

Jefferson County Circuit Court
Case Files - Civil

Nov. 1836

Box 3 Folder 10

Cathcart, Robert adm.

Maheer, Matthew F.

^{vs.}
Cole, Nathan
Simonds, John, Jr.,
Richards, David S., et al

Foreclosure; debt, notes

Change of venue from St. Louis County;
other defendants George W. Rucker, John
Paca; two cases tried together - Plaintiff
v. Cole, Plaintiff v. Cole, et al; debt on notes
of \$1,738.75, \$1,888.75, \$1,951.25, \$2,500; foreclosure
on lot on 4th Street in St. Louis securing same
4 notes; depositions

\$1738.75

On or before the Eleventh day of May One Thousand Eight Hundred and Thirty Two I promise to pay to the order of Matthew S. Maher. One Thousand Seven hundred and Thirty Eight Dollars & Seventy five cents. for value received, negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans —

Nathan Cole

M 1072

\$1888.75

On or before the Eleventh day of May. One Thousand Eight Hundred and Thirty Three. I promise to pay to the order of Matthew S. Maher. One Thousand Eight Hundred & Eighty Eight Dollars & Seventy five cents. for value received. negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans —

Nathan Cole

M 1073

\$1951.25

On or before the Eleventh day of May One Thousand Eight hundred & thirty four. I promise to pay to the order of Matthew S. Maher One Thousand nine Hundred and fifty one Dollars & Twenty five cents for value received. negotiable & payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans —

Nathan Cole

M 1074

122-78

122-78

Filed July 5th 1884
H. G. Amick

122-78

(Copy of Bill endorsement)

\$2500

New Orleans June 4th 1833

Six months after date of this first of exchange, second unpaid / pay to Michael & P. Maher or order twenty five hundred dollars value received and charge the same to account of

Yr obt^l Servt

Nathan Cole

To Messrs A.B. Cole & Co

St. Louis

Misc.

(Endorsed)

Michael & P. Maher

Pay to the order of Thos. C. Magoffin A. Cashier
C. Follen

Pay to the order of W. S. Loxe Cashier
Thos. Magoffin A. Cashier
for W. S. Loxe Cashier
T. O. Duncan
Teller

(Copy of receipt)

Received New Orleans June 4. 1833 of N. Cole his Dft. on A.B. Cole & Co. of St. Louis a C m. S. for twenty five hundred dollars which when paid will be placed to the credit of A.B. Cole & Co. with the representations of the late Matthew J. Maher deceased.

Michael & P. Maher

Had the originals of above this 18 Aug 1836

A. B. Cole & Co

~~Number~~ ^{of} ~~Number~~

11.

Scale

mm

Depth for Bill of
exchange credit.

St Louis Circuit }
St Louis County } set

In the St Louis Circuit
Court July Term 1834

Robert Cathcart Administrator of all and singular the goods and chattels rights and credits which were of Matthew Fellmaker deceased at the time of his death to be administered plaintiff states that he holds four notes on the defendant Nathan Cole in substance as followeth

Saint Louis January 7th 1831

" \$1738.75

On or before the eleventh day of May one thousand eight hundred and thirty two I promise to pay to the order of Matthew Fellmaker one thousand and seven hundred and thirty eight dollars & seventy five cents for value received negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans

Nathan Cole "

" \$1888.75

Saint ~~St~~ Louis January 7th 1831

On or before the eleventh day of May one thousand and eight hundred and thirty three I promise to pay to the order of Matthew Fellmaker one thousand eight hundred & eighty eight dollars & seventy five cents for value received negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans

Nathan Cole "

" \$1951.25

Saint Louis January 7th 1831

On or before the Eleventh day of May one thousand eight hundred & thirty four I promise to pay to the order of Matthew Fellmaker one thousand nine hundred and fifty one dollars & twenty five cents for value received negotiable & payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans

Nathan Cole "

" \$2500.00

Saint Louis January 7th 1831

Four months after date we promise to pay to the order of Matthew Fellmaker two thousand five hundred dollars for value received negotiable and payable at the

office of Discount & Deposit of the Bank of the United
States at New Orleans

A B Cole & Co

And the said plaintiff says that since the making of
the said notes the said Matthew F. Maker hath depart-
-ed this life and that since his death administration
of his goods and chattels rights and credits hath been
granted to the said plaintiff by the Clerk of the County
Court of the County of St Louis to wit on the third day
of July in the year eighteen hundred and thirty four
at the County aforesaid

Yet the said debt remains unpaid where-
-fore the said plaintiff prays judgment for his debt
and damages for the detention of the same together
with costs And the said plaintiff brings here into
Court his letters of administration granted as aforesaid
-said which give sufficient evidence to the Court here
of the grant of administration to the said plain-
-tiff as aforesaid the date whereof is the day and
year in that behalf above mentioned

Robert Cathcart admin
of Matthew F. Maker by
H. M. Gauntle his atty

No 70

St Louis Circuit Court
July Term 1834

Robert Kalthart vs
John F Baker

vs
Nathan Cole

This is a petition in notes
set a copy returned
June 1834
Attest
Wm Campbell

Filed 5th July 1834
Thomas Clerk

S^t Louis Circuit Court
S^t Louis County

In the S^t Louis Circuit Court
July Term 1834

Robert Catheant Administrator of all and singular the goods and Chattels rights and credits which were of Matthew F. Maher deceased at the time of his death to be administered. Plaintiff states that he holds four notes on the defendant Nathan Cole in substance as followeth

\$1738.75

Saint Louis January 7th 1835

On or before the eleventh day of May one thousand eight hundred and thirty two. I promise to pay to the order of Matthew F. Maher one thousand seven hundred and thirty eight dollars & seventy five cents for value received negotiable and payable at the Office of Discount & deposit of the Bank of the United States at New Orleans

Nathan Cole

\$1888.75

Saint Louis January 7th 1835

On or before the eleventh day of May one thousand eight hundred and thirty three I promise to pay to the order of Matthew F. Maher one thousand Eight hundred & Eighty eight dollars & seventy five cents. for value received negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans

Nathan Cole

\$1951.25

Saint Louis January 7th 1835

On or before the Eleventh day of May one thousand eight hundred & thirty four I promise to pay to the order of Matthew F. Maher one thousand nine hundred and fifty one dollars & twenty five cents for value received negotiable & payable at the Office of Discount & deposit of the Bank of the United States at New Orleans

Nathan Cole

\$2500.00

Saint Louis January 7th 1835

Four months after date we promise to pay to the order of Matthew F. Maher two thousand five hundred dollars for value received negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans

A B Cole & Co

And the said plaintiff says that since the making of the said notes the said Matthew F. Maher hath departed this life and that since his death administration of his goods and Chattels rights and credits hath been granted to the said plaintiff by the Clerk of the County Court of the County of S^t Louis to wit on the third day of July in the year Eighteen hundred and thirty four at the County aforesaid

yet the said debt remains unpaid wherefore the said plaintiff prays judgment for his debt and damages for the detention of

the same together with costs and the said plaintiff brings here into
Court his letters of administration granted as aforesaid which give
sufficient evidence to the Court hereof the grant of administration to
the said plaintiff as aforesaid the date whereof is the day of the day
and year in that behalf above mentioned

Robert Cathcart adm^r of
Matthew F. Maher by
H. R. Gamble his att^y

The State of Missouri

County of Saint Louis
To the Sheriff of the County of Saint Louis
Greeting

We command you to summon Nathan Cole that he be and
appear before the Judge of our circuit Court on the second day of the next
term thereof to be held at the City of St. Louis within and for the County
of Saint Louis on the fourth Monday of July instant then and there
to answer unto the above demand of Robert Cathcart ~~as~~ administra-
tor of all and singular the goods and chattels rights and credits
which were of Matthew F. Maher deceased at the time of his death
to be administered, as set forth in his petition of which the above
is a copy and have you then there this writ

Witness Archibald Gamble Clerk of our
said Circuit Court at office this fifth day
of July in the year one thousand eight
hundred and thirty four

Archibald Gamble Clerk

Granted this writ by delivering a true copy
of it & the petition to Nathan Cole in the
City of St. Louis on the 9th day of July
1834

John H. Maher Att^y
by L. B. Thornton D/B

No 70
Saint Louis Circuit Court

July Term 1834

Robert Cathcart Adm^r of
Matthew F. Walker

vs

Nathan Cole

Petition & Summons

Copy of the

To the Circuit Court of the County of St Louis
Appears the petition of Robert Cathcart Ad-
-ministrator of all and singular the goods and
chattels, rights and credits which were of Matthew
Fellaker deceased to be administered respectfully
by represents

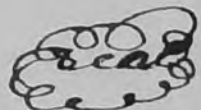
That Nathan Cole and Sarah Cole his
wife on the eleventh day of January in the year
eighteen hundred and thirty one made a deed
of mortgage sealed with their seals which is
now here to the Court shown and is in the words
following to wit " Whereas Nathan Cole and
Abner Cole as partners under the name style
& firm of A B Cole & Co stand justly indebted to
Matthew F. Maher in the sum of two thousand five
hundred dollars by note of hand bearing date the seventh
day of January in the year eighteen hundred & thirty
one negotiable ~~at~~ payable at the office of discount
and deposit of the Bank of the United States at New
Orleans within four months from the date thereof
and the said Nathan Cole being also indebted
to the said Matthew F. Maher by his note of hand
bearing the date aforesaid in the sum of one thous-
-and seven hundred and thirty eight dollars and
seventy five cents payable on or before the eleventh
day of May in the year eighteen hundred and
thirty two and also on an another note of hand
bearing the date aforesaid the sum of one thous-
-and eight hundred and eighty eight dollars
and seventy five cents payable on or before the
eleventh day of May in the year eighteen hun-
-dred and thirty three also one other note of
hand bearing the date aforesaid for the sum
of one thousand nine hundred and fifty one
dollars and twenty five cents payable on or
before the eleventh day of May in the year
eighteen hundred and thirty four all of said
notes being for value received and made payable

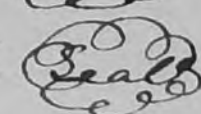
to the order of Matthew P. Maher at the office of
Discount and deposit of the Bank of the United
States at New Orleans and the said Nathan Cole
being willing and desirous to secure to the said
Maher the payment of the said four notes at
the times they respectively shall become due. Now
This Indenture made this Eleventh day of Janu-
ary in the year eighteen hundred and thirty one
between the said Nathan Cole and Sarah his
wife of the City of St Louis and State of Missouri
of the one part and the said Matthew P. Maher
of the City of New Orleans and State of Louisiana
and of the other part Witnesseth that the said
Nathan Cole and Sarah his wife for and in con-
sideration of the premises and also of the sum
of five dollars to them in hand paid by the said
Matthew P. Maher the receipt whereof they do here-
by acknowledge have granted bargained sold
aliened released and confirmed and by these
presents do grant bargain sell alien release and
confirm unto the said Matthew P. Maher and
to his heirs and assigns forever a certain lot or par-
cel of ground situate in the City of St Louis
and State of Missouri Bounded on the west by
Fourth street on the south by the lot of Jacob War-
ner on the East by a lot of O. Fallon on the north
by Locust street the said bargained and sold lot
being one hundred and twenty feet more or less
on Fourth street and fifty nine feet more or less
in depth the said lot or parcel of ground being
the same which in part was heretofore convey-
ed to said Cole by Robert Simpson Sheriff of
St Louis County by deed bearing date the thirtieth
day of April in the year eighteen hundred and
twenty seven and in part was conveyed to said
Nathan Cole by Frederick Dent & Ellen his wife
by deed bearing date the seventeenth day of July
in the year eighteen hundred and twenty eight
both of which deeds are recorded in the records

Office of the County of St Louis the said lot or parcel of ground bargained and sold as aforesaid being in block 88 on the plat of said City of St Louis and on a part of which stands the large brick building formerly erected by Jacob Fry together with all and singular the tenements hereditaments and appurtenances whatsoever to the same belonging or appertaining and also all the estate right title interest trust property claims and demand whatsoever to the at law and in equity of the said Nathan Cole and Sarah his wife in to or out of the said lot or parcel of ground tenements hereditaments and premises To have and to hold the said ^{or parcel} lot of ground tenements & hereditaments and all and singular other the premises herein before mentioned with their appurtenances unto the said Matthew Bellaker his heirs and assigns and to his and their only proper use and behoof And the said Nathan Cole and his heirs all and singular the aforesaid lot or parcel of ground and premises with their rights members and appurtenances hereby granted & released and every part & parcel thereof unto the said Matthew Bellaker his heirs and assigns and against him the said Nathan Cole his heirs and assigns and against all and every person or persons whomsoever shall and will warrant and forever defend by these presents And moreover that he the said Nathan Cole and his heirs and all and every person or persons having or lawfully claiming any estate right title interest of in or to the said messuage lot of ground and premises or any part or parcel thereof by from or under him shall and will from time to time and at all times hereafter upon the reasonable request of the said Matthew Bellaker his heirs or assigns make do acknowledge and execute or cause to be made done acknowledged and executed

all and every such further and other act and
acts thing & things conveyances & assurances in the
law whatsoever for the further better and more
effectual conveying and assuring of all and sin-
-gular the premises herein before mentioned or in-
-tended herein to be conveyed with their and every
of their rights members and appurtenances
to the only proper use and behoof of the said Mat-
-thew Fellmaker his heirs & assigns forever as by the
said Matthew Fellmaker his heirs or assigns or his or
their counsel learned in the law shall be reason-
-ably devised or required, Provided always and
these presents are upon this express condition that
if the said Nathan Cole his Executors or admin-
-istrators shall pay or cause to be paid unto the
said Matthew Fellmaker his Executors administrators
or assigns the amount of the four several notes
of hand aforesaid at the time and place in said
notes of hand specified that is to say if the
said Nathan Cole his Executors and adminis-
-trators shall well and truly pay or cause to be
paid unto the said Matthew Fellmaker his exec-
utors administrators or assigns the just and full
sum of two thousand five hundred dollars
within four months from the sixth day of Janu-
-ary in the year eighteen hundred and thirty one
according to the tenor and effect of the note of
hand of A B Cole & Co first aforesaid and also
the sum of one thousand seven hundred and
thirty eight dollars and seventy five cents on or
before the eleventh day of May in the year
eighteen hundred and thirty two according
to the tenor and effect of the second note aforesaid
and also the sum of one thousand eight hun-
-dred and eighty eight dollars and seventy five
cents on or before the eleventh day of May in the
year eighteen hundred and thirty three according
to the tenor and effect of the third note aforesaid

and also the further sum of one thousand nine hundred and fifty one dollars and twenty five cents on or before the eleventh day of May in the year eighteen hundred and thirty four according to the tenor and effect of the fourth note aforesaid then and that case this indenture of mortgage shall cease determine and become null and void any thing herein contained to the contrary thereof in any wise notwithstanding And lastly it is covenanted and agreed upon by and between the said parties to these presents that the said Matthew F. Maher shall from the date of these presents effect insurance on the buildings on said mortgaged premises and pay the premium therefor during the continuance of this mortgage; And also it is the true intent and meaning of these presents and it is hereby so declared to be that until default shall be made in payment of the said sums of money in the aforesaid four notes of hand or of any of them or any part of either of said notes it shall and may be lawful for the said Nathan Cole or his heirs to have hold and enjoy all and singular the said premises with the appurtenances above bargained & sold in manner aforesaid and to receive and take the rents issues and profits thereof to his and their own use and benefit any thing herein contained to the contrary thereof in any wise notwithstanding. In witness whereof the said Nathan Cole and Sarah his wife have hereunto set their hands and affixed their seals the date before written

Nathan Cole 

Sarah Cole 

And the said petitioner further states that after the making of the said deed of mortgage and before the payment of the said several sums of money in the said mortgage mentioned the said Matthew F. Maher died ~~intestate~~ and that afterwards

to wit on the third day of July in the year eighteen hundred and thirty four at the County of St Louis Administration of the goods chattels rights and credits which were of the said Matthew Fellaker deceased was granted to the said petitioner

And the said petitioner further says that the said Nathan Cole hath not paid the said several sums of money ^{or either of them} in the said mortgage deed mentioned (and for securing the payment of which the said deed was given) either to the said Matthew Fellaker in his life time or to this petitioner since the death of the said Matthew Fellaker but to pay the same hath hitherto neglected and refused

And the said petitioner further says that the said mortgaged premises in the said deed mentioned are now occupied by the said Nathan Cole and by John Simonds Junior David Richards George W Rucker John Paca Wherefore your petitioner prays that the said Nathan Cole and the said John Simonds Junior, David Richards, George W Rucker and John Paca may be made defendants to this petition and may be summoned to answer the same And the said petitioner prays that the equity of redemption in the premises in said mortgage deed described may be foreclosed and the said mortgaged premises be sold to satisfy the amount due to this petitioner as Administrator as aforesaid And the said petitioner brings here into Court the letters of administration granted to him as aforesaid whereby it sufficiently appears

that he is administrator of the goods chattels
rights and credits of the said Matthew F. Maher
deceased in manner aforesaid the date whereof
is the day and year in that behalf before men-
tioned And the said petitioner do

A. H. Gamble Atty
for petitioner

The State of Missouri

County of Saint Louis ss

To the Sheriff of the County of Saint Louis
Greeting

We Command you to summon Nathan Cole, John Simonds
Junior, David S. Richards, George W. Rucker and John Paca that
they be and appear before the Judge of our Circuit Court at the next
term thereof to be held at the City of St. Louis within and for the County
of Saint Louis on the fourth Monday of July instant then and there
to answer unto Robert Cathcart Administrator of all and singular
the goods and chattels rights and credits which were of Matthew F. Maher
deceased to be administered - and show cause if any they have why
the mortgage in the petition of the said Robert Cathcart Administra-
tor as aforesaid mentioned should not be foreclosed and the property
therein mentioned sold for the payment of the debt due said petitioner
and have you then there this writ

Witness Archibald Gamble Clerk of our
said Circuit Court at Office this Tenth
day of July One thousand Eight Hundred
and thirty four

Archibald Gamble Clerk

Coll. Simon &
 Nov. 10th 1834
 - 607 12th

No 97
 Saint Louis Circuit Court
 July Term 1834

Robert Cathcart & Adm
 of Matthew F. Walker

vs

Nathan Cole & others

Petition to fore close
 mortgage

Let a summary be

Wm Gamble

Filed 10th July 1834
 Archibald Gamble Clerk

Jno H Walker
 Atty

imms

22nd July 1834

served this writ on Nathan Cole John
 Simons Junior & John Paca on
 the 10th day of July 1834 by offer-
 ing to read to them and each of them
 the petition & writ which they refused
 to hear and on David S. Richard
 by reading the writ & part of the
 petition he refusing to hear the
 return read on the 12th day of
 the same month and on George
 W. Reicher by leaving a certified
 copy of the petition & summons at
 his place of residence on the same day
 viz 12th July 1834 with a free white man
 of his family over fifteen years of age to
 whom I made known the contents thereof
 all of which was done in St Louis County

St. Louis Circuit Court

Robert Leathart admr of
Matthew F. Maher
vs.

Nathan Cole
John Simonds Jr.
John Packer
George W. Rucker
David S. Richards

July Term 1834

And the defendant
Nathan comes & defends the wrong & injury when &c.,
by his attorney J. Spalding, & says that the supposed
deed of mortgage in said petition mentioned, is
not his deed and of this he puts himself upon
the country &c.,

And for a further plea in this behalf said
Cole says that said mortgage ought not to be
foreclosed because he says that before the death
of said Matthew F. Maher & the commencement of
this suit and after said notes were due to wit
on the first day of June in the year of our Lord
one thousand eight hundred thirty four at
said County, he said Nathan did pay to said
Matthew the full amount of all moneys
due on said notes: and this he is ready
to verify.

And for a further plea in this behalf said Cole saith
that said mortgage ought not to be foreclosed so far as relates
to the note of A. B. Cole &c. therein mentioned because
he says that after said note was due & in the life time of
said Matthew F. & before this suit was commenced, to wit
on the first day of June in the year of our Lord one thou-
sand eight hundred thirty four at said County said Mat-
thew was indebted unto said A. B. Cole & Nathan
Cole composing firm of A. B. Cole & Company in the

Sum of three thousand dollars for divers goods wares
and merchandise by said A.B. Cole & Co. before then
sold and delivered to said Matthew F. at his instance
& request: and for other money by said Matthew F.
before then had and received to the use of said
A.B. Cole & Co. & for other money from said Mat-
thew to said A.B. Cole & Co. before then due upon
an account stated between them: & for other money
by said A.B. Cole & Co. before then lent & advanced
to and paid laid out & expended for said Mat-
thew F. at his instance and request: which sum
of money so due and owing from said Matthew
exceeds the amount ^{due on} of said note in this count
mentioned, & out of which said sum this defendant
is ready & willing & hereby offers to set off and
allow to said plaintiff as administrator as aforesaid
the full amount due on said note: and this
he is ready to verify: Wherefore he prays judgment,
whether said mortgage ought to be foreclosed
so far as relates to said note &c.

And for a further plea to said foreclosure this
defendant says that said Leathart is not &
never hath been administrator of the goods chat-
tel rights & credits which were of said Matthew L.
at the time of his death in manner & form as the
said plaintiff hath in his said declaration alleged,
and this he is ready to verify: Wherefore he prays
judgment &c.

Iffading atty
for def. Cole

Robert Catheart admr
of Matthew F. Maher decd

Nathan Cole implt &c

And the said plaintiff as to the first plea
of the said defendant by him above pleaded and whereof
the said defendant hath put himself upon the
country doth the like

And as to the second plea of the said defend-
ant by him above pleaded the said plaintiff saith
that he ought not to be barred from having the said
Mortgage foreclosed by reason of any thing in said
plea alleged because he says that the said defend-
ant did not pay to the said Matthew F. Maher
deceased in his life time the amount of money
due on the said promissory notes in manner
and form as the said defendant hath in his said
second plea alleged and this he prays may be
enquired of by the Country &c

And as to the third plea of the said defend-
ant by him above pleaded the said plaintiff
saith that the said Matthew F. Maher deceased
was not in his life time indebted to the said
Abner Cole and Nathan Cole in manner
and form as the said defendant hath in his said
third plea alleged and of this the said plaintiff
puts himself upon the Country

And as to the fourth plea of the said defendant by
him above pleaded the said plaintiff says that at
the time of the commencement of this suit he was
and still is administrator of the goods and
chattel, rights and credits which were of the said
Matthew F. Maher deceased at the time of
his death and this he prays may be enquired
of by the Country &c

A. G. Hamble
Att for plff

2897
July terms 1834

St. Louis Circuit Court

Adminstr of Matthew
F. Maher

v.
N. Cole & others 3

Plas

- 1 non est factum
- 2 payment
- 3 set off
- 4 we argues adverse.

J. Harding atty

Filed

July 29 1834
R. Gamble cld

Repleaturn to all the pleas

venue changed - book 8 - page 88.

clerk Gamble's fees \$7.07 1/2
See fee book page 215

St. Louis Circuit Court
Robert Cathcart admr.
Matthew F. Maher
vs.

July Term 1834

Nathan Cole

and the said defendant
by I. Spalding his attorney comes and defends the wrong &
injury when D.C. & says that he doth not owe the
said plaintiff the said several sums of money or any or
either, or any part of either of them, mentioned in said
petition in manner and form as in said petition
is alleged and of this he putteth himself upon the
country & C.

and for a further plea in this behalf said defen-
dant says that before the commencement of this
suit to wit on the first day of July in the year of
our Lord one thousand eight hundred thirty four
at said County he said defendant did pay to
said plaintiff administrator as aforesaid the full
amount of all moneys due on said several notes
in the said petition mentioned; and this he
is ready to verify, wherefore he prays judgment
& C.

And for a further plea in this behalf said
defendant says that the said plaintiff ought
not to have and maintain his said action
against him because he says that, before the
death of the said Matthew F. Maher & before the
commencement of this suit to wit on the first
day of June in the year of our Lord one thousand
eight hundred thirty four at said County, he
the said defendant paid to said Matthew F.
the said several sums of money mentioned
in said notes specified in said petition and all
interest due thereon; and this he is ready to verify,
wherefore he prays judgment & C.

And for a further plea in this behalf as to the fourth and last note mentioned in said petition said defendant saith that said plaintiff ought not to have and maintain his said action thereof against him because he says that in the life time of said Matthew & before this suit was commenced to wit on the first day of June in the year of our Lord one thousand eight hundred thirty four at said County, said note then being due, they the said A. B. Cole & Co, the makers of said note did pay to said Matthew the money due on that note in full: and this he is ready to verify, wherefore he prays judgment &c,

and for a further plea in this behalf the said defendant says that said plaintiff ought not to have and maintain his said action against him because he says that before the death of said Matthew & the commencement of this suit, he the said Matthew was indebted unto him the defendant in the sum of ten thousand dollars for divers goods & wares & merchandise by the said defendant before then sold and delivered to said Matthew at his special instance and request: & for moneys by the said defendant before ^{then} lent and advanced to, & paid laid out & expended for said Matthew & at his like special instance and request: which said sum of money so due and owing from said Matthew then living to said defendant exceeds the amount due from this defendant upon said notes, & out of which said sum of money so due and owing from said Matthew to this defendant, & still due & owing from said plaintiff as administrator as aforesaid, he this defendant is ready & hereby offers to set off and allow to said plaintiff as administrator as aforesaid the full amount due on said notes according to the statute: & this he is ready to verify. Wherefore he

prays judgment &c.

And as to the fourth note in said petition mentioned the said defendant further saith that said plaintiff ought not to have and maintain his said action thereof against him because he says that before the commencement of this suit & in the life time of said Matthew, to wit on the first day of June in the year of our Lord one thousand eight hundred thirty four at said County, he the said Matthew was indebted ^{to} Abner B. Cole & Nathan Cole partners under the name & style of A. B. Cole & Co. the makers of said note, in the sum of five thousand dollars for divers goods wares & merchandise by said A. B. Cole & Co. before then sold and delivered unto said Matthew at his instance and request: & for money by the said A. B. Cole & Co. before then lent & advanced to & paid laid out & expended for said Matthew at his instance & request: & for other money by said Matthew before then had and received to the use of said A. B. Cole & Co. & for other money due & owing from said Matthew to said A. B. Cole & Co. upon an account stated between them: which sum of money so due from said Matthew to said A. B. Cole & Co. exceeds the sum of money due on the said note in this plea mentioned, and out of which money so due and owing from said Matthew to said A. B. Cole & Co. this defendant is willing & hereby offers to set off & allow to said plaintiff as administrator as aforesaid the full amount due on said note, and this he is ready to verify. Wherefore he prays judgment &c.

J. Spalding
att'y for deft

filed July 29/83
A. G. C. B.

21st Sept 1834

St. James' Court

Leathair Smith, of Thacker

vs.

Nathan Cole

3

Item.

- 1 rule about
- 2 payment to account
- 3 80 to interest
- 4 80 of last note by A. B. Cole etc
- 5 set off
- 6 set off on last note

J. Thacker

att'y

Filed July 29th 1834

Alfred Cole

Robert Leathcart Admr
of Matthew F. Maher dec'd

Nathan Leale

And the said plaintiff as to the first
plea of the said defendant by him above pleaded and
whereof the said defendant hath put himself upon the
Country doth the like

And as to the second plea of the said defendant
by him above pleaded ^{the said plaintiff} says that he ought not to be bar-
red or precluded from having and maintaining his
action aforesaid against said defendant by reason
of any thing in said plea alleged because he says
that the said defendant did not pay to the said
plaintiff the full amount ~~of the~~ on said several
notes in the said petition mentioned ~~was any part~~
in manner and form as the said defendant hath
in his said second plea alleged and this the said
plaintiff prays may be enquired of by the Country

And as to the third plea of the said defendant
by him above pleaded the said plaintiff says that
~~he~~ the said plaintiff ought not to be barred or
precluded from having and maintaining his action
aforesaid against him said defendant by reason
of any thing in said plea alleged because he says
that he the said defendant did not pay to the said
Matthew F. Maher in his life time the said several
sums of money mentioned in said notes specified
in said petition and the interest thereon in manner
and form as the said defendant hath in his said
third plea alleged and this the said plaintiff
prays may be enquired of by the Country

And as to the fourth plea of the said defend-
-ant by him above pleaded ^{the said plaintiff} says that he ought not to be barred or precluded

from having and maintaining his action aforesaid
against the said defendant upon the fourth and
last note mentioned in said petition by reason of any
thing in said fourth plea alleged because he says
that the said A B Cole & Co the makers of the said
note did not pay to the said Matthew Fellaker in
his life time the money due on that note in full
in manner and form as the said plaintiff hath
in his said fourth plea alleged and this the said plain-
tiff prays may be enquired of by the country

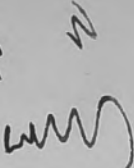
And as to the fifth ^{plea} of the said defendant
by him above pleaded the said plaintiff says
that ~~he~~ ^{he} ought not to be barred or precluded
from having and maintaining his action aforesaid
against the said defendant by reason of any
thing in said fifth plea alleged because he says
that the said Matthew Fellaker was ^{in his life time} not indebted
~~to~~ said defendant in manner and form as the said
defendant hath in his said fifth plea alleged
and this he prays may be enquired of by the country

And as to the sixth plea of the said de-
fendant by him above pleaded the said plaintiff
says that he ought not to be barred or precluded
from having and maintaining his action
aforesaid against the said defendant upon the
said fourth note in the petition specified because
he says that the said Matthew Fellaker was
^{in his life time} not indebted to the said A B Cole & Co the ma-
kers of the note in manner and form as the
said defendant hath in his said sixth plea al-
leged and this he prays may be enquired of by the
Country &
H R Gamble att for plff

No 70

Thomas Percival Count
July Term 1834

Robert Balthart owner of
Chauffeur William

u 
Eastman Cole

Replacatum

limited to 1' plus
Traverse of 2' 3' 4' plus
miscellaneous to 5' 6' plus

Filed July 31st 1834
A. Spencer Clerk

filed July 30 1894

St. Louis Circuit Court

Robert Cathcart admr of
Matthew F. Marker

vs.

Nathan Cole

Nov. Term 1834

Nathan Cole being duly sworn on his oath saith that Bart S. Cole is a material witness for this defendant on the trial of the above entitled case without whose testimony he cannot safely go to trial: that this defendant has a good defence as he is advised and believes against a portion of the demand sued on in this action, which he can prove by said witness, but by no other person as he thinks, that before this suit was brought said Bart S. Cole went to Texas, where he has re-

mained ever since; but from time to time has promised to return to this place in the vicinity of which he resides, & this deponent has been expecting him for several months, but he has not yet returned nor has this deponent heard from him for some time; that he could not take his deposition in Texas so far as he knows, & that if he could have done so, he did not make the attempt, as said Bart S. was to have returned long before it would have been practicable for this deponent to have sent to Texas to get the deposition: that this deponent expects to have the testimony of said Bart S. at the next term of this Court, if he be alive (& he has not heard of his sickness or death): that said

But is not absent by the procurement, con-
nivance or consent of this defendant. This de-
fendant says that no credit has been allowed
by the plaintiff on account of the set off
which defendant expects to prove by said
Butt, S. nor has any been allowed by the plain-
tiff's testator. This deponent further saith that
since the death of said Matthew F. Mather A.B.
Cole & Co. shipped to Michael & Philip Mather of
New Orleans a considerable amount of produce
in pursuance of an arrangement between
this deponent & Martin F. Mather who
was curator of the estate of said Matthew, as
this defendant was informed ^{by said Martin F.} & believes, & who
agreed that said shipments should be credited
on one of the notes ^{to wit that of twenty five hundred dollars} said or ^{which notes}
as this deponent understands were then in the
possession of said Mather or one of them. That
said Michael & Philip are as he understands
the heirs of said Matthew F. & sent the said
notes to St. Louis & caused administration to be
taken out to have them collected as he supposes.
Deponent further says that an arrangement
or understanding existed between this deponent & the
plaintiff's attorney that on the trial of this case
credits to the amount of several thousand dol-
lars would be allowed on said notes, which
credits would have embraced the shipments
aforesaid & sundry other items: but that
about the ^{of October} last
one of said Mather's came from New Orleans to St.
Louis, ^{some time} & ~~soon~~ after that, this deponent learned
that said credits would not be allowed, &
it was then too late to take the deposition at
New Orleans, where the testimony to prove them

fact exists, ^{chiefly, in time to have them returned for the trial day of this suit} ~~that~~ which place he must take depositions for the purpose of proving certain of these facts, which he cannot prove otherwise or elsewhere as he supposes, and this deponent says, that he does not make this application ~~for purposes~~ of vexation but that he may be enabled to have justice done him on the trial of this suit. Deponent has no doubt but that he can procure said testimony by the next term of this Court. Deponent further says that while said maker was here in October last, he was negotiating with this deponent to settle amicably the claim sued on in this action, & Deponent thought that the same would so have been settled, & ~~was~~ ^{was} assumed that the plaintiff would assent to any such settlement, but that the same was at length broken off by said maker.

Sworn to and subscribed by
before me this 2^d day of
December A.D. 1834

Q. Mough J. P.

Matthew Cole

Nov 27 324
Nov 27 1834

makers admitt

"

late 3

324

Filed Dec 30 1834
Algamblark

Fica Nov 8 1836
F. Green do

Venue changed book 8. page 89

Clerk Gamble's fee — \$0.07 1/2

See book 224

Robert Leathcoat Adams vs
J. Matthews F. Walker

vs.

Nathan Cole

ST. LOUIS CIRCUIT COURT.

Take notice that on the 8th day of April in the
year of our Lord one thousand eight hundred and thirty-five, between the
hours of six in the forenoon and six in the afternoon, of
that day, at the house of Henry S. Rogers in the city
in Charcoal County in the State of Illinois

depositions will be taken by the undersigned, to be read on the trial of the
above entitled case, on behalf of the defendant; and that the taking
of said depositions, if not completed on that day, will be continued from day to
day at the same place and between the same hours, until completed.

To the above named Robert

April 4, 1835

Leathcoat

Nathan Cole

Hubert's Adm'tt

vs
N. Cole 3

Notice

Served the within Notice on Robert
Eastward by delivering to him a true copy
thereof on the 4th day of April 1835 in the
County of St Louis
Attestation of J. H. P.
by J. H. Hannon Del.
Served 5th day

COUNTY OF SAINT LOUIS,

THE STATE OF MISSOURI,

To any Judge or Justice of the Peace of the State of Illinois

Greeting:

WE, reposing special trust and confidence in your integrity and circumspection, do authorize and require you that you cause to come before you such person or persons as shall be named to you by Robert Cathcart Administrator of Matthew F. Maher, or Nathan Cole or their

Attorney or Agent, and him or them examine upon his, her or their corporal oath, (to be by you administered,) touching their knowledge of any thing that may relate to a certain matter of controversy, now pending in our Circuit Court for the County of St. Louis, wherein Robert Cathcart Administrator of Matthew F. Maher is plaintiff and Nathan Cole is defendant on the part of the Defendant and having so reduced the said depositions so taken by you as aforesaid into writing, you are required to send the same, together with this commission, enclosed under your seal, to our said Circuit Court, with all convenient speed.

Witness, Archibald Gamble, Clerk of our said Circuit Court, at the City of St. Louis, this Seventeenth day of April in the year of our Lord one thousand eight hundred and thirty-five

Archibald Gamble CLERK C. C.

I Daniel Converse a Justice of the peace for the County of Monroe, County State of Illinois do Certify that in pursuance of the within Commission and Notice came before me at the house of Emory P. Rogers in the Town of Waterloo in the County and State last aforesaid Alfred Cowles and Adam W. Snyder who were there by me sworn and examined and such Examination reduced to writing and subscribed by them Respectively by them in my presence and their said depositions are now herewith returned. Given at Waterloo in the County of Monroe State of Illinois this eighth day of April Eighteen hundred and thirty five

Daniel Converse J. P.

Depositions of Witnesses produced sworn and examined at the house of Emory P. Rogers in Waterloo. in the County of Monroe State of Illinois before me Daniel Converse a Justice of the peace in and for the County aforesaid. in a Certain Cause. now pending in the St Louis Circuit Court. in the State of Missouri. between Robert Cathcart Administrator of ~~Walter~~ ^{For} Maher Plaintiff and Nathan Cole defendant on the part of defendant.

Alfred Cowles of lawful age being sworn do depose and say that at the last St Clair Circuit Court. at the March term 1835. he was of Counsel for A B Cole, and Company, against Michael Maher & Philip Maher - in an action of assumpsit where in Damages were assessed by the Jury to the amount of more six thousand dollars. upon the default of the Defendant Philip Maher - and that the annexed draft marked A on the margin drawn by Nathan Cole on A B Cole & Co St Louis Missouri in favor of Michael & P Maher at six months for two thousand five hundred dollars. was not submitted to the Jury as evidence, nor taken into consideration by them in the assessment of damages in said action in the said St Clair Circuit Court. nor was the receipt of Michael and Philip Maher annexed hereto & marked B purporting to be a receipt of Nathan Cole for twenty five hundred dollars, submitted to the Jury in said assessment. I further say that
not

Alfred Cowles

I, Daniel Converse a Justice of the peace within and for the County and State aforesaid. do hereby certify that Alfred Cowles the deponent was by me sworn to testify the whole truth of
over

his knowledge touching the matter in controversy in the cause
aforesaid. that the deponent was examined and his Examina-
-tion reduced to writing and subscribed by said deponent
in my presence on the eighth day of April in the year Eighteen
hundred and thirty five between the hours of six in the
forenoon and six of the afternoon at the Town of Waterloo
& at the house of Emory P. Rogers in the County of Monroe
State of Illinois. Given and Certified the eighth day of April
1835.

Daniel Converse J. P.

Daniel Converse.
It is hereby Certified that on the eighth day of April in
year of our Lord eighteen hundred and thirty five
was and now is a Justice of the peace within and
for the County of Monroe State of Illinois duly
Commissioned and acting as such and that full
faith and credit are due to his acts as such

In Testimony whereof I Daniel Converse
Clerk of the County Commissioners Court
(the same being a Court of Record) have
hereunto subscribed my name and
affixed the seal of Office this eighth
day of April Eighteen hundred and
thirty five -

Daniel Converse. clerk
of the County Com^{rs} Court.

A. W. Bryan of Lempue age being sworn does
depose and say that at the last St. Clair Cir-
cuit Court at the March Term 1835 he was
of counsel for A. B. Cole and Company against
Michael & Philip Maher in an action of Assump-
sit wherein damages were ascertained by the Jury
to the amount of upwards of six thousand
dollars, upon the default of the defendant
Philip Maher, and that the annexed draft
marked A. on the margin drawn by Nathan
Cole on A. B. Cole & Co. St. Louis Missouri in
favour of Michael & P. Maher at six months
for two thousand five hundred dollars dated
June 4th 1833, was not submitted to the Jury
or offered to them in evidence, neither was
the said draft taken into consideration
in the assessment of damages in the said
action in said St. Clair circuit court, nor
was the receipt of Michael & P. Maher annexed
hereto marked B. purporting to be a receipt
to A. Nathan Cole of a draft for twenty five
hundred dollars dated June 4 1833, submitted to
the Jury in said case & assessment or in
any wise formed part of said damages
& further said not

A. W. Bryan

I Daniel Converse a Justice of the peace do hereby Certify that
Adrian W Snyder the deponent was by me sworn to testify
the whole truth of his knowledge touching the matter in
Controversy in the Cause aforesaid. That deponent was
Examined and his examination reduced to writing and
subscribed by said deponent in my presence on the
eighth day of April in the year Eighteen hundred and
thirty five between the hours of six in the forenoon and
six in the afternoon at Waterloo at the house of Emory
P Rogers in the County of Monroe State of Illinois
Given and Certified the eighth day of April 1835.—
Daniel Converse J.P. —

SCT.

opened & filed 8th April 1835
Andubert Gamble clerk

for defendant

To the Clerk of the St Louis Circuit Court

St Louis

W. F. Mahoney, Atty

vs

N. Cole

Deportation
for Defendants
Missouri

6800
4700
2021

St. Louis Circuit Court
Robert Cathcart Adm'r
of Matthew F. Maher
vs
Nathan Cole } on notes

Same plaintiff
vs
Nathan Cole & others } on mortgage

B.

Deposition taken by consent of parties
to be read on the trial of the above entitled cases
on behalf of the defendants.

Burt S. Cole of lawful age being duly
sworn on his oath saith that he was ac-
quainted with Matthew F. Maher; saw him
in St. Louis in fall of 1830 & also as
he thinks in 1831. In the fall of 1830
said Matthew transacted business with Nathan
Cole & with A.B. Cole & Co., with Cole
& Bailey while at St. Louis. A settlement
took place then (in fall of 1830) between said
Matthew F. Maher & the several persons
above named. This settlement ~~took~~ was before
the notes & mortgage said on in above suits
were given. On that settlement A.B. Cole & Co.
owed said Matthew F.; does not recollect how
the amount stood between said Matthew F. &
Nathan Cole. Said Matthew F. had sold produce
as commission merchant for A.B. Cole & Co.

before that time. At that settlement there was in the hands of said Matthew F. Macomber for, a hoghead of dried sausages, which said Matthew agreed was on hand, invoiced at fifty dollars ($6\frac{1}{4}$ cents per pound) worth probably in St. Louis at 8 cents per pound by the hundred at that time: also sixteen barrels of army pork & four half barrels of mep beef which he said Matthew said he had no account of: the army pork was invoiced at 9 dollars per barrel & the half barrels of beef at 6 dollars per half barrel; thinks that those articles were then worth those prices in St. Louis: the value at New Orleans at that time, he does not know. The above articles were left out of the settlement. There was a settlement including every thing else then made: the above articles were left out of that settlement. ~~He~~ Thinks said Matthew F. said that as to the pork & beef he had no account of them with him, & he did not know that he had received them: the sausages he acknowledges he had on hand. Witness does not know that any thing else took place respecting the above articles with said Matthew F. except that the witness charged those items to said Matthew F. on the books of A. B. Cole & Co. in the account of the next year: & does not know that they were ever settled for. Witness charged them because he had the bills of lading showing that they had been shipped to said Matthew F.

by A.B. Cole & Co., & there was no account re-
corded of them. Never heard said Matthew F. say
any thing further respecting said items, Don't know
that said Matthew F. ever saw the said charges, He
kept the books said as the clerk of A.B. Cole &
Co. between A.B. Cole & Co., one & two years,
after that time, Deponent never sent said amount
or any amount including said charges to the said
Matthew F. The Bills of Lading above mentioned
deponent does not know where they are, De-
ponent further says that in said settlement be-
tween A.B. Cole & Co. & the said Matthew F.
Maker, the said Matthew F. allowed as a credit to
A.B. Cole & Co. the amount of \$882.98 not
included in any amount of sales & interest does
not know for what ~~the~~ the articles sold, This
sum did not include the items above men-
tioned of beef, pork & lard, Deponent ~~then~~ at the
time of settlement aforesaid showed to said Matthew F.
the Bills of Lading of said pork lard & beef &
said Matthew F. did not deny or admit that he
had received them, Deponent thinks that the balance
due Matthew F. Maker by A.B. Cole & Co. was
included in the notes sent on in above action.

Cross examined: says that Matthew F.
Maker as he thinks died in the summer of
1832; & he continued the commission Merchant
of A.B. Cole & Co. until his death. There were
amounts of sales rendered by said Matthew F. to A.B.
Cole & Co. after the said notes were given, says
not know how the amount stood independent
of the notes at the time of said Matthew's
death, There was also one amount current ren-
dered by said Matthew F. after said settlement to
A.B. Cole & Co. to his knowledge: What he thinks

was dated the Spring before his death. The said beef
pork & sausages were not included in that ac-
count current.

(which plaintiff objects to)
Direct examination again¹ at the time
of the settlement aforesaid, it was agreed between
the said Matthew F. & said Nathan Cole, that
the said Matthew F. should loan ~~to said Nathan~~
seven thousand dollars which was to be paid
in yearly instalments by the proceeds of produce
to be shipped to said Matthew F. by A. B. Cole & Co.
& to be secured by a mortgage on the lot in St. Louis,
witness does not know to whom the loan was to
be made whether to Nathan Cole or to Abner
B. Cole & Co. Dependent was not present when the
notes were actually given or money loaned. The
money so loaned was applied to the use of A.
B. Cole & Co.

To the question of plaintiff's counsel the witness replies
that I don't ~~know~~ the understanding between M. F. Maher
and A. B. Cole & Co about said ~~loan~~ ^{agreement} the said M. F. Maher
was to retain out of the proceeds of the sales of each
year enough to cover one of the notes - this was wit-
ness's understanding of the ~~understanding~~ ^{agreement} but he don't remember that he heard it stated by
the parties

Sworn to and Subscribed
before me this 11th May 1835
O. Hough Justice of the Peace
County Saint Louis

Thos. S. Cole

This deposition is to be read as far as
Competent in the above named cases

H. R. Gamble atty for
M. F. Maher
N. Cole

The plaintiff's counsel examined here in
chief again, having accidentally omitted to ex-
amine on this point

County of St. Louis, set.

State of Missouri,

To the Sheriff of St. Louis County—GREETING.

You are hereby commanded to summon

William Rooley Brock

Force

that setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our Circuit Court, on the *13th*

day of *April instant*

at the city of St. Louis, then and there to

testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *Robert Caldwell Adams of Matthew F. Maher*

vs

is plaintiff

and *Nathan Cole & others*

defendants on the part of

are ~~the~~ *defendants*

and have you then and there this writ.

Witness, *Archibald Gamble*, Clerk of our said Circuit Court, at the

City of St. Louis, this *11th*

day of *April*

in the year of our Lord one thousand eight hundred and thirty *four*

Archibald Gamble Clerk, C. C.

Executed this writ by reading it to
William Risley and E. C. Price on the
11th day of Apr 1835 in the County
of St Louis

Service 1.00

Brotherston Shiff
by J Hammond Detr

March Term 1835

EW

Robert Calhoun. Admr of

Matthew J. Maher

vs

Nathane Cole & others

for the Plaintiffs

+ William Risley "

+ Enoch C. Price "

on the 13th Apr

State of Missouri,

County of St. Louis, set.

To the Sheriff of St. Louis County—GREETING.

You are hereby commanded to summon

Rock C. Price *William Bradley &*

that setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our Circuit Court, on the *24th* day of *July* at the city of St. Louis, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *William Bradley and Rock C. Price*

Shaffer *is* plaintiff and *William Bradley*

and others *are* defendant on the part of *plaintiff* and have you then and there this writ.

Witness, Archibald Gamble, Clerk of our said Circuit Court, at the

City of St. Louis, this

16th day of *June*

in the year of our Lord one thousand eight hundred and thirty

Wm. C. C. Clerk, C. C.

William Price and Enoch C Price not found
in my County July 24th 1835

2 Month \$5^{cts}

Brotherhood Shift
by J. Hammond Det

July 24th 1835

John Cuthbert
Adm of Prison

my

William Price &
there

for

William Price

Enoch C Price

24th July for

shift

Saint Louis Circuit Court

Robert Cathcart adm^r }
of Matthew T. Maher } on Notes
Nathan Cole

Same Plaintiff }
Nathan Cole & others } on Mortgage

Ferdinand Massa being duly sworn on the part of the plaintiff deposes & swears that his ^{Bookkeeper} ~~Bookkeeper~~ for the house of Michael & Philip Maher Commission Merchants, in New Orleans, and has been since the middle of November 1833 - there was ^{then} on the Books of the said Maher an account standing open between the said Maher and A B Cole & Co - of which last firm Nathan Cole was a partner on the Books of M^c & Philip Maher in the account of A B Cole & Co the Coles are accredited with a draft at six months dated 4th June entered August 1833 in favor of the Maher ~~and~~ for twenty five hundred dollars - and the account of A B Cole & Co containing that credit has been rendered and no objection made to said credit by the said Coles

to his knowledge - and to the best of
his recollection Nathan Cole exam-
ined the account containing said credit
and made no objection to said entry
to deponent's knowledge - This account
current was rendered the 21st March
1834 -

Crop examined by defendant Nathan
Cole

Witness says that objections might have
been made to the account above mentioned
without his knowing it - Martin J
Maher was Curator of the estate of
Matthieu J. Maher dec'd - and as such
received and paid out money accounting
for the same to the legatee - Martin
J. Maher as Curator aforesaid had his
office in the same house with Michael
& Philip Maher and was the general agent
for Michael & Philip

Sworn to & Subscribed Ferdinand Massa
before me this 22^d day
of July 1835 -
At Hough I. P.

This deposition is to be read in evidence as far
as competent

Testified by deponent
Nathan Cole

Attest
for plaintiff
Nathan Cole

Robert Cathcart admr of the position

Nathan Cole

for 1845

Sam Hitt

by Concord

Nathan Cole Hitt

To the Clerk of the Circuit Court
County of Kent
Michigan

Filed July 24
1845
Attest

County of St. Louis, sct.

State of Missouri,

To the Sheriff of St. Louis County—GREETING.

You are hereby commanded to summon

Charles Cellier, Senae & Moore &

J. O. Duncan

that setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our Circuit Court, on the *29th* day of *July* instant at the City of St. Louis, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *Robert Cathcart Adam* is *vs* *M. J. Maher* plaintiff and *Nathan Cole and others* are defendant on the part of the *Defendants* and have you then there this writ.

Witness, ARCHIBALD GAMBLE, Clerk of our said Circuit Court, at the City of St. Louis, this *29th* day of *July* in the year of our Lord one thousand eight hundred and thirty five

Archibald Gamble CLERK C. C.



July Term 1835-~~the~~

Robt Cathcart Adm of
Matthew & Mahen

vs
Nathan Cole & others

for the Defendants

Charles Collins

Gonas Moore

Jy. O. Duncan

on the 29th July -



Served this writ on J O Duncan
on the 28th and on Jonas Moore and
Charles Collins on the 29th days
of July 1835 by Reading it to them
in the county of St Louis
James Breckinridge
Service \$1.50 by Ch Breckinridge Dally

County of St. Louis, set.

State of Missouri,

To the Sheriff of St. Louis County—GREETING.

You are hereby commanded to summon

Moock Price

William Price

that setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our Circuit Court, on the 16th day of April at the city of St. Louis, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

Robert Atchard vs *Robert Atchard*
is plaintiff and *William Price*

Moock Price are defendants on the part of
and have you then and there this writ.

Witness, *Archibald Gamble*, Clerk of our said Circuit Court, at the

City of St. Louis, this 12th day of October

in the year of our Lord one thousand eight hundred and thirty

A. Gamble
Clerk, C. C.



Executed this writ by reading it to W. Risley
and Enoch Price on the 19th day of Oct 1833
in the County of N. Lewis
J. Brotherton Shff

Brotherhood Still
by G. Hermann Ditzig

Service 1.00

New York
Jan 21st 1838
Wm C. Heath
Gov of Mass
My dear Sir
I have the honor
to acknowledge the
receipt of your letter
of the 19th inst
in relation to the
above named
person
I have been
pleased to
hear from
you
and
I am
very
truly
yours
Wm C. Heath

County of St. Louis, set.

State of Missouri,

To the SHERIFF of St. Louis County—GREETING.

You are hereby commanded to summon

James Newman

Charles Seeling &

that setting aside all manner of excuse and delay, he be and appear in proper person before the Judge of our Circuit Court, on the *18th day of April next* at the city of St. Louis, then and there to TESTIFY and the truth to say in a certain matter of controversy now pending in our said Court, wherein *testament assets of Mr. F. Warner is*

plaintiff and *Warren Seeling* is

defendant on the part of *the*

defendant and have you then and there this writ.

WITNESS, **JOHN FULAND**, Clerk of our said Circuit Court, at the

City of St. Louis, this *22* day of *March*

in the year of our Lord one thousand eight hundred and thirty *eight*

John Fuland CLERK, C. C.

22 441
March June 1836

Robert Lathrop & Co

as

Nathan Cole

for the Defendants

Charles Collins

Jonas Newman

15 July
on 18 36

15 July

Executed this writ by Reading it to Jonas Newman on the 22nd of March and to Charles Collins on the 11th of April 1836 in the County of St Louis

Service ff. p. o.

James Brotherton Shff
Byrn Brotherton Shff

State of Missouri,

County of St. Louis, sct.

To the Sheriff of St. Louis County—GREETING.

We command you to attach

Charles Collins

by *his* body, and *him* safely keep, so that you have *his* body before
the Judge of our Circuit Court, now in session at the City of St. Louis, within and for the County of
St. Louis, ~~on the~~ *forthwith* ———— " ———— 183— then and there to testify
and the truth to say in a certain matter of controversy, now pending in our said Circuit Court, between
The adm^t of Matthew Tinker is plaintiff and *Matthew Cole* is
" ———— defendant wherein the said *Charles Collins*
has heretofore been summoned on the part of the said, *Defendant*—

WITNESS, JOHN FULLAND, Clerk of our said Circuit Court, at the
City of St. Louis, this 18th day of *April*
in the year of our Lord one thousand eight hundred and thirty *two*

John Fulland CLERK, C. C.

1836
✓
Maker

vs

Cole

attachment

+

Charles Collins

for Defendant

Charles Collins not found in
my county April 19th 1836

request 50

James Brotherton Hff
By M Brotherton D Hff

County of St. Louis, SCT.

State of Missouri,

To the SHERIFF of St. Louis County—GREETING.

You are hereby commanded to summon

Charles Collins & Isaac Hummel

that setting aside all manner of excuse and delay, they be and appear in proper person before the Judge of our Circuit Court, on the *15th July next*.

_____ at the city of St. Louis, then and there to TESTIFY and the truth to say in a certain matter of controversy now pending in our said Court, wherein *Robt^o Calthart*

vs plaintiff and *Abraham Cole*
vs defendant on the part of *the*

vs _____ and have you then and there this writ.

WITNESS, **JOHN RULAND**, Clerk of our said Circuit Court, at the

City of St. Louis, this _____

29th day of June

in the year of our Lord one thousand eight hundred and thirty *six*.

John Ruland CLERK, C. C.

July Term 1836.

Rich^d Calhoun

vs

Mathew Cole

Sept. -

+ Charles Collins &

+ James Buchanan

15 July

Served this on Jonas Newman on the
9th day of July 1836 in the county of
St Louis by Reading it to him and on
Charles Collins on the 17th day of July
1836 by his refusing to hear it Read
in the county of St Louis
Service \$1.00 James Brotherton Mff
By M Brotherton D Mff

State of Missouri,

County of St. Louis, Sct.

To the Sheriff of St. Louis County—GREETING.

We command you to attach

Charles Collins,

by *his* body and *him* safely keep, so that you have *his* body before
the Judge of our Circuit Court, now in session at the City of St. Louis, within and for the County of
St. Louis, ~~on the~~ *forthwith* 1835 then and there to testify

and the truth to say in a certain matter of controversy, now pending in our said Circuit Court, between

The Adams & Co. makers

plaintiff and *Nathan Cole*

defendant wherein the said *Collins*

has heretofore been summoned on the part of the said —

WITNESS, JOHN RULAND, Clerk of our said Circuit Court, at the
City of St. Louis, this 27 day of *July*
in the year of our Lord one thousand eight hundred and thirty 6

John Ruland

CLERK, C. C.

My country
 William Walker not found in
 James Brotherton
 new 12th By M. Brotherton

3. 27th July
 July Term 1836
 Maher
 Cole
 Ch's collins

Executed this writ & had the
 body of Charles Collins in
 open court on the 3^d day of Aug
 1836
 James Brotherton
 new 12th By M. Brotherton

To the St. Louis Circuit Court

The Petition of Nathan Cole
represents that ~~the judge~~ he is defendant
in two suits pending in this Court, one up-
on certain notes, & the other upon a mort-
gage in both of which Robert Bath-
est administrator of Matthew F. Maher
is plaintiff: that this petitioner has just
cause to believe and does believe that he
cannot receive a fair trial in either of
said suits, for the reason that the op-
posite party has an undue influence
over the mind of the judge aforesaid
of said Court: wherefore he prays that
there may be a change of venue in
said ~~cases~~ ^{suits} to some County where such
cause of objection does not exist. He
says further that said suits are
both for the same debt.

~~Subscribed~~ Nathan Cole

St. Louis County St. Nathan Cole being
sworn on his oath that the
above petition is true, & that he has
just cause to believe that he cannot
have a fair trial in said suits for
~~the reasons stated in said petition~~

Sworn & subscribed
before me this 3^d August
1836 - O'Hough J. P.

Nathan Cole

Nathan Cole
Nathan Cole
Nathan Cole
Nathan Cole

Petition for change
of venue by defendant
Cole

Filed 13th of August 1836

Edm. R. R. and clerk

State of Missouri

County of St Louis

ss.

Be it remembered that on the fifth day of July in the year of Our Lord one thousand eight hundred and thirty four Robert Cathcart adm of M. Fullaker by James H. Gamble his attorney filed in the Office of the Clerk of the Circuit Court of the County aforesaid his petition in the words and figures following to wit:

St Louis Circuit

In the St Louis Circuit Court July term 1834

Petition

St Louis County

set.

Robert Cathcart administrator of all and singular the goods and chattels rights and credits which were of Matthew Fullaker deceased at the time of his death to be administered a plaintiff states that he holds four notes on the Defendant Nathan Cole in substance as followeth "Saint Louis January 7th 1831. \$1738.75. On or before the eleventh day of May one thousand eight hundred and thirty two, I promise to pay to the order of Matthew Fullaker one thousand seven hundred and thirty eight dollars and seventy five cents for value received negotiable and payable at the Office of Discount & deposit of the Bank of the United States at New Orleans, Nathan Cole." "Saint Louis January 7th 1831. \$1888.75. On or before the eleventh day of May one thousand eight hundred and thirty three I promise to pay to the order of Matthew Fullaker one thousand eight hundred and eighty eight dollars and seventy five cents for value received negotiable and payable at the Office of Discount and deposit of the Bank of the United States at New Orleans, Nathan Cole, Saint Louis January 7th 1831 \$1951.25. On or before the eleventh day of May one thousand eight hundred and thirty four I promise to pay to the order of Matthew Fullaker one thousand nine hundred and fifty one dollars and twenty five cents for value received negotiable and payable at the Office of Discount and deposit of the Bank of the United States at New Orleans, Nathan Cole. Saint Louis January 7th 1831. \$2500.00. Four months after date we promise to pay to the order of Matthew Fullaker two thousand five hundred dollars for value received negotiable and payable at the Office of Discount & Deposit of the Bank of the United States at New Orleans, A. B. Cole & Co." and the said Plaintiff says that since the making of the said notes the said Matthew Fullaker hath departed this life and that since his death administration of his goods and chattels rights and credits hath been granted to the said plaintiff by the Clerk of the County Court of the County of St Louis to wit on the third day of July in the year eighteen hundred and thirty four at the County aforesaid. Yet the said debt remains unpaid wherefore the said plaintiff prays Judgment for his debt and damages for the detention of the same together with costs and the said plaintiff brings here into Court his letters of administration granted as aforesaid which give sufficient evidence to the Court here of the grant of administration to the said plaintiff as aforesaid the date whereof is the day and year in that behalf above mentioned. Robert Cathcart adm of Matthew Fullaker by H. R. Gamble his atto." upon which Petition a Summons issued from the Office of the Clerk of the Circuit Court aforesaid in the words and figures following to wit: County of Saint Louis ss. The State of Missouri, to the Sheriff of the County of Saint Louis, greeting. We command you to summon Nathan Cole that he be and appear before the Judge of our Circuit Court on the second day of the next term thereof to be held at the City of St Louis within and for the County of Saint Louis on the fourth Monday of July instant then and there to answer unto the above demand of Robert Cathcart administrator of all and singular the goods and chattels rights and credits which were of Matthew Fullaker deceased at the time of his death to be administered as

Summons

Return

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Olney

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Set forth in this petition of which the above is a copy and have you then there this 11th day of July 1834
Archibald Gamble Clerk of our said Circuit Court at office this 5th day of July in the year one thou-
sand eight hundred and thirty four, Archibald Gamble Clerk. at the foot of which summons is the follow-
ing Sheriff's return, to wit: "Executed this 11th by delivering a true copy of it and the petition to Nathan
Cole in the City of Saint Louis on the 9th day of July 1834, John H. Walker Sheriff by J. Brotherton Dpty. and
afterwards to wit, at a Circuit Court begun and held at the City of Saint Louis within and for the County of Saint Louis
in the third Judicial Circuit of the State of Missouri on the fourth Monday of July being the twenty eighth day of said
Month in the year of Our Lord one thousand eight hundred and thirty four, were present the Honorable Luke E.
Lawless Judge of the third Judicial Circuit of the State of Missouri, John H. Walker Esquire Sheriff of the County of Saint
Louis and Archibald Gamble Clerk, on Tuesday 29th July 1834, the following among other proceedings were had
to wit, Robt Cathcart admr of M. F. Walker vs Nathan Cole. Pleas filed". Which pleas are in the words and figures
following to wit: "St Louis Circuit Court, July term 1834. Robert Cathcart admr Matthew F. Walker vs Nathan Cole. And
the said defendant by J. Spalding his attorney comes and defends the wrong and injury wherein he and says that he doth
not owe the said plaintiff the said several sums of money or any or either or any part of either of them mentioned in
said petition in manner and form as in said petition is alleged and of this he putteth himself upon the Country &c.
and for a further plea in this behalf said defendant says that before the commencement of this suit to wit on
the first day of July in the year of Our Lord one thousand eight hundred thirty four at said County he said
Defendant did pay to said plaintiff administrator as aforesaid the full amount of all moneys due on said
several notes in the said petition mentioned and thus he is ready to verify, wherefore he prays judgment &c. and
for a further plea in this behalf said Defendant says that the said plaintiff ought not to have and maintain
his said action against him because he says that before the death of the said Matthew F. Walker and before the
commencement of this suit to wit on the first day of June in the year of Our Lord one thousand eight hundred
thirty four at said County he the said defendant paid to said Matthew F. the said several sums of money
mentioned in said notes specified in said petition and all interest due thereon, and thus he is ready to ver-
ify, wherefore he prays judgment &c. and for a further plea in this behalf as to the fourth and last note mentioned
in said petition said defendant saith that said plaintiff ought not to have and maintain his said action there-
of against him because he says that in the life time of said Matthew and before this suit was commenced
to wit on the first day of June in the year of Our Lord one thousand eight hundred thirty four at said
County, said note then being due they the said A. B. Cole & Co. the makers of said note did pay to said
Matthew the money due on that note in full and thus he is ready to verify, wherefore he prays judg-
ment &c. and for a further plea in this behalf the said defendant says that said plaintiff ought not to have and main-
tain his said action against him because he says that before the death of said Matthew F. Walker and the commencement
of this suit he the said Matthew was indebted unto him the defendant in the sum of ten thousand dollars for divers goods
wares & merchandize by the said defendant before then sold and delivered to said Matthew at his special instance
and request & for moneys by the said defendant before then lent and advanced to and paid laid out and expended
for said Matthew F. at his like special instance and request, which said sum of money so due and owing from

said Matthew then living to said Defendant exceeds the amount due from this defendant upon said notes & out of which said sum of money so due and owing from said Matthew to this defendant and still due and owing from said plaintiff as administrator as aforesaid he this defendant is ready & hereby offers to set off and allow to said plaintiff as administrator as aforesaid the full amount due on said notes according to the Statute and this he is ready to verify. Therefore he prays judgment &c. and as to the fourth note in said petition mentioned the said Defendant further saith that said plaintiff ought not to have and maintain his said action thereof against him because he says that before the commencement of this suit and in the life time of said Matthew, to wit on the first day of June in the year of Our Lord one thousand eight hundred thirty four at said County he the said Matthew was indebted to Abner B. Cole & Nathan Cole partners under the name and style of A. B. Cole and Co. the makers of said note in the sum of five thousand dollars for divers goods wares and merchandize by said A. B. Cole & Co. before then sold and delivered unto said Matthew at his instance and request and for money by the said A. B. Cole and Co. before then lent and advanced to and paid laid out and expended for said Matthew at his instance and request and for other money by said Matthew before then had and received to the use of said A. B. Cole & Co. and for other money due and owing from said Matthew to said A. B. Cole & Co. upon an account stated between them, which sum of money so due from said Matthew to said A. B. Cole & Co. exceeds the sum of money due on the said note in this plea mentioned and out of which money so due and owing from said Matthew to said A. B. Cole & Co. this defendant is willing and hereby offers to set off and allow to said plaintiff as administrator as aforesaid the full amount due on said note, and this he is ready to verify. Therefore he prays judgment &c. J. Spalding atty for deft.

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Replication

And afterwards to wit at the said term of our said Circuit Court on Wednesday 30th July 1834 the following further proceedings were had to wit, R. Cathcart adm^r of M. P. Fuller vs Nathan Cole Replication filed, which replication was in the words and figures following to wit, Robert Cathcart adm^r of Matthew Fuller dec^d vs Nathan Cole. And the said plaintiff as to the first plea of the said defendant by him above pleaded and whereof the said defendant hath put himself upon the Country doth the like and as to the second plea of the said defendant by him above pleaded the said plaintiff says that he ought not to be barred or precluded from having and maintaining his action aforesaid against said defendant by reason of any thing in said plea alleged because he says that the said defendant did not pay to the said plaintiff the full amount due on said several notes in the said petition mentioned in manner and form as the said defendant hath in his said second plea alleged and thus the said plaintiff prays may be enquired of by the Country. And as to the third plea of the said defendant by him above pleaded the said plaintiff says that he the said plaintiff ought not to be barred or precluded from having and maintaining his action aforesaid against him said defendant by reason of any thing in said plea alleged because he says that he the said defendant did not pay to the said Matthew Fuller in his life time the said several sums of money mentioned in said notes specified in said petition and the interest thereon in manner and form as the said defendant hath in his said third plea alleged and thus the said plaintiff prays may be enquired of by the Country. and as to the fourth plea of the said defendant by him above pleaded he the said plaintiff says that he ought not to be barred or precluded from having and maintaining his action aforesaid against the said defendant upon the fourth and last note mentioned in said petition by reason of any thing in said fourth plea alleged because he says that the said A. B. Cole & Co. the makers of the said note did not pay to the said Matthew Fuller in his life time the money due on that note in full in manner and form as the said plaintiff hath in his said fourth plea alleged

and thus the said plaintiff prays may be enquired of by the Country And as to the fifth plea of the said defendant by him above pleaded the said plaintiff says that he ought not to be barred or precluded from having and maintaining his action aforesaid against the said defendant by reason of any thing in said fifth plea alleged because he says that the said Matthew Fullaker was not in his life time indebted to said defendant in manner and form as the said defendant hath in his said fifth plea alleged and thus he prays may be enquired of by the Country And as to the sixth plea of the said defendant by him above pleaded the said plaintiff says that he ought not to be barred or precluded from having and maintaining his action aforesaid against the said defendant upon the said fourth note in the petition specified because he says that the said Matthew Fullaker was not in his life time indebted to the said A B Cole & Co. the makers of the note in manner and form as the said defendant hath in his said sixth plea alleged and thus he prays may be enquired of by the Country &c. H. R. Gamble att. for plff. and afterwards to wit at the November term of our said Court on Tuesday 2nd December 1834 the following further proceedings were

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Cause continued
Affidavit- had to wit, Robert Cathcart, Admr of M. Fullaker vs Nathan Cole, Continued on the affidavit of the defendant and at his costs, Which affidavit is in the Words and Figures following to wit, St Louis Circuit Court Nov. term 1834, Robt Cathcart Admr of Matthew Fullaker vs Nathan Cole: Nathan Cole being duly sworn on his oath saith that Burt S Cole is a material witness for this ~~defendant~~ defendant on the trial of the above entitled case without whose testimony he cannot safely go to trial, that this defendant has a good defence as he is advised and believes against a portion of the demand sued on in this action which he can prove by said witness but by no other person as he thinks that before this suit was brought said Burt S Cole went to Texas where he has resided ever since, but from time to time has promised to return to this place in the vicinity of which he resides and this deponent has been expecting him for several months but he has not yet returned nor has this deponent heard from him for some time, that he could not take his depositions in Texas so far as he knows and that if he could have done so he did not make the attempt as said Burt S was to have returned long before it would have been practicable for this deponent to have sent to Texas to get the deposition, that this Deponent expects to have the testimony of said Burt S at the next term of this Court if he be alive and he has not heard of his sickness or death that said Burt is not absent by the procurement connivance or consent of this defendant, This defendant says that no credit has been allowed by the plaintiff on account of the set off which defendant expects to prove by said Burt S nor has any been allowed by the plaintiff's testator. This deponent further saith that since the death of said Matthew Fullaker and before the plaintiff administered on his estate, A. B. Cole and Co. shipped to Michael and Philip Fullaker of New Orleans a considerable amount of produce in pursuance of an arrangement between this deponent and Martin Fullaker who was curator of the Estate of said Matthew as this defendant was informed by said Martin Fullaker and believes and who agreed that said Shipments should be credited on one of the notes sued on, to wit that of twenty five hundred dollars, which notes as this deponent understands were then in the possession of said Fullakers or one of them, that said Michael and Philip are as he understands the heirs of said Matthew Fullaker and sent the said notes to St Louis and caused administration to be taken and to have them collected as he supposes, Deponent further says that an arrangement or understanding existed between this deponent and the plaintiff's attorney that

on the trial of this case credits to the amount of several thousand dollars would be allowed on said notes which credits would have embraced the shipments aforesaid and sundry other items, but that about the of October last one of said makers came from New Orleans to St Louis and some time after that this Deponent learned that said credits would not be allowed and it was then too late to take depositions at New Orleans where the testimony to prove these facts exists chiefly, in time to have them returned for the trial day of this suit, and at which place he must take depositions for the purpose of proving certain of these facts which he cannot prove otherwise or elsewhere as he supposes, and this deponent says that he does not make this application for purposes of vexation but that he may be enabled to have justice done him on the trial of this suit. Deponent has no doubt but that he can procure said testimony by the next term of this Court. Deponent further says that while said maker was here in October last he was negotiating with this Deponent to settle amicably the claim sued on in this action and Deponent thought that the same would or have been settled and was assured that the plaintiff would assent to any such settlement but that the same was at length broken off by said maker, Nathan Cole, sworn to and subscribed before me this 2nd day of December A. D. 1834. D. Hough J. P. and afterwards to wit at the term last aforesaid of our said Court on Wednesday 24th December 1834 the following further proceedings were had to wit, Robert Cathcart adm^r of Matthew Fullaher vs Nathan Cole and others, continued at the cost of the defendants; and afterwards to wit at the March term of Our said Court in the year of Our Lord one thousand eight hundred and thirty six, on Tuesday April 19th 1835, the following further proceedings were had to wit, The adm^r of Matthew Fullaher vs Nathan Cole, continued at defendants costs, and afterwards to wit on the 3rd August 1835, an affidavit was filed in the Office of the Clerk of the Circuit Court aforesaid in the words and figures following

Petition for change of venue
affidavit
To the St Louis Circuit Court, The petition of Nathan Cole represents that he is Defendant in two suits pending in this Court one upon certain notes and the other upon a mortgage in both of which Robert Cathcart administrator of Matthew Fullaher is plaintiff, that this petitioner has just cause to believe and does believe that he cannot receive a fair trial in either of said suits for the reason that the opposite party has an undue influence over the mind of the Judge aforesaid of said Court, wherefore he prays that there may be a change of venue in said suits to some County where such cause of objection does not exist, he says further that said suits are both for the same debt, Nathan Cole, St Louis County vs. Nathan Cole being sworn on his oath saith that the above petition is true, and that he has just cause to believe that he cannot have a fair trial in said suits for the reasons stated in said petition Nathan Cole, sworn to and subscribed before me this 3rd August 1835. D. Hough J. P. and afterwards to wit at the July term of our said Court in the year last aforesaid, on Tuesday 3rd August 1835 the following further proceedings were had to wit: Robert Cathcart adm^r of Matthew Fullaher vs Nathan Cole. Petition and Summary, On petition of the Defendant and affidavit filed, stating the belief of said defendant that he cannot receive a fair trial in this cause and praying that the venue may be changed to some County in another Circuit it is accordingly ordered that the venue thereof be changed to the County of Jefferson in the seventh judicial circuit of this State and that the Clerk of this Court make out and transmit to the Clerk of the Circuit Court for said County of Jefferson on or before the first day of the next term thereof a full and complete transcript of the record and proceedings had in the cause together with all the papers appertaining to and filed in the same
State of Missouri

County of St Louis ss.

I John Ruland, Clerk of the Circuit Court within and for the County of St Louis aforesaid do hereby certify the foregoing to be a full true and correct transcript of the record and proceedings in the case Robert Cathcart admr of Matthew Fuller vs Nathan Cole as the same now remain in my Office.

In testimony whereof I have hereunto set my hand and affixed my Seal of Office at Office in the City of St Louis this seventeenth day of October in the year of Our Lord one thousand eight hundred and thirty six.

J. Ruland Clerk

Circuit Court

R. Cathcart admr of M. F. Fuller

vs

N. Cole.

Clerk's fees of St Louis ~~County~~ circuit court

including this transcript \$ 5. 25

J. Gamble (clerk) 7. 01 1/2

Shaw-Walker 5. 00

\$ 17. 26 1/2
John Ruland clerk

Transcript
8-75
Cathcart

State of Missouri

County of St Louis

Petition

Be it remembered that on the tenth day of July in the year of Our Lord one thousand eight hundred and thirty four Robert Cathcart adm^r of Matthew F. Maher by his attorney H. R. Gamble filed in the Office of the Clerk of the Circuit Court of the County of St Louis aforesaid his Petition in the words and figures following to wit: To the Circuit Court of the County of St Louis Missouri the petition of Robert Cathcart Administrator of all and singular the goods and chattels rights and credits which were of Matthew F. Maher deceased to be administered respectfully represents that Nathan Cole and Sarah Cole his wife on the eleventh day of January in the year eighteen hundred and thirty one made a deed of mortgage sealed with their seals which is now here to the Court shown and is in the words following to wit: Whereas Nathan Cole and Abner B. Cole as partners under the name style and firm of A. B. Cole and Co. stand justly indebted to Matthew F. Maher in the sum of two thousand five hundred dollars by note of hand bearing date the seventh day of January in the year eighteen hundred and thirty one negotiable and payable at the Office of discount and deposit of the Bank of the United States at New Orleans within four months from the date thereof and the said Nathan Cole being also indebted to the said Matthew F. Maher by his note of hand bearing the date aforesaid in the sum of one thousand seven hundred and thirty eight dollars and seventy five cents payable on or before the eleventh day of May in the year eighteen hundred and thirty two and also on another note of hand bearing the date aforesaid the sum of one thousand eight hundred and eighty eight dollars and seventy five cents payable on or before the eleventh day of May in the year eighteen hundred and thirty three also one other note of hand bearing the date aforesaid for the sum of one thousand nine hundred and fifty one dollars and twenty five cents payable on or before the eleventh day of May in the year eighteen hundred and thirty four all of said notes being for value received and made payable to the order of Matthew F. Maher at the Office of discount and deposit of the Bank of the United States at New Orleans and the said Nathan Cole being willing and desirous to secure to the said Maher the payment of the said four notes at the times they respectively shall become due. NOW this Indenture made this eleventh day of January in the year eighteen hundred and thirty one between the said Nathan Cole and Sarah his wife of the City of St Louis and State of Missouri of the one part and the said Matthew F. Maher of the City of New Orleans and State of Louisiana of the other part Witnesseth that the said Nathan Cole and Sarah his wife for and in consideration of the premises and also of the sum of five dollars to them in hand paid by the said Matthew F. Maher the receipt whereof they do hereby acknowledge have granted bargained sold aliened released and confirmed and by these presents do grant bargain sell alien release and confirm unto the said Matthew F. Maher and to his heirs and assigns forever a certain lot or parcel of ground situate in the City of St Louis and State of Missouri, bounded on the West by fourth street on the South by the lot of Jacob Warner on the East by a lot of O. Fallon on the north by Locust street the said bargained and sold lot being one hundred and twenty feet more or less in width and fifty nine feet more or less in depth the said lot or parcel of ground being the same which in part was heretofore conveyed to said Cole by Robert Simpson Sheriff of St Louis County by deed bearing date the thirtieth day of April in the year eighteen hundred and twenty seven and in part was conveyed to said Nathan Cole by Frederick Dent and Ellen his wife by deed bearing date the seventeenth day of July in the year eighteen hundred and twenty eight both of which deeds are recorded in the recorder's office

of the County of St Louis the said lot or parcel of ground bargained and sold as aforesaid being in Block 88 on the plat of said City of St Louis and on a part of which stands the large brick building formerly erected by Jacob Fry together with all and singular the tenements hereditaments and appurtenances whatsoever to the same belonging or appertaining and also all the estate right title interest trust property claim and demand whatsoever both at law and in equity of the said Nathan Cole and Sarah his Wife in to or out of the said lot or parcel of ground tenements hereditaments and premises So have and to hold the said lot or parcel of ground tenements and hereditaments and all and singular other the premises hereinbefore mentioned with their appurtenances unto the said Matthew Fullaker his heirs and assigns and to his and their only proper use and behoof, and the said Nathan Cole and his heirs all and singular the aforesaid lot or parcel of ground and premises with their right members and appurtenances hereby granted and released and every part and parcel thereof unto the said Matthew Fullaker his heirs and assigns and against him the said Nathan Cole his heirs and assigns and against all and every person or persons whomsoever shall and will warrant and for ever defend by these presents and moreover that he the said Nathan Cole and his heirs and all and every person or persons having or lawfully claiming any estate right title interest of in or to the said Messuage lot of ground and premises or any part or parcel thereof by from or under him shall and will from time to time and at all times hereafter upon the reasonable request of the said Matthew Fullaker his heirs or assigns make do acknowledge and execute or cause to be made done acknowledged and executed all and every such further and other act and acts thing and things conveyances and assurances in the law whatsoever for the further better and more effectual conveying and assuring of all and singular the premises hereinbefore mentioned or intended herein to be conveyed with their and every of their right members and appurtenances to the only proper use and behoof of the said Matthew Fullaker his heirs and assigns forever as by the said Matthew Fullaker his heirs or assigns or his or their Counsel learned in the law shall be reasonably devised or required. Provided always and these presents are upon this express condition that if the said Nathan Cole his Executors or administrators shall pay or cause to be paid unto the said Matthew Fullaker his Executors administrators or assigns the amount of the four several notes of hand aforesaid at the time and place in said notes of hand specified that is to say if the said Nathan Cole his Executors and administrators shall well and truly pay or cause to be paid unto the said Matthew Fullaker his Executors administrators or assigns the just and full sum of two thousand five hundred dollars within four months from the sixth day of January in the year eighteen hundred and thirty one according to the tenor and effect of the note of hand of A. B. Cole & Co first aforesaid and also the sum of one thousand seven hundred and thirty eight dollars and seventy five cents on or before the eleventh day of May in the year eighteen hundred and thirty two according to the tenor and effect of the second note aforesaid and also the sum of one thousand eight hundred and eighty eight dollars and seventy five cents on or before the eleventh day of May in the year eighteen hundred and thirty three according to the tenor and effect of the third note aforesaid and also the further sum of one thousand nine hundred and fifty one dollars and twenty five cents on or before the

Eleventh day of May in the year eighteen hundred and thirty four according to the tenor and effect of the fourth note aforesaid then and that case this indenture of mortgage shall cease determine and become null and void any thing herein contained to the contrary thereof in any wise notwithstanding and lastly it is covenanted and agreed upon by and between the said parties to these presents that the said Matthew Fullaher shall from the date of these presents effect insurance on the buildings on said mortgaged premises and pay the premium therefor during the continuance of this mortgage, and also it is the true intent and meaning of these presents and it is hereby so declared to be that until default shall be made in payment of the said sums of money in the aforesaid four notes of hand or of any of them or any part of either of said notes it shall and may be lawful for the said Nathan Cole or his heirs to have hold & enjoy all and singular the said premises with the appurtenances above bargained and sold in manner aforesaid and to receive and take the rents issues and profits thereof to him and their own use and benefit any thing herein contained to the contrary thereof in any wise notwithstanding, In witness whereof the said Nathan Cole and Sarah his wife have hereunto set their hands and affixed their seals the date before written, Nathan Cole ~~Seal~~ Sarah Cole ~~Seal~~ And the said petitioner further states that after the making of the said deed of mortgage and before the payment of the said several sums of money in the said mortgage mentioned the said Matthew Fullaher died intestate and that afterwards to wit on the third day of July in the year eighteen hundred and thirty four at the County of St Louis administration of the goods chattels rights and credits which were of the said Matthew Fullaher deceased was granted to the said petitioner. And the said Petitioner further says that the said Nathan Cole hath not paid the said several sums of money or either of them in the said mortgage deed mentioned for securing the payment of which the said deed was given, either to the said Matthew Fullaher in his life time or to this petitioner since the death of the said Matthew Fullaher but to pay the same hath hitherto neglected and refused, And the said petitioner further says that the said mortgaged premises in the said deed mentioned are now occupied by the said Nathan Cole and by John Simonds Jr David S Richards George W Rucker John Pace, Wherefore your petitioner prays that the said Nathan Cole and the said John Simonds Jr David S Richards George W Rucker and John Pace may be made defendants to this petition and may be summoned to answer the same and the said Petitioner prays that the equity of redemption in the premises in said mortgage deed described may be foreclosed and the said mortgaged premises be sold to satisfy the amount due to this petitioner as administrator as aforesaid And the said petitioner bringeth into Court the letters of administration granted to him as aforesaid whereby it sufficiently appears that he is administrator of the goods chattels rights and credits of the said Matthew Fullaher deceased in manner aforesaid the date whereof is the day and year in that behalf before mentioned And the said petitioner H. R. Gamble atto. for petitioner, at the foot of which Petition is the following

Summons

Summons, to wit, County of St Louis ss. The State of Missouri to the Sheriff of the County of Saint Louis greeting. We command you to summon Nathan Cole John Simonds Junior David S Richards George W Rucker and John Pace that they be and appear before the Judge of our Circuit Court at the next term thereof to be held at the City of Saint Louis within and for the County of Saint Louis on the fourth Monday of

Return

Plea

July instant then and there to answer unto Robert Cathcart Administrator of all and singular the goods and chattels rights and credits which were of Matthew Fullaher deceased to be administered and show cause if any they have why the mortgage in the petition of the said Robert Cathcart Administrator as aforesaid mentioned should not be foreclosed and the property therein mentioned sold for the payment of the debt due said petitioner and have you then there this ~~Writ~~ ^{Seal} Archibald Gamble Clerk of our said Circuit Court at Office this tenth day of July one thousand eight hundred and thirty four Archibald Gamble Clerk, on which Summons is endorsed the following Return by the Sheriff, Served this Writ on Nathan Cole John Simonas Junior and John Baca on the tenth day of July 1834 by offering to read to them and each of them the petition and writ which they refused to hear and on David S Richards by reading the writ and part of the petition he refusing to hear the balance read on the 12th day of the same month and on George W Rucker by leaving a certified copy of the petition and Summons at his place of residence on the same day viz 12th July 1834 with a free white member of his family over fifteen years of age to whom I made known the contents thereof all of which was done in St Louis County In^o H Walker Sheriff, and afterwards to wit on the twenty ninth day of July in the year eighteen hundred and thirty four, the ~~plea~~ ^{Defendant} Cole by Spalding his attorney filed in the Office of the Clerk of the Circuit Court aforesaid his plea in the words and figures following to wit, St Louis Circuit Court, July term 1834, Robert Cathcart adm^r of Matthew Fullaher vs Nathan Cole, John Simonas Jr, John Baca, George W Rucker, David S Richards, And the defendant Nathan comes and defends the wrong and injury whereto by his attorney J Spalding and says that the supposed deed of mortgage in said petition mentioned is not his deed and of this he puts himself upon the Country &c. And for a further plea in this behalf said Cole says that said mortgage ought not to be foreclosed because he says that before the death of said Matthew Fullaher and the commencement of this suit and after said notes were due to wit on the first day of June in the year of Our Lord one thousand eight hundred thirty four at said County he said Nathan did pay to said Matthew the full amount of all moneys due on said notes and this he is ready to verify, And for a further plea in this behalf said Cole saith that said mortgage ought not to be foreclosed so far as relates to the note of A. B. Cole & Co. therein mentioned because he says that after said note was due and in the life time of said Matthew & and before this suit was commenced to wit on the first day of June in the year of Our Lord one thousand eight hundred thirty four at said County said Matthew was indebted unto said Abner B Cole and Nathan Cole composing firm of A. B. Cole and Company in the sum of three thousand dollars for divers goods wares and merchandize by said A. B. Cole and Co. before then sold and delivered to said Matthew & at his instance and request, and for other money by said Matthew & before then had and received to the use of said A. B. Cole and Co. and for other money from said Matthew to said A. B. Cole & Co. before then due upon an account taken between them, and for other money by said A. B. Cole and Co. before then lent and advanced to and paid laid out and expended for said Matthew & at his instance and request, which sum of money so due and owing from said Matthew exceeds the amount due on said note in this Court mentioned

and out of which said sum this defendant is ready and willing and hereby offers to set off and allow to said plaintiff as administrator as aforesaid the full amount due on said note and thus he is ready to verify, therefore he prays judgment whether said mortgage ought to be foreclosed or far as relates to said note &c. And for a further plea to said foreclosure this defendant says that said Cathcart is not and never hath been administrator of the goods chattels rights and credits which were of said Matthew F. at the time of his death in manner and form as the said plaintiff hath in his said declaration alleged and thus he is ready to verify, therefore he prays judgment &c. J. Spalding atty for deft. Cole. and on

the twenty ninth day of July A. D. 1834, aforesaid, Replications to the said pleas were filed, in the words and figures following to wit, Robert Cathcart admr of Matthew F. Haller decd vs Nathan Cole imple &c. And the said plaintiff as to the first plea of the said defendant by him above pleaded and whereof the said Defendant hath put himself upon the Country doth the like, And as to the second plea of the said defendant by him above pleaded the said plaintiff saith that he ought not to be barred from having the said mortgage foreclosed by reason of any thing in said plea alleged because he says that the said defendant did not pay to the said Matthew F. Haller deceased in his life time the amount of money due on the said promissory notes in manner and form as the said Defendant hath in his said second plea alleged and thus he prays may be enquired of by the Country &c. And as to the third plea of the said defendant by him above pleaded the said plaintiff saith that the said Matthew F. Haller deceased was not in his life time indebted to the said Abner Cole and Nathan Cole in manner and form as the said Defendant hath in his said third plea alleged and of this the said plaintiff puts himself upon the Country. And as to the fourth plea of the said defendant by him above pleaded the said plaintiff says that at the time of the commencement of this suit he was and still is administrator of the goods and chattels rights and credits which were of the said Matthew F. Haller deceased at the time of his death and thus he prays may be enquired of by the Country &c. H. R.

Gamble atty. for plff. and afterwards to wit at the November term of our said Court in the year of Our Lord one thousand eight hundred and thirty four on Tuesday 24th December 1834 the following among other proceedings were had to wit Robert Cathcart admr of Matthew F. Haller vs Nathan Cole and others, continued at the cost of the defendants, and afterwards to wit at the July term of our said Court, begun and held at the City of St. Louis within and for the County of Saint Louis on the second Monday of July being the eleventh day of said month in the year of Our Lord eighteen hundred and thirty six were present the Hon. J. E. Lawless Judge G. A. Bird Esqr. Circuit Attorney James Brotherton Esqr Sheriff and John Rutland Clerk, on Wednesday 3rd August 1835, were filed in open Court a petition and affidavit by the said Defendant in the

Petition for change of venue
of venue
Affidavit -
The petition of Nathan Cole represents that he is Defendant in two suits pending in this Court one upon certain notes and the other upon a mortgage in both of which Robert Cathcart admr of Matthew F. Haller is Plaintiff, that this petitioner has just cause to believe and does believe that he cannot receive a fair trial in either of said suits, for the reason that the opposite party has an undue influence over the mind of the Judge aforesaid of said Court, therefore he prays that there may be a change of Venue in said suits to some County where such cause of objection does not exist. He says further that said suits are both for the same debt, Nathan Cole, St. Louis County ss. Nathan

Cole being sworn on his oath saith that the above petition is true and that he has just cause to believe that he cannot have a fair trial in said suit for the reasons stated in said petition, Nathan Cole, Sworn to and subscribed before me this 3^d August 1835. D. Hough J.P. and on the day and date last aforesaid in our said Circuit Court, the following proceedings were had to wit, Robert Cathcart adm^r of Matthew F. Maher vs Nathan Cole, Petition to foreclose mortgage, On Petition of the defendant and affidavit filed stating the belief of said defendant that he cannot receive a fair trial in this cause and praying that the venue be changed to some County in another Circuit, it is accordingly ordered that the venue thereof be changed and may be changed to the County of Jefferson in the seventh Judicial Circuit in this State and that the Clerk of this Court make out and transmit to the Clerk of the Circuit Court for said County of Jefferson on or before the first day of the next term thereof a full and complete transcript of the record and proceedings had in the cause together with all the papers appertaining to and file in the same

State of Missouri

County of St Louis ss. I, John Buland, Clerk of the Circuit Court within and for the County of St Louis aforesaid do hereby certify the above and foregoing to be a full true and correct transcript of the records proceedings in the case of Robert Cathcart adm^r of Matthew F. Maher vs Nathan Cole et al. as the same now remain in my office.

In testimony whereof I have hereunto set my hand and affixed the Seal of said Court at Office in the City of St Louis this seventeenth day of October in the year of Our Lord one thousand eight hundred and thirty six.

John Buland Clerk
J. D. Johnston D.C.

Circuit Court.

R. Cathcart adm^r of M. F. Maher dec^d
vs
Nathan Cole et al.

Clerk's fees of St Louis Circuit
including this transcript - \$9.62 1/2
A. Sumble, late clerk - 6.07 1/2
Sherry's notation - 8.25
\$23.95
John Buland Clerk

Dearest Sonnet of Mother

11.
Love

III

Oh this case there is a
order of Sonnet to get a

Bill of exchange & receipt from a
situation. Let your love have them.

1886 Aug 17

J. M. Davis

Robert Cathcart admr
of Matthew F. Maher deceased

Nathan Cole & others

In the Jefferson Circuit
Court.

On foreclosure of Mortgage

It is agreed that judgment of foreclosure of
the mortgage in the above case shall be entered in
the Circuit Court of Jefferson County for the sum of
two thousand one hundred and twenty eight dollars
and sixty eight cents ~~in~~ favor of said plaintiff
and that execution issue thereon immediately

St Louis August 5th 1837

A. R. Gamble atty
for plff.

J. Spading atty
for deft.

Robert Cathcart admr
of Matthew F. Maher deceased

Nathan Cole

In the Jefferson Circuit
Court

On Petition Summons

It is agreed that judgment shall be entered
in the above cause in favor of the plaintiff for the sum
of two thousand one hundred and twenty eight dol-
lars and sixty eight cents with stay of execution
until the eleventh day of December next.

St Louis August 5th 1837

A. R. Gamble atty
for plff

J. Spading atty
for deft