

No. 4968 Equity

directions. The first I heard about the assignment of the mortgage was some time after the advertisement first appeared and how long I don't remember. Col Thomas spoke to me about it and said he had been spoken to about it by Cyrus Poole. I think after Col Thomas spoke to me about it Mrs Simmons came in. I then ascertained what the probable costs then were. I told Mrs Simmons what I understood to be her rights but did not advise her on the subject of assignment of the mortgage. When Col Thomas first spoke to me I thought he was doubtful about whether he would pay the amount of the debt, interest and costs, as he at first seemed to have been under the impression that the assignment of the mortgage would secure him for the amount of costs as well as debt and interest. The next time he called was after I had seen Mrs Simmons and she had not determined definitely what she was willing to do. On the Saturday previous to the sale Mr Cyrus Poole came to see me, I was sick, confined to the house. He seemed to be considerably excited and indulged in considerable criticism of Mrs Simmons. I told him that Mrs Simmons would receive any money that he wanted to pay on this mortgage and that when he paid the mortgage debt, interest & the costs that had been incurred she would release the mortgage; that so far as assignment was concerned she could do as she pleased about that. He said he did not want the mortgage released; and he then left as I thought with the understanding that he would see Col Thomas whether he was still willing to advance the money and I think something was said about Mrs Simmons coming in the next week probably the first part of the week. He said she was to have come in that day but was sick & would be in the first of the following week. On Monday morning following the third of March Col Thomas called on me before Mrs Simmons came to town and said that Mr Poole had been to see him again and thought that if he would take this assignment of the mortgage then he (Poole) could then sell the property himself for his father, and get a better price for it. He stated that he was willing to do that if Poole could sell the property. We talked over the matter of Dr Poole's circumstances. I told him that there were judgments against Dr Poole subsequent in date to this mortgage which were liens upon all his real estate, that he had owned other real estate but I understood had conveyed the other to his wife, and that I thought he would have some difficulty in selling the property now without the other lien creditors being satisfied; but that I thought it could be done with the consent of all the parties in interest. The Col then said owing to the complications or something like that, he would have nothing to do with it. Mrs Simmons afterwards came in on the train, and I told her what the Col had said (all the foregoing testimony excepted to except conversation with Poole). To Cross Interrogatories the said William G. Jones deposes and says: Mrs Simmons always seemed rather in-disposed to make an assignment of the mortgage and did not think it would amount to anything of advantage to Dr Poole.

Signed William G. Jones

Whereupon there being no other witnesses to be examined and no further time being required for the production of testimony, the said Examiner hereby certifies that the foregoing are the original depositions in this cause as the same were read over to the witnesses and signed by them respectively, and he herewith returns the same enclosed to the Court.

Witness my hand this 9th day of May A.D. 1894

Clayton O'Keedy
ExaminerCosts of Aforegoing Testimony

Exponent's Costs:

C. O'Keedy Exam ^r fee	(1 day)	4.00
Geo B Thomas, Witness		74
Cyrus W Poole (party)		
Margaret V R Poole witness		1.35
		<u>6.10</u>