

# Civil Case: Thomas Orr vs Augustus Andrews & John Donnehey

Name in Record	Reason for Being in Record	Date of Record
Thomas Orr	Plaintiff - petition for partition	Jan. 22, 1850
Augustus Andrews	Defendant	
John Donahey	Defendant	
Mahaleel F. Burkhead	Acquainted with both defendants; says they are non-residents of Indiana	Jan. 22, 1850
Samuel L. Rugg	Clerk	
James B. Simcoke	Solicitor for Thomas Orr- plaintiff; filed notice to non-residents in paper	
Thomas Orr	Plaintiff - petition for partition	
Augustus Andrews	Defendant	
John Donnahey	Defendant	
Samuel L. Rugg	Clerk	May Term 1850
Thomas Orr	Petition to court for partition; tenant in common of 320 acres	
Augustus Andrews	Of Holmes County, Ohio; tenant in common of 320 acres	
John Donnehey	Minor of Jefferson County, Ohio; tenant in common of 320 acres	
James B. Simcoke	Solicitor for Thomas Orr	
William A. Bugh	Guardian ad litem of John Doneley	May 5, 1850
John Doneley	Infant minor	
Samuel L. Rugg	Clerk	
J. R. Randall	Editor of newspaper; oath of publishing "Notice to non-residents"	May 13, 1850
Samuel L. Rugg	Clerk	May 21, 1850
Mahaleel F. Burkhead	Commissioner appointed to make partition	
James Johnson	Commissioner appointed to make partition	
Jacob Cramer	Commissioner appointed to make partition	
Samuel L. Rugg	Clerk	August Term 1850
Joseph D. Nuttman	Has purchased Augustus Andrews portion of 320 acres	
Joseph D. Nuttman	Wishes to be party to partition of said 320 acre	
James B. Simcoke	Attorney for Joseph Nuttman	Aug. 14, 1850
M. F. Burkhead	Report of making partition of 320 acres	
James Johnson	Report of making partition of 320 acres	
Jacob Cramer	Report of making partition of 320 acres	

Roll NO 14.

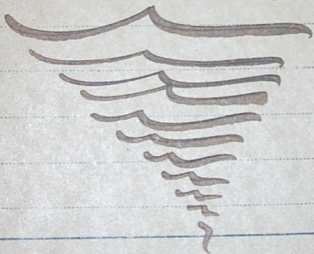
Thomas Orr (58)

US partition.

Augustus Andrews.  
John Donehey.

1850-

Box 14.



The Decatur Abstract & Loan Co.,  
Rooms 3 & 4,  
Morrison Block,  
Decatur, Ind.

State of Indiana )  
Adams County )  
In the Probate Court  
May Term 1850

Thomas Orr  
vs  
Augustus Andrews &  
John Donahay

In Chancery  
Petition for Partition

Nahaniel F. Burkhhead of  
said County personally appeared before the  
undersigned Clerk of said Court and  
being duly sworn, and of lawful age on  
his oath saith that he is acquainted with said  
Defendants and from such acquaintance states  
that they are both non residents of the State of  
Indiana to the best of his knowledge and belief  
And further saith not

N. F. Burkhhead

Subscribed and sworn to before me this 22<sup>nd</sup>  
day of January 1850

Samuel L. Rugg  
Clerk

John Donahay  
vs  
Thomas Orr  
at  
Partition.

Comes now the said John Donahay, by William  
A. Pugh his Guardian ad litem, and for  
answer to the said Petition of the said Thomas  
Orr, says he is ignorant of the several matters  
and things therein contained and alleged,  
but that he is an infant minor of tender  
years, and therefore prays this Court to  
protect his rights.

William A. Pugh  
Guardian ad litem

Sworn to and subscribed in open Court  
this 15<sup>th</sup> day of May A.D. 1850.

Samuel L. Rugg  
Clerk

State of Indiana }  
Adams County } ss.

Be it remembered that on this 13th day of May, 1850, personally appeared before the undersigned, J. R. Randall, of lawful age, who has being duly sworn, saith, that he is the editor and publisher of "The Decatur Gazette," a newspaper printed and published in the town of Decatur, in said county, and that ~~the~~ the notice hereunto annexed was published in said paper for three weeks consecutively, to wit: on the 20th day of February, the 27th day of February, and the 6th day of March, 1850; and that the notice hereunto annexed is taken from said paper of the 5th day of March 1850; and further saith not.

STATE OF INDIANA, }  
ADAMS COUNTY, ss. } In the Probate  
Court of said county,  
May Term 1850

Thomas Orr,

vs.

Augustus Andrews &  
John Donahay,

IN CHANCERY.

Petition for Partition.

BE IT REMEMBERED that said plaintiff, by James B. Simcoke, Esquire, his Solicitor, filed in the Clerk's office of said Court his petition in this behalf, and filed therein also the affidavit of a disinterested witness by which it appears to the satisfaction of the Clerk of said Court that said defendants are not residents of the State of Indiana. And thereupon the Clerk of said Court ordered that said defendants be notified of the filing and pendency of said petition by a publication in the Decatur Gazette according to law and that they shall appear in said Court and plead, answer or demur thereto on or before the first day of the next May term of said Court to be holden at the Court House in the town of Decatur in said county, on the second Monday in May next or in default thereof said petition will be heard and determined by said Court in their absence.

SAMUEL L. RUGG, Clerk.

January 22, 1850.

J. B. Simcoke Sol. for Comp. 5-3wc

J. R. Randall

Sworn to this 13th day of May 1850

Samuel L. Rugg  
Clerk

48.00

State of Indiana  
Adams County

In the Adams Probate  
Court May Term 1850

To the Honorable the Judges of the  
Adams Probate Court in Chancery sitting  
your Petitioner <sup>James</sup> Thomas Morrison Person  
of the County of Adams and State of Indiana

Respectfully Represents to your Honor that  
your Petitioner has a legal right to and is seized in  
fee simple of two undivided fifths part of two certain tracts  
or parcels of land with the appurtenances lying and being in  
the said County of Adams and described as follows  
to wit; the North East quarter of Section Number  
Twenty five in Town Ship Number Twenty seven North  
of Range Number thirteen East and the North East  
quarter of Section Number thirty in Town Ship Number  
Twenty seven North of Range fourteen East in the  
District of land subject to entry and sale at  
Hoot Wayne Indiana estimated to contain three  
hundred and twenty Acres more or less.

And your Petitioner for the  
Represents that one Augustus Andrews of the County  
of Holmes and State of Ohio and one John  
Connehey <sup>who is a minor</sup> of the County of Jefferson and State  
of Ohio are tenants in common with your Petitioner  
in the said Premises

Your Petitioner therefore desiring  
to hold his said interest in severally prays that  
Partition of said lands and tenement may  
be made, or if it shall appear that  
Partition of said lands and tenement cannot  
without manifest injury to the value of the  
said land be made, then that the same may  
be sold or otherwise, or other proper Order in

that Behalf Pursuant to the Statute in such cases  
made and provided.

And your Petitioner Prays that you know  
will grant to your Petitioner Process of Subpoena  
requiring the said Augustus Andrews and John  
Sommerly to Appear Before your Honor  
and show Cause if any they have or can shew  
why said Partition shall not be made or  
why the Prayer of said Petition should not be  
granted.

Thomas Orr

by James B. Whitcham

Attorney

State of Indiana  
Adams County ss

The State of Indiana to Mahalabel  
-bel T Bunkhead James Johnson & Sarah Coamer  
Greeting

Whereas Thomas Orr late in our  
Probate Court for said County filed his bill in  
chancery for partition of certain lands hereinafter  
described against Augustus Anderson & Luther  
Gonzales as defendants upon which such other  
& further proceedings were had as brought the  
same to a hearing before our said Court on  
the 15<sup>th</sup> day of May 1850 the same being the third day  
of the May term of said Court for that year  
And upon the hearing of said petition, and the  
Court being fully advised in the premises found  
that said complainant Thomas Orr to be seized  
in fee simple of two undivided fifths of two  
certain tracts of land with the appurtenances thereto  
belonging lying & being in the County of Adams and  
described as follows to wit the North East quarter  
of section Number Twenty five in Township Twenty  
seven North of Range thirteen East, And the  
North West quarter of section Thirty in Township  
Twenty seven North of Range fourteen East all  
in the district of Lands subject to sale at  
at Fort Wayne Indiana Estimated to contain  
three hundred and twenty acres more or less  
It was therefore ordered adjudged and  
decreed by the Court that the prayer of  
said bill be granted and that Mahalabel  
T Bunkhead James Johnson and Sarah Coamer  
be and are hereby appointed Commissioners  
to make partition of said premises agreeably

to the Oathen of said Complainants bill which  
said Commissioners are freeholders of said  
County of Adams and not of him to any of  
said parties which commissioners were requi-  
red by said decree before entering upon the  
discharge of the duties of their said appointment  
to take an oath to faithfully and impartially  
perform the trusts reposed in them as  
such Commissioners And it was further  
ordered adjudged and decreed that the par-  
tition be made of the premises if they are  
divisible, and that said Commissioners  
report their proceedings at the next term  
of the said Court

This therefore is to fully authorize  
you after having taken an oath as above  
required to proceed at such time & place as  
you may appoint, and make partition of  
said lands by setting off to the said Compla-  
inant his said two fifths of said land  
And to report the same herewith to the said  
Court by or before the first day of  
the next term of said Court to be holden  
on the second Monday in August next  
And have you then there thisARRANT

Witness Samuel L. Ruggs Clerk of  
said Court and the seal thereof  
herewith affixed at the Clerks  
office in said County this 21<sup>st</sup>  
day of May 1850

Samuel L. Ruggs  
Clerk

Sherrill, Indiana  
Adams County, Ind.

In the Adams Probate  
August Term 1850

In Chancery

To the Honorable the Judges of the Probate  
Court of Adams County in Chancery, sitting  
your Petitioner Joseph  
Nuttman respectfully sheweth & prays your  
honor that heretofore one Thomas Orr of said  
County filed his certain Bill in Chy. in this  
Court against Augustus Andrews and John  
Donckley sitting fourth therein that he was and  
is the owner in fee simple of the Undivided Two  
fifths of the following tract of land situated in said  
County to wit: The North East quarter of  
Section Number twenty five in Town Ship  
Number twenty seven North of Range number  
thirteen East, and the North West quarter of  
Section Number thirty in Town Ship Twenty seven  
North of Range Number thirteen East, and that said  
Augustus Andrews was the owner in fee simple  
of two fifths of the land & said John Donckley the  
Owner of one fifth and that said lands were held in  
Common with the said Thomas Orr, and such  
proceedings being had in the premises in pursuance  
of the prayer of said Bill by the Fifth County Court  
of this Court that it was ordered adjudged and decreed  
by the Court that partition be made of said lands according  
to the prayer of said Bill and that Melahabel Finkbeiner  
James Johnson and Jacob Cramen ~~be~~ were then  
appointed Commissioners to make a partition of said  
premises agreeable to the prayer of said Bill filed by  
said <sup>as afore said</sup> Orr & such premises were divided and

That said Commissioners Report to this Court at the next Term thereafter all of which will more fully & at large appear reference being had to the Record and papers remaining in said Court.

Your petitioners further shew that the said your honor that since said proceedings were had he has purchased all the Right title and interest of the said Augustus Andrews in and to said several tracts of land being the Undivided two fifths of said lands and that he holds the same in Common with the said Thomas Orr & the said John Downey Minor as alleged in said Petition And in as much as it is desired to have his said portion of said land set off apart to him your petitioners prays your honor to allow him to be made a party defendant to said Original Bill filed by said Thomas Orr as aforesaid and that your honor Order adjudge and decree that the Commissioners heretofore appointed partition said land & set off in severally your petitioners portion of the same, and grant such other & further relief in the premises as to your honor shall seem just and according to Equity & your petitioners will ever pray &c.

Joseph J. Nathan  
By James B. Shinkler  
his Attorney

To the honorable the Judge of the Adams Probate Court  
We the undersigned Commissioners appointed  
at the May term of said Court A.D. 1850 to make partition  
of the lands mentioned and described in a certain bill  
in Chancery filed in said Court by Thomas Orr vs.  
Augustus Andrews and John Donnelly according to the  
decree of said Court in the premises.

Therefore in Obedience to said decree  
and in pursuance of the powers in us vested by and  
under the Commission to us directed from said  
Court. and being duly qualified and having fully inspected  
the premises by examination of the lands mentioned  
in said Bill to wit: the North West quarter of Section  
thirty in Town Ship Twenty Seven north of Range  
fourteen East. and the North East quarter of Section  
thirty five in Town Ship Twenty Seven North of Range  
thirteen East. We do say and find that the same is  
divisible without any material detriment to the  
parties interested therein and in Obedience to said  
decree and by virtue of a Commission to us directed  
and in pursuance thereof we do hereby set off  
in favorably to the said Thomas Orr, two-fifths of  
said lands above described in the manner following  
to wit; that is to say the East part of the North West  
quarter of Section thirty in Town Ship Twenty Seven  
North of Range fourteen East so as to contain  
one hundred and Twenty Eight acres. by a North  
and South line bearing parallel with the Western  
boundary line of said Section. And in Obedience  
to a farther decree of said Court. rendered at the  
August Term thereof in the year last aforesaid.  
which said decree last mentioned is in these  
words. here in part it is therefore ordered adjudged and  
decreed by the Court that Joseph J. Kuttman be made a party

dependent to said original bill and that portion be made  
of the said several tracts of land and that said individuals two  
fifths of said several tracts of land be set off in severalty  
to the said Joseph I. Nathan and that Madeline Stephens  
James Johnson and Jacob Greener Commissioners and  
before appointed to make portion of the said several  
tracts of land within the same and set off and apportion  
two fifths of the said several tracts of land to the said  
Joseph I. Nathan and that the report of their proceedings  
in the premises to this court at the next and term  
being all of which is ordered adjudged and decrees  
by the court. And by virtue of a Commission to  
us directed in pursuance of said decree last mentioned  
we do set off in severalty to the said Joseph I.  
Nathan the following described land to wit. The  
West part of the North West quarter of Section thirty  
in Town-ship Twenty seven North of Range  
fourteen East, do as to contain <sup>forty three</sup> ~~thirty~~ acres  
by a line running parallel with the Western boundary  
line of said Section. And the East part of the North  
East quarter of Section Twenty seven in Town-ship  
Twenty seven North of Range fifteen East, do as to  
contain eight ~~thirteen~~ acres by a line running parallel  
with the Eastern boundary line of said Section  
making in all one hundred and Twenty Eight acres  
leaving the following described tract of land as the  
portion of the said John Donahay Minor  
as aforesaid being the West part of the North east  
quarter of Section Twenty seven in Town-ship Twenty  
seven North of Range fifteen East, by a line running  
North and South parallel with the Eastern boundary  
line of said Section being bounded on the East by the tract  
above set off to Joseph I. Nathan and estimated to contain  
Sixty four Acres More or less being one fifth in value of said

premises. which said West part of the North east part  
of Section Twenty seven in Town-ship Twenty seven  
North of Range fifteen East. We also hereby set off  
to the said John Donahay Minor as aforesaid  
as his portion of said lands. All of which is hereby  
respectfully reported and submitted to the court  
given under our hands this 14th day of August  
A D 1850

R. H. Brewster  
James Johnston  
Jacob Greener