sufficient Maintenance and livelihood, and that he had divided the negroes of John Collinson between the heirs of Thomas Tongue and that the negroes Rhody & Cressy were assigned to Mrs Harriet Waters as a part of her share thereof, and upon Cross examination the said Alexander Franklin said that to the best of his judgment the said Cressy and Rhody were incapable of supporting themselves, And further offered Benjamin Tongue a brother of the Defendant to sustain the issues on their part. The Petitioners objected to the Competency of the Witness Benjamin Tongue and for the purpose of sustaining said objection proved by him that he was the Executor of Mrs H. Waters, and that she by her will after bequeathing two of her Negroes to the sister of the Witness she had bequeathed the residue of her slaves including the petitioners to be divided equally in value between the Witness and his Brother, the Defendant, and that in the division of said Negroes the petitioners were assigned with other Negroes Slaves for life belonging to her to the Defendant and other of her negroes, also Slaves for life were assigned to the Witness as his Share thereof Whereupon the petitioners by their Counsel insisted Said Witness Tongue was an incompetent Witness because of his interest in the event of this Suit which objection the Court sustained and excluded the evidence of said Witness from the Jury to which ruling of the Court the defendant excepted and prayed the Court to sign this his bill of exception which is done this 9. day of May 1855

Nicht. Brewer (Seal)

Negroes Cressy Kitty George Sarah Rhody and Wesley
vs
Thomas Tongue

In Circuit Court for Lenn County
April Term 1855
Petition for freedom

After the evidence offered in the preceding exception which by Consent is made a part of this exception the defendant further offered to prove by the said Benjamin Tongue a brother of the Defendant which of the Children mentioned in said petition were the Children of Rhody and which were the Children of Cressy and that said petitioners had never authorised the filing of the said petition in their name, but that said proceedings was instituted by the direction of G. W. Nutwell without their Knowledge or Consent and contrary to their wishes The Petitioners objected to the Competency of the Witness Benjamin Tongue and for the purpose of

sustaining said objection proved by him that he was the Executor of Mrs H. Waters, and that she by her will after bequeathing two of her negroes to the Sister of the Witness, she had bequeathed the residue of her Slaves including the petitioners to be divided equally in value between the Witness and his brother the Defendant, And that in the division of said Negroes the petitioners were assigned with other Slaves for life belonging to her to the defendant, and other of her Negroes also Slaves for life were assigned to the Witness as his Share thereof Whereupon the petitioners by their Counsel insisted that the said Tongue was an incompetent Witness because of his interest in the event of this suit which objection the Court sustained and excluded the evidence of said Witness from the Jury to which ruling of the Court the Defendant excepted and prayed the Court to sign this his bill of exceptions which is done this 9th day of May 1855

Nicht. Brewer (Seal)

Negroes Cressy Kitty George Sarah Rhody and Wesley
vs
Thomas Tongue

In Circuit Court for Lenn County
April Term 1855
Petition for freedom

After the evidence offered in the preceding exceptions which by consent is made a part of this exception the defendant further offered to prove by Alexander Franklin that the petitioners Rhody and Cressy were at the death of said John Collinson by reason of their mental imbecility arising from their tender years incapable of Consenting to their Manumission by the said Will of said John Collinson. The Petitioners by their Counsel objected to the admissibility of said evidence, and the Court sustained their objection and excluded the said evidence from the Jury to which ruling of the Court the defendant excepted and prayed the Court to sign this his bill of exception which is done this 9th day of May 1855

Nicht. Brewer (Seal)

Negroes Cressy Kitty George Sarah Rhody and Wesley
vs
Thomas Tongue

In Circuit Court for Lenn County
April Term 1855
Petition for freedom

After the evidence in the preceding exception which by Consent is made a part of this Exception the Defendant Offered to prove