Jefferson County, Circuit Court
Case Files- Civil
July Term 1842, No. 65

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Box# 6 Folder# 35

Thurman, Nancy, Adm.
of
Rian, William
vs

Wiley, Eli
Carney, John
Woodcock, William
Woodcock, Mary et al

Nullify judgment

Other defendants Joseph, Elizabeth Walsh, John W. Burns, Nancy Harlow, Noah Harrow, Elizabeth Alexander; nullify judgment from County Court against estate of William Rian that resulted in sale of slaves Alick, Hetty, Minerva, Lewis, Sarah, Dave, who were freed by Rian's will
Also spelt Ryan.

Nancy Thurmond adm^{x} of William Burns
dec^{d} with the will annexed.

against

Eli Wiley. Elijah Webb and Elizabeth his wife late Elizabeth Eastwood and ~~Mary~~ William Woodcock and Mary his wife late Mary Eastwood ~~Eastwood~~ Children of Mary Burns wife of Elijah Eastwood both of whom are dead — John M Burns, John Carney Nancy Harlow late Nancy Hurley, daughter of Mary Hurley and her Husband ~~John~~ Noah Harlow and Elizabeth Alexander, widow late Elizabeth Burns. —

To the Honorable the Circuit Court of Jefferson County, sitting as a Court of Equity, humbly complaining sheweth unto Your Honor your oratrix, Nancy Thurmond adm^{x} of the estate of William Burns decd, with the will annexed late of the county of Jefferson aforesaid. That about the year 1795 Samuel Burns the father of your oratrix, died in the State of North Carolina, leaving a widow Margaret Burns and four children, Nancy Your oratrix, John, Elizabeth and Mary, Elizabeth married in Carolina with one William Alexander, who is now dead. Your oratrix remembers that there was a sale of Saml. Burns estate, which did not amount to much he had no land. There was three negro boys, belonging to the estate, Tom, Lewis,

and Bill. Jane was given To Elizabeth on her marriage with Alexander and some other personal estate as her share. About the Year 1800 Your Grandmother concluded to remove with her family to Kentucky, and accordingly done so, taking with her Your Father, John & Mary, the two negro boys Bill & Lewis, William Alexander gave her the necessary money to bear the expenses of her journey, herself and family remaining behind. This is what Your Father has heard her mother say. She arrived in Kentucky the same Year, and settled near Russellville in Logan County, and had in addition to the two negroes aforesaid three Horses, and a few other articles of necessary use, but of little value. After about one Years residence here, she became acquainted with William Rian, and married him, having at the time, the two negro boys aforesaid, one bed, two Cows, that she brought & a mare & two Horse, two Horses, but had neither money nor Land. Rian on his part had a head right for some Land which he perfected and sold, a some Horse, but no money. In the Year 1805 or 06 Your Father married John Hammond, from whom she since has been divorced, and Hammond, received from William Rian as Your Fathers share of her Fathers estate $70.—

County Bonds in property, consisting of a
Negro Boy called Campbell, a Cow, Calf,
Heifer, bed and saddle, and gave a receipt
in full, which receipt Your Orator is informed
cannot be found, but which Your Orator knows
did once exist. In the Year 1809 William
Rian & family (as well as Your Orator & his
Family) removed from Logan County to what
is now Jefferson County in the State of Missouri
where he settled and died in the Year
1839 — my mother Margaret Lowrey
died ~~Three~~ Two Years before at the same place.
after the removal of the said William Rian
and Family to Missouri, Mary a sister
of Your Orator as aforesaid married one
John Hankey who is still alive but
divorced from said Mary. John Hankey
during the existence of said marriage rec.
from said William Rian in full of his
wifes share of the estate of Samuel Barnes
her father, the Negro Boy Lewis worth $700
dollars, a mare worth $100 dollars, and
saddle worth $35 dollars, and receipted
to said Rian in full for the same, which
receipt is here exhibited to the court, and is
prayed to be taken and considered as part
of this bill of complaint marked A —
Your Orator would further shew unto Your

Honor, that about the sometime John M. Bann
the brother of Your Orator, was paid by said
William Rian in full of his portion of
the estate of Samuel Burns estate, the
Negro Bill aforesaid worth now $700-
dollars, a horse bridle and saddle
worth $120 dollars, In which he resided
in full to said Rian which receipt is
here to the court shewn marked B and
is prayed to be taken and deemed part
of this Bill of Complaint. Your Orator
would further shew unto Your Honor,
That said John Hunley had in marriage
with said Mary Your ~~Orators~~ sister, (who is
now dead) a daughter called Nancy
who was since married Noah. Harlow
and also that said Mary after di-
vorce from John Hunley married Elijah
Eastwood, by whom she had two daughters
Elizabeth married to Josiah Wade and
Mary married to William Woodcock
That said Elijah Eastwood is dead. ——
As Your Orator has before stated, that said
William Rian died in Jefferson County in
the Year 1839 having first made and
published his last will and testament in
due form of Law, and appointed the said
Eli Wiley executor thereof, which said Last

Bill and Testament is annexed & exhibited and is prayed to be taken and considered by Your Honor as part of this Your Orator's Complaint Marked — C — That said William Rian also before his death a short time, being desirous that his slaves should be emancipated, and set free from slavery did execute to them deeds of emancipation, copies whereof are here with exhibited and are prayed to be taken and considered as part of Your Orator's Bill in this behalf, marked — D — Some of those persons so emancipated came from the estate of Samuel Beven, but were acquired by the industry of William Rian; whose economy was equal to his industry for he would not be indebted to any person, this trait in his character was well known. Your Orator would further show, as is apparent from the Will, that said Rian died possessed of a considerable real as well as personal estate, that his debts were trifling, if any at all. That in his will he gave divers legacies, and advocates again to the manumission of his slaves, which appears to have been of the very first consideration with him. — After the death of William Rian a very short

time Eli Wiley, who had been appointed Executor, took upon him the burthen of the execution of said Will, but neither took the oath nor gave a bond as required by Law, but refused to do so, as Your Orator has been informed and believes. The said Wiley as executor aforesaid took into his possession the goods, chattels, monies, effects Lands, slaves, which were of said William Rian, and proceeded to administer the same; and among other matters delivered to Your Orator the Land, and the Negro Girl Lilla Thomas, as well as the personal estate willed him by the said William Rian, and also delivered to John N Burns his legacy under said Will, as Your Orator has heard and believes, of the value of one thousand dollars, and paid to the Slaves that were mentioned a Legacy left them. — Your Orator would further shew unto Your Honor, that in the Year 1839 — 9 — John N Burns his Brother came to See, it was in the month of June, as well as she can recollect at her residence on the Merrimack in Franklin County, and informed her that he had heard William Hogan say, that he had heard Mr. Rain say to William Rain " Rain You know

that You got $2000 of my childrens
money that was concealed, that they
knew nothing about" Rian Replied
no old Woman' not two thousand
but between $1800. & $2000." and that
Hogan further stated that after Mrs Rians
death, Rian sent for Lucin Hogan, and
asked Hogan if he ever told any one of
the conversation he had heard, Hogan said
no, — Rian then told Lucin not to say any
thing about it- as long as he Rian lived,
that he was in friendship with the children
and wanted to remain so. Burns then
proceeded to state further to Your Oratrix
that he had been to see Joseph W Walsh
his nephew in St Louis, and that they
had made an agreement and Walsh
was to come and see Your Oratrix
afterwards, a short time however there came
by mail to the Virginia Mines, where a
Post office is kept, not far from where Your
Oratrix lives, a Letter to Your Oratrix from
said Joseph W Walsh, which Letter was
read to Your Oratrix, who cannot read
and the Letter stated accurately to the best
recollection of Your Oratrix, that he Walsh
wished Your Oratrix to swear that the answer
set stated by said Hogan or one by William
Rian to the Heirs of Samuel Burns, was correct-

this, your oratrix refused to do. A further direction by said Walsh, to your oratrix in said Letter was, to go before a Justice of the peace, and that quickly, for fear the claim of William Blair should dispose and could not be got. Your oratrix refused to comply with any and every part of these instructions. John N Burns a short time afterwards on his way to St Louis, again called upon your oratrix, and your oratrix gave him the Letter and other accompanying papers, prayed to be handed back to Joseph N Walsh; among them, as your oratrix was informed was a Power of Attorney to be executed to Walsh by your oratrix. It was sent back without being executed with the Letter. John N Burns in a Conversation with your oratrix then & there stated, that he was determined to have nothing further to do with said Walsh and would withdraw from the proceeding, as he was afraid Walsh would take him in. Some short time afterwards your oratrix again met the Said John N Burns at Wentzville Wilkinson in Jefferson County near where said William Blair lived and died, and asked

him (Bass) if he had quit the business (meaning the claim set up against Rias estate as theirs by Hazen) and taken it out of said Joseph Walsh name. He answered no, he would sink Walsh, that Walsh said he would have the papers if they went to Hell. Upon which Patrick replied that Walsh was trying to take him in and that he would see the day, that he had anything to do with Walsh. — At which time after this conversation, Your Orator was at a County court held for Jefferson County, at which court said Joseph W Walsh was also in attendance, Walsh came to Your Orator, and asked him to step aside in order to converse privately with him. Your Orator complied. Walsh asked Your Orator what he thought of the papers and power of attorney sent her by him, and what she was going to do? Your Orator stated to Walsh in answer, that she had no knowledge of any money, that her Father Samuel Burns had left, and which had come to the hands of William Rias. Or this Walsh replied that the slaves were of great value, and would pay off the account, without touching the Legatees, and that he would conduct the business without charging any thing for his trouble, only

a fifth of the proceeds of the slaves, that although Your Orator did not know of this account, Yet if it could be established, it would be beneficial to him, and could not be by any possibility injurious to him in any way whatsoever. That upon the presentation of the account in Court Your Orator would have to swear that she was an heir of Samuel Burns and Maryann Burns dec^{d}. to the best of her knowledge, and nothing more. Walsh also required Your Orator to sign a Power of Attorney to him at the time which she did. The reasons of Walsh in doing Your Orator to believe that his suspicions were honest well meant and In the best and in addition he won the confidence of Your Orator by marriage. The Power of attorney which was given by Your Orator to Walsh was not read to her, and she could not read it herself, and it is impossible for her to say what it contains. Walsh had at the settlement. Your Orator did suppose that Walsh was honest in his intentions at the time, and had an additional reason for such belief, in the perfect harmony that existed between said Walsh and Bailey the Executor of said Dean. There appeared the most cordial concurrence between them in everything that was done. The account

against the estate of William Rian was
accordingly placed upon the county court
of Jefferson County by said Walsh for allowa
at the august Term 1839, and a Judgment
rendered against said estate for the sum
of $6864. - Your Oratrix and John Burns
the Brother were sworn on the occasion,
but none of the other heirs were sworn - Your
Oratrix understood from Walsh, that she
was to swear to the belief that she was an
heir of Samuel Burns, but not to the
account, which she knew nothing of. - Your
Oratrix did not swear to the account,
for she could not, nor has she any recollec-
tion that she was required to swear to the
account presented by Walsh. The process
was oral, and the whole affair between
Riley Exr. and Walsh, and the court
appears more a matter of form and consent
than anything Judicial. The statement of
Hagan of what he had heard William Rian
say about this account was read from a
paper by Walsh to the court, and had been
prepared out of Court by Walsh, although
Hagan was present, indeed according to the
recollection and belief of Your Oratrix
Hagan was not sworn on the occasion.
The receipts given to William Rian by the
Heirs of Samuel Burns, were not produced

by Wiley Executor, although he had been in his profession among Rian hopes at the time, and knew of their existence, but totally suppressed and kept from the court this important fact. Your orator would further show unto Your Honor, that after the court had rendered judgement in the case, Hagan & Walsh went to a private room together upon Hagans return, he took from his pocket several rolls of money and put them into his saddlebags, and Walsh who was present, asked him in a low voice, is that enough, Hagan replied that it was, Walsh said if it is not enough You shall be made satisfied. Hagan replied, that he had paid him for his services, and had paid him well. Your orator would further show unto Your Honor, that so soon as the Judgement was obtained as aforesaid, Wiley the Executor of Rian, who had had knowledge of the emancipated slaves of Rian, and had claimed them their deeds of emancipation, being threatened by Walsh, entered into a written agreement with said Walsh, as Your orator is informed and believes, and perhaps in other particulars. for the recapture of said slaves (and perhaps in other particulars

as well as their duties to said Walsh.
and Alick, Hetty, Nicinia, Lewis, Sarah,
Dave, were taken and sold in the Corpo-
ration of Wash by Wiley Esq. In the mean
time Walsh had obtained an order
of the county Court of Jefferson County to
sell those emancipated slaves, to Jas
the defendant aforesaid, Attorney & Wiley
Executor and according they were ad-
vised to be sold, and at the time and
place, Wiley Esq. & said Walsh attended,
and the sale proceeded, the said
Walsh acting on the occasion as cryer,
bidder, and clerk of the sale, and
did conduct the whole business as
he pleased, the said Wiley sitting &
looking on as if he had neither concern
or interest in the matter. Walsh
bid for Alick $460 dollars, and struck
him down to himself. Jon Watrous
then proceeded to bid for each of the others
they were knocked down to him at the sum
of $1390. in the aggregate or well as the remembers. Walsh
required him to give security <u>instanter</u>, Jon
Watrous asked a little time to get his security
in from Big River a few miles off, Wiley
went off, and Walsh retained the slaves

and carried them off with him to St Louis.
Wiley all the time saying nor doing any
thing in the business. Your Orator could
have given the requisite security for the
slaves, and this was well known to Wiley
and Walsh; but this did not appear to suit
their particular views in conducting the busi-
ness. Your Orator would further shew unto
Your Honor that there were many persons
present at said pretended sale, who declined
to bid, in consequence of the loud manner
in which the sale was conducted. Your Orator
would further shew unto Your Honor, that
at the October Term of the County Court held
for the County of Jefferson 1839, the proceedings
under said Order of Sale, were laid before
said County Court for its approval, but the
Court refused to approve the same. A
petition or then presented through Wiley
Esq. by Walsh, for the sale of the Real estate
of Rian, but the Court refused to grant
said Petition. The county Court began now
to be awake to the Joint proceedings of
Walsh and Wiley Exrs. and required of
Wiley Esq. before he proceeded further a Bond
according to Law, which Wiley refused to
give, and thereupon his Letters Testamentary
were vacated and set aside, and Letters
of administration with the will annexed of
William Rian, were granted to Your Orator

Your Oratrix, would further shew unto Your Honor, that of the said sale, the said Walsh sold to John Carney of Jefferson County two of said emancipated slaves, Hetty & Dave for $625. The other that he took off to Texas; Your Oratrix has heard and believes he has also sold, and sent them down the river and without the limits of the state, nor have the said Walsh nor Wiley Executor, accounted for the same to the estate of Rian in any manner whatsoever. Your Oratrix would further shew unto Your Honor, that when the became administratrix of William Rian dec'd with the will annexed, that she took an oath, which contained among other things this clause, "that Your Oratrix would faithfully execute the last will of the said William Rian" That compelled Your Oratrix to look with particular care and attention to the proceedings of Wiley Executor and said Walsh in reference to said estate, and to the orders and Judgements of the County Court, concerning the same, and more especially to the Judgement obtained in the name of Josiah Walsh et al vs Estate of said William Rian for $6864. dollars, in the County Court of Jefferson County. And the

result of a patient enquiry and examination into facts and circumstances, attending the rendition of this judgment has produced a ~~thorough~~ thorough conviction in the mind of your orator, that the same is fraudulent.— Your orator knows of his own knowledge, that his mother was poor when she came to Kentucky, and when she married Rian; she has heard her mother tell, since in Missouri, that Alexander his son in Law, gave him money to remove with to Kentucky. Your orator also knows, that Rian was sick when he married his mother in Kentucky, but he was exceedingly industrious and saving, and it is to them, and them alone that he is indebted for whatever of property he left behind him. Your orator also had at all times the most unreserved intercourse with his step Father James both in Kentucky and in Missouri, their private affairs were confided and known to him. Your orator resided with William Rian and his mother, was a member of his mothers family in her sickness, had access to all parts of their house at all times and seasons, and never heard a whisper of this demand presented by Walsh.— Your orator also knows, that the three Step boys Jim, Bill, & Lewis left by the

Father Samuel Burns come to the
use of his children, she also knows
that the negroes emancipated, were obtain-
-ed by William Rians own wickedness, or
was his other acts & doings. She also knows
that William Rian man, Isaac, he pre-
-tends and respondent settled with and
fully paid the heirs of Samuel Burns their
portions of the estate, those heirs being
of full age, and being perfectly acquain-
-ted with every fact about the premises.—
Believes it unjust that said Judgment so obt-
-ained & aforesaid, was tainted with fraud,
and which in its consequences if left in
full force, would continue, if not destroy
the will of said William Rian dec^d, and
under a solemn sense of the obligation
of the oath taken and duty
of the oath ^ taken ^ and ^ duty in the premises, Jour-
-nal Decr on the 1st Jany 1840 moved the
County Court to vacate said Judgment for
reasons filed, and the Court did vacate
the same at the August-term aforesaid
and the said Joseph N Nash et al obtained
the case to the Circuit Court of said County
where the same is now pending, all of
which proceedings in the County Court, as
herewith exhibited marked "E" and
are prayed to be taken and considered as
part of this bill of complaint, and

the files of the court aforesaid now depending in the Circuit Court, also an prayed to be taken as part of this Bill of complaint, which is marked "E" and herewith exhibited. Your orator would further show unto Your Honor, that after the proceedings had in the County Court, for vacating and setting aside said Judgment, and the same was vacated by said Court, Your orator well hoped that the said Joseph W Walsh et-alia would have complied therewith without further suit, as in conscience and equity they should have done, but now so it is may it please Your Honor, that the said Joseph W Walsh & Elizabeth his wife Eli Wiley, John Carney & Noah Harland Nancy his wife, Elizabeth Alexander John W Bacon, & mary Eastwood. (now wife of Wm Woodcock) combining and confederating together to and with divers other persons, as yet to Your orator unknown, whose names when discovered Your orator prays may be herein inserted as defendants, and they made parties hereto, with apt words to charge them, do absolutely refuse to set aside and annul said Judgment, and say that the same has been fairly obtained, whereas Your orator doth charge the

truth to be, that said Judgement so obtained in the county Court of Jefferson County by said Joseph N. Walsh and others against the estate of William Brander was obtained by fraud, covin and misrepresentation of facts, by said defendants, by false suggestions, by said defendants, and by a fraudulent suppression of the truth by said Walsh and said
For your orator charges
Kelly particularly, That William Brander at the time of his death, did not own the lots of Samuel Burns one and two. In tender consideration thereof, and in as much as the aid of a Court of equity is necessary to set aside a fraudulent Judgment, as said Judgment is, your orator prays that said defendants may respectively, full, true, direct and perfect answer make upon their corporal oaths according to the best of their respective knowledge information and belief, to all and singular the matters and charges aforesaid as fully in every respect as if the same were here again repeated, and they thereunto particularly interrogated, and more especially that the said Joseph N. Walsh may set forth and discover according to the best of his knowledge, remembrance, information

and belief, whether the said William Rian, did not marry the Widow of Samuel Burns in Kentucky, and remove from there to Missouri, whether Samuel Burns had other slaves that came to his widow than the three mentioned in this bill, to wit- Jim, Lewis & Bill, and whether Elizabeth Alexander whom he married in Carolina, did not get Jim, whether there was or was not before Rian married with the Widow Burns. - That he would state on oath aforesaid whether John Hanley when he married Mary Burns, did or did not get the boy Lewis as a part of her marriage portion, and also the other property mentioned in the Bill. 4th William Rian. That he would state on oath aforesaid, whether William Rian did not pay John Burns in full of his share of Samuel Burns estate, the negro Boy Bill, with other property, That he would state on oath aforesaid, if he has not seen and read the receipts in full given by John Hanley and John Burns to William Rian for their respective portions of Samuel Burns estate. That he will state, at what time he first saw those receipts, were they in the possession of Eli Riley Executor of William Rian deceased or not, was it before said Judgment was obtained in the county court-

s aftwards, if he so, they were said
receipts not produced to said County
Court at the time when said Judgment
was obtained. That he would state upon
his oath as aforesaid, how many Negroes
Bures left, when they were by whom
if alive, if dead who are their representatives
and where resident. That he would state
fully and precisely upon his oath, the
substance and effect of the writing signed by his
testator Nancy Thurmond
to Acinsky, That he would state as afore-
said, the purport and effect of the article
of agreement between Eli Wiley Executor
and Acinsky, and in what words or
how expressed that paper is. That the said
Inchbird would state upon his oath as
aforesaid, the substance and effect of
a certain agreement, between him and
a certain Polen Carney, in relation to the
purchase and sale of two Negroes Hetty
and Dave, part of the estate of William
Dixon and in what profession or custody
that paper is. That the said Inchbird
would state, by what authority he sold
to Polen Carney, the said two Negroes, and
how much Money he received for them,
or if not paid, he is to receive. That
said Inchbird would state upon his

oath as aforesaid, what has become of the other Negroes, that were of the estate of William Rain deceased, and whom he took to Illinois, If he has sold them he will state when, for what price and to whom, and whether in this state or out of it. and when they now are. The said Joseph will state upon his oath as aforesaid, who it was, that first informed him that William Rain was indebted to the Heirs of Samuel Burns. and when he received this information, and where, & The said Joseph will state also on his oath how many actions he has caused to be instituted for this demand, & in what County. and if any one of them has been dismissed, he will state the cause of such dismissal, he will also state the consideration that took place between himself & Eli Wiley Exec. in respect to the suit to be discontinued, and the agreement between them in respect to the subsequent proceedings in the said County Court to obtain a Judgement for the same demand, and also all the conversation and agreement between them, by which Wiley was to have the control of the whole matter to be managed

as he knows and he was to keep
Wiley safe from all damages. ——
The said Joseph will also state upon his
corporal oath as aforesaid, the Conversation
he has had with John Burns, at and this time
was said by them Burns, when it was; and when said;
He will also state as aforesaid, whether
he knows a Certain person by the name
of William Hogan, the time when
he first become acquainted with him,
and where, and on what occasion.
The said Joseph will state upon his oath
whether the said Hogan is a man of good
or bad character, and whether he has
or has not fled from the country for
disputed crime. The said Joseph will
also state upon his oath as aforesaid, whe-
ther this William Hogan is not the man
by whom testimony be established the accounts
and obtained the Judgement against the
estate of William Dixon aforesaid. He will
also state whether he did not take
said Hogans testimony in writing, and
read the same to the court, in presence
to an oral examination of Hogan who
was then present, and the reason why
this was done. He will also state
when and when it was, that he wrote
Hogans testimony down, that was read
to the court, and state what Hogan

said on the occasion, that was not inserted in said written statement. — That said Joseph would state as aforesaid when that written statement now is, and if he has it, - that he produce the same. That said Joseph will state upon his corporal oath, the substance of the agreement made between himself and the said William Hogan in reference to his giving Testimony in the said Case, if any, and what consideration in money he was to receive, and what money he in fact did receive from said Joseph Wall for his services in this behalf. The said Joseph will also state upon his corporal oath as aforesaid, whether he has not employed Counsel to defend said Miles for his maladministration of said estate of William Rian, and if he not now and for the future bound by agreement to defend him on like occasion. The said Joseph will also state upon his corporal oath as aforesaid if William Rian left a Will, if the exhibit is a copy, and the number and names of the slaves of the said William Rian, and if they were emancipated by him by deed or Will or both. — and their value. if slaves. —

and that the said Eli Wiley Executor aforesaid would answer upon his corporal oath as aforesaid, whether the said Testator William Rian duly made and executed said last will & testament, & whether the exhibit in this bill is not a duly thereof, & whether he was not appointed Executor thereof, and did take upon himself the execution thereof or not, & whether he took the oath prescribed by law in such case, and gave bond for the faithful execution of his trust; That he would state if the County Court rejected his letters testamentary, and why this was done. That he would state upon his oath as aforesaid, whether he was well acquainted with William Rian, and for how many Years, whether Rian was in distress, managing and penal nothing. That he would state how many slaves William Rian emancipated, and their names, and whether or not he as executor gave each of them their deeds of emancipation. That he would state upon his oath, when each one of those persons emancipated are in whose possession, or in whose possession they were when he last heard from them

and saw them, and when and where that was. That the said Eli Wiley would state upon his oath as aforesaid whether at the sale of said Negroes under the order of the County Court, ~~whether~~ Joseph N Walsh did not act on that occasion, as Crier of the said Clerk of the said sale, and bidder at the said sale; — That said Wiley would also state on his oath, how many Negroes were sold on that occasion, to whom were they sold, and for what price and whether the same has been paid to the estate of Rian or not. That he would further state as aforesaid, the agreement that is between himself and said Walsh, to keep Wiley harmless in suits that may be carried against him on account of the estate of Rian. That he will state the terms of said agreement, and whether Verbal or written, and if in writing where the writing is, and at what time the same was entered into by and between Walsh & himself. He will also state if said Walsh has not already employed counsel, at his own expense to defend him Wiley, if so state on what occasion or occasions. That said Wiley would state as aforesaid, if he personally knew Mrs. Rian (nee Burns that was) For how long a period of time was he acquainted

with her, does he know her Children by Samuel Burns what are their names, and also married to, if a female, if dead what Children have they left. State the age of Nancy Thurmond and Polly Burns each. The said Riley will further state upon his corporal oath, what slaves William Rian brought with him and family from Kentucky, when they first came to the Country, and what become of such slaves if he brought any to this County and can state their names. The said Eli Riley will further answer upon his corporal oath as aforesaid, the Customs he lived from William Rian, and how long they had lived so near each other, whether or not he was confidentially intimate with William Rian and his or not, whether he was not almost every day at said Rians house, whether he was not with said Rian often during his last sickness, and until his death, and whether at any time he ever heard from his own mouth an intimation that he owed the heirs of Samuel Burns any sum of money whatsoever. The said Riley also state upon his oath, whether William Rian was a man who paid his debts or not, and whether in his last illness

some trivial accounts were outstanding, and considered all that he owed in the world, the aforesaid amounts to more probably than all debts.

and that John Burns would state upon his corporal oath as aforesaid, whether Will-iam Rian did not pay into his hands for his share of Samuel Burns estate, and whether he did not execute a receipt in full therefor. The said John will also state upon his oath, whether said Rian did not also pay John Hendy the Husband of Mary Burns, and John Hum-mond the Husband of Nancy Hammond their shares of said Samuel Burns estate in like manner for which they severally gave their receipts to said William Rian. He will also state, whether his sister Elizabeth Alexander did not receive her portion of said estate before the marriage of said Rian with Mrs. Burns, and if not, whether The said John will state on his oath, what slaves and their names cast of said Lucy with the exception of Elizabeth, were in Jon William Rian in payment of their shares aforesaid. He will also state if said William Rian did not make a will, and Emancipate his slaves and their annual names, and where they are, and in whose

to depose
if he knows; He will also state as afore-
said if he knows Joseph W Walsh, if the
Walsh is a relative of his by marriage, or other-
wise, and what connection said Walsh
has had from time to time, in reference to
William Rivers estate, and particularly
the cases. He will state the date of the
first-consultation, and what that consulta-
tion was, and when and then all subsequent
consultations. If he and Walsh made
a contract about this matter, state what the
contract was, whether verbal or written, if writ-
ten, who has it. He will state if he at any
time was the bearer of written or oral
communications from Walsh to Nancy
Thurmond, and when and when it was,
and what the communication was
if he knows. He will state upon his oath
how much he Burns was to give Walsh for
obtaining the Judgment against Rivers estate
aforesaid. He Burns will state upon his
oath, how much money he and Walsh
or either of them were to pay William Riv-
ers, to testify, and how much money
was in fact paid to said Rivers for his
services as a witness, in the recovery of
said Judgment. He Burns will state as
aforesaid, whether there was not a contract

between Walsh & Wiley Executor of Rian
in reference to Rians estate, Giving to said
Walsh the actual administration thereof,
to do as he pleased, to the said Walsh, he=
=being then Wiley safe and homely; and
if not so, state what contract was made.
State, Were You present in the County Court
of Jefferson County, when Walsh obtained said
Judgement against the estate of Rian. What
did Wiley the Executor do in opposition to the
demand, anything or nothing, did he
train notice or not, did he object, did
he examine a witness, did he say one word
and what did Walsh do, did he read
a statement of William Hagan in writing
in proof of the demand, and was Hagan
then present, was he sworn at all, when
was the statement read, reduced to writi=
=ng, did Walsh bring it in his pocket
to Court. What is Hagans Character, good
or bad, has he run off from the County
for disputed Coin. Did Walsh introduce
any other proof of the demand except
Hagans statement that was read. Have
You received Your Legacy under the Will of
William Rian from Wiley Exec.; state what
it was, and it value.

No 65
In Circuit Court
July Term 1842

27

234

Nancy Thurmond
admx of W. Rican
vs In Chancery
E. Wiley Jr. W. Wabb
et al.

234

This a Bill in chancery
to set aside a Judgment
of the county court for
Fraud - Let a Subpoena
issue -

P. Cole
Solr

filed March 24th/42
Jno J Mathews
Clk

Nancy Thurmond Admx of William Rean
dec'd with the will annexed

against } In Chancery

Eli Wiley, Joseph Walsh and Elizabeth his
wife, late Elizabeth Eastwood, and William
Woodcock and Mary his wife, late Mary East-
wood, children of Mary Burns wife of Elijah
Eastwood, both of whom are dead, John W. Burns
John Carney, Nancy Harlow late Nancy
Husky, daughter of Mary Huskey and her
husband Noah Harlow and Elizabeth Alex-
ander, widow, late Elizabeth Burns —

To the Honorable the Circuit Court of
Jefferson County sitting as a Court of Equity,
humbly complaining sheweth unto your Honor
your oratrix, Nancy Thurmond Administra-
trix of the estate of William Rean deceased, with
the will annexed late of the County of Jefferson
aforesaid. That about the year 1795 Samuel Burns
the father of your Oratrix died in the State of
North Carolina, leaving a widow Mary Ann
Burns and four children, Nancy your Oratrix
John, Elizabeth and Mary. Elizabeth mar-
ried in Carolina with one William Alexander
who is now dead. Your Oratrix remembers
that there was a sale of Samuel Burns estate
which did not amount to much, he had no
land. There were three negro boys belong
to the estate, Jim, Lewis, and Bill. Jim
was given to Elizabeth on her marriage with
Alexander and some other personal estate
as her share. About the year 1800. Your

Oratrix mother concluded to remove with her family to Kentucky and accordingly done so, taking with her your Oratrix, John & Mary, the negro boys Bill & Lewis;- William Alexander gave her the necessary money to bear the expenses of her journey, himself and family remaining behind. This is what your oratrix has heard her mother say. She arrived in Kentucky the same Year and settled near Russellville in Logan County, and had in addition to the two negroes aforesaid three Horses, and a few other articles of necessary use, but of little value. After about one Years residence here she became acquainted with William Rian and married him, having at the time the two negro boys aforesaid, one bed, two cows that she bought of Morris for a horse, two horses, but had neither money nor land. Rian on his part had a head right for some land which he perfected and sold, a sorrel horse, but no money. In the the year 1805 or 6 your Oratrix married John Thurmond, from whom she since has been divorced, and Thurmond received from William Rian as your Oratrix share of her father's estate £.70. Seventy pounds in property, consisting of a Negro Boy called Campbell, a Cow, calf, Heifer, bed and saddle and gave a receipt in full, which receipt your Oratrix is informed cannot be found, but which your Oratrix knows did once exist. In the year 1809 William Rian & family (as well as your Oratrix & her family) removed

from Logan County to what is now Jefferson County in the State of Missouri where he settled and died in the year 1839. My mother Mary Ann having died one year before at the same place. After the removal of the said William Rain and family to Missouri Mary a sister of your Oratrix as aforesaid married one John Huskey who is still alive but divorced from said Mary. John Huskey during the existence of said marriage rec from said William Rain in full of his wifes share of the estate of Samuel Burns her father, the negro boy Lewis worth $700, dollars, a mare worth $100 dollars, and saddle worth $35 dollars, and receipted to said Rain in full for the same, which receipt is here exhibited to the Court, and is prayed to be taken and considered as part of this Bill of complaint marked A. Your Oratrix would further shew unto Your Honor, that about the same time, John W. Burns the brother of your Oratrix, was paid by said William Rain in full of his portion of the Estate of Samuel Burns estate, the negro Bill aforesaid worth some $700, dollars, a horse, bridle and saddle worth $120, dollars, for which he receipted in full to said Rain, which receipt is here to the Court shewn marked B and is prayed to be taken and held as part of this bill of complaint. Your Oratrix would further shew unto Your Honor. That said John Huskey had in marriage with said Mary Your Oratrix's sister who

is now dead) a daughter called Nancy who has since married Noah Harlow, And also that said Mary after her divorce from John Huskey married Elijah Eastwood, by whom she had two daughters Elizabeth married to Joseph Walsh and Mary married to William Woodcock. That said Elijah Eastwood is dead. As your Oratrix has before stated the said William Rean died in Jefferson County in the Year 1839 having first made and published his last will and testament in due form of law, and appointed the said Eli Wiley executor thereof, which said Last will and testament, is herewith exhibited and is prayed to be taken and ~~exhibited~~ considered by your Honor as part of this her Bill of Complaint marked C— The said William Rean also before his death a short time being desirous that his slaves should be emancipated, and set free from slavery did execute to them deeds of emancipation, copies whereof are herewith exhibited and are prayed to be taken and considered as part of your Oratrix Bill in this behalf marked "D". None of those persons so emancipated come from the estate of Samuel Burns, but were acquired by the industry of William Rean, whose economy was equal to his industry for he would not be indebted to any person - this trait in his character was well known. Your Oratrix would further shew, as is apparent from the Will that said Rean died possess

of a considerable real as well as personal estate, that his debts were trifles if any at all, that in his will he gave divers legacies, and adverted again to the manumission of his slaves, which appears to have been of the very first consideration with him. After the death of William Rian a very short time, Eli Riley who had been appointed Executor, took upon himself the burthen of the execution of said will, but neither took the oath, nor gave a bond as required by law, but refused to do so as your Oratrix has been informed and believes. The said Riley as Executor as aforesaid took into his possession, the goods, chattels, monies, effects, lands, slaves, which were of said William Rian, and proceeded to administer the same; and among other matters delivered to your Oratrix the land, and the munuments of title thereof, as well as the personal estate willed her by the said William Rian, and also delivered to John W. Burns his legacy under said will, as your Oratrix has heard and believes, of the value of one thousand dollars, and paid to the slaves that were manumitted a legacy left them. Your Oratrix would further shew unto your Honor, that in the Year 1839. John W. Burns her brother come to her; it was in the month of June as well as she can recollects at her residence on the Merrimack in Franklin County, and informed her that he had heard William Hogan say that he had heard Mrs Rian say to William Rian

"Rian you know that you got $2000, of my childrens money that was conceale, that they knew nothing about", Rian replied no old woman. not two thousand but between $1800 & $2000." And that Hogan further stated that after Mrs Rian's death, Rian sent for him Hogan, and asked Hogan if he ever told any one of the conversation he had heard, Hogan, said No. - Rian then told him not to say any thing about it as long as he Rian lived, that he was in friendship with the children and wanted to remain so. Burns then proceeded to state further to your Oratrix that he had been to see Joseph W. Walsh his nephew in St Louis, and that they had made an agreement and Walsh was to come and see your Oratrix shortly afterwards a short time however then came by mail to the Virginia mines where a post office is kept, not far from where your Oratrix lives, a letter to your Oratrix from said Joseph W. Walsh, which letter was read to your Oratrix, who cannot read, and the letter stated according to the best recollection of your Oratrix, that he Walsh wished your Oratrix to swear that the amount, stated by said Hogan as due by William Rian to the heirs of Samuel Burns, was correct. This your Oratrix refused to do. A further direction by said Walsh, to your Oratrix in said letter was, to go before a Justice of the Peace, and that quickly for fear the slaves of William Rian should dispose

and could not be got. Your Oratrix refused to comply with any and every part of these instructions. John W. Burns a short time afterwards on his way to St Louis again called upon your Oratrix and your Oratrix gave him the letter and other accompanying papers aforesaid to be handed back to Joseph W. Walsh. Among them as your Oratrix was informed was a power of Attorney to be executed to Walsh by your Oratrix. It was sent back without being executed with the letter &c. John W. Burns in a conversation with your Oratrix then & there stated, that he was determined to have nothing further to do with said Walsh and would withdraw from the proceedings, as he was afraid Walsh would take him in. Some short time afterwards Your Oratrix again met her Brother John W. Burns at Meredith Wideman's in Jefferson County near where said William Rian had lived and died, and asked him (Burns) if he had quit the business (meaning the claim set up against Rians estate as stated by Hagan) and taken it out of said Joseph Walsh's hands. He answered, No. He would risk Walsh; that Walsh said he would have the negroes if they went to Hell. Your Oratrix replied that Walsh was trying to take him in and that he wanted nuse the day, that he had any thing to do with Walsh. A short time after this conversation. Your Oratrix was at a County Court held for Jefferson

County, at which Court said Joseph W. Walsh was also in attendance, Walsh came to your Oratrix, and asked her to step aside in order to converse privately with him. Your Oratrix done so. Walsh asked your Oratrix what she thought of the papers and power of attorney sent her by him, and what she was going to do. Your Oratrix stated to Walsh in answer, that she had no knowledge of any money that her father Samuel Burns had left, and which had come to the hands of William Rean; To this Walsh replied that the slaves were of great value, and would pay off the account without touching the Legatees; and that he would conduct the business without charging any thing for his trouble, only a fifth of the proceeds of the slaves; that although your Oratrix did not know of this account, yet if it could be established it would be beneficial to her, and could not be by any possibility injurious to her in any way whatsoever. That upon the presentation of the account in Court, Your Oratrix would have to swear that she was an heir of Samuel Burns and Mary Ann Burns dec'd to the best of her knowledge and nothing more. Walsh also requested your Oratrix to sign a power of Attorney to him at the time which she did. The reasoning of Walsh induced your Oratrix to believe that his suggestions were honest, well meant,

and for the best, and in addition he was the nephew of your Oratrix by marriage. The power of Attorney which was given by your Oratrix to Walsh was not read to her, and she could not read it herself, and it is impossible for her to say what it contains. Walsh has the instrument. Your Oratrix did suppose that Walsh was honest in his intentions at the time, and had an additional reason for such belief, in the perfect harmony that existed between said Walsh and Wiley the Executors of said Rain. There appeared the most cordial concurrence between them in every thing that was done. The account against the estate of William Rain was accordingly placed before the County Court of Jefferson County by said Walsh for allowance at the August Term 1839, and a judgment rendered against said estate for the sum of $6864. Your Oratrix and John Burns her brother were sworn on the occasion but none of the other heirs were sworn. Your Oratrix understood from Walsh, that she was to swear to her belief that she was an heir of Samuel Burns, but not to the account, which she knew nothing of. Your Oratrix did not swear to the account, for she could not, nor has she any recollection that she was required to swear to the account presented by Walsh. The proceeding was oral and the whole affair between Wiley Ex'r. and Walsh, and the Count appeared

more a matter of form and consent than any thing judicial. The statement of Hagan of what he had heard William Rian say about this account was read from a paper by Walsh to the Court, and had been prepared out of Court by Walsh although Hagan was present; indeed according to the recollection and belief of your Oratrix, Hagan was not sworn on the occasion. The receipts given to William Rian by the Heirs of Samuel Burns, were not produced by Wiley Execution, although he had them in his possession among Rians papers at the time, and knew of their existence, but totally suppressed and kept from the Court this important fact. Your oratrix would further shew unto your Honor, that after the Court had rendered Judgment in the case, Hagan & Walsh went to a private room together. Upon Hagans return he took from his pocket several rolls of money and put them into his saddlebags, and Walsh who was present, asked him in a low voice, is that enough, Hagan replied, that it was, Walsh said if it is not enough You shall be made satisfied. Hagan replied that he had paid him for his services & paid him well. Your Oratrix would further shew unto your Honor, that as soon as the judgment was obtained as aforesaid

Wiley the Executor of Riam who had had possession of the emancipated slaves of Riam, and had delivered them their deeds of emancipation, being threatened by Walsh, entered into a written agreement with said Walsh, as your Oratrix has heard and believes for the reception of said slaves (and perhaps for other purposes) as well as their delivery to said Walsh and Alick, Kelly, Minerva, Lewis, Sarah, Dave; were taken and placed in the possession of Walsh by Wiley Ex^or. In the mean time Walsh had obtained an order of the County Court of Jefferson County to sell these emancipated slaves, to pay the judgment aforesaid, through Wiley Executor, and accordingly they were advertised to be sold, and at the time and place, Wiley Ex^r & said Walsh attended and the sale proceeded, the said Walsh acting on the occasion as cryer, bidder, and clerk of the sale, and did conduct the whole business as he pleased, the said Wiley setting & looking on as if he had neither concern nor interest in the matter, Walsh bid for Alick $460 dollars and struck him down to himself. Your Oratrix then proceeded to bid for each of the others, they were knocked down to her at the price of $1590, in the aggregate as well as she remembers. Walsh required her to give security instanter

Your Oratrix asked a little time to
get the security in from Big River a
few miles off Wiley went off, and
Walsh retained the slaves and car-
ried them off with him to St Louis.
Wiley all the time saying nor doing any
thing in the business. Your Oratrix
could have given the requisite security
for the slaves, and this was well known
to Wiley and Walsh, but this did not ap-
pear to suit their particular views in
conducting the business. Your Oratrix
would further shew unto your Honor
that there were many persons present
at said pretended sale, who declined to
bid, in consequence of the mock man-
ner in which the sale was conducted.
Your Oratrix would further shew unto
your Honor that at the October Term of
the County Court held for the County of
Jefferson 1839, the proceedings under said
order of sale, were laid before said County
Court for its approval, but the Court
refused to approve the same. A petit
ion was then presented through Wiley
Esqr. by Walsh for the sale of the Real
Estate of Rian, but the Court refused
to grant said petition. The County
Court began now to be awake to the
joint proceedings of Walsh and Wiley
Esqr. and required of Wiley Esqr. before
he proceeded further a bond according
to law, which Wiley refused to give,

and thereupon his Letters Testamentary were vacated and set aside, and Letters of administration with the will annexed of William Rian were granted to your Oratrix. Your Oratrix would further shew unto your Honor, that after said sale the said Walsh sold to John Carney of Jefferson County, Two of said emancipated slaves, Betty & Dave for $625; The others that he took off to St Louis Your Oratrix has heard and believes he has also sold, and sent them down the River and without the limits of the State; nor have the said Walsh nor Wiley Executor accounted for the same to the estate of Rian in any manner whatsoever. Your Oratrix would further shew unto your Honor, that when she became administratrix of William Rian dec'd with the will annexed that she took an oath, which Contained among other things this clause, "that your Oratrix would faithfully execute the last will of the said William Rian" This compelled your Oratrix to look with particular care and attention to the proceedings of Wiley Executor and said Walsh in reference to said estate, and to the orders and judgments of the County Court Concerning the same, and more especially to the Judgment obtained in the name of Joseph W. Walsh et al. vs Estate of said William Rian for $6864 dollars

in the County Court of Jefferson County. And the result of a patient enquiry and examination into facts & circumstances attending the rendition of this judgment has produced a thorough Conviction in the mind of your Oratrix that the same is fraudulent. Your Oratrix knows of her own knowledge that her mother was poor when she came to Kentucky, and when she married Rian; she has heard her mother tell since in Missouri that Alexander her son in law gave her money to remove with to Kentucky. Your Oratrix also knows that Rian was not rich when he married her mother in Kentucky, but he was exceedingly industrious and saving and it is to these and these alone that he is indebted for whatsoever of property he left behind him. Your Oratrix also had at all times the most unreserved intercourse with her step father's family, both in Kentucky and in Missouri, their private affairs were confided and known to her. Your Oratrix resided with William Rian & her mother, was a manager for her mother in her sickness, had access to all parts of their house at all times and seasons, and never heard a whisper of this demand presented by Walsh. Your Oratrix also knows that the three negro boys, Lem, Bill & Lewis

whereof, and in asmuch as the aid of a Court of Equity is necessary to set aside a fraudulent judgment, as said judgment is, Your Oratrix prays that said defendants may respectively, full, true, direct and perfect answer make upon their corporal oaths according to the best of their respective knowledge, information & belief to all and singular the matters & charges aforesaid as fully in every respect as if the same were here again repeated, and they thereunto particularly interrogated, and more especially that the said Joseph W. Walsh may set forth & discover according to the best of his knowledge, remembrance, information and belief, whether the said William Rain did not marry the widow of Samuel Burns in Kentucky and remove from thence to Missouri, whether Samuel Burns had other slaves that came to his widow than the three mentioned in this Bill, to wit, Jim, Lewis & Bill, and whether Elizabeth Alexander upon her marriage in Carolina, did not get Jim, whether this was or was not before Rains marriage with the widow Burns That he would state as aforesaid whether John Huskey when he maried Mary Burns, did or did not get the boy Lewis as a part of her marriage portion, and also the other property mentioned in this Bill from William Rain. That he would state as aforesaid, whether William Rain did not pay John Burns in full of his share of Samuel Burns

estate the Negro Boy Bill, with other prop-
erty. That he would state as aforesaid if he
has not seen and read the receipts in full given
by John Huskey and John Burns to William
Rian for their respective portions of Samuel
Burns estate. That he will state, at what
time he first saw these receipts, were they in
the possession of Eli Wiley Executor of William
Rian deceased or not, was it before said judg-
ment was obtained in the County Court
or afterwards, if before why were said re-
ceipts not produced to said County Court
at the time when said judgment was ob-
tained. That he would state upon his oath
as aforesaid, how many heirs Samuel
Burns left, where they severally now live
if alive, if dead who are their representatives
and where resident. That he would state
fully and precisely upon his oath, the sub-
stance and effect of the instrument of writ-
ing ~~referred~~ signed by his aunt Nancy
Thurmond to himself. That he would state
as aforesaid the purport and effect of the
article of agreement between Eli Wiley
Executor and himself, and in whose hands
or possession that paper is. That the said Jo-
seph would state upon his oath as aforesaid
the substance and ~~effect~~ import of a cer-
tain agreement between him and a cer-
tain John Carney in reference to the
purchase and sale of two negroes Hetty
and Dave, part of the estate of William
Rian, and in whose possession or custody

left by her father Samuel Burns, came to the use of his children, she also knows that the negroes emancipated were obtained by William Rian's own industry, as was his other estate left by him. She also knows that William Rian many years before his and wifes death settled with and fully paid the heirs of Samuel Burns their portions of the estate, those heirs being of full age, and being perfectly acquainted with every fact about the property. Believing therefore that said judgment so obtained as aforesaid, was tainted with fraud, and which in its consequences if left in full force, would impair if not destroy the will of said William Rian dec'd and under a solemn sense of the obligation of the oath taken and consequent duty in the premises, Your Oratrix on the 5th June 1840, moved the County Court to vacate said judgment for reasons filed, and the Court did vacate the same at the August Term accordingly, and the said Joseph W. Walsh et al appealed the case to the Circuit Court of said County where the same is now pending; all of which proceedings in the County Court, are herewith exhibited marked "E" and are prayed to be taken and considered as part of this Bill of complaint, and the files of the case aforesaid appealed now depending in the Circuit Court, also are prayed to be taken as part of this Bill of Complaint, Copies ~~thereof~~ marked "F" are herewith exhibited. Your Oratrix would further shew unto your Honor, that after the proceedings had in

16 the county Court, for vacating and setting aside said judgment, and the same was vacated by said Court, Your Oratrix well hoped that the said Joseph W. Walsh et others would have complied therewith without further suit, as in conscience and equity they should have done but now so it is may it please Your Honor that the said Joseph W. Walsh & Elizabeth his wife, Eli Wiley, John Causey, Noah Harlow & Nancy his wife, Elizabeth Alexander, John W. Burns, & Mary Eastwood (now wife of Wm Woodcock) combining and confederating together to and with divers other persons, as yet to your Oratrix unknown whose names when discovered your Oratrix prays may be herein inserted as defendants, and they made parties hereto, with apt words to charge them, do absolutely refuse to set aside and annul said judgment, and say that the same has been fairly obtained, whereas your Oratrix doth charge the truth to be, that said judgment so obtained in the county Court of Jefferson County by said Joseph W. Walsh and others against the estate of William Rean dec'd, was obtained by fraud, covin and misrepresentation of facts by said defendants, by false suggestions by said defendants, and by a fraudulent suppression of the truth by said Walsh and said Wiley, particularly, for your Oratrix charges, That William Rean at the time of his death, did not owe the heirs of Samuel Burns one cent. In tender consideration

that paper is. That the said Joseph would state, by what authority he sold to John Carney, the said two negroes, and how much money he received for them or if not paid he is to receive. That said Joseph would state upon his oath as aforesaid, what has become of the other negroes, that were of the estate of William Rian deceased, and whom he took to St. Louis. If he has sold them he will state when, for what price and to whom, and whether in this state or out of it, and where they now are. The said Joseph will state upon his oath as aforesaid, who it was, that first informed him that William Rian was indebted to the heirs of Samuel Burns, and when he received this information, and where. The said Joseph will state upon his oath how many actions he has caused to be instituted for this demand, and in what Courts, And if any one of them has been dismissed, he will state the cause of such dismissal, he will also state the Conversation which took place between himself & Eli Wiley Esq. in reference to this suit so discontinued and the agreement between them in reference to the subsequent proceedings in the County Court to obtain a jendgement for the same demand, and also the Conversation and agreement between them, by which Walsh was to have the control of the whole matter to be managed as he pleased and he was to keep Wiley safe from all damages.

20 The said Joseph ~~Kidd~~ will also state upon
his corporal oath as aforesaid the Conversation
he has had with John Burns about this claim
and what was said by him Burns, where
it was, and when said. He will also
state as aforesaid whether he knows a cer-
tain person by the name of William Hogan
the time when he first become acquainted
with him, and where and on what occasion
The said Joseph will state upon his oath
whether the said Hogan is a man of good or
bad character; and whether he has or has
not fled from the country for imputed crim
The said Joseph will also state upon his oath
as aforesaid whether this William Hogan
is not the man by whose testimony he es-
tablished the amount and obtained the judgement against the estate
of William Ream aforesaid. He will also
state whether he did not take said Hogans
testimony in writing and read the same
to the Court in preference to an oral
examination of Hogan who was then
present and the reason why this was done
He will also state when and where it was
that he wrote Hogan's testimony down
that was read to the Court, and state
what Hogan said on the occasion, that
was not inserted in said written statement
That said Joseph would state as aforesaid
where that written statement now is, and
if he has it that he produce the same.
That said Joseph will state upon his corpo
ral oath, the substance of the agreement

made between himself and the said William Logan in reference to his giving testimony in the said case, if any, and what compensation in money he was to receive, and what money he in fact did receive from said Joseph Walsh for his services in this behalf. The said Joseph will also state upon his corporal oath as aforesaid whether he has not employed counsel to defend said Wiley for his maladministration of said estate of William Rean, and is he not now and for the future bound by agreement to defend him on like occasion. The said Joseph will also state upon his corporal oath as aforesaid if William Rean left a will, if the exhibit is a copy, and the number and names of the slaves of the said William Rean, and if they were emancipated by him by deeds or will or both: and their value if slaves. —

And that the said Eli Wiley Executor as aforesaid would answer upon his corporal oath as aforesaid, whether the said testator William Rean duly made and executed such last will and testament, whether the exhibit in this bill is not a copy thereof, whether he was not appointed Executor thereof and did take upon himself the execution thereof or not, whether he took the oath prescribed by law in such cases and gave bond for the faithful execution of his trust. That he would state if the County Court revoked his letters testamentary and why this was done. That he would state upon his oath as aforesaid, whether

he was well acquainted with William Rian and for how many years, whether Rian was industrious, managing and frugal or otherwise. That he would state how many slaves William Rian emancipated, and their names, and whether or not he as Executor gave each of them their deeds of emancipation That he would state upon his oath, when each one of those persons emancipated are in whose possession, or in whose possession they were when he last heard from them and saw them, and when and where that was. That the said Eli Wiley would state upon his oath as aforesaid, whether at the sale of said negroes under the order of the County Court, Joseph W. Walsh did not act on that occasion as crier of the sale, Clerk of the sale, and bidder at the sale;- That said Wiley would also state upon his oath, how many negroes were sold on that occasion, to whom were they sold, and for what price and whether the same has been paid to the estate of Rian or not. That he would further state as aforesaid the agreement that is between himself & said Walsh to keep Wiley harmless in suits that may be urged against him on account of the estate of Rian. That he will state the substance of said agreement, and whether verbal or written, and if in writing where the writing is, and at what time the same was entered into by and between Walsh & himself. He will also state if said Walsh has

not already employed counsel at his own
expense to defend him Wiley, if so state on
what occasion or occasions. That said Wiley
would state as aforesaid. if he personally
knew Mrs Rian (Mrs Burns that was)
For how long a period of time was he acquainted
with her, does he know her children by
Samuel Burns. What are their names
and who married to if a female, if dead
what children have they left. State the
age of Nancy Hummond and John Burns
each. The said Wiley will further state
upon his corporal oath what slaves Wil-
liam Rian brought with him and family
from Kentucky, when they first came to
~~Kentucky~~ the country, and what became
of such slaves if he brought any to the
country and also state their names. The
said Eli Wiley will further answer upon
his corporal oath as aforesaid, the distance
he lived from William Rian and how long
they had lived so near each other, whether
or not he was confidentially intimate with
William Rian and wife or not, whether he
was not almost every day at said Rian's
house. Whether he was not with said
Rian often during his last sickness, and
until his death, and whether at any time
he ever heard from him an intimation
that he owed the heirs of Samuel Burns
any sum of money whatsoever. The
said Wiley also state upon his oath, whet-
er William Rian was a man who paid
his debts or not, and whether in his last

~~in his last deposition~~ illness some trivial accounts were not mentioned and considered all that he owed in the world, the whole not amounting to more perhaps than five dollars

And that John Burns would state upon his corporal oath as aforesaid, whether William Rian did not pay him in full for his share of Samuel Burns estate, and whether he did not execute a receipt in full therefor. The said John will also state upon his oath, whether said Rian did not also pay John Huskey the husband of Mary Burns, and John Rumond the husband of Nancy Rumond their shares of said Samuel Burns estate in full, also for which they severally gave their receits to said William Rian. He will also state whether his sister Elizabeth Alexander did not receive her portion of said estate before the marriage of said Rian with Mrs Burns; and in North Carolina. The said John will state on his oath, what slaves and their names each of said heirs with the exception of Elizabeth received from William Rian in payment of their shares aforesaid. He will also state if said William Rian did not make a will, and emancipate his slaves and their several names, and where they are, and in whose possession if he knows. He will also state as aforesaid if he knows Joseph N. Walsh, if he Walsh is a relation of his by marriage or otherwise, and what

conversation said Walsh has had from time to time, in reference to William Rians estate and particularly the slaves. He will state the date of the first conversation, and what that conversation was and where and then all subsequent conversations. If he and Walsh made a contract about this matter, state what that contract was, whether verbal or written, if written who has it. He will state if he at any time was the bearer of written or oral communications from Walsh to Nancy Thurmond, and when and where it was and what those communications were if he knows. He will state upon his oath how much he Burns was to give Walsh for obtaining the judgment against Rians estate aforesaid. He Burns will state upon his oath, how much money he and Walsh or either of them were to pay William Hogan to testify, and how much money was in fact paid to him Hogan for his services as a witness on the rendition of said judgement. He Burns will state as aforesaid, whether there was not a contract between Walsh and Wiley Executor of Rian in reference to Rians estate, giving to said Walsh the actual administration thereof to do as he pleased, he the said Walsh, keeping him Wiley safe and harmless, and if not so state what contract was made. State were you present in the County Court of Jefferson County when

Walsh obtained said judgment against the estate of Rian. what did Wiley the Executor do in opposition to the demand, any thing or nothing, did he waive notice or not, did he object, did he examine a witness, did he say one word, and what did Walsh do. did he read a statement of William Flagan in writing in proof of the demand, and was Flagan then present, was he sworn at all, where was the statement read reduced to writing. did Walsh bring it in his pocket to Court. What is Flagans character good or bad, has he ran off from the County for imputed crime. Did Walsh introduce any other proof of the demand except Flagans statement that was read. Have you received your legacy under the will of William Rian from Wiley Exc^r.; state what it was, and its value

And that

And that Your Honor would upon a full hearing of the premises order and decree the Judgment so rendered by the County Court aforesaid to be annulled and vacated for fraud, and that the said defendants be restrained by the order or injunction of this Honorable Court from proceeding in the cause aforesaid at Law, until this cause is heard and determined in Equity or that your honor will make such other order and decree in the premises

and grant such further and other relief as the nature of her case may require and as shall be agreeable to equity and good Conscience. May it please your Honor to grant &c and your Orator shall ever pray.

Nancy Plummond
Admx of William Reardee
with the will annexed
Complainants

On Affidavit to be Bail
Circuit Court 1842

Kenney Chamond & ux
vs
William Bacon
&
Eli Wiley Wm Carney
William Woodcock
Mary Woodcock

Debt in Replevin

On the 11th May 1842
Issued Writ

M. Mofso Sheriff
By D. McArthur
Dep

I Executed this writ & Declaration on Eli Wiley by reading it in his hearing and Giving him a copy of the same personally on the 11th day of May 1842 also on John Carney by reading it in his hearing on the 11th day of May 1842 also on William Woodcock & Mary Woodcock his wife on the 12th day of May 1842

M. Mofso Sheriff
Fee $4:00

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of ~~Jefferson~~ Jefferson, GREETING:

We command you to Summon William Woodcock and Mary his wife, Eli Wiley and John Carney

before the Judge of our Circuit Court, on the first day of the next term thereof, to be held at the Town of Hillsboro within and for the County of Jefferson, on the ~~second~~ third Monday of July next, then and there to answer unto the bill in Chancery of Nancy Runnions Exr of William Rian deceased

~~to the damage of said plaintiff~~

~~dollars.~~

And have you then there this writ.

Witness, JOHN S. MATHEWS, Clerk of our said Court, with the Seal thereof hereto affixed, at office in the Town of Hillsboro this 21st day of May, in the year of our Lord eighteen hundred and forty two

Jno S Mathews Clerk.

1

Nancy Thurmond Adm^x. of William Rean
dec^d with the will annexed

against

Eli Wiley, Joseph Walsh and Elizabeth his wife
late Elizabeth Eastwood, and William Woodcock
and Mary his wife late Mary Eastwood childr-
en of May Bunns wife of Elijah Eastwood,
both of whom are dead, John W. Bunns, John
Carney, Nancy Harlow late Nancy Huskey,
daughter of Mary Huskey and her husband
Noah Harlow and Elizabeth Alexander, wid-
ow, late Elizabeth Bunns

To the Honorable the Circuit Court of
Jefferson County, sitting as a Court of Equity
humbly sheweth unto your Honours, your
Oratrix Nancy Thurmond, Administratrix
of the Estate of William Rean deceased, with
the will annexed, late of the County of Jef-
ferson aforesaid; That about the year 1795
Samuel Bunns the father of your Oratrix
died in the State of North Carolina leaving a
widow Mary Ann Bunns and four children
Nancy your Oratrix, John, Elizabeth and
Mary. Elizabeth married in North Carolina
with one William Alexander, who is now dead.
Your Oratrix remembers that there was a sale
of Samuel Bunns Estate, which did not am-
ount to much - he had no land. There were
three negro boys, belonging to the estate. Jem,
Lewis, and Bill. Jem was given to Elizabeth
on her marriage with Alexander and some
other personal estate as her share. About the

2 1800, your Oratrix mother concluded to remove with her family to Kentucky, and accordingly done so, taking with her your Oratrix, John & Mary, the Negro boys Bill & Lewis. William Alexander gave her the necessary money to bear the expences of her journey himself and family remaining behind. This is what your Oratrix has heard her mother say. She arrived in Kentucky the same year and settled near Russellville in Logan County and had in addition to the two negroes aforesaid three horses and a few other articles of necessary use, but of little value. After about one years residence here, she became acquainted with William Rian and married him, having at time the two negro boys aforesaid, one bed, two cows, that she bought of Morris for a horse, two horses, but had neither money nor land. Rian on his part had a head right for some land which he perfected and sold, a sorrel horse but no money. In the Year 1805 or 6 your Oratrix married John Thurmond, from whom she has since been divorced, and Thurmond, received from William Rian as your Oratrix share of her fathers estate £70. Seventy pounds in property consisting of a negro boy called Campbell, a Cow, Calf, Heifer, bed and saddle, and gave a receipt in full which receipt your Oratrix is informed cannot be found but which your Oratrix knows did once exist. In the year 1809 William Rian & family (as well as your Oratrix & her family)

3 removed from Logan County to what is now Jefferson County in the State of Missouri where he settled and died in the year 1829 my mother Mary Ann having died one year before at the same place. After the removal of the said William Rian and family to Missouri, Mary a sister of your Oratrix as afore said maried one John Huskey who is still alive but divorced from said Mary. John Huskey during the existence of said marriage rec from said William Rian in full of his wifes share of the estate of Samuel Burns her father the negro boy Lewis worth $700, dollars, a mare worth $100 dollars and saddle worth $35. dollars, and receipted to said Rain in full for the same, which receipt is here exhibited to the Court, and is prayed to be taken and considered as part of this Bill of complaint marked A.

Your Oratrix would further shew unto your Honor, that about the same time John W. Burns the brother of your Oratrix, was paid by said William Rian in full of his portion of the estate of Samuel Burns estate, the negro Bill aforesaid worth some $700, dollars, a horse, bridle and saddle worth $120, dollars, for which he receipt in full to said Rian which receipt is here to the Court shewn marked B and is prayed to be taken and held as part of this Bill of complaint

Your Oratrix would further shew unto your Honor, that said John Huskey had in marriage with said Mary your Oratrix sister (who is now dead) a daughter called Nancy

4 who has since married Noah Barlow and also that said Mary after her divorce from John Huskey married Elijah Eastwood, by whom she had two daughters Elizabeth married to Joseph Walsh and Mary married to William Woodcock. That said Elijah Eastwood is dead. As your Oratrix has before stated, the said William Rian died in Jefferson County in the year 1839 having first made and published his last will and testament in due form of law, and appointed the said Eli Miley executor thereof, which said last will and Testament is herewith exhibited and is prayed to be taken and considered by your Honor as part of this her Bill of Complaint marked - C - The said William Rian also before his death a short time, being desirous that his slaves should be emancipated, and set free from slavery did execute to them deeds of emancipation, copies whereof are herewith exhibited and are prayed to be taken and considered as part of your Oratrix's Bill in this behalf, marked "D". None of those persons so emancipated come from the estate of Samuel Burns, but were acquired by the industry of William Rian, whose economy was equal to his industry, for he would not be indebted to any person - this trait in his character was well known. Your Oratrix would further shew, as is apparent from the will that said Rian died possessed of a considerable real as well as personal estate, that

his debts were trifles, if any at all, that in his will he gave divers legacies and advented again to the manumission of his slaves, which appears to have been of the very first consideration with him. after the death of William Rian a very short time Eli Riley, who had been appointed Executor, took upon himself the burthen of the execution of said will, but neither took the oath, nor gave a bond as required by law, but refused to do so, as your oratrix has been informed and believes. The said Riley as executor as aforesaid took into his possession, the goods, chattels, monies, effects, lands, slaves which were of said William Rian, and proceeded to administer the same; and among other matters, delivered to your Oratrix the Land, and the muniments of title thereof, as well as the personal estate willed her by the said William Rian, and also delivered to John W. Burns his legacy under said will, as your Oratrix has heard and believes, of the value of one thousand dollars; and paid to the slaves that were manumitted a legacy left them Your Oratrix would further shew unto your Honor, that in the year 1839 John W. Burns her brother come to her, it was in the month of June, as well as she can recollect at her residence on the Merrimack in Franklin County, and informed her that he had heard William Hogan say that he had heard Mrs Rian say to William Rian "Rian you know that you got $2000, of

my childrans money that was concealed, that they knew nothing about" Rean replied no old woman" not two thousand but between $1800, & $2000," And that Hogan further stated that after Mrs Reans death, Rean sent for him Hogan and asked Hogan if he ever told any one of the conversation he had heard; Hogan said, no, - Rean then told him not to say any thing about it, as long as he Rean lived, that he was in friendship with the children and wanted to remain so. Burns then proceeded to state further to your Oratrix that he had been to see Joseph W. Walsh his Nephew in St Louis, and that they had made an agreement and Walsh was to come and see your Oratrix shortly afterwards a short time however there came by mail to the Virginia mines where a post office is kept not far from where your Oratrix lives, a letter to your Oratrix from said Joseph W. Walsh, which letter was read to your Oratrix, who cannot read, and the letter stated according to the best recollection of your Oratrix, that he Walsh wished your Oratrix to swear that the amount stated by said Hogan as due by William Rean to the heirs of Samuel Burns was correct. This your Oratrix refused to do. A further direction by said Walsh to your Oratrix in said Letter was, to go before a Justice of the Peace, and that quickly for fear the slaves of William Rean should dispose and could not be got. Your Oratrix

7 refused to comply with any and every part of their instructions. John W. Burns a short afterwards on his way to St. Louis again called upon your Oratrix and your Oratrix gave him the letter and other accompanying papers aforesaid to be handed back to Joseph W. Walsh among them as your Oratrix was informed was a power of attorney to be executed to Walsh by your Oratrix. It was sent back without being executed with the Letter &c. John W. Burns in a Conversation with your Oratrix then & there stated, that he was determined to have nothing further to do with said Walsh and would withdraw from the proceedings, as he was afraid Walsh would take him in. Some short time afterwards your oratrix again met her brother John W. Burns at Meredeth Wideners in Jefferson County near where said William Rean had lived and died, and asked him (Burns) if he had quit the business (meaning the claim set up against Reans estate as stated by Hagan) and taken out of said Joseph Walsh's hands; He answered, No, he would risk Walsh; that Walsh said he would have the negroes if they went to Hell. Your Oratrix replied that Walsh was trying to take him in and that he would rue the day, that he had any thing to do with Walsh.- A short time after this Conversation your Oratrix was at a County Court held for Jefferson County, at which Court said Joseph W. Walsh was also in attendance. Walsh came to your Oratrix, and asked her to step

aside in order to converse privately with him. Your Oratrix done so. Walsh asked your Oratrix what she thought of the papers & power of attorney sent her by him and what she was going to do? Your Oratrix stated to Walsh in Answer, that she had no knowledge of any money that her father Samuel Burns had left and which had come to the hands of William Rian; To this Walsh replied that the slaves were of great value, and would pay off the account without touching the Legatees; and that he would conduct the business without charging any thing for his trouble, only a fifth of the proceeds of the slaves; that although your Oratrix did not know of this account, yet if it could be established, it would be beneficial to her, and could not be, by any possibility injurious to her in any way whatsoever. That upon the presentation of the account in Court Your Oratrix would have to swear that she was an heir of Samuel Burns and Mary Ann Burns dec'd to the best of her knowledge and nothing more. Walsh also required your Oratrix to sign a power of attorney to him at the time which she did. The reasoning of Walsh induced your Oratrix to believe that his suggestions were honest, well meant and for the best, and in addition he was the nephew of your Oratrix by marriage. The power of attorney which was given by your Oratrix to Walsh was not read to her, and she could not read it herself, and it is impossible for

her to say what it contains. Walsh has the instrument. Your Oratrix did suppose that Walsh was honest in his intentions at the time, and had an additional reason for such belief, in the perfect harmony that existed between said Walsh and Wiley the Executor of said Rian. There appeared the most cordial concurrence between them in every thing that was done. The account against the estate of William Rian was accordingly placed before the County Court of Jefferson County by said Walsh for allowance at the August Term 1839. and a Judgment rendered against said estate for the sum of $ 6864.- Your Oratrix and John Burns her brother were sworn on the occasion but none of the other heirs were sworn - Your Oratrix understood from Walsh that she was to swear to her belief that she was an heir of Samuel Burns, but not to the account, which she knew nothing of. Your Oratrix did not swear to the account for she could not, nor has she any recollection that she was required to swear to the account presented by Walsh. The proceeding was oral and the whole affair between Wiley Exor. and Walsh, and the Court appeared more a matter of form and consent than any thing judicial. The statements of Hagan of what he had heard William Rian say about this account was read from a paper by Walsh to the Court, and had been prepared out of Court by Walsh, although Hagan was present;

10 indeed according to the recollection and be-
lief of your oratrix Flogan was not sworn
on the occasion; the receipts given to Wil-
liam Rian by the Heirs of Samuel Burns,
were not produced by Wiley Executor, al-
though he had them in his possession among
Rians papers at the time, and knew of their
existence, but totally suppressed and kept
from the Court this important fact. Your
Oratrix would further shew unto your hon-
or, that after the Court had rendered judgment
in the case, Flogan and Walsh went to a pri-
vate room together upon Flogan's return, he took
from his pocket several rolls of money and put
them into his saddle bags, and Walsh who was
present asked him in a low voice, is that
enough, Flogan replied that it was, Walsh
said if it is not enough you shall be made
satisfied. Flogan replied that he had paid
him for his services, and had paid him well.
Your Orator would further shew unto your
honor, that so soon as the judgment was
obtained as aforesaid, Wiley the Excetor
of Rian, who had had possession of the e-
mancipated slaves of Rian, and had deliv-
ered them their deeds of emancipation, be-
ing threatened by Walsh, entered into a
written agreement with said Walsh, as your
Orator has heard and believes for the recap-
tion of said slaves (and perhaps for other pur
poses) as well as their delivery to said Walsh.
and Alick, Betty, Minerva, Lewis, Sarah,
Dave, were taken and placed in the possesion

of Walsh by Wiley Ex^r. In the mean time Walsh had obtained an order of the County Court of Jefferson County to sell these anticipated slaves, to pay the judgment aforesaid through Wiley Executor and accordingly they were advertised to be sold, and at the time and place Wiley Ex^r and said Walsh attended and the sale proceeded, the said Walsh acting on the occasion as cryer, bidder, and clerk of the sale, and did conduct the whole busines as he pleased, the said Wiley sitting and looking on as if he had neither concern nor interest in the matter. Walsh bid for Alick $460 dollars and struck him down to himself. Your Oratrix then proceeded to bid for each of the others they were knocked down to her at the prices of $1590, in the aggregate as well as she remembers. Walsh required her to give security instanter. Your Oratrix asked a little time to get her security in from Big River a few miles off, Wiley went off, and Walsh retained the slaves and carried them off with him to St Louis, Wiley all the time saying nor doing any thing in the busines. Your Oratrix could have given the necessitey security for the slaves, and this was well known to Wiley and Walsh, but this did not appear to suit their particular views in conducting the busines. Your Oratrix would further shew unto your Honor that there were many persons present at said pretended sale, who declined to bid, in conse-

gueness of the novel manner in which the sale was conducted. Your Oratrix would further shew unto your Honor, that at the October Term of the County Court held for the County of Jefferson 1839, the proceedings under said order of sale, were laid before said County Court for its approval but the Court refused to approve the same. A petition was then presented through Wiley Ex^r. by Walsh for the sale of the Real Estate of Rean, but the Court refused to grant said petition. The County Courts began now to be awake to the joint proceedings of Walsh and Wiley Ex^r. and required of Wiley Ex^r. before he proceed ed further a bond according to Law, which Wiley refused to give, and thereupon his letters testamentary were vacated and set aside, and Letters of administration with the will annexed of William Rean were granted to your Oratrix. Your Oratrix would further shew unto your Honor, that at the said sale the said Walsh, sold to John Carney of Jefferson County Two of said emancipated slaves, Betty & Dave for $625. The others that he took off to St Louis Your Oratrix has heard and believes he has also sold, and sent them down the River and without the limits of the State; nor have the said Walsh nor Wiley Executor accounted for the same to the Estate of Rean in any manner whatsoever. Your Oratrix would further shew

unto your Honor, that when she became administratrix of William Rian dec'd with the will annexed, that she took an oath which contained among other things this clause," that your Oratrix would faithfully execute the last Will of the said William Rian" This compelled your Oratrix to look with particular care & attention to the proceedings of Wiley Executor and said Walsh in reference to said Estate and to the orders and judgments of the County Court concerning the same, and more especially to the judgment obtained in the name of Joseph W. Walsh et als vs. Estate of said William Rian for $6864. dollars in the County Court of Jefferson County. And the result of a patient enquiry & examination into facts and circumstances attending the rendition of this judgment has produced a thorough conviction in the mind of your oratrix, that the same is fraudulent. Your Oratrix knows of her own knowledge, that her mother was poor when she came to Kentucky, and when she married Rian; She has heard her mother tell since in Missouri, that Alexander her son in law gave her money to remove with to Kentucky Your Oratrix also knows, that Rian was not rich when he married her mother in Kentucky but he was exceedingly industrious and saving and it is to these, and these alone that he is indebted for what scarcen of property he left behind him. Your Oratrix also had at all times the

most unreserved intercourse with her
step father's family both in Kentucky and
in Missouri, their private affairs were
confided and known to her. Your Oratrix
resided with William Rians & her mother,
was a manager for her mother in her sick-
ness, had access to all parts of their house
at all times and seasons and never heard
a whisper of this demand presented by
Walsh. Your Oratrix also knows that
the three Negro boys, Jim, Bill, & Lewis
left by her Father Samuel Burns came
to the use of his children, she also knows
that the negroes emancipated, were obtained
by William Rians own industry; as was
his other estate left by him. She also
knows that William Rain many years
before his and wifes death settled with
and fully paid the heirs of Samuel Burns
their portions of the estate, those heirs
being of full age, and being perfectly
acquainted with every fact about
the property. Believing therefore that
said judgment so obtained as aforesaid
was tainted with fraud and which
in consequence if left in full force,
would impair if not destroy the will
of said William Rain dec[d] and
under a solemn sense of the obliga-
tion of the oath taken and consequent
duty in the premises Your Oratrix
on the 1st. day of June 1840 moved
the County Court to vacate said judg-

ment for reasons filed and the Court did vacate this same at the August Term accordingly and the said Joseph N. Walsh et al appealed the case to the Circuit Court of said County where the same is now pending, all of which proceedings in the County Court are herewith exhibited marked "E" - " and are prayed to be taken and considered as part of this Bill of Complaint and the files of the case aforesaid appealed now depending in the Circuit Court, also are prayed to be taken as part of this Bill of Complaint copies whereof marked "F" - " are herewith exhibited - Your Oratrix would further shew unto your Honor, that after the proceedings had in the County Court, for vacating and setting aside said judgment and the same was vacated by said Court Your Oratrix well hoped that the said Joseph N. Walsh et others would have complied therewith without further suit as in Conscience and equity they should have done, but now so it is may it please your Honour, that the said Joseph N. Walsh & Elizabeth his wife, Eli Wiley, John Carney, Noah Harlow & Nancy his wife, Elizabeth Alexander John W. Burns, & Mary Eastwood (now wife of Wm Woodcock) combining and confederating together to and with divers other persons, as yet to your Oratrix unknown whose names when discovered your Oratrix prays may be herein inserted as defendants, and they made parties hereto, with apt words to charge them, do absolutely refuse to set

aside and annul said judgment, and say that the same has been fairly obtained, whereas Your Oratrix doth charge the truth to be, that said judgment so obtained in the County Court of Jefferson County by said Joseph W. Walsh and others against the Estate of William Rian dec. was obtained by fraud, cavin and misrepresentation of facts by said defendants, by false suggestions, by said defendants and by a fraudulent suppression of the truth by said Walsh and said Wiley particularly, For your Oratrix charges, That William Rian at the time of his death did not owe the heirs of Samuel Burns one cent. In tender consideration whereof, and in as much as the aid of a Court of Equity is necessary to set aside a fraudulent judgment, as said judgment is, Your Oratrix prays that said defendants may respectively, full, true, direct and perfect answer make upon their corporal oaths according to the best of their respective knowledge, information and belief, to all and singular the matters and charges aforesaid as fully in every respect as if the same were here again repeated, and they thereunto particularly interrogated, and more especially that the said Joseph W. Walsh may set forth and discover according to the best of his knowledge, remembrance, information and belief, whether the said William Rian, did not Mary the widow of Samuel Burns in Kentucky and remove

from thence to Mississippi, whether Samuel Burns had other slaves that come to his wid-
ow than the three mentioned in this Bill,
to wit. Lewis, Lewis's Bill, and whether Eliz-
abeth Alexander upon her marriage in Caro-
lina did not get Lewis, whether this was or
was not before Rean's marriage with the
widow Burns. That he would state as
aforesaid whether John Huskey when
he married Mary Burns did or did not
get the Boy Lewis as a part of her mar-
riage portion, and also the other property
mentioned in the bill from William Rean.
That he would state as aforesaid, wheth-
er William Rean did not pay John Burns
in full of his share of Samuel Burns es-
tates, the negro boy Bill, with other prop-
erty. That he would state as aforesaid,
if he has not seen and read the receipts
in full given by John Huskey and John
Burns to William Rean for their respect-
ive portions of Samuel Burns estate.
That he will state, at what time he first
saw these receipts, were they in the pos-
session of Eli Wiley Executor of William
Rean deceased or not, was it before said
Judgment was obtained in the County Court
or afterwards, if before, why were said re-
ceipts not produced to said County Court
at the time when said judgment was
obtained. That he would state upon his
oath as aforesaid, how many heirs Sam-
uel Burns left where they severally now
live, if alive. If dead who are their repr-

resentatives and where resident. That he would state fully and precisely upon his oath, the substance and effect of the instrument of writing referred to by his Aunt Nancy Thurmond to himself, That he would state as aforesaid, the purport and effect of the articles of agreement between Eli Wiley Executor and himself, and in whose hands or possession that paper is. That the said Joseph would state upon his oath as aforesaid, the substance and import of a certain agreement, between him and a certain John Carney, in reference to the purchase and sale of two negroes Kelly and Dave, part of the estate of William Rian, and in whose possession or custody that paper is. That the said Joseph would state, by what authority he sold to John Carney the said two negroes and how much money he received for them, or if not paid he is to receive. That said Joseph would state upon his oath as aforesaid, what has become of the other Negroes, that were of the estate of William Rian deceased, and whom he took to St Louis. If he has sold them he will state when, for what price and to whom, and whether in this state or out of it, and where they now are. The said Joseph will state upon his oath as aforesaid, who it was that first informed him that William Rian was indebted

to the Heirs of Samuel Burns; and when he received this information, and where the said Joseph will state upon his oath how many actions he has caused to be instituted for this demand, & in what County, and if any one of them has been dismissed, he will state the cause of such dismissal, he will also state conversation that took place between himself and Eli Wiley Esq. in reference to this suit to discontinued, and the agreement between them in reference to the subsequent proceedings in the County Court to obtain a judgment for the same demand, and also all the conversation and agreement between them, by which Walsh was to have the control of the whole matter to be managed as he pleased, and he was to keep Wiley safe from all damages. The said Joseph will also state upon his corporal oath as aforesaid, the conversation he has had with John Burns about this claim and what was said by him Burns, where it was, and when said. He will also state as aforesaid, whether he knows a certain person by the name of William Hagans, the time when he first became acquainted with him and where and on what occasion. The said Joseph will state upon his oath whether the said Hagans is a man of good or bad character and whether he has or has not fled from the County for imputed crime. The said Joseph will also state upon his oath as aforesaid whether this William Hagans

is not the man by whose testimony he established the account and obtained the judgment against the estate of William Rian aforesaid. He will also state whether he did not take said Hagan's testimony in writing, and read the same to the Court in preferance to an oral examination of Hagan who was then present, and the reason why this was done. He will also state when and where it was, that he wrote Hagan's testimony down, that was read to the Court, and state what Hagan said on the occasion, that was not inserted in said written statement. That said Joseph would state as aforesaid when that written statement now is, and if he has it that he produce the same. That said Joseph will state upon his corporal oath the substance of the agreement made between himself and the said William Hagan in reference to his giving Testimony in the said case, if any, and what compensation in money he was to receive, and what money he in fact did receive from said Joseph Walsh for his services in this behalf. The said Joseph will also state upon his corporal oath as aforesaid, whether he has not employed counsel to defend said Wiley for his maladministration of said Estate of William Rian, and is he not now and for the future bound by agreement to defend him on like occasion. The said Joseph will also state upon his corporal oath as

aforesaid if William Rian left a will, if the Exhibit is a copy, and the number & names of the slaves of the said William Rian and if they were emancipated by him by deeds or will or both, - And their value if slaves. - And that the said Eli Wiley Executor as aforesaid would answer upon his corporal oath, as aforesaid whether the said Testator William Rian duly made and executed such last will & testament, whether the exhibit in this Bill is not a copy thereof, whether he was not appointed Executor thereof, and did take upon himself the execution thereof or not, whether he took the oath prescribed by law in such cases, and gave bond for the faithful execution of his trust. That he would state if the County Court revoked his letters testamentary, and why this was done. That he would state upon his oath as aforesaid, whether he was well acquainted with William Rian, and for how many years, whether Rian was industrious, managing and frugal or otherwise. That he would state how many slaves William Rian emancipated, and their names and whether or not, he as Executor gave each of them their deeds of emancipation. That he would state upon his oath, when each one of those persons emancipated are, in whose possession, or in whose possession they were when he last heard from them

and saw them, and when and where that was. That the said Eli Wiley would state upon his oath as aforesaid, whether at the sale of said negroes under the order of the County Court, Joseph W. Walsh did not act on that occasion, as one of the sale, Clerk of the sale, and bidder of the sale;- That said Wiley would also state on his oath, how many negroes were sold on that occasion, to whom were they sold, and for what price, and whether the same has been paid to the estate of Rain or not; That he would further state as aforesaid, the agreement that is between himself and said Walsh to keep Wiley harmless in suits that may be urged against him on account of the estate of Rain. That he will state the substance of said agreement and whether verbal or written, and if in writing where the writing is, and at what time the same was entered into by and between Walsh & himself. He will also state if said Walsh has not already employed counsel at his own expense to defend him Wiley, if so state on what occasion or occasions, That said Wiley would state as aforesaid, if he personally knew Mrs Rain (Mrs Burns that was) For how long a period of time was he acquainted with her, does he know her children by Samuel Burns, what are their names and

who married to, if a female, if dead what children have they left. State the age of Nancy Thurmond and John Burns each. The said Wiley will further state upon his corporal oath, what slaves William Rain brought with him and his family from Kentucky, when they first come to the country and what become of such slaves if he brought any to the country and also state their names. The said Eli Wiley will further answer upon his corporal oath as aforesaid, the distance he live from William Rain, and how long they had lived so near each other, whether or not he was confidentially intimate with William Rain and wife or not, whether he was not almost every day at said Rains house. whether he was not with said Rain often during his last sickness, and until his death, and whether at any time he ever heard from him an intimation that he owed the heirs of Samuel Burns any sum of money whatsoever. The said Wiley also state upon his oath, whether William Rain, was a man who paid his debts or not, and whether in his last illness sometrivial accounts were not mentioned and considered all that he owed in the world the whole not amounting to more perhaps than five dollars.

And that John Burns would state upon his corporal oath as aforesaid, whether William Rain did not pay him in full

for his share of Samuel Burns estate, and whether he did not execute a receipt in full therefor. The said John will also state upon his oath, whether said Rian did not also pay John Flusky the husband of Mary Burns, and John Thurmond the husband of Nancy Thurmond their shares of said Samuel Burns estate in full also for which they severally gave their receipts to said William Rian. He will also state, whether his sister Elizabeth Alexander did not receive her portion of said estate before the marriage of said Rian with Mrs Burns, and in North Carolina. The said John will state on his oath, what slaves and their names each of said heirs with the exception of Elizabeth, received from William Rian in payment of their shares aforesaid. He will also state if said William Rian did not make a will, and emancipate his slaves and their several names, and where they are, and in whose possession if he knows. He will also state as aforesaid if he knows Joseph W. Walsh, if he Walsh is a relation of his by marriage or otherwise, and what conversation said Walsh has had from time to time, in reference to William Rian's estate, and particularly the slaves. He will state the date of the first conversation and what that conversation was and where and then all subsequent conversations. If he and Walsh made a contract

about this matter, state what that Contract was, whether verbal or written, If written who has it. He will state if he at any time was the bearer of written or oral communications from Walsh to Nancy Hummon, and when and where it was and what those communications were if he knows. He will state upon his oath how much he Burns was to give Walsh for attaining the judgment against Rean's estate aforesaid. He Burns will state upon his oath how much money he and Walsh or either of them were to pay William Hogan to testify, and how much money was in fact paid to him Hogan for his services as a witness, or the condition of said Judgment. He Burns will state as aforesaid, whether there was not a Contract between Walsh & Wiley Executor of Rean in reference to Rans Estate giving to said Walsh the actual administration thereof to do as he pleased, he the said Walsh keeping him Wiley safe and harmless, and if not so, state what Contract was made. State were you present in the County Court of Jefferson County, when Walsh obtained said Judgment against the estate of Rean. What did Wiley the Executor do in opposition to the demand, any thing or nothing, did he waive notice or not, did he object, did he examine a witness, did he say one word, and what did Walsh do, did he read

a statement of William Hogan in writing in proof of the demand, and was Hogan then present, was he sworn at all, where was the statement read reduced to writing Did Walsh bring it in his pocket to Court. What is Hogan's Character, good or bad, has he ran off from the County for imputed crime. Did Walsh introduce any other proof of the demand except Hogans statement that was read. Have you received your legacy under the will of William Rian from Wiley Ex^or^, ; state what it was and its value. And that Your Honor would upon a full hearing of the premises order and decree the Judgment so rendered by the County Court aforesaid to be annulled and vacated for fraud, and that the said defendants be sustained by the order or injunction of this honorable Court from proceeding in the cause aforesaid at law, until this cause is heard and determined in Equity, or that your Honor will make such other order and decree in the premises and grant such further and other relief as the nature of the case may require, and as shall be agreeable to equity and good conscience, May it please your Hon^r^ or to grant &c And Your Oratrix shall ever pray.

Nancy Thurmond
Adm^x^ of William Rian dec^d
with the will annexed
Complainants

Monroe County Illinois June 6th 1842

We acknowleage service of the within bill by hearing the same read and receiving a copy of the same. together with the exhibits from Mathias & Maine Esqrs.

Noah B Harlow
Nancy Harlow

State of Missouri } two of the within defendants.
County of Jefferson } Personally appeared M. T. Maine who being duly sworn upon his oath say that he served the Original bill & vouchers on Noah Harlow ~~& wife~~ by reading it to Noah Harlow and delivering him a copy of the same
Sworn to before me July 18th 1842 M. T. Maine
Jno. F. Mathews J.P.

Jefferson Point Post Office July 18th 1842

Nancy Harlow
By M. T. Maine Atty
vs
Joseph Wolfard & wife

Bill in Chancery

Copy to be returned

Nancy Thurmond Admx. of William Rian
dec with the will annexed
against In Chancery
Eli Miley. Joseph Walsh and Elizabeth his
wife late Elizabeth Eastwood. and William Woodcock
and Mary his wife late Mary Eastwood ——
children of Mary Burns wife of Elijah East-
wood, both of whom are dead, John W. Burns,
John Carney, Nancy Harlow late Nancy Flus-
ky, daughter of Mary Fluskey ——
—— and her husband Noah Harlow
and Elizabeth Alexander, widow, late Eliz-
abeth Burns

To the Honorable the Circuit Court of Jef-
ferson County sitting as a Court of Equity,
Humbly complaining sheweth unto your
Honor, your Oratrix Nancy Thurmond ad-
ministratrix of the Estate of William Rian
deceased with the will annexed, late of the
County of Jefferson aforesaid: That about the
year 1795, Samuel Burns the father of your
Oratrix, died in the State of North Carolina
leaving a widow Mary Ann Burns and
four children, Nancy Your Oratrix, John,
Elizabeth and Mary. Elizabeth, married in
Carolina with one William Alexander, who
is now dead. Your Oratrix remembers that
there was a sale of Samuel Burns Estate,
which did not amount to much He had no
land. There was three negro boys, belonging
to the estate, Jim, Lewis, and Bill. Jim was
given to Elizabeth on her marriage with Alexander

and some other personal estate as her share. Abant the year 1800 your Oratrix mother concluded to remove with her family to Kentucky and accordingly done so, taking with her your Oratrix, John and Mary, the negro boys Bill & Lewis. William Alexander gave her the necessary money to bear the expences of her journey, himself and family remaining behind. This is what your Oratrix has heard her mother say. She arrived in Kentucky the same year and settled near Russellville in Logan County, and had in addition to the two negroes aforesaid three horses and a few other articles of necessary use but of littler value. After abant one year's residence here she became acquainted with William Rian and married him, having at the time the two negro boys aforesaid, one bed, two cows, that she bought of Morris for a horse, two horses, but had neither money nor land. Rian on his part had a head right for some land which he perfected and sold, a sorrel horse, but no money. In the year 1805 or 6 your Oratrix married John Thurmond, from whom she since has been divorced, and Thurmond received from William Rian as your Oratrix' share of her fathers estate £70. Seventy pounds in property Consisting of a Negro Boy called Campbell, a Cow, Calf, Heifer, bed and saddle, and gave a receipt in full, which receipt your Oratrix is informed cannot be found

but which your Oratrix knows did once exist. In the year 1809 William Rian & family (as well as your Oratrix & her family) removed from Logan County to what is now Jefferson County in the State of Missouri where he settled and died in the Year 1839 my mother Mary Ann having died one year before at the same place. After the removal of the said William Rian and family to Missouri Mary a Sister of your Oratrix as aforesaid maried one John Huskey who is still alive but divorced from said Mary. John Huskey during the existence of said marriage received from said William Rian in full of his wifes share of the estate of Samuel Burns her father, the Negro Boy Lewis worth $700. dollars, a mare worth $100, dollars, and saddle worth $35, dollars, and receipted to said Rian in full for the same, which receipt is here exhibited to the Court, and is prayed to be taken and considered as part of this Bill of complaint marked A Your Oratrix would further show unto your Honor that about the same time, John W. Burns the brother of your Oratrix, was paid by said William Rian in full of his portion of the estate of Samuel Burns estate, the Negro Bill aforesaid worth some $700, dollars a horse, bridle and saddle worth $120, dollars, for which he receipted in full to said Rian which receipt is here to the Court shewn marked B, and is prayed to be taken and held as part of this Bill

of complaint. Your Oratrix would further shew unto your Honor That said John Huskey had in marriage with said Mary your Oratrix sister (who is now dead) a daughter called Nancy who has since married Noah Harlow. And also that said Mary after her divorce from John Huskey married Elijah Eastwood, by whom she had two daughters Elizabeth married to Joseph Walsh and Mary married to William Woodcock That said Elijah Eastwood is dead As your Oratrix has before stated the said William Rian died in Jefferson County in the Year 1839 having first made and published his last will and testament in due form of Law, and appointed the said Eli Wiley executor thereof, which said last will and testament is herewith exhibited and is prayed to be taken and considered by your Honor as part of this Bill of Complaint marked C. The said William Rian also before his death a short time being desirous that his slaves should be emancipated, and set free from slavery did execute to them deeds of emancipation, copies of which are herewith exhibited and are prayed to be taken and considered as part of your Oratrix' bill in this behalf marked D. — None of those persons so emancipated come from the estate of Samuel Burns, but were acquired by the industry of William Rian, whose economy was equal to his industry for he would not be indebted to any person

this trait in his character was well known. Your Oratrix would further shew, as is apparent from the will, that said Rian died possessed of a considerable real as well as personal estate, that his debts were trifles, if any at all, that in his will he gave diverse legacies, and adverted again to the manumission of his slaves, which appears to have been of the very first consideration with him. After the death of William Rian a very short time Eli Wiley, who had been appointed executor, took upon himself the burthen of the execution of said will, but neither took the oath nor gave a bond as required by law, but refused to do so, as your Oratrix has been informed and believes. The said Wiley as Executor as aforesaid took into his possession, the goods, chattels, monies, effects, lands, slaves which were of said William Rian, and proceeded to administer the same; and among other matters delivered to your Oratrix the Land and the muniments of title thereof, as well as the personal estate willed her by the said William Rian, and also delivered to John W. Burns his legacy under said will, as your Oratrix has heard and believes, of the value of One Thousand Dollars; and paid to the slaves that were manumitted a legacy left them. Your Oratrix would further shew unto your Honor that in the year 1839 John W. Burns her brother came to her; it was

in the month of June, as well as she can recollect at her residence on the Meramack in Franklin County and informed her that he had heard William Hogan say that he had heard Mrs Rian say to William Rian "Rian you know that you got $2000. of my Childrens money that was concealed, that they knew nothing about" Rian replied "No old woman, not two thousand but between $1800 & $2000." And that Hogan further stated that after Mrs Rians death, Rian sent for him Hogan, and asked Hogan if he ever told any one of the conversation he had heard. Hogan said, No, - Rian then told him not to say any thing about it - as long as he Rian lived, that he was in friendship with the children and wanted to remain so. Burns then proceeded to state further to your Oratrix, that he had been to see Joseph M. Walsh his nephew in St Louis, and that they had made an agreement and Walsh was to come and see your Oratrix shortly afterwards, a short time however there came by mail to the Virginia mine where a Post office is kept, not far from where your Oratrix lives, a letter to your Oratrix from said Joseph M. Walsh, which letter was read to your Oratrix, who cannot read and the Letter stated according to the best recollection of your Oratrix, that he Walsh wished your Oratrix to swear that the amount stated by said Hogan as due

by William Rian to the Heirs of Samuel Burns was owned. This your Oratrix refused to do. A further direction by said Walsh, to your Oratrix in said letter was, to go before a Justice of the Peace, and that quickly for fear the slaves of William Rian should disperse and could not be got. Your Oratrix refused to comply with any and every part of these instructions. John W. Burns a short time afterwards on his way to St Louis, again called upon Your Oratrix gave him the letter and other accompanying papers aforesaid to be handed back to Joseph W. Walsh among them as your Oratrix was informed was a power of attorney to be executed to Walsh by your Oratrix. It was sent back without being executed with the letter &c John W. Burns in a conversation with your Oratrix then & there stated that he was determined to have nothing further to do with said Walsh and would withdraw from the proceedings, as he was afraid Walsh would take him in. Some short time afterwards your Oratrix again met her brother John W. Burns at Meredith Mideman's in Jefferson County near where said William Rian had lived and died, and asked him (Burns) if he had quit the business (meaning the claim set up against Rian's Estate as stated by Flogan) and taken it out of said Joseph Walsh's hands. He answered no he would risk Walsh, that Walsh said he would have the negroes if they went to hell. Your Oratrix so

replied that Walsh was trying to take him in and that he would rue the day, that he had any thing to do with Walsh. A short time after this conversation your Oratrix was at a County Court held for Jefferson County at which Court said Joseph W. Walsh was also in attendance. Walsh came to your Oratrix and asked her to step aside in order to converse privately with him. Your Oratrix done so. Walsh asked your Oratrix what she thought of the papers and power of attorney sent her by him and what she was going to do? Your Oratrix stated to Walsh in answer, that she had no knowledge of any money that her father Samuel Burns had left and which had come to the hands of William Rean; To this Walsh replied that the slaves were of great value, and would pay off the account without touching the Legatees; and that he would conduct the business without charging anything for his trouble, only a fifth of the proceeds of the slaves; that although your Oratrix did not know of this account, yet if it could be established, it would be beneficial to her, and could not be by any possibility injurious to her in any way whatsoever That upon the presentation of the account in Court Your Oratrix would have to swear that she was an heir of Samuel Burns and Mary Ann Burns dec'd to the best of her knowledge and nothing more. Walsh also required your Oratrix to sign

a power of Attorney to him at the time which she did. The reasoning of Walsh induced your Oratrix to believe that his suggestions were honest, well meant, and for the best and in addition he was the nephew of your Oratrix by marriage. The power of attorney which was given by your Oratrix to Walsh was not read to her, and she could not read it herself, and it is impossible for her to say what it contains. Walsh has the instrument. Your Oratrix did suppose that Walsh was honest in his intentions at the time and had an additional reason for such belief, in the perfect harmony that existed between said Walsh and Wiley the Executors of said Bean. There appeared the most cordial concurrence between them in every thing that was done. The account against the estate of William Bean was accordingly placed before the County Courts of Jefferson County by said Walsh for allowance at the August Term 1889, and a judgement rendered against said estate for the sum of $68.64. - Your Oratrix and John Bunns her brother were sworn on the occasion but none of the other heirs were sworn. - Your Oratrix understood from Walsh, that she was to swear to her belief that she was an heir of Samuel Bunns, but not to the account, which she knew nothing of. Your Oratrix did not swear to the

account for she could not, nor has she any recollection that she was required to swear to the account presented by Walsh. The proceeding was oral and the whole affair between Wiley Exr and Walsh, and the Court appeared more a matter of form and consent than any thing judicial. The statement of Hagan of what he had heard William Rain say about this account was read from a paper by Walsh to the Court, and had been prepared out of Court by Walsh, although Hagan was present, indeed according to the recollection and belief of your Oratrix Hagan was not sworn on the occasion. The receipts given to William Rain by the heirs of Samuel Burns, were not produced by Wiley Executor, although he had them in his possession among Rains papers at the time, and knew of their existence, but totally suppressed and kept them from the Court this important fact. Your Oratrix would further shew unto your Honor that after the Court had rendered judgment in the case, Hagan & Walsh went to a private room together upon Hagan's return he took from his pocket several rolls of money and put them into his saddle bags, and Walsh who was present, asked him in a low voice, is that enough, Hagan replied that it was, Walsh said if it is not enough you shall be made satisfied. Hagan replied that he

had paid him for his services, and had paid him well. Your Oratrix would further shew unto your Honor, that so soon as the judgment was obtained as aforesaid, Wiley the Executor of Rian who had had possession of the emancipated slaves of Rian, and had delivered them their deeds of emancipation, being threatened by Walsh, entered into a written agreement with said Walsh, as your orator has heard and believes, for the recaption of said slaves (and perhaps for other purposes as well as their delivery to said Walsh and Alick, Helly, Menewa, Lewis, Sarah, Dave, were taken and placed in the possession of Walsh by Wiley Ex^r. In the mean time Walsh had obtained an order of the County Court of Jefferson County to sell these emancipated slaves, to pay the judgment aforesaid, through Wiley Executor and accordingly they were advertised to be sold, and at the time and place, Wiley Ex^r of said Walsh attended and the sale proceeded, the said Walsh acting on the occasion as cryer, bidder, and clerk of the sale, and did conduct the whole business as he pleased, the said Wiley sitting & looking on as if he had neither concern nor interest in the matter. Walsh bid for Alick $460. Dollars and struck him down to himself. Your Oratrix then proceeded to bid for each of the others, they were knocked down to her at the price of $1590. in the aggregate

as well as she remembers. Walsh required her to give security instanter. Your Oratrix asked a little time to get her security in from Big River a few miles off. Wiley went off, and Walsh retained the slaves and carried them off with him to St Louis Wiley all the time saying nor doing anything in the business. Your Oratrix could have given the requisite security for the slaves, and this was well known to Wiley and Walsh but this did not appear to suit their particular views in conducting the business. Your Oratrix could further shew unto your Honor that their were many persons present at said pretended sale, who declined to bid, in consequence of the novel manner in which the sale was conducted. Your Oratrix would further shew unto your Honor that at the October term of the County Court held for the County of Jefferson 1839 the proceedings under said order of sale were laid before said County Court for its approval, but the Court refused to approve the same. A petition was then presented through Wiley Ex. by Walsh for the sale of the Real Estate of Rain, but the Court refused to grant said petition. The County Court began now to be awake to the joint proceedings of Walsh and Wiley Ex. and required of Wiley Ex. before he proceeded further a Bond according to law, which Wiley refused to give, and thereupon his letters

Testamentary were vacated and set aside, and Letters of Administration with the will annexed of William Rian, were granted to your Oratrix. Your Oratrix would further shew unto your Honor, that after said sale the said Walsh sold to John Carney of Jefferson County two of said emancipated slaves, Hetty & Dave for $625, The other, that he took off to St Louis; your Oratrix has heard and believes he has also sold, and sent them down the River and without the limits of the State; nor have the said Walsh nor Wiley Executor accounted for the same to the estate of Rian in any manner whatsoever. Your Oratrix would further shew unto your Honor, that when she became Administratrix of William Rian dec'd with the will annexed, that she took an oath which contained among other things this clause, " that your Oratrix would faithfully execute the last will of the said William Rian". This compelled your Oratrix to look with particular care and attention to the proceedings of Wiley Executor and said Walsh in reference to said estate, and to the orders and Judgments of the County Court, concerning the same, and more especially to the judgment attained in the name of Joseph M. Walsh et al. vs. Estate of said William Rian for $6864. dollars in the County Court of Jefferson County. And the result of a patient enquiry and

examination into facts and circumstances attending the rendition of this judgment has produced a thorough conviction in the mind of your Oratrix, that the same is fraudulent. Your Oratrix knows of her own knowledge, that her mother was poor when she came to Kentucky, and when she married Rean; She has heard her mother tell, since in Missouri, that Alexander her son in law gave her money to remove with to Kentucky. Your Oratrix also knows that Rean was not rich when he married her mother in Kentucky, but he was exceedingly industrious and saving and it is to these, and these alone that she is indebted for what scever of property he left behind him. Your Oratrix also had at all times the most unreserved intercourse with her steps fathers family both in Kentucky and in Missouri, their private affairs were confided and known to her. Your Oratrix resided with William Rean & her mother, was a manager for her mother in her sickness, had access to all parts of their house at all times and seasons, and never heard a whisper of this demand presented by Walsh. Your Oratrix also knows, that the three negro boys, Jim, Bill, & Lewis left by her father Samuel Burns came to the use of his children, she also knows that the negroes emancipated were obtained by William Reans own

industry, as was his other estate left by him. She also knows that William Rian many years before his and wife's death settled with and fully paid the heirs of Samuel Burns their portions of the estate, than heirs being of full age, and being perfectly acquainted with every fact about the property. Believing therefore that said judgement so obtained as aforesaid was tainted with fraud, and which in its consequences if left in full force, would impair if not destroy the will of said William Rian dec'd. and under a solemn sense of the obligations of the oath taken and consequent duty in the premises, Your Oratrix on the 1st. June 1840 moved the County Court to vacate said Judgment for reasons filed and the Court did vacate the same at the August Term accordingly and the said Joseph W. Walsh et al appealed the case to the Circuit Court of said County where the same is now pending, all of which proceedings in the County Court, are herewith exhibited marked "E", and are prayed to be taken and considered as part of this Bill of Complaint, and the files of the case aforesaid appealed now depending in the Circuit Court, also are prayed to be taken as part of this Bill of Complaint. Copies whereof marked "F", are herewith exhibited. Your Oratrix would further shew unto your Honor, that after the proceedings had in the County Court for vacating

and setting aside said judgement and the same was vacated by said Court, Your Oratrix well hoped that the said Joseph W. Walsh et alter would have complied therewith without further suit as in Conscience and equity they should have done, but now so it is may it please Your Honor that the said Joseph W. Walsh & Elizabeth his wife, Eli Wiley, John Carney Noah Harlan & Nancy his wife, Elizabeth Alexander, John W. Burns & Mary Eastwood (now wife of William Woodcock)

combining and confederating together to and with divers other persons, as yet to your Oratrix unknown, whose names when discovered Your Oratrix prays may be herein inserted as defendants, and they made parties hereto with apt words to charge them, do absolutely refuse to set aside and annul said judgment and say that the same has been fairly obtained, whereas your Oratrix doth charge the truth to be, that said judgment so obtained in the County Court of Jefferson County by said Joseph W. Walsh and others against the estate of William Rian dec'd was obtained by fraud, covin and misrepresentation of facts by said defendants by false suggestions, by said defendants and by a fraudulent suppression of the truth by said Walsh and said Wiley, particularly For your Oratrix charges, That William

Rians at the time of his death did not owe the heirs of Samuel Burns one cents in tender consideration whereof, and inasmuch as the aid of a Court of Equity is necessary to set aside a fraudulent Judgment, as said judgment is, Your Oratrix prays that said defendants may respectively, full, true, direct and perfect answer make upon their corporal oaths according to the best of their respective knowledge information and belief, to all and singular the matters and charges aforesaid as fully in every respect as if the same were here again repeated, and they thereunto particularly interrogated, and more especially that the said Joseph W. Walsh may set forth and discover according to the best of his knowledge remembrance, information and belief whether the said William Rians, did not marry the widow of Samuel Burns in Kentucky, and remove from them to Missouri, whether Samuel Burns had other slaves that come to his widow than the three mentioned in this Bill, to wit, Jim, Lewis & Bill and whether Elizabeth Alexander upon her marriage in Carolina did not get Jim, whether this was or was not before Rians's marriage with the widow Burns. That he would state as aforesaid whether John Hankey when he married Mary Burns, did or did not get the boy Lewis as a part of her marriage portion, and also the other property

mentioned in the Bill from William Rian.
That he would state as aforesaid, whether
William Rian did not pay John Burns in
full of his share of Samuel Burns estate
the negro Boy Bill, with other property.
That he would state as aforesaid, if he has
not seen and read the receipts in full given
by John Huskey and John Burns to William
Rian for their respective portions of Samuel
Burns estate. That he will state, at what
time he first saw these receipts, were they
in the possession of Eli Wiley Executor of
William Rian deceased or not, was it before
said judgment was obtained in the County
Court or afterwards, if before why were
said receipts not produced to said County
Court at the time when said Judgment
was obtained. That he would state upon
his oath as aforesaid, how many heirs
Samuel Burns left, where they severally now
live if alive, if dead who are their represen-
tatives and where resident. That he would
state fully and precisely upon his oath,
the substance and effect of the instrument
of writing signed by his aunt Nancy Rum-
mond to himself. That he would state
as aforesaid the purport and effect of the
article of agreement between Eli Wiley
Executor and himself, and in whose hands
or possession that paper is. That the said
Joseph would state upon his oath as afore
said, the substance and import of a cer-
tain agreement between him and a

certain John Carney, in reference to the purchase and sale of two negroes Hetty and Dave, part of the estate of William Rian and in whose possession or custody that paper is. That the said Joseph would state, by what authority he sold to John Carney, the said two negroes and how much money he received for them, or if not paid, he is to receive. That said Joseph would state upon his oath as aforesaid, what has become of the other negroes, that were of the estate of William Rian deceased, and whom he took to St Louis. If he has sold them he will state when, for what price and to whom, and whether in this State or out of it, and where they now are. The said Josephs will state upon his oath as aforesaid, who it was, that first informed him that William Rian was indebted to the heirs of Samuel Burns; and when he received this information and where. The said Josephs will state upon his oath how many actions he has caused to be instituted for this demand and in what Courts; and if any one of them has been dismissed, he will state the cause of such dismissal; he will also state the conversation that took place between himself & Eli Wiley Esqr in reference to this suit so discontinued, and the agreement between them in reference to the subsequent proceedings in the County Court to obtain a judgment for the same demand, and also all the conversation and

agreement between them, by which Walsh was to have the control of the whole matter to be managed as he pleased, and he was to keep Wiley safe from all damages. The said Joseph will also state upon his corporal oath as aforesaid, the conversation he has had with John Burns about this claim and what was said by him Burns where it was; and when said; He will also state as aforesaid, whether he knows a certain person by the name of William Hogan, the time when he first became acquainted with him and where and on what occasion. The said Joseph will state upon his oath whether the said Hogan is man of good or bad character; and whether he has has or has not fled from the country for imputed crimes. The said Joseph will also state upon his oath as aforesaid whether this William Hogan is not the man by whose testimony he established the account and obtained the judgment against the Estate of William Rean aforesaid. He will also state whether he did not take said Hogan's testimony in writing, and read the same to the Court, in preference to an oral examination of said Hogan who was then present, and the reason why this was done. He will also state when and where it was that he wrote Hogans testimony down, that was read to the Court, and state what Hogan said on the occasion, that was not inserted in said written statement. That said Joseph

would state as aforesaid where that written
statement now is, and if he has it, that he
produce the same. That said Joseph will state
upon his Corporal oath, the substance of the
agreement made between himself & the said
William Hogan in reference to his giving
testimony in the said case, if any, and what
compensation in money he was to receive
and what money he in fact did receive
from said Joseph Walsh for his services in
this behalf. The said Joseph will also
state upon his Corporal oath as aforesaid,
whether he has not employed Counsel to
defend said Wiley for his maladministra-
tion of said estate of William Rian, and is
he not now and for the future bound by
agreements to defend him on like occasion
The said Joseph will also state upon his
Corporal oath as aforesaid if William Rian
left a will, if the Exhibit is a copy, and
the number and names of the Slaves of
the said William Rian and if they were
emancipated by him by deeds or will or
both, - and their value if slaves. -
And that the said Eli Wiley Executor as afore-
said would answer upon his Corporal oath
as aforesaid, whether the said Testator
William Rian duly made and executed
such last will & testament, whether the
Exhibit in this Bill is not a copy thereof,
whether he was not appointed Executor
thereof and did take upon himself the ex-
ecution thereof or not, whether he took the

oath prescribed by law in such cases, and gave bond for the faithful execution of his trust. That he would state if the County Court revoked his letters testamentary, and why this was done. That he would state upon his oath as aforesaid, whether he was well acquainted with William Rean, and for how many years, whether Rean was industrious, managing and frugal or otherwise. That he would state how many slaves William Rean emancipated, and their names, and whether or not he as executor gave each of them their deeds of emancipation. That he would state upon his oath, where each one of those persons emancipated are, in whose possession, or in whose possession they were when he last heard from them and saw them, and when and where that was. That the said Eli Riley would state upon his oath as aforesaid, whether at the sale of said Negroes under the order of the County Court, Joseph W. Walsh did not act on that occasion, as auctioneer of the sales, clerk of the sales, and bidder at the sale; That said Riley would also state on his oath, how many negroes were sold on that occasion, to whom were they sold, and for what prices and whether the same has been paid to the estate of Rean or not. That he would further state as aforesaid the agreement that is between himself and said Walsh, to keep Riley harmless in suits that may be urged against him

an accounts of the estate of Rians, that he will state the substance of said agreement and whether verbal or written, and if in writing where the writing is, and at what time the same was entered into by and between Walsh & himself. He will also state if said Walsh has not already employed counsel at his own expense to defend him Riley, if so state on what occasion or occasions. That said Riley would state as aforesaid, if he personally knew Mrs Rians (Mrs Burns that was) For how long a period of time was he acquainted with her, does he know her children by Samuel Burns, what are their names and who married to, if a female if dead, what children have they left. State the ages of Nancy Thurmond and John Burns each. The said Riley will further state upon his corporal oath, what slaves William Rians brought with him and family from Kentucky, when they first come to the country, and what became of such slaves if he brought any to the country and also state their names. The said Eli Riley will further answer upon his corporal oath as aforesaid, the distance he lived from William Rian, and how long they had lived so near each other, whether or not he was confidentially intimate with William Rians and wife or not, whether he was not almost every day at said Rians house, whether he was not with said Rian

often during his last sickness, and until his death, and whether at any time he ever heard from him an intimation that he owed the heirs of Samuel Burns any sum of money whatsoever. The said Wiley also states upon his oath whether William Rian was a man who paid his debts or not, and whether in his last illness some trivial accounts were not mentioned and considered all that he owed in the world, the whole not amounting to more perhaps than five dollars.

And that John Burns would state upon his corporal oath as aforesaid, whether William Rian did not pay him in full, for his share of Samuel Burns estate, and whether he did not execute a receipts in full therefor. The said John will also state upon his oath, whether said Rian did not also pay John Huskey the husband of Mary Burns, and John Thurmond the husband of Nancy Thurmond their shares of said Samuel Burns estate in full also for which they severally gave their receipts to said William Rian. He will also states, whether his sister Elizabeth Alexander did not receive her portion of said estate before the marriage of said Rian with Mrs Burns, and in North Carolina. The said John will state on his oath, what slaves and their names each of said heirs with the exception of Elizabeth, received from William Rian in payment of their shares aforesaid. He will also state if said William Rian did not make a will,

and emancipate his slaves and their several names, and where they are, and in whose possession if he knows; He will also state as aforesaid if he knows Joseph W. Walsh, if he Walsh is a relation of his by marriage or otherwise, and what conversation said Walsh has had from time to time, in reference to William Rian's estate and particularly the slaves. He will state the date of the first conversation, and what that conversation was and where and then all subsequent conversations. If he and Walsh made a contract about this matter, state what that contract was, whether verbal or written, if written, who has it. He will state if he at any time was the bearer of written or oral communication from Walsh to Nancy Hummond, and when and where it was and what their communications were if he knows. He will state upon his oath how much he Burns was to give Walsh for obtaining the judgment against Rians estate aforesaid. He Burns will state upon his oath, how much money he and Walsh or either of them were to pay William Hagan to testify, and how much money was in fact paid to him Hagan for his services as a witness, on the ~~rendition~~ Rendition of said judgment. He Burns will state as aforesaid, whether there was not a contract between Walsh & Miley Executor of Rian in reference to Rians estate, giving to said Walsh the actual administration thereof to do as he

pleased, he the said Walsh keeping him Wiley safe and harmless, and if not so, state what contract was made. State were you present in the County Court of Jefferson County, when Walsh obtained said Judgment against the estate of Rean. what did Wiley the Executor do in opposition to the demand, any thing or nothing, did he waive notice or not, did he object, did he examine a witness, did he say one word, and what did Walsh do, did he read a statement of William Hagan in writing in proof of the demand, and was Hagan then present, was he sworn at all, where was the statement read reduced to writing, did Walsh bring it in his pocket to Court. What is Hagans character good or bad, has he run off from the county for imputed crime. Did Walsh introduce any other proof of the demand except Hagans statement that was read. Have you received your legacy under the will of William Rean from Wiley Exor. state what it was, and its value.

And that your Honor would upon a full hearing of the premises order and decree the Judgment so rendered by the County Court aforesaid to be annulled and vacated for fraud, and that the said defendant be restrained by the order or injunction of this Honorable Court from proceeding in the cause

aforesaid at law, until this cause is heard and determined in equity, or that your Honor will make such other order and decree in the premises and grant such further and other relief as the nature of her case may require, and as shall be agreeable to equity and good conscience May it please your Honor to grant the and Your Oratrix shall ever pray

Nancy Plummer
Admx of William Rean dec
with the will annexed
Complainant

In Jefferson Circuit Court
July Term 1842

Nancy Thurmond &c
of Williamson
vs
John W Burns et al

Copy of
Bill in Chancery

Nancy Thurmond Admx of William Rian
dec'd with the will annexed
against } In Chancery
Eli Wiley, Joseph Walsh & Elizabeth his wife
late Elizabeth Eastwood and William Wood
cock and Mary his wife late Mary Eastwood
children of Mary Burns wife of Elijah East
wood, both of whom are dead, John M. Bump
John Carney, Nancy Harlan late Nancy
Huskey, daughter of Mary Huskey and
her husband Noah Harlan and Elizabeth
Alexander, widow, late Elizabeth Bump.

To the Honorable the Circuit Court
of Jefferson County, sitting as a Court of
Equity, humbly complaining sheweth
unto your Honor Your Oratrix Nancy
Thurmond Administratrix of the Estate
of William Rian deceased with the will an
nexed, late of the County of Jefferson, afore
said; That about the year 1795, Samuel
Burns the father of your Oratrix, died
in the State of North Carolina leaving a
widow Mary Ann Burns, and four chil
dren Nancy, Your Oratrix, John, Eliz
abeth and Mary. Elizabeth married in
Carolina with one William Alexander,
who is now dead. Your Oratrix remembers
that there was a sale of Saml Burns Estate
which did not amount to much. he had
no land. There were three negro boys, belong
ing to the estate, Jim, Lewis and Bill.
Jim was given to Elizabeth on her marriage
with Alexander and some other personal

estate as her share. About the year 1800. Your Oratrix mother concluded to remove with her family to Kentucky and accordingly done so, taking with her your Oratrix, John & Mary, the negro boys Bill & Lewis. William Alexander gave her the necessary money to bear the expenses of her journey, himself & family remaining behind. This is what your Oratrix has heard her mother say. She arrived in Kentucky the same year, and settled near Russellville in Logan County, and had in addition to the two negroes aforesaid three horses and a few other articles of necessary use, but of little value. After about one years residence here she became acquainted with William Rean, and married him, having at the time, the two negro boys aforesaid, one bed, two cows that she bought of Morris for a horse, two horses, but had neither money, nor land. Rean on his part had a head right for some land which he perfected and sold, a sorrel horse, but no money. In the year 1805 or 6 your Oratrix married John Thurmond, from whom she since has been divorced and Thurmond received from William Rean as your Oratrix share of her fathers estate £.70. Seventy pounds in property, consisting of a negro boy, called Campbell, a cow, calf, heifer, bed & saddle, and gave a receipt in full, which receipt your Oratrix is informed cannot be found, but which your Oratrix knows did once

exist. In the year 1809 William Rian & family (as well as your Oratrix & her family) removed from Logan County to what is now Jefferson County in the State of Missouri where he settled and died in the year 1839, my mother Mary ann having died one year before at the same place. After the removal of the said William Rian and family to Missouri, Mary a sister of your Oratrix aforesaid married one John Hunkey who is still alive but divorced from said Mary. John Hunkey during the existence of said marriage rec'd from said William Rian in full of his wifes share of the estate of Samuel Burns her father, The negro boy Lewis worth $700, dollars, a mare worth $100 dollars, and saddle worth $35. dollars, and receipted to said Rian in full for the same which receipt is here exhibited to the Court, and is prayed to be taken and considered as part of this Bill of Complaint marked A — Your Oratrix would further shew unto Your Honor, that about the same time John W. Burns the brother of your Oratrix, was paid by said William Rian in full of his portion of the estate of Samuel Burns estate, the negro Bill aforesaid worth some $700, dollars, a horse, bridle & saddle worth $120, dollars, for which he receipted in full to said Rian which receipt is here to the court shewn marked B. and is prayed to be taken and held as part of this Bill of Com

4 plaint. Your Oratrix would further shew unto your honor, that said John Flustey had in marriage with said Mary Ann your Oratrise sister (who is now dead) a Daughter called Nancy who has since married, Noah Harlow, and also that said Mary after divorce from John Flustey married Elijah Eastwood, by whom she had two daughters, Elizabeth married to Joseph Walsh and Mary married to William Woodcock That said Elijah Eastwood is dead. As your Oratrise has before stated, the said William Rian died in Jeffenson County in the year 1839. having first made and published his last will & testament in due form of Law and appointed the said Eli Miley Executor thereof, which said last will and testament is herewith exhibited and is prayed to be taken and considered by your Honor as part of this her bill of complaint marked C. The said William Rian also before his death a short time, being desirous that his slaves should be emancipated, and set free from slavery did execute to them deeds of emancipation, copies whereof are herewith exhibited and are prayed to be taken and considered as part of your Oratrise Bill in this behalf marked "D" None of those persons so emancipated come from estate of Samuel Burn but were acquired by the industry of William Rian, whose economy was equal

to his industry, for he would not be indebted to any person - this trait in his character was well known. Your Oratrix would further shew as is apparent from the will, that said Rian died possessed of a considerable real as well as personal estate, that his debts were trifles, if any at all, that in his will he gave diviers legacies and adverted again to the manumission of his slaves, which appears to have been of the very first consideration with him, After the death of William Rian a very short time Eli Riley who had been appointed Executor took upon himself the burthen of the execution of said Will, but neither took the oath, nor gave a bond as required by law, but refused to do so, as your Oratrix has been informed & believes. The said Riley as Executor as aforesaid took into his possession, the goods, chattels, monies, effects, lands, slaves, which were of said William Rian, and proceeded to administer the same; and among other matters delivered to your Oratrix the land and the muniments of title thereof as well as the personal estate willed her by the said William Rian, and also delivered to John W. Burns his legacy under said will, as your Oratrix has heard and believes of the value of One Thousand Dollars and paid to the slaves that were manumitted a Legacy left them.- Your Oratrix would further shew unto your Honor, that in the

year 1839 John M. Burns her brother
come to her - it was in the month of June
as well as she can recollect at her resi-
dence on the Merrimack in Franklin Coun-
ty and informed her that he had heard
William Hogan say that he had heard
Mrs Rian say to William Rian "Rian you
know that you got $2000 of my Children
money that was concealed, that they knew
nothing about" Rian replied no old woman
not two thousand, but between $1800 &
$2000, and that Hogan further stated that
after Mrs Rians death, Rian sent for him
Hogan, and asked Hogan if he had told
any one of the conversation he had heard
Hogan said No, - Rian then told him
not to say any thing about it - as long as
he Rian lived, that he was in friendship
with the Children and wanted to remain
so. Burns then proceeded to state further
to your Oratrix, that he had been to see
Joseph W. Walsh his nephew in St Louis
and that they had made an agreement
and Walsh was to come and see your Oratrix
shortly afterwards. A short time however
there come by mail to the Virginia Mines
where a Post Office is kept not far from
where your Oratrix lives, a letter to your
Oratrix from said Joseph W. Walsh, which
letter was read to your Oratrix, who cannot
read, and the letter states according to the
best recollection of your Oratrix, that he
Walsh wished your Oratrix to swear that

the amount stated by said Hogan as due by William Rian to the heirs of Samuel Burns, was correct. This your Oratrix refused to do. A further direction by said Walsh, to your Oratrix in said letter was to go before a Justice of the Peace, and that quickly for fear the slaves of William Rian should dispose and could not be got. Your Oratrix refused to comply with any and every part of these instructions. John W. Burns a short time afterwards on his way to St. Louis, again called upon your Oratrix and your Oratrix gave him the letter & other accompanying papers aforesaid to be handed back to Joseph W. Walsh. Among them as your Oratrix was informed was a power of attorney to be executed to Walsh by your Oratrix. It was sent back without being executed with the letter &c. John W. Burns in a conversation with your Oratrix then & there stated that he was determined to have nothing further to do with said Walsh and would withdraw from the proceeding, as he was afraid Walsh would take him in. Some short time afterwards your Oratrix again met her brother John W. Burns at Meredith Wideman's in Jefferson County near where said William Rian had lived and died, and asked him (Burns) if he had quit the business (meaning the claim set up against Rian's estate as stated by Hogan) and taken it out of said Joseph Walsh's hands

He answered No, he would risk Walsh, that Walsh said he would have the negroes if they went to Hell. Your Oratrix replied that Walsh was trying to take him in and that he would rue the day, that he had any thing to do with Walsh. A short time after this conversation, your Oratrix was at a County Court held for Jefferson County at which Court said Joseph W. Walsh was also in attendance, Walsh came to your Oratrix, and asked her to step aside in order to converse privately with him. Your Oratrix done so. Walsh asked your Oratrix what she thought of the papers and power of attorney sent her by him, and what she was going to do? Your Oratrix stated to Walsh in answer, that she had no knowledge of any money that her father Samuel Burns had left and which had come to the hands of William Rian. To this Walsh replied that the slaves were of great value, and would pay off the account without touching the Legatees; and that he would conduct the business without charging any thing for his trouble, only a fifth of the proceeds of the slaves, that although your oratrix did not know of this account; yet if it could be established, it would be beneficial to her, and could not be by any possibility injurious to her in any way whatsoever. That upon the presentation of the

account in Court, your Oratrix would have to swear that she was an heir of Samuel Burns and Mary Ann Burns ded to the best of her knowledge, and nothing more. Walsh also required your Oratrix to sign a power of attorney to him at the time which she did. The reasoning of Walsh induced your Oratrix to believe that his suggestions were honest, well meant and for the best. and in addition he was the nephew of your Oratrix by marriage. The power of attorney which was given by your Oratrix to Walsh was not read to her, and she could not read it herself, and it is impossible for her to say what it contains. Walsh has the instrument. Your Oratrix did suppose that Walsh was honest in his intentions at the time, and had an additional reason for such belief, in the perfect harmony, that existed between said Walsh and Riley the Executor of said Rian. There appeared the most cordial concurrence between them in everything that was done. The account against the Estate of William Rian was accordingly placed before the County Court of Jefferson County by said Walsh for allowance at the August Term 1839, and a Judgment rendered against said Estate for the sum of $6864.—. Your Oratrix and John Burns her brother were sworn on the occasion but none of the other heirs were sworn. Your

Oratrix understood from Walsh that she was to swear to her belief that she was an heir of Samuel Burns, but not to the account, which she knew nothing of. Your Oratrix did not swear to the account for she could not, nor has she any recollection that she was required to swear to the account presented by Walsh. The proceeding was oral and the whole affair between Wiley Ex'r and Walsh, and the Court appeared more a matter of form and consent than any thing judicial. The statement of Hagan of what he had heard William Rain say about this account was read from a paper by Walsh to the court, and had been prepared out of Court by Walsh, although Hagan was present; indeed according to the recollection and belief of your Oratrix Hagan was not sworn on the occasion. The receipts given to William Rain by the Heirs of Samuel Burns, were not produced by Wiley Executor, although he had them in his possession among Rains papers at the time, and knew of their existence, but totally suppressed and kept from the Court this important fact. Your Oratrix would further shew, that after the Court had rendered Judgment in the case, Hagan & Walsh went to a private room together. Upon Hagans return, he took from his pocket several rolls of money and put them into his sad-

dlebags, and Walsh who was present, asked him in a low voice, is that enough, Flagan replied that it was, Walsh said if it is not enough, You shall be made satisfied, Flagan replied that he had paid him for his services and paid him well. Your Oratrix would further shew unto Your Honor, that so soon as the judgment was obtained as aforesaid, Wiley the Executor of Rian who had had possession of the emancipated slaves of Rian, and had delivered them their deeds of emancipation, being threatened by Walsh, entered into a written agreement with said Walsh, as your Oratrix has heard and believes for the recaption of said slaves (and perhaps for other purposes) as well as their delivery to said Walsh - and Alick, Hetty, Minerva, Lewis, Sarah, Dave were taken and placed in the possession of Walsh by Wiley Ex. In the mean time Walsh had obtained an order of the County Court of Jefferson County to sell these emancipated slaves, to pay the judgment aforesaid, though Wiley Executor and accordingly they were advertised to be sold, and at the time and place Wiley Exr. said Walsh attended and the sale proceeded, the said Walsh acting on the occasion as cryer, bidder, and clerk of the sale, and did conduct the whole business as he pleased, the said Wiley setting & looking on, as if

he had neither concern nor interest in the matter. Walsh bid for Alick $460. dollars and struck him down to himself. Your Oratrix then proceeded to bid for each of the others. they were knocked down to her at the price of $1590. in the aggregate as well as she remembers. Walsh required her to give security instanter. Your oratrix asked a little time to get her security in from Big River a few miles off, Wiley went off, and Walsh retained the slaves and carried them off with him to St Louis. Wiley all the time saying nor doing any thing in the business. Your Oratrix could have given the requisite security for the slaves, and this was well known to Wiley and Walsh; but this did not appear to suit their particular views in conducting the business. Your Oratrix would further shew unto Your Honor that there were many persons present at said pretended sale, who declined to bid, in consequence of the novel manner in which the sale was conducted. Your Oratrix would further shew unto your Honor, that at the October Term of the County Court held for the County of Jefferson 1839. the proceedings under said order of sale, were laid before said County Court for its approval, but the Court refused to approve the same. a petition was then presented through Wiley

Ex'r by Walsh, for the sale of the Real Estate of Rian, but the Court refused to grant said petition. The county Court began now to be awake to the joint proceedings of Walsh and Wiley Ex'r, and required of Wiley Ex'r before he proceed-ed further a bond according to law, which Wiley refused to give, and thereupon his Letters Testamentary were vacated and set aside, and Letters of Administration with the will annexed of William Rian, were granted to your oratrix. Your Oratrix would further shew unto your honor that after said sale the said Walsh sold to John Cauney, of Jefferson County two of said emancipated slaves, Hetty & Dave for $625. The others that he took off to St Louis Your Oratrix has heard and believes he has also sold, and sent them down the river and without the limits of the State, nor have the said Walsh nor Wiley Executor, accounted for the same to the Estate of Rian in any manner whatsoever. Your Oratrix would further shew unto your Honor, that when she became Administratrix of William Rian she with the will annexed, that she took an oath ~~that~~ which contained among other things this clause "that your oratrix would faithfully execute the last will of the said William Rian" This compelled your oratrix to look with particular care and attention to the proceedings of Wiley Executor and

said Walsh in reference to said Estate, and to the orders and judgments of the County Court concerning the same, and more especially to the judgment obtained in the name of Joseph Walsh et al. vs Estate of said William Rian for $6864 dollars in the County Court of Jefferson County and the result of a patient enquiry and examination into facts and circumstances attending the condition of this judgment has produced a thorough conviction in the mind of your oratrix that the same is fraudulent. Your Oratrix knows of her own knowledge that her mother was poor when she come to Kentucky, and when she married Rian. She has heard her mother tell, since in Missouri, that Alexander her son in law gave her money to remove with to Kentucky. Your Oratrix also knows, that Rian was not rich when he married her mother in Kentucky but he was exceedingly industrious and saving, and it is to these and these alone that he is indebted for whatsoever of property he left behind him. Your Oratrix also had at all times the most unreserved intercourse with her step fathers family both in Kentucky and in Missouri, Their private affairs were confided and known to her. Your Oratrix resided with William Rian & her mother, was a manager for

her mother in her sickness, had access to all parts of their house at all times and seasons, and never heard a whisper of this demand presented by Walsh.— Your Oratrix also knows, that the three Negro boys, Jim, Bill & Lewis left by her father Samuel Burns came to the use of his children—, she also knows that the negro emancipated were obtained by William Rain's own industry as was his other estate left by him, She also knows that William Rain many years before his and wifes death settled with and fully paid the heirs of Samuel Burns their portions of the estate, those heirs being of full age, and being perfectly acquainted with every fact about the property.— Believing therefore that said judgment so obtained as aforesaid was tainted with fraud and which in its consequences if left in full force, would impair if not destroy the will of said William Rain decd and under a solemn sense of the obligation of the oath taken and consequent duty in the premises. Your Oratrix on the 1st. June 1840 moved the County Court to vacate said judgment for reasons filed and the Court did vacate the same at the August Term accordingly and the said Joseph W. Walsh et al appealed the case to the Circuit Court of said County where the same is now pending; all of

which proceedings in the County Court are herewith exhibited marked "E" and are prayed to be taken and considered as part of this Bill of Complaint, and the files of the Case aforesaid appealed now depending in the Circuit Court also are prayed to be taken as part of this Bill of Complaint Copies whereof marked "E_" are herewith exhibited. Your Oratrix would further shew unto your Honor, that after the proceedings had in the County Court for vacating and setting aside said judgment and the same was vacated by said Court, Your Oratrix well hoped that the said Joseph W. Walsh et ather would have complied therewith without further suit as in conscience and equity they should have done, but now so it is may it please your Honor that the said Joseph W. Walsh & Elizabeth his wife, Eli Miley, John Gurney, Noah Harlan & Nancy his wife, Elizabeth Alexander, John W. Burns, & Mary Eastwood (now wife of Wm Woodcock) combining and confederating together to and with diviers other persons, as yet to your Oratrix unknown, whose name when discovered Your Oratrix prays may be herein inserted as defendants, and they made parties hereto, with apt words to charge them, do absolutely refuse to set aside and annul said

17 Judgment, and say that the same has been fairly obtained, whereas your Oratrix doth charge the truth to be that said judgments so obtained in the County Court of Jefferson County by said Joseph W. Walsh and others against the estate of William Rian dec'. was obtained by fraud Covin, and misrepresentation of facts by said defendants, by false suggestions by said defendants and by a fraudulent suppression of the truth by said Walsh and said Wiley particularly, For your Oratrix charges That William Rian at the time of his death, did not owe the heirs of Samuel Burns one cent. In tender consideration whereof, and inasmuch as the aid of a Court of Equity is necessary to set aside a fraudulent Judgment as said Judgment is, Your Oratrix prays that said defendants may respectively full, true, direct and perfect answers make upon their corporal oaths according to the best of their respective knowledge, information and belief, to all and singular the matters and charges aforesaid as fully in every respect as if the same were here again repeated and they thereunto particularly interrogated, and more especially that the said Joseph W. Walsh may set forth & discover according to the best of his knowledge, remembrance, information, and belief, whether the said William Rian, did not marry the widow

of Samuel Burns in Kentucky, and remove from thence to Missouri, whether Samuel Burns had other slaves that come to his widow than the three mentioned in this Bill, to wit, Jim, Lewis & Bill, and whether Elizabeth Alexander upon her marriage in Carolina did not get Jim, whether this was or was not before Rian's marriage with the widow Burns, That he would state as aforesaid whether John Huskey ~~as aforesaid~~ when he maried Mary Burns did or did not get the boy Lewis as a part of her marriage portion, and also the other property mentioned in the Bill from William Rian That he would state as aforesaid whether William Rian did not pay John Burns in full of his share of Samuel Burns's estate the negro Boy Bill, with other property. That he would state as aforesaid. if he has not seen and read the receipts in full given by John Huskey and John Burns to William Rian for their respective portions of Samuel Burns Estate. That he will state, at what time he first saw these receipts, were they in the possession of Eli Wiley Executor of William Rian deceased or not, was it before said judgment was obtained in the County Court or afterwards, if before, why were said receipts not produced to said County Court at the time when said judgment was obtained. That he would state upon his oaths as aforesaid

how many heirs Samuel Burns left, where they severally now live if alive, if dead who are their representatives and where resident That he would state fully and precisely upon his oath the substance and effect of the instrument of writing signed by his aunt Nancy Hummond to himself. That he would state as aforesaid, the purport and effect of the article of agreement between Eli Wiley Executor and himself, and in whose hands or possession that paper is. That the said Joseph would state upon his oath as aforesaid, the substance and import of a certain agreement, between him and a certain John Carney, in reference to the purchase and sale of two negroes Kelly and Dave, part of the estate of William Rian, and in whose possession or custody that paper is. That the said Joseph would state, by what authority he sold to John Carney, the said two Negroes, and how much money he received for them or if not paid, he is to receive. That said Joseph would state upon his oath as aforesaid, what has become of the other negroes, that were of the estate of William Rian deceased, and whom he took to St Louis. If he has sold them he will state when, for what price and to whom, and whether in this state or out of it; and where they now are. The said Joseph will state upon his oath as aforesaid, who it was, that first informed him that William Rian was indebted to the heirs of Samuel Burns; and

20 when he received this information, and where
The said Joseph will state upon his oath how
many actions he has caused to be instituted
for this demand, & in what counts, and if
any one of them has been dismissed, he will
state the cause of such dismissal, he will
also state the conversation that took place
between himself & Eli Wiley Esqr. in refer-
ence to this suit so discontinued, and the
agreement between them in reference
to the subsequent proceedings in the County
Court to obtain a judgment for the same
demand, and also all the conversation and
agreement between them, by which Walsh
was to have the control of the whole mat-
ter to managed as he pleased, and he way
to keep Wiley safe from all damages. —
The said Joseph will also state upon his
corporal oath as aforesaid the conversation
he has had with John Burns about this
claim and what was said by him Burns
where it was and when said; He will
also state as aforesaid, whether he knows
a certain person by the name of William
Flogan — The time when he first became
acquainted with him, and where, and on
what occasion. The said Joseph will
state upon his oath whether the said Flo-
gan is a man of good or bad character,
and whether he has or has not fled from the
country for imputed crime. The said Joseph
will also state upon his oath as aforesaid
whether this William Flogan is not the man

by whose testimony he established the account and obtained the judgement against the estate of William Rian aforesaid; He will also state whether he did not take said Hagan's testimony in writing and read the same to the Court in preference to an oral examination of Hagan who was then present, and the reason why this was done. He will also state when and where it was, that he wrote Hagan's testimony down, that was read to the Court, and state what Hagan said on the occasion, that was not inserted in said written statement. That said Joseph would state as aforesaid where that written statement now is, and if he has it that he produce the same. That said Joseph will state upon his corporal oath the substance of the agreement made between himself and the said William Hagan in reference to his giving testimony in said case, if any and what compensation in money he was to receive, and what money he in fact did receive from said Joseph Walsh for his services in this behalf. The said Joseph will also state upon his corporal oath as aforesaid, whether he has not employed counsel to defend said Wiley for his maladministration of said estate of William Rian and is he not now and for the future bound by agreement to defend him on like occasion. The said Joseph will also state upon his corporal oath as aforesaid if William Rian left a will, if the Exhibit is a copy and the number and names of the slaves

of the said William Rian, and if they were emancipated by him by deeds or will or both. - and their value if slaves. -
and that the said Eli Wiley Executor as aforesaid would answer upon his corporal oath as aforesaid, whether the said testator William Rian duly made and executed such last will and testament, whether the exhibit in this Bill is not a copy thereof, whether he was not appointed Executor thereof and did take upon himself the execution thereof or not, whether he took the oath prescribed by law in such cases, and gave bond for the faithful execution of his trust That he would state if the County Court revoked his letters testamentary, and why this was done. That he would state upon his oath as aforesaid, whether he was well acquainted with William Rain, and for how many years, whether Rian was in destitutions, managing and frugal or otherwise. That he would state how many slaves, William Rain emancipated, and their names and whether or not he as executor gave each of these their deeds of emancipation. That he would state upon his oath where each one of those persons emancipated are, in whose possession, or in whose possession they were when he last heard from them and saw them, and when and where that was. That the said Eli Wiley would state upon his oath as aforesaid whether

at the sale of said negroes under the order of the County court, Joseph M. Walsh did not act on that occasion as cuen of the sale, clerk of the sale & bidder at the sale That said Wiley would also state on his oath, how many negroes were sold on that occasion, to whom were they sold, and for what price, and whether the same has been paid to the estate of Rian or not. That he would further state as aforesaid the agreement that is between himself and said Walsh to keep Wiley harmless in suits that may be urged against him on account of the estate of Rian. That he will state the substance of said agreement, and whether verbal or written, and if in writing where the writting is. and at what time the same was entered into by and between Walsh & himself. He will also state if said Walsh has not already employed counsel at his own expense to defend him Wiley, if so state on what occasion or occasions. That said Wiley would state as aforesaid, if he personally knew Mrs Rian (Mrs Burns that was.) For how long a period of time was he acquainted with her, does he know her children by Samuel Burns what are their names and who married to, if a female; if dead what children have they left. State the age of Nancy Rumsey & John Burns, each. The said Wiley will further state upon his corporal oath, what slaves William Rian brought with him and

family from Kentucky, when they first come to the Country, and what become of such slaves if he brought any to the Country and also state their names. The said Eli Wiley will further answer upon his corporal oath as aforesaid, the distance he lived from William Rian. and how long they had lived so near each other, whether or not he was confidentially intimate with William Rian and wife or not. Whether he was not almost every day at said ~~William~~ Rian's house. Whether he was not with said Rian often during his last sickness, and until his death, and whether at any time he ever heard from him an intimation that he owed the heirs of Samuel Burns any sum of money whatsoever. The said Wiley also state upon his oath, whether William Rian was a man who paid his debts or not, and whether in his last illness some trivial accounts were not mentioned and considered all that he owed in the world, the whole not amounting to more perhaps than five dollars.

And that John Burns would state upon his corporal oath as aforesaid whether William Rian did not pay him in full for his share of Samuel Burns estate, and whether he did not execute a receipt in full therefor. The said John will also state upon his oath, whether said Rian did not also pay John Huskey the hus-

band of Mary Burns and John Plummond
the husband of Nancy Plummond their
shares of said Samuel Burns Estate in
full also for which they severally gave
their receipts to said William Rian. He
will also state whether his sister Eliz
abeth Alexander did not receive her por
tion of said estate before the manage
of said Rian with Mrs Burns and in
North Carolina. The said John will
state on his oath, what slaves and their
names each of said heirs with the excep-
tion of Elezabeth received from William
Rian in payment of their share afore-
said. He will also state if said William
Rian did not make a will, and emanci
pate his slaves and their several names
and where they are, and in whose posp-
ession if he knows; He will also state
as aforesaid if he knows Joseph W. Walsh
if he Walsh is a relation of his by marriage
or otherwise, and what conversation said
Walsh has heard from time to time, in
reference to William Rians Estate and
particularly the slaves. He will state
the date of the first conversation, and what
that conversation was and where and then
all subsequent conversations. If he and
Walsh made a contract about this matter
state what that contract was whether
verbal or written if written who has it
He will state if he has at any time was
the bearer of written or oral commu-
nications from Walsh to Nancy Plum-

mond and when and where it was and what those communications were if he knows. He will state upon his oath how much he Burns was to give Walsh for obtaining the judgement against Rians estate aforesaid. He Burns will state upon his oath, how much money he and Walsh or either of them were to pay William Flogan to testify and how much money was in fact paid to him Flogan for his services as a witness on the rendition of said Judgement. He Burns will state as aforesaid whether there was not a contract between Walsh & Wiley Executor of Rian in reference to Rians estate giveing to said Walsh the actual administration thereof to do as he pleased, he the said Walsh keeping him Wiley safe and harmless and if not so, state what contract was made. State were you present in the County Court of Jefferson County when Walsh obtained said Judgement against the estate of Rian. What did Wiley the Executor do in opposition to the demand, anything or nothing, did he Walsh notice or not, did he object, did he examine a witness, did he say one word, and what did Walsh do, did he read a statement of William Flogan in writing in proof of the demand and was Flogan then present, was he sworn at all, where was the statement read reduced to writing Did Walsh bring it in his pocket to Court

What is Hogan's character good or bad. Has he ran off from the county for imputed crime. Did Walsh introduce any other proof of the demand except Hogans statement that was read. Have you received your legacy under the will of William Rian from Wiley Oscer. State what it was and its value.

And that Your Honor would upon a full hearing of the premises order and decree the Judgment so rendered by the County Court aforesaid to be annulled and vacated for fraud, and that the said defendants be restrained by the order or injunction of this honorable Court, from proceeding in the cause aforesaid at law, until this cause is heard and determined in Equity, or that your Honor will make such other order and decree in the premises and grant such further and other relief as the nature of her case may require, and as shall be agreeable to equity and good conscience. May it please your Honor to grant &c and Your Orator shall ever pray

Nancy Thurmond
admx of William Rian dec'd
with the will annexed
Complainant.

A true Copy. Attest

Jno. S. Mathews Clerk

In Jefferson Circuit Court.
July Term 1842

Nancy Thurman &c Ex^x
of William Rian
vs } Summons
Joseph W Walsh
Elizabeth Walsh et al

---

filed July 12th 1842
J M J Matthews
C C

County of Jefferson, ss.

THE STATE OF MISSOURI,

To the Sheriff of the County of Jefferson, GREETING:

We command you to Summon Joseph W Walsh and Elizabeth his wife if they be found in your County. that they be and appear ~~before~~

before the Judge of our Circuit Court, on the first day of the next term thereof, to be held at the Town of Hillsboro — within and for the County of Jefferson, on the ~~second~~ third Monday of July — next, then and there to answer unto the bill of Nancy Thurmond Executrix of William Rian deceased. in Chancery. a copy of which is hereto attached —

~~to the damage of said plaintiff~~

~~dollars.~~

And have you then there this writ.

Witness, JOHN S. MATHEWS, Clerk of our said Court, with the Seal thereof hereto affixed, at office in the Town of Hillsboro — this first day of May, in the year of our Lord eighteen hundred and forty two.

J. S. Mathews Clerk.

Executed the within writ, in the County of St. Louis, by reading it to Joseph W Walsh and delivering to him a Copy of the attached bill, certified by the Clerk to be a true Copy of the original, on the 3d day of May 1842; and by offering to read this writ to Elizabeth Walsh Wife of Joseph W Walsh, on the 2d day of July, 1842, which she refused to hear read —

Service $2.00 — Marshall Brotherton
Sheriff St Louis County