

## WARREN-DUDLEY CASE.

The Warren-Dudley case which has attracted so much attention throughout this section of the State, and which has been considered by the lawyers to be the most complicated case ever handled in these courts, was brought up at the last sitting of the Common Pleas, as our readers are fully aware, and decided in favor of S. B. Dudley. All the litigation springs from the question of right of title to 230 acres of land east of Oberlin, and owned by Malachi Warren at the time of his death which occurred in Lowndes county, Alabama, in the year 1862. In 1852 Malachi Warren came to Oberlin from Alabama bringing with him Ella Warren and four children.

The question at issue between the parties was whether Ellen was the wife and these children the legitimate children of Malachi Warren. Upon this point the parties differed.

Ellen testified that about 1839 Malachi Warren purchased her with other slaves, of a woman named Martha Selden, in Richmond Virginia. He took her with the other slaves to Lowndes county, Alabama, where she entered the family of Laban Warren to learn the art of cooking; that she stayed there one year and then removed with Warren to Butler county, where she remained two years, returning to Lowndes county and living with Warren in an old house upon the plantation of Laban Warren near a new house which he had just before erected; that in the spring of 1837 she and Warren were married by one Elisha Robinson, in the presence of Frank Pollard, in this old house, and that from that time on she lived with him as his wife.

Ellen testified at each of the three trials had in this case, and at each trial she gave a different account of who was present at the marriage, and other facts connected with the case. On the first trial she swore that Laban Warren was present but that his wife was away at her mother's. On the second trial she swore that Laban Warren was not present, but that his wife was present but in another room of the same house, and on the present trial she testified that Mrs. Warren came up just as Warren and Pollard went away. On the first trial she testified that she supposed Robinson was an Episcopal minister, on the second trial she denied having said that she thought him an Episcopal minister, but said he belonged to the Presbyterian church, and on the present trial she denied both previous statements and said she understood he belonged to the Episcopal church. On both trials she testified that Laban Warren's house, which was but a few hundred feet from the house where she lived, was a frame house. George Robinson, who lived between the plantations of Laban and Malachi Warren for many years, testified that it was a double log house, and that up to 1837 there never was a frame house upon such premises.

On the second trial Ellen produced what was said to be a family record, which was a leaf such as is ordinarily found in the Bible where entries of marriages, births and deaths are made. She testified that the Bible which was then present was purchased in Mobile, Alabama, before they left Alabama for Ohio, and that the entries made therein of the births of the several children were made by Malachi Warren at or about the time of the birth, the latest entry being a few years previous to their coming to Ohio. The record contains no entry of the marriage of Malachi and Ellen. On examination of the fly-leaf of the Bible it was shown that it was not printed until after 1850.

Malachi Warren made a will, May 4th 1861, which plaintiffs introduced in evidence as showing that they were the legitimate children of Malachi.

Some testimony was introduced by the plaintiffs to show that Malachi had at various times spoken of Ellen as his wife. The defendant Dudley claims the land by purchase from the Southern heirs of Malachi Warren.

The defendant Dudley produced the depositions of Daniel T. McCall and other old residents of Lowndes county who knew Malachi Warren intimately, who testified that they were intimately acquainted with Malachi Warren from the time he brought Ellen to Lowndes county and that his relation to Ellen was that of master and slave; that he never was married; that such marriage would be impossible in that State and would not be tolerated in that community.

Mrs. Tyson and Mrs. Robinson, both daughters of Laban Warren, and who according to Ellen's story lived within a few hundred feet of the place where she said the marriage was celebrated, testified that there was never any such marriage to their knowledge and that Ellen was the slave and only the slave of Malachi. Much other testimony to the same effect was given.

George Robinson, a brother of Elisha Robinson, who lived in the immediate vicinity and was acquainted with both Malachi and Laban Warren and who married the daughter of Laban Warren, was placed upon the stand and he thoroughly contradicted Ellen upon almost every point where she had attempted to describe the premises and house of Laban.

Mr. Starton and Mr. Tollerton, two old gentlemen who had lived neighbors to Warren at Salem, Ohio, testified that Warren had declared to them that he was never married, and that the reputation of Malachi and Ellen in that community was that they were not married.

Professors Fairchild and Ellis and a large number of other witnesses from Oberlin testified that their reputation in that community was that they were not

married and it was shown that in 1860 both Warren and Ellen were indicted in the Court of Common Pleas of this county, charging them with living and cohabiting together in a state of fornication for the year previous; that a trial was had lasting several days, in which the issue was whether they did live together or not. Warren by his counsel made the defense that he was not married to Ellen, but that he did not live with her. The same defense was made for Ellen. They were convicted. Warren was sentenced to imprisonment and to pay a fine.

Just about this time there was a movement made in Oberlin to compel Warren to marry the woman Ellen, but he declared to Mrs. Wack and to many other witnesses that he would hang between heaven and earth before he would do it.

One of the Warren children at about the time of the breaking out of the war bought a rope and threatened to hang Warren. Another of the children mistreated him and it was shown that Warren said that if things went on in that way he would fix it so that his property would eventually go to his heirs at the South. Evidence was introduced showing that

Warren, admitting the parentage of these children, said that he would take them to the North and set them free, for he was determined that after his death they should be free people and not slaves.

On the first trial the case terminated by the plaintiffs withdrawing a juror. On the second trial the jury disagreed, and on the present trial the jury after a brief consultation decided the case in favor of the defendant. A motion was made for a new trial and the case will probably go to higher courts. N. L. Johnson, C. T. Johnson, and J. H. Dickson were attorneys for the plaintiffs, and Judge Hale, W. B. Bedortha, and E. G. Johnson appeared for the defendant Dudley.

Warren was a slave holder and a slave dealer, but he, contrary to the usual practice of those days, would not sell his own offspring. So he brought them North, set them free and provided for them during their lives, and if they had legitimate children the property would be theirs; but in case of failure of legitimate children he provided most of the property should go to his Southern heirs who received him in his old age after he had been driven from his home by the boys who bore his name.—Elyria Republican.

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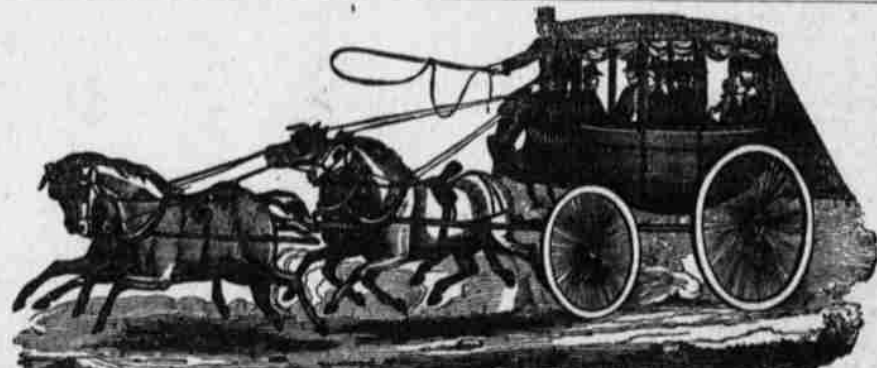
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