

Jefferson County Circuit Court
Case Files - Civil

Box 14 Folder 82

November 1863

Bryant, David W. / adm.
Horne, Thomas M.

vs.

Smith, Francis J.

Appeal

Plaintiff appealed from County
Court on claim of \$2,269.07 due
plaintiff from defendant as former
administrator; depositions

David W. Bryant, Administrator
of the Estate of Thomas M. Morine } Plff,

Against
Francis J. Smith — Defendant,

{ In the County Court
Jefferson County, Missouri,
July Term 1863,

David W. Bryant, Administrator aforesaid,
makes oath and says that the appeal
of the above Cause to the Circuit Court,
is not taken for the purpose of vexa-
tion or delay, but because this Affi-
ant believes that the Appellant is
aggrieved by the decision of the County
Court.

Sworn to and subscribed before
me this 14th day of July 1863.
J. H. Deppay, Alt. Sec. Ct.

D. W. Bryant



Catal of

Thomas, D. M. H. H. H. H.

Affairant of

D. M. H. H. H. H.

Isabel Nov 7th 1863
E. J. H. H. H. H.

Filed July 12th 1863

E. J. H. H. H. H.

20.
H. Watson a witness - States
he is acquainted with Boman who executed
a certain note to Thos M. Horine here I think
that said Boman went to California
in '49, had no property here & C. Suffered
to pay said note - has not been here
since Capt Horine died

Estate of
Julie Steiner

Debtor of
Esther of
L. S. Malin

Filed April 9th 1862
J. A. Reilly Clerk

Witness &

Filed Nov 7th 1863
E. R. Downey Clerk

Filed Dec 10th 1862
J. A. Reilly Clerk

Estate Thomas Morine
deceased,
Against
Francis J. Smith,

In Supp. Co. Court.
Jan. Term 1863.

John L. Thomas, Atty for Defendant
in the above entitled Cause, makes oath & says
that he believes Defendant cannot safely proceed
to trial at this time for the want of material
evidence; that due diligence has been used
to obtain the same and that if a continuance
be allowed him this affiant believes, that
such evidence can be obtained in time
to be used at next term of this Court.

Sworn to & subscribed before
me this 10th day of January } John L. Thomas.
A. D. 1863. }
J. H. Peppy. clk

Oct. 27 Morris, David

22

J. J. Smith,

Stidait for Con-
Insurance —

Filed Nov 7th 1863
E. F. Cheney Clerk

Confession

At Newbury 10th 1863

David W. Bryant, Adm^r? De bonis non
of the Estate Thomas Horine, Dec'd }
Against
Francis J. Smith }

In the Jefferson
County Court, - Missouri.

To David W. Bryant, Adm^r? De bonis non of
the Estate Thomas Horine, Dec'd.

Take notice that depositions
of witnesses to read on the trial of the above
entitled cause on the part of defendant, will
be taken at the office of Hume F. Hill, Justice
of the peace and Notary Public on Second Street
in the City of Memphis, State of Tennessee, on
the 4th day of June 1863, between the hours of
Eight o'clock in the forenoon and six o'clock
in the afternoon of that day: and that the taking
of said depositions, if not completed on that day,
will be continued from day to day at the same
place and between the same hours till com-
pleted.

Beal & Thomas
Attys for Smith.

2211. August 1863.

or

Francis J. Smith.

Notice to take Applications.

I acknowledge service of the within
Notice that 3rd day of May 1863,
Done at New York
{ Attest by Attorney
Jas. L. Thompson

Depositions of witnesses, produced,
sworn & examined, on the 4th day of
June in the year 1863, between the
hours of eight o'clock in the forenoon
and six o'clock in the afternoon of
that day at my office in the
city of Memphis, in the County of
Shelby in the State of Tennessee, be-
fore me James J. Hall Justice of the
Peace within & for said County
& State, in a certain cause now de-
pending in the Superior County Court
in the State of Tennessee
between Land W. Bryant Administrator
of the Estate of ~~Abner~~ Plaintiff and Francis W. Smith
defendant, on the part of the
defendant -

~~By~~ Francis W. Smith of law
full age, being produced, sworn
& examined on the part of the de-
fendant - deposes & says -

My age is about forty five years, my residence
Memphis, Tenn. my occupation in 1860 and now
is that of Cashier of the Branch of the Union Bank
of Tenn. at Memphis. I know D. L. Armstrong and
Mr. J. Clayton and believe they were men of property
in October 1860, but don't know how much. Clayton,
I believe, lived in Shelby County Tenn. and

(Copy)

Memphis, October 23rd 1860

\$2,600.00

Twelve months after date of
promise to pay to the order of John A. Clayton,
Two Thousand and six hundred Dollars at
the Branch of the Union Bank of Tennessee, at
Memphis, value received

(Signed) J. L. Armstrong

Endorsed

John S Clayton
Mumphy
Tenn

Jas D. Thornton agt

Thirteen hundred Dollars of this note
is by agreement this day discharged & released,
that being the price of the boy John which
was embraced in the original amount and
who has proved unhealthy, and as to
whom the contract of sale is canceled
and John taken back. The balance on
the note is thirteen hundred Dollars
(\$1,300.-) this May 1861

(Signed) Jas. D. Thornton
agt of holder

Armstrong in Arkansas - have no positive knowledge of their place of residence. I believe they were both Planters. I think it likely that they are now worth the amount of the note, a copy of which is attached hereto.

I know Jas. B. Thornton and I believe that he practiced law in Memphis in 1860; I believe he has left Memphis, but I do not know where he went to, or when he left.

The books of the Branch of the Union Bank of Tenn. at Memphis show that the note made by R. L. Armstrong in favour of ^{endorsed by} ~~him~~ Clayton for \$2,600. - at 12 months from date and dated October 23^d 1860 (a copy of which ^{with the endorsement thereon} is attached hereto) was deposited by Jas. B. Thornton on or about the 28th Sept. 1861 in said Bank for collection. The note was protested and is now in possession of the Bank (not having been withdrawn by Thornton) and appears to be unpaid. I know nothing more about it. The Bank is ready to deliver said note to the proper owner (in the absence of Jas. B. Thornton) when the ownership is satisfactorily established. At present Jas. B. Thornton is recognised as the owner, and the only one known to the Bank.

J. N. Smith

John A Person of lawful age being
living sworn and examined on the facts
of the Plaintiff Defendant depositions
and facts

State if you know B & L
saying a John S Clayton or both;
State their pecuniary responsibilities
or what it was in Oct 1860 if you ~~know~~
knew.

I know both parties
They were both men of property
at that time I believed them then
as now perfectly responsible
for the amount of Twenty Six hundred
dollar or twice that amount
They were both large Cotton Planters
at that time

If you know when the Blockade
was established by the Confederate
authorities state as near as you
recollect - & particularly when
in the course with the Northern
or States, or called, was prohibited
by the Confederate authorities;
I cannot give dates but my recollection
is that the Blockade was established
about six months after the war
commenced

State if you know J B Thornton
what was his occupation in
Oct 1860 - when he resided where
he is now and all about him
I know J B Thornton he was
a practicing lawyer in this
city in 1860 He is not now
in the city I do not know
where he is I have not seen
him that I recollect of for
eight or twelve months
And ~~there~~ further this deponent
saith not

John H. Brown

Abraham J. S. of Lawrence
being out some days -

That I am 81 years of age &
reside at Memphis at present -
resided here the war commenced -
But left here & next month the
28th of June 1861 - I returned with
the fleet in the attack on Memphis
the 5th of June 1862. Was
aboard at that time on board
of the Iron Boat St Louis -

The Blockade of the Con-
federate authorities was estab-
lished at Columbus and I recall
as I can recollect - at Columbus
Kentucky in June 1861.

At Boats could pass beyond
Memphis upward without a
permit from the military au-
thorities at the City of Memphis
after that time. This as I sup-
pose was the time that the
~~time the~~ Blockade was es-
tablished interfering & prohibiting
intercourse between the North
& South.

Subscribed & sworn to } J. S. S. S.
Before me this 4 day
of June 1863 - Thomas H. Hill Notary

I Hume D'Will a Notary Public
within and for the County of Shelby
State of Tennessee do certify that in
pursuance of the Annexed Notice, came
before me, at my Office in the
City of Memphis in Said County and State
J W Smith, John H Bowen & A J Sypher,
who were by me severally sworn to testify
the whole truth of their knowledge touching
the matter in Controversy aforesaid, that
they were examined & their Examination
reduced to Writing and Subscribed by them
respectively on my presence the day
between the hours & at the ~~time~~ place
in that behalf first aforesaid and
their Said Depositions are now herewith
returned and I further Certify that
the Said J W Smith, John H Bowen &
A J Sypher, are residents of the Said
County, ^{Shelby} and State of Tennessee

Given under my hand & Seal
of Office at Memphis. This
9 Jan 1863

Hume D'Will
Notary Pub

Thos B party Depth
H D'Will SR

Est. of J. H. H. H. H.
H. H. H. H. H. H. H.

Depository of
J. H. H. H. H. H. H.

~~~~~

Received per H. H. H.,  
H. H. H. H. H. H. H.  
H. H. H. H. H. H. H.

Filed June 29th 1863  
J. H. H. H. H. H. H.

Filed Jan 7th 1863  
J. H. H. H. H. H. H.

At the request of J A Beal Esqr, I make the following statement, concerning business transacted by <sup>me</sup> for Thomas M Horine late of Jefferson County Mo deceased, prior to and after the death of said Horine, It will be seen from an account of said business transactions which I rendered J J Smith Admr of the Estate of said deceased in the year 1859, that the taxes paid by me, (upon Lands owned jointly by J J Smith and Deceased) from 1853. to 1859 amounting to \$101<sup>73</sup>/<sub>100</sub>, and the fee of \$28<sup>24</sup>/<sub>100</sub> for measuring saw logs and collecting amounts, after being deducted from the \$282.40, the proceeds of sale of saw logs from the land owned jointly by Smith & Deceased, leaves a balance of \$152.61. Of this balance Smith is entitled to one half as I applied the same to the payment of the individual debt of Deceased. The remaining two items of the account to wit the 75¢ received of Mr Smith and the 28¢ received of Mr Byrne, were applied by me in the same way, that is to the payment of Deceased half of Note of 450¢ due the Sheriff of Perry Co Mo for a piece of land purchased jointly by Mr Walsh of St Louis and Deceased, Mr Walsh paying through me the other half of said 450¢. With respect to the 75¢ paid me by Mr Smith I know nothing of my own knowledge as to

whose money it was, I can only say that it was paid to me by Mr Smith after the death of Deceased, and if Smith own money he is entitled to the whole Amount of the 75<sup>¢</sup> as it was by me applied to the payment of the 45<sup>¢</sup> note. Mr Smith having no interest in the land purchased by Walsh & Deceased With respect to the 28<sup>¢</sup> paid me by Mr Byrne, I can only say that my understanding is that this 28<sup>¢</sup> was collected by Mr Byrne for the rent of land in St Genevieve County belonging to Estate of Deceased and in which Mr Smith has no interest.

With respect to the balance of in my hands of \$30<sup>49</sup>/<sub>100</sub> I will say in Conclusion that I paid in 1860 to the Collector of Perry County taxes on the joint land of Smith & Deceased to the Amount of \$22.<sup>66</sup>/<sub>100</sub> and in 1861, paid same to Amount of \$24.<sup>50</sup>/<sub>100</sub> Amounting in all to \$47.<sup>16</sup>/<sub>100</sub> and leaving a bal due me of \$16.<sup>67</sup>/<sub>100</sub> which balance I charged to account of Mrs Elizabeth M Horne, Mr Smith having transferred his interest in said land to one Watson in 1861.

Sworn to and subscribed before Henry, L. Caldwell  
the undersigned, a Justice of the  
Peace, within & for Sabine Township  
Perry County Mo, this ~~day~~ day  
of May A.D. 1863  
E. L. Adams Justice of the Peace

Deputy Clerk of the Court

Edw. Smith

Deposition

Tested and sworn to  
E. J. Harnsey Clerk

Tested July 6 1863

Wm. H. Harnsey

Horne & Smith

To Henry L Caldwell Dr

|                |    |                                                                |        |        |
|----------------|----|----------------------------------------------------------------|--------|--------|
| 1853.          | To | Balance due, on Settlement                                     | \$     | 36. f  |
| 1854           | "  | Am't taxes on real estate paid Collector                       |        |        |
|                | "  | of Perry County for 1854, as per receipt                       | 16.00  |        |
| 1855.          | "  | Do Do Do 1855 Do                                               | 10.13  |        |
| 1856           | "  | Do Do Do 1856, Do                                              | 20.00  |        |
| 1857           | "  | Do Do Do 1857 Do                                               | 15.00  |        |
| 1858.          | "  | Do Do Do 1858 Do                                               | 14.25  |        |
| 1859           | "  | Do Do Do 1859 Do                                               | 25.99  |        |
| 1857. Nov 15th | "  | Am't of Walsh & Hornes note paid to the Sheriff of Perry Co Mo |        |        |
|                |    | 450 <sup>th</sup> One half -                                   | 225.00 |        |
|                |    | Contra Cr                                                      | \$     | 326.73 |
| 1856.          | By | Am't collected of St Beary on Account Walnut Saw Logs sold him | 210.50 |        |
| Jan 1858       | "  | Do Do Do                                                       | 71.90  |        |
|                |    |                                                                | \$     | 282.46 |

Let ten per cent for measuring number of feet in each Saw log & for collecting the same

|       |    |                                |        |          |
|-------|----|--------------------------------|--------|----------|
|       |    |                                | 28.24  |          |
| 1858. | By | Am't received from J. J. Smith | 254.22 |          |
|       |    |                                | 75.00  |          |
| "     | "  | Am't received of Maria Bynno   | 28.00  | 357.22   |
|       |    | Bal due Horne & Smith          |        | \$ 30.49 |

St Mary Mo Oct 11th 1860

J. J. Smith Esqr. Dear Frank

Please find above statement of my account with Horne & Smith which shows balance due them of \$30<sup>49</sup> which I will retain to pay taxes of the present year. I have all the tax receipt from 1854 to 1859, which I will hand you some time when we meet. There is also a balance due Horne & Walsh after pay taxes, which I also hold to pay taxes of the

present year. An Account of which I rendered Mr  
Wash when in St Louis last. I had this apc  
with me in St Louis the week of the fair but  
was not able to find you after meeting you  
the first night at the Planters House. All well

Yours truly,

Henry S Caldwell

Good well

Henry S Caldwell

Wm Caldwell  
HSC

1863 The Estate of Thos M Horine Dr  
To F A Smith

|                                                                                                          |          |
|----------------------------------------------------------------------------------------------------------|----------|
| To amt paid S L Hicks for labor on farm of Dec                                                           | \$225.00 |
| " " " Leany Ellis                                                                                        | 75.00    |
| " " " Caldwell & per Caldwell                                                                            | 150.00   |
| " " " for collar & harness                                                                               | 49.99    |
| " hire of Jack to Mrs Horine 1/2 year                                                                    | 50.00    |
| " " " sold oats                                                                                          | 60.00    |
| " " cash to Mrs Horine +                                                                                 | 20.00    |
| 15 bush X 75 bushels coam 1.25 @ 1                                                                       | 91.00    |
| " " Wagon                                                                                                | 75.00    |
| " " Store goods & Groceries at Platts Rock                                                               | 150.00   |
| " " Store goods at Horine's Store                                                                        | 211.00   |
| withdrawn " Expenses in pursuit of Charles                                                               | 100.00   |
| " " balance of note of 2000 not coll                                                                     |          |
| withdrawn — ectd, the other half being for John returned                                                 | 1300.00  |
| withdrawn " amt of goods at O'Fallon's Store                                                             | 29.65    |
| " " Extra trouble attending to & Superint<br>ending cutting & sale of wood, 4643000                      | 600.00   |
| " " Expenses taking deceased to Lawrence                                                                 | 100.00   |
| " " Commission on 11450, 3 per cent                                                                      | 52.50    |
| " " " 1569, 3 "                                                                                          | 47.07    |
| " " Extra trouble in cutting & sale of 131000 of wood<br>part of 600 charge, attributable in 10 per cent | 1310.00  |
| To amt paid Charles Co. Sept 17 labor on farm                                                            | 40.00    |

*May not receive*  
of Herries Estate

no

of J. J. Smith

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Credit Claims

Recd Nov 7th 1863  
E. J. Honey clk

Paid July 8 1863  
J. J. Smith & Co

State of Missouri } In the County Court Oct. 10<sup>th</sup> 1862  
 County of Jefferson } The following remains of record.

Estate of Thomas M. Horine deceased.  
 Now at this day comes David W. Bryant, administrator  
 of the estate of said deceased, and makes application to the Court  
 to ascertain the amount of money, the quantity and kind, of  
 real and personal property, and all the rights, credits, deeds evidences  
 of debt, and papers of every kind, of said deceased, in the hands  
 of Francis S. Smith, former administrator of said estate,  
 and whose letters were revoked, at the last term of this Court, and  
 the settlement, and ascertainment of the property in the hands of  
 said former administrator to be made by the Court on said  
 revocation, was by the Court, continued to this Term. (as also the  
 settlement withdrawn) and the Court proceeding to ascertain  
 the amount of money and property, in the hands of said  
 former administrator, finds as follows, That at the settlement  
 made by said administrator, at the January Term 1861 he was indebted  
 to said estate, in the sum of seven thousand, one hundred and thirty  
 nine dollars and forty one cents, and that he has since made the  
 following disbursements, To wit:

|                                              |          |
|----------------------------------------------|----------|
| By Amount paid Wm. Skel, Voucher No. 15,     | \$ 68.12 |
| " " " William Skel " " 16,                   | \$ 8.50  |
| " " " " " " 17,                              | 2.75     |
| " " " James C. Power, " 18                   | 28.80    |
| " " " Elizabeth Davis (Total amount paid) 19 | 907.75   |
| " " " Mrs. C. M. Horine " 20,                | 520.00   |
| " " " James A. Deal " 21,                    | 7.20     |

|                                                       |              |
|-------------------------------------------------------|--------------|
| By Amount paid Thomas M. Coran (deceased) Co., No. 22 | \$20.00      |
| " " " William E. Clark                                | " " 23 75.00 |
| " " " William L. Riley                                | " " 24 75.00 |
| " " " James Stewart                                   | " " 25 11.75 |
| " " " Henry Blair                                     | " " 26 2.85  |
| " " " S. S. Baker                                     | " " 27 12.79 |
| " " " Josiah Craft                                    | " " 28 50.00 |
| " " of slave John, sold by admr. & returned,          | 1,300.00     |
| " " Commission 5 per cent on \$2,000.00 disbursed,    | 100.00       |
| " " " 3 " " 4,957.11                                  | 147.21       |
| Credits,                                              | \$3,417.72   |

Balance due from said administrator \$3,721.69.

Leaving a balance in money due said Estate from said Francis J. Smith, former Administrator, of the same amounting to three thousand seven hundred and twenty one dollars and sixty nine cents, which the Court orders and adjudges the said Francis J. Smith to render, and pay over to the said David W. Bryant, administrator, de bonis non of said Estate, and that he have execution therefor against the said Francis J. Smith. The Court further find said Francis J. Smith has in his possession or under his control all the deeds and evidences of title of said deceased, to all the lands described in the general Inventory, filed by said former administrator; It is therefore ordered by the Court that the said Francis J. Smith deliver to his successor, the said David W. Bryant, said administrator, the aforesaid deeds and evidences of title, and that he have attachment therefor.

November 25<sup>th</sup> 1862, as follows.

Estate of Thomas M. Coran deceased }  
David W. Bryant, administrator de bonis non }

Now at this day comes Francis J. Smith, ad-

administration of said estate, and move the Court to modify the settlement, and judgment rendered therein at the October term 1862 of this Court, in favor of David W. Boyant, Administrator of Thomas M. Horine against Francis J. Smith, former administrator of said estate; and to allow said Smith further credits, thereupon, upon the consent of the said David W. Boyant, Administrator of Thomas M. Horine, it is ordered that the said judgment be so modified, and that said Francis J. Smith be allowed credits for all payments, as for other legal credits to which he may be entitled, in the estate of the said Horine, and this matter is continued, to the next term of this Court, to make proof of any further credits to which he may show himself entitled.

January 10th 1863.

Estate of Thomas M. Horine deceased }  
Francis J. Smith late Admr. of said decd. } Now at this day comes  
The attorney of David W. Boyant present administrator of  
said estate, and files his motion to disallow a certain credit which  
said Smith claims should be allowed him, in the settlement of  
the estate of said decd.. Said Smith being in want of proof  
to satisfy the Court, of the justice of his claim, this case is therefore  
continued until the next term of this Court, so as to allow said  
Smith time to procure proof of the justice of the further credits  
which he asks the Court to give him.

Tuesday April 7<sup>th</sup> 1863.  
Estate of Thomas M. Horine.

It is ordered by the Court that Francis J. Smith, former administrator of said estate, pay over to David W. Bryant, present administrator, the sum of One Thousand Dollars, as part of the assets in his hands due said estate, and by consent of parties, the settlement of said Smith, is continued until the July Term of this Court 1863.

Friday, July 10<sup>th</sup> 1863

David W. Bryant administrator of the estate of Thomas M. Horine  
vs  
Francis J. Smith

Now at this day come the parties aforesaid, and the Court having at the October Term 1862, ascertained the amount of the said Francis J. Smith's indebtedness to said estate as the former administrator thereof, (his letters of administration having been revoked) to be three thousand, seven hundred and twenty one  $\frac{1}{10}$  dollars, and having ordered the same to be paid over to said David W. Bryant the present administrator, and having also at an adjourned term of said Court held in November 1862, made an order to allow said Francis J. Smith to present for allowance, such further credits as he might show himself entitled to, and the said Smith appearing by his attorney, and presenting a bill of the additional credits claimed, the Court upon the evidence adduced, finds that said Francis J. Smith is entitled to a further credit of the following items, to wit:

|                    |                                              |                    |
|--------------------|----------------------------------------------|--------------------|
| By the amount paid | Samuel Hicks                                 | \$225.00           |
| " " "              | Sarah Ellis                                  | 75.00              |
| " " "              | Caldwell                                     | 150.00             |
| " " "              | " for collar & harness                       | 49.99              |
| " " "              | " " hire of Jack & m.                        | 50.00              |
| " " "              | " " Oats                                     | 37.50              |
| " " "              | " " Corn                                     | 18.75              |
| " " "              | " " Hay                                      | 65.00              |
| " " "              | " " Goods from Platten Rock                  | 45.00              |
| " " "              | " " extra trouble cutting wood               | 600.00             |
| " " "              | " of Commission omitted in former settlement | 6.00               |
| " " "              | " paid Charles Craft,                        | 40.00              |
| " " "              | " of Commission on present disbursements,    | 40.38 = \$1,452.62 |

Making in the aggregate, the sum of One thousand four hundred and fifty two <sup>62</sup>/<sub>100</sub> dollars, which is allowed to said Smith, which being deducted from the amount found against him at said October term 1862, leaves a balance against him of assets belonging to said estate, of Two thousand, two hundred and sixty nine <sup>62</sup>/<sub>100</sub> dollars, which includes the thousand dollars, ordered at last term to be paid over by said Smith, to the said Bryant. & it appearing that the same has not been paid, and said order is therefore annulled, And the Court therefore, orders and adjudges that said Francis J. Smith, render and pay over to the said D. W. Bryant administrator, de bono non, of said estate, the sum of Two thousand two hundred and sixty nine <sup>62</sup>/<sub>100</sub> dollars, the amount so found against him, and that said David W. Bryant, the present administrator have execution therefor, against said Francis J.

Smith. And the said Smith, having withdrawn before judgment, three items presented in his settlement, *To Wit*: one item of one thousand three hundred dollars, amount of Sale of Negro, Pell, one item of One hundred dollars for pursuit of Charles, and Twenty nine dollars for goods of John O. Fallon, the court orders that said Smith be allowed to present at the next term of this court the said items so withdrawn for further action of this court, at said next term thereof.

Monday, August 17<sup>th</sup> 1863.

|                                                                               |                            |
|-------------------------------------------------------------------------------|----------------------------|
| David M. Bryant administrator<br>of the estate of Thomas M. Horne Decd.<br>By | } Motion for an<br>Appeal. |
|-------------------------------------------------------------------------------|----------------------------|

Francis J. Smith former Administrator

Now at this day comes said administrator, and presents his affidavit for an appeal, in the above entitled cause stating that the appeal is not taken for vexation or delay, but because this affiant is aggrieved by the decision of this court, which being seen, heard and fully understood, by the court, it is ordered by the court that the appeal be granted, and that the clerk of this court make out and certify, a complete copy of the record in the above entitled cause, to the clerk of the Circuit Court, and file with said certified copy, all the papers pertaining to the matter, at least 20 days before the sitting of the next circuit court of Jefferson County.

I hereby certify that the foregoing is a full and complete copy of all the Record in the case of David W. Bryant administrator of Thomas M. Horne, against Francis J. Smith former administrator of said estate



In Testimony whereof I, Samuel A. Reppy  
Clerk of the County Court of Jeff. Co. Mo.  
have hereunto set my hand and affixed  
the Seal of said Court at office in Hallston  
the 24<sup>th</sup> day of October 1863.  
Samuel A. Reppy, Clerk

Due Bill of clerk Co. Ct.  
For copying & certifying to the Record in  
the above entitled cause 2,000 words and figures 200  
For affixing Co. Ct. Seal to same 25  
2.25



David W. Payant,  
Administrator of J. M. Horne

vs.

James J. Smith,  
former Administrator

Filed Nov. 26 1843

Eliza D. Horne

David Bryant Adm<sup>r</sup>.  
of Estate of J. M. Arvine Plaintiff } In Circuit  
} Court of Jefferson  
Missouri

Is the above named plaintiff, you are  
hereby notified that depositions & interrogatories to  
be read in evidence in the above cause on the part  
of Defendant will be taken at the Office of  
John Jacko Justice of the Peace, in the City of St. Louis  
Missouri on the 18<sup>th</sup> Day of December 1863  
between the hours of 8 O'clock A.M. and 6 O'clock  
P.M., & if not completed on that day they will be  
continued from day to day at same place and  
same hours until completed

Orall Thomas  
Atty for defendant

I delivered a copy of above notice to David  
Bryant at Jefferson County on this 18<sup>th</sup> December  
1863

J. B. Dace Dep. Sheriff  
by J. D. Hop Dep. S.

Mrs E. M. Horine

To G. P. Smith Dr

1856

|                       |                                                   |                                  |
|-----------------------|---------------------------------------------------|----------------------------------|
| Jan 15 <sup>th</sup>  | To 8 <sup>3</sup> / <sub>4</sub> Bush Meal @ 60 ¢ | 5.25                             |
| June 9 <sup>th</sup>  | " 25 " " 8 4 3/4 Salt                             | 23.00                            |
| July 16 <sup>th</sup> | " 4 <sup>1</sup> / <sub>2</sub> " " @ 65 ¢        | 2.92 <sup>1</sup> / <sub>2</sub> |
| Aug 19 <sup>th</sup>  | " 85 lbs Meal @ 70 ¢                              | 1.33                             |
| " 23 <sup>rd</sup>    | " 17 <sup>1</sup> / <sub>2</sub> Bush Meal @ 70 ¢ | 11.90                            |
| Oct 4 <sup>th</sup>   | " 10 " " @ 65 ¢                                   | 6.50                             |
| Nov 5 <sup>th</sup>   | " 2 Cans Mustard @ 40 ¢                           | .80                              |
| " 4 <sup>th</sup>     | " 250 lbs Meal @ 70 ¢                             | 2.28                             |
|                       |                                                   | 2.28 <sup>3</sup> / <sub>4</sub> |

Chargable to the Estate

Filed December

18-1863 by depen

James G. Smith

David Bryant owner of the  
Estate of John Heriome, Plaintiff  
against  
Francis D Smith Defendant  
Do the above named Plaintiff. You are  
hereby notified that Depositions of witnesses to be read  
in evidence in the above cause on the part of the  
defendant, will be taken at the office of Charles Walter  
Tany Public吏 397 2 Street Washington City D.C.  
on the 28<sup>th</sup> day of November 1863 between the hours of  
8 o'clock in the forenoon and six o'clock in the afternoon,  
and if not completed on that day, they will be con-  
tinued from day to day at the same place between  
the same hours till completed

Deal & Thomas Attorneys for F D Smith

I Executed the within notice by giving a copy of the  
same to Abner Green atty of R. for David Ingram  
sur of the estate of S M Horne on this 10th day of Nov  
ber 1863 at Jefferson County Ind  
J A Beal

D Boyant adms

vs

J A Smith

Depositions of Witnesses produced, sworn and examined on the 28<sup>th</sup> day of November 1863 between the hours of 8 A. M. and 6 P. M. of that day at the Office of Charles Walter Notary Public No 397 D. Street, Washington City D. C. before me Charles Walter Notary Public in and for Washington City and County D. C. in a certain cause now pending in the Circuit Court of Jefferson County Missouri, between David Bryant Admr. of the Estate of J. M. Horine plaintiff and Francis J. Smith defendant on the part of the defendant.

William P. Bacon, of lawful age, being produced, sworn and examined on the part of the defendant deposes and says, that he is acquainted with Francis J. Smith and Mrs Horine, widow of J. M. Horine of Jefferson County, Missouri, that he was clerk to Mr. Francis J. Smith from December A. D. 1859 to latter part of A. D. 1860 and that he knows the annexed account marked "A" to be correct in every item except the ~~four~~ <sup>one</sup> marked respectively with an asterisk, which ~~was~~ <sup>he</sup> charged by direction of Mr. Smith and of the correctness of which he has no doubt. Interlined before signing.

William P. Bacon

I, Charles Walter Notary Public within and for Washington City and County D. C. do certify that in pursuance of the within notice came before me at my Office No 397. D. Street in said City of Washington William P. Bacon who was by me

Sworn to testify the truth, the whole truth of his knowledge touching the matter in controversy aforesaid, that he was examined, and his examination reduced to writing and subscribed by him in my presence, on the day, between the hours and at the place in that behalf first aforesaid and his said deposition is now herewith returned - And I further certify that William P. Bacon is a resident of Washington City D. C. -

Given at Washington City D. C. This 28<sup>th</sup> day of November 1863 - In witness whereof I have hereunto set my hand and affixed my official Seal the day and year last aforesaid.



Charles Walter  
Notary Public

397. D. Street Washington D.C.

Fee : \$ 5. --  
C. W.

2278

Q. W. Day and Adam  
the the No. 1000

St. J. Smith

Depend on for depth

Received per the said open  
ed and filed the 22  
11<sup>th</sup> 1863

E. J. Leroy Ch

Mrs E. M. Horine

In ac with Jas. J. Smith Dr.

|       |    |                                                                                                                                                                                                                                               |  |        |         |
|-------|----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--------|---------|
| 1859. |    |                                                                                                                                                                                                                                               |  |        |         |
| Dec.  | 9  | Do 1 axe                                                                                                                                                                                                                                      |  | 1 25   |         |
|       | 12 | " " "                                                                                                                                                                                                                                         |  | 1 25   |         |
|       | 19 | " 1 Bottle Ink                                                                                                                                                                                                                                |  | 10     |         |
|       | 21 | " 1 Bbl. Flour                                                                                                                                                                                                                                |  | 6 50   |         |
| 1860. | 22 | " Tobacco                                                                                                                                                                                                                                     |  | 10     |         |
| Jan.  | 3  | " " 10 <sup>¢</sup> , 2 Brooms @ 30 <sup>¢</sup> 60 <sup>¢</sup> , 1 Gall.<br>Whisky 60 <sup>¢</sup>                                                                                                                                          |  | 1 30.  |         |
|       | 14 | " Can & 5 galls. Coal Oil 6. <sup>¢</sup> , Lamp<br>& globe 4. <sup>¢</sup> , Lamp Chimnies 25 <sup>¢</sup><br>Lamp Brush 15 <sup>¢</sup> , Lamp Wicks 15 <sup>¢</sup><br>1 pair Lamp Scissors 45 <sup>¢</sup> ,<br>Saleratus 10 <sup>¢</sup> |  | 1 23 1 |         |
|       | 17 | " Ink                                                                                                                                                                                                                                         |  | 10     |         |
|       | 19 | " 80 lbs Lard @ 6 1/2 <sup>¢</sup>                                                                                                                                                                                                            |  | 5 20   |         |
| Feb.  | 7  | " 3 Galls. Beer @ 50 <sup>¢</sup>                                                                                                                                                                                                             |  | 1 50   |         |
|       | 8  | " 5 " " "                                                                                                                                                                                                                                     |  | 2 50   |         |
|       | 9  | " Nails                                                                                                                                                                                                                                       |  | 15     |         |
|       | 11 | " Cash - frt. on wool 50 <sup>¢</sup> , Repairing<br>Child's shoes 20 <sup>¢</sup>                                                                                                                                                            |  | 70     |         |
|       | 13 | " Coffee                                                                                                                                                                                                                                      |  | 50     |         |
|       | 15 | " Tobaces                                                                                                                                                                                                                                     |  | 10     |         |
|       | 16 | " Cash - frt. on wool                                                                                                                                                                                                                         |  | 25     |         |
|       | 18 | " 1 Bbl Flour                                                                                                                                                                                                                                 |  | 7 50   |         |
|       | 25 | " 1 Broom                                                                                                                                                                                                                                     |  | 30     |         |
|       | 28 | " Shoes Bot. in St. Louis for Molly 1. <sup>30</sup><br>Medicine for Sue 1. <sup>55</sup>                                                                                                                                                     |  | 2 85   |         |
| Mar.  | 10 | " Cash - Postage on letters                                                                                                                                                                                                                   |  | 10     |         |
|       | 12 | " 3 Galls Beer @ 50 <sup>¢</sup>                                                                                                                                                                                                              |  | 1 50   |         |
|       |    | " Cash - Pd. Dr. Cooper 6.00,<br>Donnelly (for Corn) 5. <sup>00</sup>                                                                                                                                                                         |  | 11 00  |         |
|       | 17 | " Cash - Order favor Donnelly                                                                                                                                                                                                                 |  | 2 65   |         |
|       | 19 | " Sundries - Bot. of Plant & Bro., St. Louis                                                                                                                                                                                                  |  | 4 85   |         |
|       | 20 | " Nails                                                                                                                                                                                                                                       |  | 10     |         |
|       | 24 | " Freight on Brooms                                                                                                                                                                                                                           |  | 25     |         |
|       | 26 | " Cash - to Miss Susan and her<br>" Travelling expenses to St. Louis                                                                                                                                                                          |  | 5 70   |         |
|       |    | " " Freight on wool                                                                                                                                                                                                                           |  | 25     |         |
|       |    | " Beer                                                                                                                                                                                                                                        |  | 60     |         |
|       | 28 | " Flour                                                                                                                                                                                                                                       |  | 25     |         |
|       | 31 | " Coffee 1. <sup>00</sup> , Beer 45 <sup>¢</sup>                                                                                                                                                                                              |  | 1 45   |         |
| Apr.  | 2  | " Lamp Chimnies                                                                                                                                                                                                                               |  | 50     |         |
|       | 10 | " Cash - frt. on oats & seed                                                                                                                                                                                                                  |  | 1 80   |         |
|       | 13 | " Nails                                                                                                                                                                                                                                       |  | 10     |         |
|       | 14 | " Cash - Repairing Mrs. Boole's                                                                                                                                                                                                               |  | 15     |         |
|       | 16 | " Peach Trees - 150 -                                                                                                                                                                                                                         |  | 5 00   |         |
|       |    | Amount carried forward.                                                                                                                                                                                                                       |  |        | 8110 71 |

|       |                                                    |       |       |
|-------|----------------------------------------------------|-------|-------|
| 1860. | Brit. Ford.                                        | 11071 |       |
| April | 21 To Molasses 75¢, Nails 10¢, 25 lbs Pork @ 12¢   | 385   |       |
| May   | 4 " Oats 16.¢, Clover Seed 21.¢, Drayage 60¢       | 3760  |       |
|       | 8 " 1 lb Imperial Tea                              | 125   |       |
|       | 18 " Lime                                          | 50    |       |
|       | 26 " 2 bushels Corn @ 60¢ 1.2¢ frt. on same 25¢    | 145   |       |
|       | 30 " Matches                                       | 15    |       |
|       | 31 " Cash - frt. on Bbl. Sugar                     | 55    |       |
| June  | 4 " " - previously gotten - 40.¢, Bbl. Sugar 24.25 | 6423  |       |
|       | 6 " Freight on gutting 25¢, Salt 1.75              | 200   |       |
|       | " Nails - previously gotten by Isaac -             | 10    |       |
|       | 9 " 1 Tea pot                                      | 25    |       |
|       | 14 " Nails                                         | 20    |       |
|       | 18 " Cash - frt. on Potatoes                       | 35    | 22319 |

|       |                                |     |       |
|-------|--------------------------------|-----|-------|
| 1860. | Cor.                           |     |       |
| Jan.  | 13 By 72 lbs Beef @ 5 1/4 ¢    | 378 |       |
|       | " 146 " " " 4 1/2 ¢            | 657 |       |
|       | " 23 1/2 " " " 4 ¢             | 94  |       |
|       | " 64 " " " 5 ¢                 | 320 |       |
|       | 14 " Hauling (previously done) | 225 | 1674  |
|       | Bal. is debit                  |     | 20645 |

C. O. C.  
 Corine's Station,  
 Jefferson County, Mo.

Wm. L. M. Corine  
 \$206.45

*[Signature]*

Recd. pr. Mail, opened and filed Dec 14 1863  
Elias D. Honey Clk

State of Missouri }  
County of St. Louis }



Deposition of S. G. Spalding

a witness for the defendant produced sworn and examined  
at the Office of John Jack, No. 16 Walnut Street in the  
City & County of St. Louis and State of Missouri, before  
me the undersigned John Jack a Justice of the Peace, duly  
commissioned and qualified within for the County  
aforesaid in a certain Cause now pending in the Circuit  
Court of Jefferson County Missouri, between David Bryan  
Administrator of the Estate of T. M. Hornie against  
F. J. Smith on the part of the Defendant

S. G. Spalding being duly sworn upon his  
corporate oath states, I am 39 years of age  
reside in the City & County of St. Louis State  
of Missouri, I was in the Employ of F. J. Smith

at the time the goods were purchased which are enumerated in the bill shown me now, "Exhibit" The account was made out by myself, the items in the bill of the 10<sup>th</sup> & 11<sup>th</sup> of June 1857. were taken from the books and were charged in said book as sundries and I think some of the articles were purchased at St Louis for Plaintiff;

Question, balance due in store charged December 27<sup>th</sup> 1857.

Question, what kind of goods did Mr Smith keep in his store at the time referred to  
Ans. He had an ordinary <sup>Country</sup> Grocery store containing Dry Goods, Grocery, Crockery ware &c. as generally kept in an <sup>ordinary</sup> ~~common~~ Country store

Question, the goods charged in bill dated Dec 20<sup>th</sup> 1857. balance due in store was for goods sold & delivered to Plaintiff they may have been some Cash in that item, was taken from the books,

Question, Mr Spalding examine this account and state to ~~you~~ <sup>the</sup> best <sup>of your</sup> ability whether it is correct or not,

Answer, with the exception of the last wagon charged in said account the bill is a correct copy of the books

Question, by whom were the books kept  
Answer, I kept them, occasionally when  
I was absent Mr Smith would make  
an entry; I posted the books.

Question, do you know whether plaintiff got  
the small two horse wagon value at  
forty dollars in said account.

Answer, she the plaintiff did.

Question, states whether the prices charged  
in the account were the fair market  
prices at that time

Answer, They were if anything less  
what I mean good measure was  
given

Cross Examination by Mr D. M. Brien  
Agent for plaintiff

Question, do you recollect whether  
this first wagon was a large or  
small wagon

Answer, That wagon ~~was not~~ did  
not pass through my hands, but  
was given to me as a item to be  
charged in the books.

S. G. Spalding

sworn to and subscribed before me  
this 16<sup>th</sup> day of December, A. D. 1863 J. P.

By consent of parties the following questions were put to the witness

Question: do you know how much the small wagon was worth and how long it was in use.

Answer, I don't know what it cost, I think the price paid was sixty dollars, it was used about six months, I think it was worth fully forty dollars.

S. G. Spalding

State of Missouri }  
County of St. Louis } ss



I, John Lecko Justice of the Peace, do hereby certify that S. G. Spalding, the deponent, whose residence is in St. Louis County of St. Louis State of Missouri, was by me duly sworn to testify the whole truth of his knowledge touching the matter in controversy in the cause aforesaid; and that his deposition was reduced to writing, and subscribed by him in my presence, on the tenth day of December A.D. 1863, between the hours of Eight O'clock in the forenoon and 6 O'clock in the afternoon at St. Louis, in the County of St. Louis, and State of Missouri on the part of the defendant

Given under my hand this tenth day of December, A.D. 1863  
Amount paid by defendant for deposition & c. \$3.00

John Lecko  
Justice of the Peace

STATE OF MISSOURI, }  
COUNTY OF ST. LOUIS, } SS



I, **SAMUEL W. EAGER, Jr.**, Clerk of the *County Court of St. Louis County*, said court being a court of record,

do hereby certify that *John Cheek*  
whose name is subscribed to the foregoing certificate was on the day of the date thereof, and  
now is, an acting Justice of the Peace in and for said County, duly commissioned and qualified;  
that the signature thereto is genuine, as I verily believe; and that to all such his official acts,  
full faith and credit are and ought to be given.

*In Testimony Whereof*, I hereto set my hand, and affix the seal of said Court, at office in the City of St.  
Louis, this *fourth* day of *December* eighteen hundred and sixty *three*

*S. W. Eager, Jr.*  
Clerk.

Stillborn June 10<sup>th</sup> 64

Bill of Thomas H. Hoove Dr

To Daniel H. Bryant

6 12 days work as cowkeeper & flag carrier 18.00  
at three dollars per day ~~\$ 48.00~~

and paid out as Administrator of  
said Est to chane carriers per receipts \$ 29.70  
and paid out to chane carrier no receipt 4.00

Wrote amt

\$ 69.70  
Deduct 18.00

Balance

\$ 51.70  
D. H. Hoove

J W. Bryants  
acct against Est  
of J M Harine

Filed May 10 1865  
Samuel H. Rapp  
Clerk

D. W. Bryant Adm<sup>r</sup> & Ex<sup>r</sup> J. M.

Heavine Deccand,

Hon<sup>r</sup> J. Smith

This affiant makes oath & says that the Defendant  
in the above entitled cause cannot safely proceed to trial  
at the present term of the Court for want of the testimony  
of John O'Hallor Jr. Wm Skel and Martin Goya who  
have been subpoenaed but are now absent without  
the consent of defendant: that he expects to prove  
by Wm Skel that Defendant is entitled to a credit  
of about \$600, as former adm<sup>r</sup> of said estate  
& by John O'Hallor Jr. a credit <sup>to</sup> ~~as~~ <sup>ever</sup> adm<sup>r</sup> of \$1100.  
& the facts these witnesses will swear to, cannot  
be proven by any one else now present as this affi-  
ant believes & that if a continuance be  
allowed him he believes the attendance said  
witnesses can be obtained by next term of this Court.

Sworn to & subscribed before

me May 15<sup>th</sup> 1865

Samuel W. P. P. P.  
C. B.

J. W. Fletcher

Applicant of  
Geo. W. Fletcher  
1865

Recd May 15 1865  
Sumner, N. H.  
C. H.

Bryan 10

Donner Term 14 Spas 700

Letcher " 15 " 750

Heoney 4 Spas 500

" 3 " 105

S A Reppy 105

C A Craft 3d 10 M 460

2 J Spauld 3d 10 " 460

S L Hicks 3d " " 460

S Reppy Transcript  
from County Court 225

Cont May Term 35

Dock 5. Judg 75 Dis  
of papers 75 & a bill 125

Execution 150

780

3610

150

3760

3610

4

D. W. Bryant, Adm<sup>r</sup>?  
 Estate J. M. Morine, Dec'd } Appeal from  
 vs } County Court.  
 F. J. Smith, Former Adm<sup>r</sup>  
 of Said Estate.

Now at this day Comes John  
 L. Thomas, Attorney for the Defendant  
 in the above entitled cause, and produces  
 satisfactory evidence to the Court that there  
 is on deposit in the Branch of the Union  
 Bank of Tennessee at Memphis a certain  
 note of which the following is a copy. (Here  
 copy the note): that there is upon said note  
 the following endorsement to wit: (Here copy  
 the endorsement): that said note belongs  
 to F. J. Smith as former Administrator of  
 the Estate of Thomas M. Morine deceased  
 and that said note is necessary to a full  
 determination of this cause. It is therefore  
 considered, <sup>and ordered</sup> by the Court that the Cashier  
 of the Branch of the Union Bank of Tennessee  
 at Memphis deliver said note to John  
 L. Thomas, as the Attorney of said F. J. Smith  
 or to whom he shall by his written endorse-  
 ment order the same to be delivered.