). Richard Madden

99<sup>a</sup>

Has Received by way of advancements and otherwise of the Estate the sum of six thousand two hundred and ten dollars and seventy six Cents. Malachi Madden has Received as above ~~the sum~~ six thousand four hundred and seventy dollars & sixty three Cents (\$6470.63). James Madden has Received as above the sum of Five thousand Eight Hundred and thirty nine Dollars and Eighty seven Cents. Phillip Madden has Received Four thousand Nine hundred and nineteen dollars and sixty one Cents. Thomas Madden has Received Five thousand two hundred and eleven dollars and sixty five Cents. William J Madden before the assignment and sale of his interest to Adam D Stuart and the said Adam D Stuart since said assignment have collectively Received of the Estate Four thousand One hundred and seventy eight Dollars and ninety six Cents. Mrs McClanahan has Received Four thousand four hundred and eighty seven dollars and eighteen Cents. Thomas McMorine who is entitled to half a share has Received Two thousand One hundred and ten dollars ninety one Cents and Francis J Smith who is also entitled to half a share has Received Two thousand Two hundred and eighty eight

100

Dollars. and fifty Cents. And it further appearing that the Commissioner Samuel Conway. appointed by a former Order of this Court to make sale of certain Lands in St. Louis County has in his hands of the proceeds of said sale after paying the Costs thereof the further sum of Four thousand Five hundred and Nine Dollars. and Ninety three Cents now to be distributed among the said Parties Entitled as hereinafter directed. The Court further finds that after adding the said Sum Four thousand five hundred and Nine Dollars and Ninety three Cents to the other Effects of the Estate and bringing the said several sums Received by the Distributors into Hotchpot each whole share is now worth Five thousand Eight hundred and Ninety six Dollars. and Eighty seven Cents the Court further finds that Nathaniel Cook has in his hands as Administrator and has otherwise Received of the Estate six hundred and forty Six Dollars. and Ninety three Cents more than his just and Equal share. of the assets of said Estate and his Administrator Mason Tripell. is hereby adjudged and Ordered to Refund and Repay <sup>the same</sup> in the manner herein after directed. Richard Madden has Received of the assets of said Estate as above. Three hundred and fourteen Dollars. and Eighty seven Cents more than his just and equal share which his Administrator Charles Madden is hereby ordered to Repay

101<sup>u</sup>

in the manner hereinafter Directed Malachi Madden has Received Five hundred and seventy three Dollars. And seventy six Cents. More than an equal share of the Estate. which he is Ordered to Retain And Repay in the manner hereinafter directed James Madden has Received Fifty four Dollars less than a share. Philip Madden Nine hundred and seventy four Dollars. and twenty Cents less than a share Thomas Madden has Received six hundred and eighty six Dollars. and twenty two Cents less than a share Adam D Stuart assignee of William J Madden has Received seven hundred and seventy one Dollars and ninety one Cents less than a share. Ann McElvan has Received Eleven hundred and eight Dollars. and sixty four Cents less than a share Thomas McWhine has Received Eight hundred and thirty four Dollars and fifty two Cents less than than the half share. to which he is entitled And Francis Smith has Received six hundred and fifty nine Dollars. and a ninety three Cents less than his half share all of which last mentioned sums. the said Distributors Respectively intended to have Credited to them in the further Distribution <sup>and Partition</sup> of Any Remaining sums of Money now on hands and under Control of the Court. or which may hereafter arise under any further Order herein or otherwise

102<sup>11</sup> accounted for to them in any partition of the Real Estate of said Deceased Hereafter to be made until the whole shall be fully Paid and satisfied. The Court further orders and directs that the said sum of four thousand five hundred and nine Dollars. and ninety three Cents now in the hands of Samuel Conway, the said Commissioner be appropriated and applied and the said Commissioner is hereby directed to pay over the same to the following named Parties in the sums and amounts following. To James Madden<sup>r</sup> Administrator Mason Trisell Thirty seven Dollars and two Cents to Philip Madden or his Legal Representatives six hundred. and Twenty one Dollars. and fifty Cents To Thomas Madden<sup>r</sup> Administrator and Legal Representatives Four hundred and Eighty five Dollars and Forty one Cents To Ann M<sup>r</sup> Glanahan One thousand and seven Dollars and twelve Cents To Adam O'Shuart a signer of William S Madden. Twelve hundred and fifteen Dollars. and five Cents To Thomas M Worring six hundred and eight Dollars and to Francis S Smith four hundred and sixty seven Dollars and ninety two Cents. And it further appearing to the Court that Nathaniel Cook, Richard Madden and Malachi Madden have Received more than their several shares Respectively the aggregate sum of Fifteen hundred and thirty four Dollars

103<sup>u</sup> And fifty Eight Cents which they should justly  
Restore And Account for. It is further Ordered that  
<sup>they</sup> respectively pay out the same to the following named  
Persons in Sums and Amounts following The said  
Mason Trepell administrator of Nathaniel Cook  
deceased is hereby adjudged and directed to pay  
to James Madden Administrator Nineteen Dollars  
And Ninety Eight Cents To Philip Madden Admin-  
istrator Israel McGready Two Hundred And Eighty  
five Dollars And seventy Cents To Thomas Mad-  
den Administrator One Hundred And Ninety Nine  
Dollars And sixty One Cents To Ann McEan-  
ahan One Hundred And Two Dollars And fifty  
Seven Cents And to Adam D Stewart Thirty Nine  
Dollars And seven Cents. Richard Madden adm-  
istrator Charles Madden is hereby adjudged  
and Directed to pay to Thomas M Werne  
Two Hundred And twenty Nine Dollars and  
fifty Cents. And to Francis J Smith Eighty  
four Dollars And thirty Nine Cents. And it  
further appearing to the Court that the said  
Malachi Madden is insolvent And the Am-  
ount overdrawn by him as above is in danger of  
being Lost through the Neglect And Mismanage-  
ment of the said Administrators Nathaniel  
Cook and Richard Madden it is therefore  
further Ordered that they be held Bound for  
the Amount thus due by the said Malach.

104. And And that the said Malachi Madden  
Nathaniel Cooks Administrator W. Trisbell And  
Richard Madden Administrator Charles Madden  
And Each of them are hereby directed to pay on  
the same as follows. To Adam D. Smith Four Hun-  
dred And sixty three dollars And eighty two cents  
And to Francis J. Smith One hundred and seven  
dollars And sixty two cents. Together with the  
Interest <sup>to</sup> falling due thereon until the said several  
sums by the said several parties Respectively due  
shall be fully paid And satisfied. And  
Whereas in the adjustment of the Accounts of the  
several Distributors of sums Received of the Estate  
their Respective indebtedness <sup>to the Estate</sup> by Note And otherwise  
for Property purchased at the several sales of  
the Administrator has been included And Charged  
to each as so much Cash Received of the Estate.  
It is further Ordered that the said several Amounts  
to due as aforesaid be held And Considered as  
paid And discharged And that the Notes And  
Other securities taken for the same be delivered  
up to the Parties entitled as follows. A Note due  
against Richard Madden to the Administrator  
due 25<sup>th</sup> December 1838. for the sum of fifty  
Dollars. An Amount due by Account <sup>against</sup> Same party  
for a Negro Man Purchased at sale Nine Hun-  
dred dollars. A Note against William Holmes  
due July 10<sup>th</sup> 1840. for Eight hundred and ten dollars.

105. A Note against Thomas Madden Jun. due 1<sup>st</sup>  
May 1839. for Fifty Dollars and fifty Cents. A  
Note against Malachi Madden Due 1<sup>st</sup> May 1839  
for Sixteen dollars. Another Note against same party  
for thirty Dollars. due 25<sup>th</sup> December. 1838 Indebted-  
ness by Account for property purchased at Adm<sup>rs</sup> sale  
Two hundred and eighty Dollars. and fifty five Cents.  
Indebtedness by Account for the gro. Roman and Chilo purcha-  
sed at Administrators sale. Eight hundred dollars  
a Note of James Madden to Sheriff of Washington  
County. for about the sum of Forty Four hundred  
Dollars. due 21<sup>st</sup> October. 1837. A Note against  
Philip Madden due July 10<sup>th</sup> 1840. for seven hun-  
dred and thirty five dollars. Indebtedness of  
Thomas Madden by account for property purch-  
ased at sale. six hundred and forty four dollars  
and Twenty five Cents. An Indebtedness. of the  
Estate of Josiah McClanahan. An account ~~of~~  
Twenty One Dollars. and six Cents. Indebtedness  
of James M<sup>rs</sup> McClanahan. account for property  
purchased at Sale, One hundred and twenty  
Two Dollars and sixty two Cents. a Note against  
same Person. Due 25<sup>th</sup> Dec<sup>r</sup> 1838. for Fifty Two.  
Dollars. A Note to Administrator against Fran-  
cis McClanahan. due 1<sup>st</sup> May 1839. for seventy one  
dollars. Another Note due against Francis  
McClanahan. to the Adm<sup>r</sup> due 10<sup>th</sup> July 1840  
for three hundred and sixty seven Dollars

106 And An Amount due by Account against  
the Estate of Joseph McClanahan Dec<sup>d</sup> for  
glaw purchased at the Administrators sale  
six hundred Dollars. It is further Ordered  
that each party pay the one equal tenth part  
of the Cost herein Expended

And afterwards on the 2<sup>d</sup> day of May 1856  
the following appears of Record in said Cause  
Which is as follows: To Wit

Motion for leave to  
file Supplement as bill  
and Overruled  
Now at this day Come the Plaintiffs by their  
Attorney and Moved the Court for leave to  
file a Supplemental Bill in this Cause which  
Motion is Overruled by the Court. And the  
Plaintiffs Excepts.

The Supplemental Bill is as follows.

Supplemental Bill  
Supplemental Bill to the Bill of Complaint  
of Masou Tripell Administrator of the Estate  
of James Madden deceased who was also the  
deuse of Thom as Madden deceased. against  
Charles Madden Ann McClanahan and others  
who are the Heirs and Representatives of Thomas  
Madden deceased. Complainants states that  
at the time of his death Thomas Madden senior  
deceased was the Owner of the ~~the~~ Undivided

107<sup>th</sup> half of four thousand arpents of Land being  
a part of a Confirmation Under an Act of Congre  
ss Approved July the 4<sup>th</sup> 1836, which was made  
to Charles Farsons, Delaune and Louis Salomon  
or their Legal Representatives containing Ten  
thousand arpents survey N<sup>o</sup> 3243. situate in  
Pall County in the State of Michigan said four  
thousand arpents or in a square in the North West  
Part of the Tract. And includes the saline Comma  
nly known as Tremous Saline. The Title to  
the Other half of said Land and of the Remain  
der of the Tract containing six thousand arpents  
has become vested in the Infant Children Auguste  
Tremous Delaune, deceased; named Caron  
Tremou Delaune and Leon Tremou Delaune  
who are the sole heirs of the said Auguste.

Complainant states that the greater portion  
of said Land had been granted or sold before  
the Confirmation and that a Certificate new  
location for all the Land so disposed of by the  
Government has issued in one certain amount but  
not delivered. The exact portion of the Certificate  
pertaining to the four thousand arpents which  
belong to the Heirs of Thomas Madden's Heirs  
and the Abou<sup>nampe</sup> Caron and Leon is not ascertain  
ed. Nor is the quantity of the Land in said tract  
which has not been disposed of by the Gov  
ernment been ascertained and the Parties <sup>interested</sup>

108<sup>u</sup>

would be greatly prejudiced by either the  
selling the Undivided Half of said Lands or  
even selling the Whole. tell both the quantity  
of Land to ~~the~~ Which the Title is good and also  
the portion of the Certificate of new Location  
that belongs to said parties jointly can be  
ascertained. Complainants further states  
that a Sale of the Interest of Thomas Madden  
Heirs is necessary for the purpose of equalizing  
the Receipts of the Heirs taking into Consideration  
the Unequal Advancements Made by the said  
Thomas in his life to his several Children

In Consideration of the premises Comp  
laintants pray that the said Cerow and Ser  
be made parties to this proceedings for the distri  
bution of the Estate of Thomas Madden and  
that the Court would proceed to ascertain the  
the quantity of Land in said four thousand  
Acres to which the Title may be good and  
order the Same or at least the half that  
belongs to the Heirs of the said Thomas  
Madden and that the Court would also  
direct either that the whole of the Certificate  
of new Location be sold and the proceeds  
divided according to the Rights of the parties  
or that such portion of the Same as belongs  
to the Heirs of Thomas Madden be converted  
into Cash. <sup>and that the same be distributed</sup> as Justice Requires and for such

119<sup>th</sup> Other and further Relief as the facts  
May warrant.

M. Trappell Solicitor  
for Complaint

Summons Washington County &c.

The State of Missouri. This the Sheriff  
of St Louis County Greeting the Command  
you that you summons Ceron Fremont Delaurier  
and Leon Fremont Delaurier that they  
be and appear before the Judge of our Circuit  
Court at a Court to be held at the Court house  
in the Town of Potosi in and for said County  
on the last Monday in April next then and  
there to answer the Complaint of M Trappell  
Adm<sup>r</sup> of the Estate of James Madden Deceased  
and have you there and there this Writ.

Witness William A Matthews Clerk  
of our said Court at Office in Potosi  
this 21<sup>st</sup> day of March 1856.

William A Matthews

Clerk

Sherriff Executed this Writ in the County of St  
Return. Louis on the 28<sup>th</sup> day of March 1856, by  
Reading the Writ and delivering a Copy of the  
Petition to Ceron Fremont Delaurier. Leon Fremont  
Delaurier not found in my County.

Turner Madock Sheriff

Chas. G. Guelberth Deputy

110. And afterwards on the third day of May 1856  
the following proceedings was had in said Cause  
In Wt.

Cause Dropped Ordered by the Court this Cause be dropped  
from the Docket. Whereupon the Plaintiffs Exec  
Bill of Exceptions. and filed their Bill of Exceptions,  
filed and appeal and Prayed an appeal from the Decision  
Granted of the Court in this Cause to the Supreme Court  
which is granted.

Said Bill of Exceptions is in the words and  
figures following to Wt.

Bill of It is Remembered that the Complainant  
Exceptions in this Cause moved the Court for leave to file a  
supplemental Bill in this Cause, which is  
Copied on Page 106. and following of this Trans.  
-cript

And the Court Refused to permit the Com-  
plainant to file said supplemental Bill.  
And ordered the Cause to be dropped from the  
Docket, to which opinions of the Court the  
Complainant Excepts. And prays that this  
his bill of Exceptions be signed sealed and  
made a part of the Record. Which is done.  
And the Appellant prays that a Transcript  
of the Record proceedings Pleadings Exhibits.

111a and the Order of the Court in the Cause be  
Transmitted to the Supreme Court, which is  
Ordered Accordingly.

John W. Stone (Seal)  
Defendants Now at this day come the Defendants. And  
appeal. filed their Appeal Bond which is approved by  
the Court. And prayed An Appeal from the  
Decision of the Court in this Cause to the  
Supreme Court. which is Granted.

State of Missouri  
County of Washington

I the undersigned  
Clerk of the Circuit Court in and for the  
County aforesaid do hereby certify that the  
foregoing One Hundred and Eleven Pages con-  
tains a True and Perfect Transcript of the  
Record and proceedings had in said Court  
in the case of W. Tripell Administrator of  
James Madden Et. al. against The Heirs of  
Thomas Madden Senior Deceased as fully  
as the same Remains of Record and on file  
in my Office. (Except as to the allegations and  
Crap Bill against Ann W<sup>o</sup>. Clankaw and all the  
Proceedings in regard to said Crap Bill which was  
dismissed by the Court as will be seen by Reference  
to Page 55. of this Transcript.

In Testimony Whereof I hereto  
 set my hand and affix the seal  
 of said Court at Office in the Town  
 of Potosi this the 25<sup>th</sup> day of  
 February 1857.

Wm. A. Matthews

Clerk

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W. A. Matthews clerk

Transcript & postage \$ 56.50

61 #6

26 Octob. 5. 1858

Thomas Madden &  
James Madden  
Apts & Respts

v.  
Nathaniel Cook et al  
Respts & Apts

---

Appeal from  
Washington Circuit Court

---

Filed March 4, 1857  
Wm L. Garrison  
cl.

Aff'd, Dec. 18, 1858 - B. p. 515.

Thomas & James Muddie

against

Richard Muddie

Nathaniel Cook & others

heirs of Thos Muddie Sr deceased

Mason Tripell admr of the  
estate of James Muddie ~~comes~~ and also ~~deposes~~  
~~last~~ executor of the last will and testament  
of Nathaniel Cook comes and says that  
in the record and proceedings and in the  
decree rendered in the court below there is  
manifest error in this

That the court in settling the accounts  
of the administrator ~~has~~ charged interest at  
betweenly and contrary to law and equity  
thereby giving to some of the heirs more than  
their proper share of the estate and to other  
heirs less. That

That the court charged the heirs with interest  
upon their own money in their own hands

That the court erred in not permitting  
the supplemental bill <sup>making new and necessary parties</sup> to be filed for the  
purpose of disposing of the land in Rolls  
County the more especially as the proceeds  
were necessary for the purpose of equality of  
the receipts of the heirs

M Tripell admr &c

The Respondent says there is no error in the decree of the court  
and if they pray that the same may be affirmed.

Johnas Hale for Respondent

Thos & James Madden  
against

Wat Cook donee  
of Thos Madden Sr  
deced and his  
heirs and distributees

Affirmant of  
errors -

Filed 24 Oct. 1857

W. S. Glanville  
Ck.

Thomas Maddin &  
James Maddin

against

Richard Maddin & others

Heirs of Thos Maddin Sr deceased

This was a suit instituted in  
in 1847 in chancery for the purpose  
of effecting the <sup>partition, distribution</sup> ~~partition~~ of the estate  
real and personal of Thomas Maddin Sr  
and compelling each <sup>of</sup> ~~to~~ to account for his  
advancements made to ~~each~~ <sup>them</sup> in the life  
time of the ancestor.

Thomas Maddin died in 1828 and  
letters of administration upon his estate  
were granted to Richard Maddin a son,  
and to Nathaniel Cook a son in law,  
of the deceased. They proceeded with the  
administration, collected some money, and  
paid it over to the different heirs, sold  
the personal estate, including the negroes,  
collected at least a portion of the proceeds  
of the sale, and paid off the debts. Most  
of the personal property, and all the slaves,  
however were purchased by the family, ~~and~~  
and no collections were made of them. These  
collections were not made for the reason,  
that all the heirs were of age and capable

of acting for themselves, and it was a mutual agreement, that they could meet, and settle the estate among themselves, each accounting for what ~~they~~<sup>he</sup> had received by way of advancements. Several of the heirs lived in Arkansas, <sup>and one in Iowa</sup> and a meeting was difficult, and when they did meet it was found they could not agree, but the matter lingered along till 1847, when Thos & James Maddin filed their bill, making all the heirs parties, stating an account of what they had received themselves as advancements, and calling upon all the others to do the same.

However, before the suit <sup>was</sup> instituted, Wm Maddin, who resided in Iowa, had transferred his interest in the estate to Col Adam J Stewart

The bill was filed by Thomas Maddin and James Maddin, in his own right, and as admors tutor of Philip Maddin, who had died since his father Thos Maddin Sr. It states that the said Thomas Maddin Sr, departed this life in the early part of the year 1838, intestate, leaving the following heirs to wit- Richard Maddin Honor Cook wife of Nathaniel Cook Thomas M Horine the son of his daughter Margaret Horine deceased, Francis Smith & Thomas Smith, grand children of the said Margaret, their Mother Susan

the slayer of the said alleged being dead,  
of whom Thomas Sault is since dead without  
children, Thomas one of petitioners, Ann  
McClanahan, James Maddin the other of petitioners,  
Wm J Maddin, Philip D Maddin, Melachi Maddin,  
and Charles Maddin, That the above named  
Nathaniel Cook & Richard Maddin became  
the administrators of the estate of the said Thomas  
Maddin deceased, and sold the personal property  
That Richard Maddin has since departed this  
life, and that Nathaniel Cook is now the only  
administrator, (The heirs of Richard Maddin  
are here set out) The bill goes on to state that  
Thomas Maddin a son of Richard, and Thomas  
Holmes, a son in law of and the administrators  
of the estate of Richard Maddin, That Wm J  
Maddin has transferred his interest in the estate  
to Anna D Stewart, That Philip D Maddin died  
without issue, That Horner Cook is also dead leaving  
children, That Thomas Maddin<sup>sr</sup> left both  
personal and real estate, That the sale of the  
personal estate including slaves and money on  
hand at the time of his death amounted to  
some six thousand three hundred dollars,  
That cash was collected a short time after  
his death to the amount of two thousand and  
fifty, and there was an obligation of George  
Aboultou secured by Morley on real estate,

in St Louis, for four thousand dollars payable on the 1<sup>st</sup> of November 1875, with interest at six percent per annum, payable annually,

That the real estate belonging to said deceased in Washington & St Genevieve counties has been sold, and the money arising therefrom amounting to upwards of six thousand dollars will become due next October, and November. That the real estate of the deceased in St Louis & Hall Counties remains unsold,

Petitioner further states that the said Thomas in his life time, advanced his children unequally, owing in a good measure to neglect in executing conveyances. To some of his children he advanced as your petitioners believe a full share of his estate, while to others he advanced a comparatively small sum. With the consent and approbation of some of his children, the said Thomas advanced to the children of his children, instead of his children, while his children were still living. He also advanced to the children of his daughter Margaret Horner, who died some years before him.

To the end that a just distribution of the estate may be made to all the heirs, and their legal representatives, the petitioner prays that all may be made parties and that all who may choose to come in to partition and apply for

distributive share of the estate, may upon oath state, what money and property and its value, the said Thomas Maddin in his life time gave to them in the way of advancement; or to the grand children of the said Thomas, with the consent and approbation of their parents, or at the parents request; and generally what money slaves or other personal property or land and the value thereof, the said Thomas Maddin in his life time gave to them, severally or to their several families.

The petitioners then state the advancements made to them by their father, Thomas had received a tract of land and a slave of the aggregate value of fourteen hundred dollars, and James had received some twelve hundred and fifty dollars.

The bill prays that such of the heirs as may choose to come for a distributive share, may set forth the advancements made them, and that such advancements may be accounted for, in the final distribution of the estate, and that all the heirs may receive as near as possible an equal share counting in what he had received in the life time of the said Thomas, and if the personal assets should be insufficient to make each heir equal, to the one who has received the largest amount from Thomas Maddin in his life time, that the fund arising

sale of the lands in Washington and St. Lawrence Counties may be applied to make all the heirs of the said Thomas equal. And if the above mentioned fund should be insufficient, that the bill may be retained till such time as the lands in St. Louis & Ralls county may be sold, and the fund arising therefrom may be applied in the same manner. That if any of the heirs after being duly notified, should fail to come in and bring in their advancements, they might be forever barred from receiving any share in the estate.

Nathaniel Cook the surviving administrator is called upon to show the condition of personal assets, and to state what each of the several heirs owe the estate and the time the several debts became due.

An amendment was filed to the bill, charging ~~Ann~~ that Thomas Madden Sr at the request of Ann McClanahan, had given ~~money~~ land and slaves to her children, to the value of some eighteen hundred dollars, she denied that it had been done at her request, and the amendment as well as a crop bill filed by her ~~was~~ against Cook & Richard Madden, heirs, were withdrawn without producing any other result, therefore, nothing further need be said about the amendment or crop bill.

All the parties except Charles Madden, came in and stated their advancements. Upon his refusal to come in, a decree was entered against him excluding him from any benefit coming from the estate. He had ~~at~~ in the life time of his father, received his full share of the estate.

The answers were all admitted to be true, and the amount of advancements settled by the court were in accordance with the answers with the exception of Mrs Madden, whose assignee was Adam Stewart. He had received a negro valued at four hundred dollars, which he alleged proved unaccounted. The court did not charge Stewart with the price of this negro.

The advancements to the different heirs as settled by the court were as follows

To Nathaniel Cook wife	(p. 91)	589.00
To Richard Madden	(p. 92)	2350.00
To Malachi Madden	(do)	3959.00
To Jas Madden	(p. 93)	1215.00
To Philip Madden	(do)	3005.00
To Thomas Madden	do	1400.00
Ann McClanahan	p. 94	1395.00
To Mrs J. Madden	do	1800.00
To Thos M Horner Jr. & son	do	1450.00
To Frances Smith (1/2 share)	(p. 95)	550.00
		<hr/> 17713.00

No Book in his answer as surviving admin-  
 istrator, shows the whole of the personal  
 assets up to the time of answering, to be  
 \$16473.63 of this sum \$1524.09 he alleges  
 to be unavailable. He had demands against  
 the estate, for taxes, and to the heirs including  
 \$731.13 consumption allowed by the court \$2991.94  
 Monitors bond \$4000.00 and debts due from the dis-  
 tributees, amounted to \$62<sup>2</sup>19.90 This last sum  
 includes amounts that Richard Stoddin his  
 co-administrator, had received as such. This  
 left in his hands about 1747.60 to be accounted  
 for. It will be seen by the exhibit annexed  
 to his answer that \$250.00 \$1470.00 that is \$1720.00  
 of the money, had come to his hands the  
 same year he filed his answer, and the  
 greater part of it, just before doing so.  
 Cook also received three years interest on  
 Monitors bond that fell due in 1848 1849 &  
 1850 making \$720 more.

No replication was filed to the answer,  
 nor ~~it~~ was any evidence offered to disprove  
 or vary any part of it. It had been viewed  
 with care, but notwithstanding an error of  
 some six or seven hundred dollars had been  
 made in the additions or subtractions which  
 made the amount in hand at the time  
 of filing the answer ~~some~~ too little by the

amount above stated, <sup>6 or 700</sup> No error was found in his statements. The error was in the calculations from the statements.

The court below in settling the shares of the heirs, calculated interest against N Cook on all the funds except the mortgage bond from the 9<sup>th</sup> of May 1845, and he calculated interest upon the interest received on the mortgage bond for about ten years and 4 months when he did not receive but a small portion of the interest till 1847 and ~~and~~ \$720 was received in instalments in 1848 9 & 50. Hence by the calculations of the judge was certainly wrong. He charged him with about \$1000 too much interest.

His settlement of the whole matter is entirely arbitrary, and no legal principle appears to govern his calculations.

It is a principle in equity that whatever ought to <sup>have</sup> been done, shall be considered as done, and a court will proceed to decree accordingly.

It was clearly equitable amongst the heirs, that of the first money collected for distribution should be paid to the one, who had received the least; till he had been rendered equal to the one who had received next the least, and then both should be paid till they two

had been rendered equal to the one who stood third, in the smallest of advancements, and so on till the receipts of all had been rendered equal.

It is another plain principle of justice, that one who has money belonging to another or owes a debt that should be paid, for the benefit of another, should pay interest and the person to whom the money is due, and to whom it should have been paid, should receive interest.

If these two principles had been adopted and acted upon by the court, there would be a thread that would have led through the whole labyrinth of these accounts.

If the estate had been proceedings in Notchpot, had been instituted as soon as letters had been taken out, this course would have been too obvious, to have admitted of any doubt. If there was money to be paid to the distributees, no one would have hesitated in deciding that the heir, who had been best advanced, should receive the first money. His claim would have appeared too meritorious to be passed over. He would have waited longer than the others, he should therefore have been first paid. If any of the heirs had money in their hands, which was due and

not paid, he should pay interest, and the one to whom it was due should receive interest.

This then is what ought to have been done in the first instance. The court then ought to have considered this as done, and make the distribution now, on that principle, making compensation by charging or paying interest.

The court below pays no attention in his settlement with the administrator, to the settlements which he has made with the County Court. It will be seen by his answer, that in his two settlements he had paid out with the approbation of the court \$2301.81. In making these payments he had used \$1832.33 collected of Tucker & Walsh, \$136.05 cash on hand at Muddins death, and some of the interest on the Mouton bond. Instead of letting this remain settled, he brings ~~it~~ these sums up, and charges book with interest on them from the 9<sup>th</sup> of May 1845 down to the 30<sup>th</sup> of Oct 1854, the time ~~he had~~ the judge made the settlement. On the \$1832.33 he charges book with \$1041.27, on the \$136.05 he charges him with \$77.28 interest and on the amount collected of the interest on the Mouton bond, he charges in the aggregate \$1946.40 part of which ~~had been paid out~~ is to be

7  
charged to this account, Why was not credit given  
for what Cook had paid, and that deducted from  
the appts? Was it for the purpose of paying  
Cook his share of the estate with interest <sup>on money</sup> which  
he had paid <sup>to the heirs</sup>? He had got credit with the county  
court for \$200 as one of the heirs. This call settle  
ment of the judge's, makes him pay interest  
on that 200 from the 9th of May 1845 to the  
30th of Oct 1854, amounting to \$1366.

As an illustration of the mode of dis  
tributing the estate, <sup>that appears to me to be just</sup> I will recur to the advanc  
ments of the heirs as settled by the court,  
and to which I take no exceptions.

Cook the lowest in advancements, had received  
\$589.00 Francis Smith who is the next lowest  
and who is to receive a half share, had received  
\$550, the double of which is \$1100. Cook to  
be made equal to Smith must receive \$511.  
This sum he should receive out of the first  
money in the hands of the administrators,  
for distribution, and he should be charged  
no interest upon it. If James Madding's  
advancements are the next lowest, being  
\$1215. To bring Cook and Smith equal to  
James Madding, Cook should receive \$115 more  
and Francis Smith should receive \$57,50.  
Now if the money was paid, there would  
be some settlement, if not paid, they should have

interest from the one who had the money, &  
~~the~~ <sup>the</sup> ought to have paid it.

Ann McEwen is the next lowest  
in advancements, she having received \$1395,  
To bring Cook & Las Madden to an equality  
with her each must receive \$180, <sup>more</sup> and Smith  
\$90. If the money was not paid as it should  
have <sup>been</sup> charged interest to the one who had,  
should have paid the money, and give it  
to such as should have received ~~it~~ the money.

In this mode the funds arising from differ-  
ent sources could all have been distributed  
and paid, & compensation made in interest.

This mode also does justice to all, and  
there is nothing arbitrary about it.

The charging interest on money when it is in  
the hands of those to whom it belongs is  
a great injustice. It pays them up with  
interest on their own money, which is in  
their own hands, and offers a premium to such  
as are dilatory in ~~the~~ paying at the expense  
of the prompt.

It will be seen, that there were funds for  
distribution at different times from the first  
grant of letters in 1838, down to 1854

First the money on hand and that collected  
immediately after the grant of letters say \$2000,  
Next the proceeds of the personal property

say six thousand without giving the exact sum in 1839 or 1840

Next the proceeds of the sales of land in Washington & St Francis counties some 6 or 7000 more, then the interest on the Missouri bond collected mostly in 1847.

Then the proceeds of the Missouri bond say \$3500.

Then in 1854, the proceeds of the land in St Louis, some 4 or 5000 more.

Interest due the distributees to whose money was due, and not paid, could be paid out these several funds - and it would come out of those <sup>being</sup> who were owing the estate, but did not pay - the same being charged interest, upon their indebtedness - and which would ~~properly~~ <sup>properly</sup> swell the amount of the estate.

The mode <sup>adopted by the court below</sup> of settling the accounts of the administrator, and the several heirs is believed to be erroneous. It is <sup>without any guiding principle</sup> arbitrary, and works great injustice - Cook is the one that is most injured, for a great share of what the court give him is the interest wrongfully charged against him, and in a good measure upon his own money -

The bill states that land belonging to the estate was situated in <sup>St Louis</sup> ~~St Louis~~ county. The

land in St Louis, it is seen by the proceeding  
has been sold, and the money distributed  
without equalizing the receipts of the heirs.

The land in Rolla county was an undivided  
half of 4000 arpents, parts of ten thousand  
arpents, which was confirmed in 1836. The  
owners of the other half, were not parties to the  
suit. There was a large certificate of new  
location, with which nothing could be done till  
all the parties in interest were before the  
court, the more especially as those parties  
were infants. A supplemental bill was <sup>asked</sup>  
filed, setting forth the conditions of the land  
and of the ~~same~~ owners. As this had to be filed by  
leave of the court, when the matter came for  
before the court, permission to file was refused,  
and the case ordered to be dropped from the  
docket. To this action of the court exceptions  
were taken and the case brought here by  
Appeal.

The mode adopted by the court in  
settling the accounts of the administrators  
& heirs

And the refusal to permit the supple-  
mental bill to be filed for the sale of the  
Rolla land are the two main matters  
which the appellants wish corrected. There  
are many other minor matters which are

Thos & Jas Maddox  
by adms  
against

J Cook & others  
adms Treas and  
Disrupters of  
the estate of  
Thos Maddox

Statement and  
Brief

Filed 24 Oct. 1857

W S Lawrence  
ck.

believed to be erroneous, but are not inserted  
where.

W S Lawrence  
atty

Thos James Madden

v.

Nathaniel Cook's admr. et  
al —

} Appeal from Washington  
Co.

In the Sup. Court Mich 1/58

The Complainants move the Court to dismiss this  
Appeal for the following reasons.

1. The appeal was improperly granted.
2. The Circuit Court had no right to grant the  
appeal at the time it was prayed.
3. A final decree settling the whole case was rendered  
4<sup>th</sup> Nov. 1854 - no exceptions were taken - and under the old  
Chancery practice which governs this case, the Circuit Court  
could only grant an appeal when applied for during  
the term. After that time the appeal would have to be  
granted by the Supreme Court or a judge thereof.
4. The fact that in May 1856, the Court refused to let  
Messrs Hoipell admr of James Madden file what he calls a  
supplemental bill & ordered the original case to be dropped from  
the docket, does not alter the case. The final decree disposes of ev-  
ery thing & might have been appealed from at the time when it was  
made. The refusal to permit the supplemental bill to be filed is not  
a matter to be appealed from, nor does it revive the right to appeal from  
the final decree made 18 Mos before.

Gale & Johnson for  
Complts.

Thos James Madden  
et al

v.

Nathaniel Cook; Adm'r

et al

Motion to dismiss  
appeal

Filed 23 March 1858

Wm S Glanville  
Clk.

Thomas & James Maddie

17

No Cook & others

On motion to dismiss

It will be seen that both Parties appeared  
See page 110 & 111

By reference to the statements in the  
original bill <sup>it will be seen</sup> that the estate owned land in  
Rolls County (see Record page 2)

The supplemental bill shows the  
situation of this land in Rolls  
and that other parties from those in  
original bill ~~for the purpose of disposing~~  
were necessary. (See page 106)

The decree which is called for  
shows that more paid were necessary  
to equalize the receipt of the heirs.

M. G. Furbell Solicitor

Maddox & Muddan

57

Albion & others

In witness to  
domicil the appeal

---

Filed 2<sup>o</sup> Nov. 1858.  
W. S. Glanville  
Ch

Thos. Madden & al  
109  
Nathaniel Cook & al

} Cross appeal, from the Wash-  
ington Circuit Court.

This was a suit in chancery commenced ~~before~~ in 1847 under the old practice under that practice bills of exceptions were as necessary in chancery as in common law suits: The accounts settled by the court or by a commissioner appointed by the court could only be reviewed here on objections and exceptions to the opinions of the court.

When an account was settled by a commissioner exceptions were taken and they were stated in the report together with the evidence and reported to the Court who decided the points raised before the commissioner if they were renewed, and on that decision an exception was taken as in all other cases. There is nothing in this record but the final decree which can be reviewed by this court: The calculations and evidence on which that decree is based, not being preserved there are no means of ascertaining its correctness.

Surely the case of Strong vs Wilson 14 M: 116 did not intend to introduce any new method of settling administrators' accounts: Whether an administrator is to be charged <sup>interest on the</sup> with money on his hands belonging to an estate, is a question to be determined by the circumstances of each case as it arises: He is not to be charged with interest <sup>on money</sup> in his hands as a matter of course. On the final settlement or before if required to do so, the Court will determine whether ~~the~~ <sup>an</sup> administrator is properly chargeable with interest: To charge him in all cases with interest on money on his hands without regard to circumstances would be monstrous injustice. <sup>The money due on</sup> a note bearing interest when collected, would of course cease to bear interest. but by maladministration <sup>adm'r</sup> the might make himself

liable for interest, <sup>on that</sup> as well as for any other money  
in his hands: Creditors of Debtors of the estate would  
be chargeable with interest until their debts <sup>paid</sup> are  
& the adm<sup>r</sup> or collector. They would charge him  
self with the amount and interest would cease.  
If a distributee of a solvent estate owed it a bond  
bearing interest, whether the <sup>distributee</sup> would be charged with  
interest might depend on "circumstances, but that  
is not a question for the administrator to de-  
termine. In ~~such~~ collecting such a bond he could  
only be guided by the face of it.

There was no error in the Courts  
refusal to permit Fripell to file what ~~was~~  
is termed a supplemental bill for the partition  
and sale of lands in Ralls county which were  
a part of Madden's estate: We do not see the  
grounds on which the bill is founded. Be-  
sides ~~it~~ the bill professes ignorance of the  
State of the title and of the quantity of the land  
sought to be sold & divided: It says Madden held  
~~an~~ an undivided interest in a tract of land  
situated in Ralls county which was confirm-  
ed by the act of Congress of July 4<sup>th</sup> 1836. Most  
of the land had been sold by the U States before  
the confirmation and certificates of new loca-  
tion have issued, but it is said they have not  
been delivered. The quantity of the land sold by the  
U. States has not been ascertained: As the certificates  
or certificates of new location have not been delivered  
how is it possible to get along with such a case.

The other judges concurring the judgment  
will be affirmed.

Wm Scott

61 Oct 7 1858

Maddin

vs.

Cook

Opinion

Shapley

Tried 18 Dec. 1858.

(Wm. S. Starville & Co.)

Maddin & Madin

<sup>15</sup>  
M Cook & others

Supplemental statement and brief

Cook in his answer speaks of the Montreal bond as a part of the assets in the estate. It was for \$4000 dated in 1830 and payable in 1875 bearing 6 per cent interest payable annually.

At the time of his answer which was in 1848 he ~~as~~ & his co-administrator had collected ten years interest ending Nov 2<sup>d</sup> 1847 amounting to the sum of \$2400 (Recours page 36) at the same time he exhibits an account of the interest showing the amount that had accrued and to whom paid. This amount includes one year interest paid to Thomas Madin. See Recours page 48

The interest accruing Nov 2<sup>d</sup> 1836 had been paid to F M Conway upon the order of Thos Madin himself. From that time to Nov 2<sup>d</sup> 1850 it had been paid to the administrator.

Cook in 1851 (Recours page 60) reports further assets of \$690  $\frac{34}{100}$ . His account which was filed is not copied but the items were interest on this bond for the years ending Nov 2<sup>d</sup> 1848 1849 & 1850 - \$720. and the interest he had collected on the interest and from the aggregate 6 per cent commission allowed to the administrator was deducted, leaving the balance as above to wit \$690  $\frac{34}{100}$  which he was directed to return as a part of his distributive share

The court - after the filing of books account  
in 1848 settled as the amount of cash  
experts in his needs at that time at  $\$1071 \frac{62}{100}$   
~~and~~ devised he should retain this sum  
for his own use

In this settlement - he had accounted  
for the interest on the Mortgage bond  
up to Nov 2<sup>d</sup> 1847 to the amount of  $\$2400$   
All the interest - he accounts for is from  
1837 to 1850 or 13 years  $\$3120$ .

The court in his settlement with Cook  
as administrator charges this  $\$3120$ , which  
he had accounted for in his settlements  
and after he had been ordered to retain  
as his own and adds to it - the sum of  
 $\$1946.40$  of interest. (See record page 89)

This sum of  $\$1946.40$  is no where accounted  
for or is Cook in any wise compensated  
for it, except in the account of the court  
against Richard Muddie where he is charged  
the sum of  $\$46 \frac{46}{100}$ , interest on  $\$80$  received by him

This shows that in this one item Cook  
is wronged to the extent of  $\$1899.94$

Other items could be shown where no compen-  
sation has been made but this is sufficient  
M. J. Spill Solutor

Muddie & Muddie

17

Cook & others

Additional statement

& Brief

M. J. Fell



charge of interest against A Cook the Adm<sup>r</sup>. Hood  
is no complaint of the amt of advancements nor of the debts  
and credits of the asc.

10. Altho letters were taken out prior to May 23. 1838  
(date of 1<sup>st</sup> Sale) yet the Court does not charge interest  
till 9<sup>th</sup> May 1845 - seven years after letters were granted  
and allows interest on all payments from that date.

11. Mr Hupell Atty for the Appellant makes the point  
that as Cook's wife was l<sup>y</sup> advanced than the other  
hers, he should not be charged with <sup>interest on</sup> money in his hands  
as Adm<sup>r</sup>, till his advancements were made equal  
with the average advancements or with the largest  
advancements if there was money to bring all up  
to that point.

### Points & Remarks with authorities

1. In the settlement of Cook's asc as Adm<sup>r</sup>:  
he is to be treated precisely as if he was not a distrib-  
utee in right of his wife - in fact just as I would  
be settled with if I & not Cook was the Adm<sup>r</sup>:

2. What is the rule for charging interest  
against Executors, Adms & trustees generally?!

Chancellor Kent in *Duncomb v. Duncomb*  
1 Johns Ch. Rep p. 509 says Executors and other Trustees

and chargeable with interest if they have made use of the money themselves, or have been negligent, either in not paying over the money, or in not loaning or investing it, so as to render it productive". See also the case of Manning v. Manning where Chancellor Kent holds the same doctrine 1 Johns Ch. Rep 533.

As to the time from which interest is to <sup>be</sup> charged against Executors, the Chancellor in Dunscomb v. Dunscomb says "in such a case of negligence in suffering the money to lie idle there does not appear to be any absolute rule and the time must vary according to circumstances. It would be laying too heavy a burden upon Executors to charge interest from the moment money was received. In some cases Executors are allowed a year to look out for some due appropriation of the money and in other cases it would be unreasonable. Here the Executors show no pains or effort to discharge themselves of the money. I observe that six months was the time allowed in a like case by the civil law to the tutor to invest funds: and if the defendants are charged with interest after six months from the time they received it <sup>it</sup> will not be unreasonable in this case and I shall accordingly direct it." p. 571.

In the case of Schafelin v. Stewart 1 Johns Ch. Rep 618 the Court (Kent Chancellor) hold that if an Executor, Administrator or Trustee convert the trust moneys to his own use or employ them in his business or trade he is chargeable with compound

interest. In that case the Admr had employed the money belonging to the Intestate's estate in trade for his own benefit of the profits of which he refused to give any account, the Master in stating an A/c after allowing a reasonable time for the settlement of the estate charged compound interest making annual rests in the A/cs for that purpose and the Court confirmed it."

The rule then to be collected from the foregoing cases is that an Admr if he suffer the Trust money to lie idle ~~to~~ is chargeable with simple interest. If he uses the money in his own business he is chargeable with compound interest making annual rests in the accounts. And in both cases six months after the money is received the interest will commence.

I propose to settle the A/c of N. Cook Admr by the rule laid down in these cases giving the Admr a liberal margin and see how the A/c as thus settled compares in the result with Judge Stone's figures. I shall take the answer of the Admr for items charging him with the debts he claims and crediting him with credits that he claims. The answer speaks of two settlements made by the Admr but it does not appear in any part of the record when the settlements were made. But it is fair to presume that the Admr followed the law as to time. The first sale of the Admr was made 23 May 1838 and I shall assume that the first

Settlement was made at the August term 1839, the second settlement at the August Term 1840 and the 3<sup>rd</sup> or final settlement should have been made at the August term 1841. I then state the ap<sup>r</sup> referring to the page in the record for the items.

First Settlement Aug Term 1839

It Cook Adm<sup>r</sup> of Thos. Madden In ap<sup>r</sup> current, with said estate

Recd. p 35	To sales of all personal property including slaves.	\$6179.66
"	" Cash collected a short time after taking out letters	2072.33
"	" John Edwards's note dated April 3. 1797.	43.00
"	" Bazahel Wally note with int fr <sup>m</sup> 1 Aug 1828	1200.00
" 36	" Geo. Martin's bond payable 1875 with int annually	4000.00
"	" Thos. Farphy's due bill.	18.31
"	" Cash as hand at time of Thos. Madden's death	136.05
"	" ap <sup>r</sup> on Malachi Madden.	<u>262.78</u>
		13912.13

The County Court credited him as follows.

" 38	By amt paid Thos. Jas + Philip Madden	\$830.00
"	" " Ann McClanahan	200.00
"	" " Malachi Madden	200.00
"	" " Money for Francis & Thos Smith	100.00
		<u>1330.</u>
		\$12582.13

He states that he is chargeable with the following. Hire of slaves from Jan<sup>y</sup> to May 1839.

		<u>161.50</u>
		\$12743.63

He claims that at that settlement he should have had the following credits—

over Debits -

\$12743.63

Credits claimed as follows

Recd p. 37	By Bazalul Wells note insolvent	\$1200.00	
"	" John Edwards note	43.00	
"	" Thos. Farply's due bill	18.31	
"	" Malachi Maddens a/c	262.78	1524.09
			<u>\$11219.54</u>

He claims that at that settlement he should

have had other credits as follows.

38	By Amt paid for Coffin	\$50.00	
"	" " " for crying substituting slaves	7.00	
"	" " " John Bricekeys fees	2.00	59.00
			<u>\$11160.54</u>

So amt recd as Geo Mortons bond 2 Nov. 1838.

Bal. due Estate Aug 7. 1839. —

		240.00	
			<u>\$11400.54</u>

2<sup>nd</sup> Settlement. Aug term 1840Balanced due on 1<sup>st</sup> Annual Settlement. \$11400.54

So Int recd 2 Nov. 1839 on Geo Mortons bond.

		240.00	
			<u>\$11640.54</u>

Recd p. 38 The County Amt allowed credits as follows.

	By Cash p <sup>d</sup> for redeeming Ralls Co lands	\$170.02	
	" " " John Scott's allowance	112.00	
	" " " Taxes on lands in St Louis Co.	32.31	
	" " " for Advertising	3.50	
	" " " Recorders fee	1.50	
	" Amt distributed to N. Cook.	200.00	
	" " " " Richard Maddon	200.00	
			<u>\$719.33</u>

He claims that at that settlement

Ant brot. down 719.35 \$11,640.54  
 he was entitled to further credits  
 as follows

Record p. 39. By Ant p<sup>o</sup> Wm. J. Madden \$200.00  
 " " " taxes on Rully lands 40.79  
 " " " " on lot in St Genis 0.73  
 " " " San Harris Elke fees 9.96  
 " " " office fees. 1.00 \$252.48 971.81  
 Balance on hand at 2<sup>o</sup> Settlement 10,668.71

3<sup>o</sup> or Final Settlement which should have taken  
 place Aug 5. 1841.

Is balance on hand at Aug 5. 1840 \$10,668.71  
 " Int on Morten's bond collected Nov 2. 1840 240.00  
 By Geo Morten's bond not due till 1875 \$4,000.00 \$10,908.71

Record p. 40. " Articles purchased by Josiah McLanahan 21.06 $\frac{1}{4}$   
 " Ant purchased by Jos McLanahan 122.62 $\frac{1}{2}$   
 " James McLanahan's note 52.00  
 " Francis McLanahan's note 71.00  
 " " pair of negro. 367.00  
 " Josiah McLanahan ditto. 600.00  
 41. " Thos. Madden Jr purchase at Sab 644.25  
 " Philip Madden's purchase of boy Henry 755.00  
 " Malachi Madden's purchase at Sab 288.55  
 " " " 2 notes. 46.62 $\frac{1}{2}$   
 " " " negro woman 800.00  
 " Richard Madden's purchase negro 900.00  
 " " notes 50.00  
 " Richard Madden's low Thos' note 50.50  
 8760.61 $\frac{1}{4}$

over —

over.

Err. \$8760.614

Dr. 10908.70

Rec'd p 42 By Rich<sup>d</sup> Maddox, Sen as linc Admors

purchase of negro } 810.00

" fine of Harvey paid to be at free 100.00

" Com. on disbursements \$2360.48

@ 6 per ct - } 141.62

9812.23 1/4

1096.50

Balanced which ought to have been on

hand at final settlement for distribution.

I allow Comr to invest or pay over and charge interest down to 30 Oct 1854 time of settlement by Judge Stone.

Int from Feb 30 1842 to 30 Oct 1854

being 12 yrs 8 mos. @ 6%.

833.34

To Cont rec<sup>d</sup> as Geo Martins bond for the years 1841, '42, '43, '44, '45, '46

'47, '48, '49, '50 \$240 each year.

2400.00.

So interest on each \$240 the interest calculated Comr after the money was rec<sup>d</sup> & running to 30 Oct 1854.

1116.00

Balance due the Estate of \$5445.84

Thos Maddox by the Adm<sup>r</sup>. 30 Oct 1854.

Judge Stone finds a balance of - 4772.75

which is seven hundred and twenty three dollars less than it should be. 723.09

In making the above calculation and up, I have charged no interest during the three years within which the estate should have been settled, and

not until six months after a final settlement ought to have been made. The estate should have been promptly wound up at the end of three <sup>years</sup> because there were no debts to pay and nothing in litigation. The case of *Strong v. Welleson* 14 Mo Rep. 116 sanctions the doctrine of charging interest upon each annual balance in the Admrs hands. This however would be hard upon Adms and I am not disposed to insist on it. But I might raise a grave question, and insist upon compound interest with annual rests inasmuch as the Admr had mingled the estate's money with his own and did not show the profit he had made out of it. The cases seem to hold that where the Admr uses the money of the estate, if he wishes to get rid of compound interest he must return what he made out of it. The rule is that the trustee shall not make any thing out of the trust estate except his legal commission, and is bound for all profits. And compound interest is adopted as an approximation to profits. And the Admr by returning profits can avoid compound interest. See 1 John Ch. Rep. 618 and the authorities cited. I shall <sup>not</sup> take the trouble to make out the A/c upon the basis of compound interest but if the Court decides that this is the correct basis and will give such a judgment as the Circuit Court ought to have given, I will readily make the calculation.

I have given every credit & charge

admitted by the Admr. except the item of Commission  
 He claims commission on \$16473.63 which includes  
 the whole amt chg<sup>d</sup> to the Admr. including Morton's  
 bond for \$4000. which he could not collect, <sup>as it was not due till 1875</sup> all the  
 insolvent debts for which he got credit and all the  
 property lost by the heirs which was soon collected  
 for which he also got credit for. The law of 1845  
 only gives Commission on disbursements with such an  
 allowance for hiring out negroes, and renting real  
 estate as the Court may deem reasonable. The  
 only question of doubt is whether he ought to be allowed  
 Commission on the sale of slaves? This Court held 14  
 Mo Rep 116 that the Admr. was not entitled to Commission  
 on the value of slaves on a partition thereof. And com-  
 mission was explained to be compensation for trouble in  
 collection, responsibility for the safety of the money  
 against counterfeits, thefts, & also for trouble in  
 paying over. In partition, the negroes are valued  
 and turned over to the heirs. In the case before  
 us, Cook sold the negroes - the heirs got them and  
 there was no further trouble or responsibility. In-  
 deed this sale was no doubt a mere mode of  
 partition. Those who got the negroes would of  
 course get up of the land. I therefore think that  
 no Commission ought to be allowed on the sale of  
 slaves. The disbursements - that is money paid out  
 amount to \$2360.48 and on this I allow six per cent  
 making \$141.62.

Cook collected ten instalments of interest on Morton's bond \$240 each year and ~~with~~ the calculation of interest I allow him six months use before I charge him with interest. In fact I give him five years interest on \$240 in fact which he is charged with. Altho my mode of making out the a/c is legal and liberal it ~~brings~~ <sup>brings</sup> the Admr \$723.09 more in debt to the estate than Judge Stone found and I ask the court to amend the decree and give the other heirs the benefit of that amount.

Judge Stone in his calculations never commenced the charge of interest till the 9<sup>th</sup> May 1845 seven years after the letters were granted. and he allows interest on the payments made by the Admr ~~from~~ <sup>calculating</sup> interest on them from 9 May 1845. This principle of settling an Admr a/c seems to be sanctioned by Judge Birch in the case of Strong v. Wilkerson 14 Mo Rep 123. who says "After this period" (which was the last settlement in the County Court) "the legal and most equitable rule is, to charge the Executor interest upon the sum thus found in his hands and other sums as they accrued to him and to allow interest to him upon such sums as he may disburse from the date of such disbursement respectively." And he goes on & settles the whole a/c upon this principle and renders such a decree as the Circuit Court should have given. This case went up from Judge Stone and it is no wonder then that he ~~adopted~~ <sup>adopted</sup> its principles.

in rendering his decree in this case. But the principle is believed to be incorrect. When an admr pays a claim why should he be allowed interest as if he had paid it with his own money. He pays it with the money of the estate and of course ought not to get interest. The case may be easily illustrated. I have a note for \$500 payable five years after date with 10 per interest payable annually. Well the obligor pays me \$50 every year which I endorse on the note. This pays the interest. At the maturity of the note he fails to pay principal & I sue & get judgement say at the end of one year after maturity. I am entitled to principal \$500 + one years interest \$50 = to \$550. But calculate the principal and payments endorsed by Judge Stone's plan as sanctioned by Judge <sup>Birch</sup> and the result will be as follows.

Principal		\$500.00
5 yrs. interest \$50 per year.		300.00
		<hr/>
		800.00
By this sum paid at the end of 1 <sup>st</sup> year	50.00	
" 5 years interest thereon	25.00	
" this sum paid at end of 2 <sup>nd</sup> year.	50.00	
" 4 yrs' interest thereon.	20.00	
" this sum paid at end of 3 <sup>rd</sup> year.	50.00	
" 3 yrs interest on this amt.	15.00	
" this sum paid at end of 4 <sup>th</sup> year	50.00	
" 2 yrs interest thereon.	10.00	
" this sum paid at end of 5 <sup>th</sup> year	50.00	
" 1 yrs interest thereon.	5.00	
	<hr/>	325.00
		<hr/>
		\$475.00

By this rule I don't even get judgement for the principal of the note. In fact I lost \$25.00 of the principal and the whole of the last years interest. It is plain that I have only collected the annual interest which is mine ~~and~~ and also and yet by this mode I am made to allow the obligor interest upon my own money. The whole error then is, that by this mode I allow the defendant interest upon money that is not his. The principle transferred to Adms is equally incorrect. When he pays a debt he pays <sup>with</sup> the money of the estate that is not his own money and as the money is not his, he ought not to be allowed interest on it. The court therefore can easily see why there is such a difference between the case made out by me and Judge Stone. He allows the Adms interest upon the money of the estate and I do not. I admit that Judge Stone had the authority of the case of Strong v. Wilkerson (and if this court now considers that case as binding upon it as an authority, of course the calculation will not be revised. But I cannot help saying that I believe that case wrong in principle (and I think this case might be made the occasion of settling the correct principle.

From the foregoing it is plain that the other heirs and not Cook have a right to complain.

2. Mr Fairfull in his brief says "it was clearly equitable among the heirs that the first money

collected for distribution should be paid to the one who had received the least till he had been rendered equal to him who had received the next least and then both should be paid till they two had been rendered equal to the one who stood third in the smallness of advancements and so on till the receipts of all had been rendered equal." and then he argues that as Cook had received less than any other heir he should not be charged with interest till he was rendered equal to the others. The proposition is this: Cook is Admr and using the money of the estate in his own business and collecting in the money of the estate every year upon evidence of debt in his possession & putting that in his business also and when the Court proposed to charge him interest on the money in his hands as admr he answers <sup>my wife</sup> ~~it~~ was advanced less than any other heir and I ought not to pay interest. As Admr, Cook is not entitled to any privileges that I would not have were I Admr. If I would be charged with interest so must he. If then he is entitled to any exemption it is not because of his being Admr. He must be treated as a mere stranger to the estate would be were that stranger Admr. The fact that he is an heir in right of his wife does not exempt him from payment of <sup>interest on</sup> money as Admr. If he wished to avoid the payment of interest as Admr, ~~avoiding his share~~ he should have paid all the money over to the heirs at the end of three years. And as to the point that he had been advanced less than any one else, as the Estate owed nothing, he could have filed a bill in one month after taking out letters to ascertain

the advancements of each heir and debars such from partition who should refuse to answer the bill. He might have got a decree ascertaining the advancements, and ascertaining the amt he should receive long before the three years were out. But he didn't choose to do that. He has some of the money in his hands for 16 years and is receiving money every year - this money he is using to the injury of the <sup>other</sup> heirs and it is as little as he ought to expect to pay interest for it. It is no defence to say his wife was left advanced than any other heir: he had the remedy in his own hands: and if he neglected to get partition earlier it was his own fault. In fact all the heirs looked to the Admrs to initiate all the proceedings, but finding that he would not, the suit was finally commenced by Mr. James Madison

Algain. Until a decree was rendered upon the bill bro't to bring the parties into hotchpot, it could not be ascertained how many would come into partition and how much each party was advanced. By the Statute advancements are not bro't into hotchpot till the parties come into partition. When therefore any thing is to be partitioned the advancements are ascertained. No interest is allowed on advancements. A party who has been advanced very little can have himself equalized by taking early steps to force a partition and this is his only remedy. If he fails to do this and chooses to lay out of his just share of the estate his only consolation is that delay may profit him by causing a gradual rise of the property to be divided. But look at the position of matters. Every heir is charged with interest

upon the money property & slaves each got from the Admr. Richard Madden gets \$200 from the Admr & he is charged with \$113.66 interest. He gives a note to the Admr for property for \$50 and he is charged with \$47.50 interest. He buys a negro man for \$900 and is charged with interest to the amount of \$772.50 and so of other charges and so with all the other heirs. That is, whatever money or property Richard Madden ~~had the use of~~ got from the Admr & had the use of he pays six percent interest for that use. The other heirs do the same. Cook had the use of some \$340,000 of the same estate and it is right that he should not be exempt from interest the only difference being that he had money of the estate while the other heirs had property - a fact very much in his favor.

3. The court refused leave to file the supplemental bill and this is made a ground of exception. A decree had been rendered disposing of the whole case & now costs were adjudged. The Ralls county lands is mentioned in the original bill, but the court seems to have done nothing with those lands because the United States had not adjusted the confirmation. Every thing else is adjusted and the court leaves the parties to have partition of the Ralls county lands ~~after~~ after the United States have acted in the premises. Such being the case, eight months after this final decree was rendered, the complainants file a supplemental bill stating "that Thomas Madden senior was owner of an undivided half of 4000 acres of

being part of a confirmation, under Act of Congress of  
4<sup>th</sup> July 1836 which was made to Charles F. Delaunoy  
and Louis Lubcaume or their legal representatives con-  
taining 10,000 arpens survey N<sup>o</sup> 3243 Situated in Ralls  
Co: Said 4000 arpens is in a square in the North  
West part of the tract and includes the Saline Commonly  
Known as Fremont Saline: - that the title to the other half  
of said land and of the remaining six thousand arpens  
has become vested in Infant Children of Auguste Fremont  
Delaunoy named Cora Fremont Delaunoy & Leon Fremont  
Delaunoy - that the greater portion of said land had been  
granted or sold before the confirmation and that a  
certificate of new location for all the land so disposed  
of has issued in one certain amount but not delivered  
- that the exact portion of the certificate pertaining to the  
4000 arpens which belongs to the heirs of Thomas Mad-  
den & the heirs of Auguste Fremont Delaunoy is not as-  
certained nor is the quantity of land in said tract  
which has been disposed of by the Government <sup>has ascertained</sup> & the parties  
would be prejudiced by either selling the undivided half of said  
lands or either selling the whole title both the quantity of land  
to which the title is good and also the portion of the  
certificate of new location that belongs to said parties  
jointly can be ascertained - that a sale was necessary to  
equalize the heirs - The bill, makes the two infant children  
of Delaunoy parties defendant.

Now upon this branch of the case I remark that  
the filing of a supplemental bill is not a matter of course

Stamps Eq. Plead. 390. It is also the rule that a supplemental bill cannot be brought as to <sup>one</sup> matter that was known when the original bill was filed. The Rally County lands are mentioned in the original bill & no decree could be rendered concerning them because the United States Officers had not acted. The supplemental bill gives no new light on these lands but states that complements do not know how much land <sup>there is</sup> in the tract to which the heirs have title - nor their portions of the Certificate of new location which has been issued but not delivered. There is nothing here upon which the court can act. When the United States Officers determine what sales and entries are protected by the proviso in the act of Congress of 4<sup>th</sup> July 1836, they will grant a certificate of confirmation excepting therefrom the sales & entries so protected and a map will also be made out showing the lands to which the Confirmation attaches & those lying within the survey <sup>to</sup> which it does not attach. When this is done, it is known precisely <sup>for many</sup> how <sup>many</sup> acres a certificate of new location will issue. It appears by the bill that these things had not been done. Until they were done, there could be no partition? The property must be described & to be described must be ascertained by the Government Officers and our court cannot act till they act. The supplemental bill was therefore vague & indefinite and the court rightly refused to let it be filed. When the Rally Co lands have been clearly ascertained it will be an easy matter for all these heirs to file a

position for position as that court against the heirs of Deleauis and those Commissioners can be appointed who will know the lands (and whether position can be made. Exact justice can be done to every heir.

I therefore respectfully contend that the Court did right in refusing to let the bill be filed and dropping the case from the docket.

If the Court determines that the appeal is proper, then I ask the Court as all the items are ascertained to correct the decree against N. Cook the Adm'r and charge him interest as the correct principle. If the case of *Sting & Wellkerson 14 Mo Rep* is considered binding on the Court, then of course the Circuit Judge's figures are correct and the decree will be affirmed.

Thos. Johnston  
Atty for Appellees.

In the Supreme Court  
Oct. Term 1858

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Thos. James Madden

vs.

A. Cook et al

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Appeal from Washington Co.

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Statement & Brief by  
Thos. B. Johnson  
Att. for Appellees

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