

Magdalena Hesse vs John Hesse  
Winnebago County, Wisconsin  
Circuit Court Judgement Book, vol 6, page 114, case file 3694 (22 photocopied pages)  
6 Dec 1870: filed; 26 Dec 1870: depositions; 28 Dec 1870: judgement  
transcribed by Karrie Blee with (words struck out as in original); 28 Feb 2022  
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[first page of photocopied original record is the title page]  
[the second page is a copy of the summons served upon the Defendant; 6 Dec 1870]

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Winnebago County Circuit Court  
Magdalene Hesse, Plt  
against  
John Hesse Deft

Magdalene Hesse the above named plaintiff complains & shows to this court that on or about the 16th day of October AD 1860 she was duly married to John Hesse the above named defendant in the village of Neenah county of Winnebago and state of Wisconsin; that at the time of said marriage the said plaintiff and defendant were & have ever since continued to be & still are inhabitants and residents of said county and state; that this plaintiff has continued to live & cohabit with said Defendant as his wife from the time of said marriage until the present time; that the fruit of said marriage has been five children. of the names and ages following viz - Franklin of the age of nine years Auguste of the age of about eight years, Caroline of the age of about five years, Henrietta of the age of about two years, and Edward of the age of about one year old; and that during all of said time this plaintiff faithfully discharged her duties as the wife of the Defendant, and at all times treated him with Kindness & forbearance, and at no time gave him reasonable cause for complaint; but that said Defendant her husband wholly disregarding his duty to her, has for more than four years last past repeatedly and at divers times treated this plaintiff in a cruel and inhuman manner by striking this Plaintiff and Kicking her, sometimes so severely as to render her miserable, at other times so as to cause wounds upon her head; from which her blood trickled down over her shoulders & dress -

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at other times and particularly on Christmas Eve 1866. and at divers other times since that time, by threats and personal violence he has driven this plaintiff out of the house, and then compelled her to remain for hours, exposed to storms & winters fiercest blasts, & until his paroxysm of rage had so exhausted itself & him

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and he had become invisible in sleep –

He has repeatedly threatened to cut the throat  
of this Plaintiff and make her cold before night

And this plaintiff further alleges that  
said Defendant wholly disregarding his duties  
to his wife & family has for more than five years last  
past been given to intoxication, which habit  
has so increased that said Defendant became  
and for the space of more than one year immediately  
preceding the filing of this Complaint, has ~~and~~  
continued to be, & is, a habitual drunkard  
and that while thus intoxicated he is a man of a violent  
passions & of a quarrelsome vindiction and ungovernable temper.  
which, during said five years or more, frequently  
& at divers times, has been exemplified as against  
this plaintiff by personal violence, & cruel, ill &  
inhuman treatment, to such an extent as to render  
it unsafe & at times impossible for her to remain with  
him in her own house without a protector.

And this plaintiff further alleges that during  
the time he has been thus given to intoxication  
and for over two years last past he has almost  
wholly neglected to furnish anything for the support  
of this Plaintiff & her children but on the contrary  
has been in the habit of repeatedly & in spite of  
the objections of this plaintiff taking & carrying away

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wheat & other grains & products raised on the  
farm of this plaintiff, & which this plaintiff & family  
needed for their support, and selling the same  
& spending the proceeds thereof for liquor.

And this Plaintiff further shows & alleges that this  
plaintiff is owner & possessed of as her separate property a farm and the  
buildings thereon, of the probable value of about  
four thousand dollars. Which said land is  
described as follows. commencing at the N.E. Corner of the S.W. 1/4 of Section 20  
in Township 20, N. of R 17 East - thence West 110 rods and land sold by VanNess  
Potter to Aaron H. and Charles Cronkite - thence South 140 rods - thence East 16 rods –  
thence South 20 rods to the South line of the section aforesaid - thence East  
to the Center of the Oshkosh and Neenah highway - thence Northeasterly along the Center  
of said highway to the East line of the aforesaid S.W. 1/4 of said section 20 - thence  
North to the place of beginning (Except a strip of land running across the south west part  
of above land deeded to Oshkosh & Wausau RR Co & containing about one acre) –

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Contains about 99 acres.

That for several years last past this plaintiff and her children aforesaid together with the Defendant have resided on said farm, and at the present time are thus occupying the same as a home, and that the products derived from said farm are necessary & scarcely sufficient for the proper maintenance of herself & support and education of her children ~~and husband~~, and have for several years last past & ever since she came into the possession of said farm, been used for their support together with that of the Defendant and paying the current expenses of cultivating said farm and support except so much thereof as was used by the Defendant for liquor and by dissipation

And this Plaintiff further shows & alleges that there is also on said farm certain personal property of the value of about seven hundred Dollars. consisting of one yoke of oxen one horse, sleighs, two wagons, and other farming utensils, and implements, household furniture, wheat & other grains & hay raised on said farm, all of which is necessary for cultivating said farm. & the support of this plaintiff & said children, some of which the Defendant claims & threatens to dispose of but which this Plaintiff claims was purchased with her own and separate means & raised ~~from~~ on her said farm, & in fact belongs to her. & is her own separate property

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And this plaintiff further shows and alleges. that she has good reasons to ~~be~~ believe and does believe from past experience, and the Defendants known violent passions and ungovernable temper, especially when intoxicated, that the commencement of this action will be met by the Defendant by renewed personal violence on this plaintiff, and by increased efforts to carry away what little personal property yet remains on said farm, and thus deprive this plaintiff and her said children of their only viable means of support

Wherefore the plaintiff prays that said Defendant may be prohibited from imposing any restraint on the personal liberty of this plaintiff and said children & from in any manner interfering with her or them. or with ~~of~~ the said farm and said personal property thereon and that he may be restrained from going on said farm, or

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visiting this plaintiff at any time at the house thereon or staying thereat during  
the pendency of this action, and that the marriage  
contract between of this plaintiff & Defendant, may be dissolved, and  
declared null and a divorce from the said bond of matrimony  
be adjudged by this court, between this plaintiff and  
Defendant, and that it may be also adjudged that this plaintiff  
have the care & custody & education of said five children &  
that and that said personal property be adjudged hers or set apart to her for the maintenance  
of herself & said children; and the defendant be perpetually  
restrained & barred from any interference therewith &  
forever restrained ~~barred~~ from any interference ~~all right title and interest with~~  
said farm, & that the Plaintiff may have such other  
& further relief intermediate and ultimate in the premises  
as this Court may deem proper to grant

J. B. Hamilton [signature] Pltfs attorney

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State of Wisconsin  
Winnebago County SS

Magdalene Hesse being duly sworn  
deposes & says that she is the plaintiff named in  
the foregoing complaint, that she has heard the  
said complaint read and knows the contents thereof  
and that the same is true of her own knowledge.

Subscribed and sworn to before me  
this 6th day of December AD 1870

Magdalena Hesse [real signature]

C. C. Townsend [real signature]  
Justice of the Peace

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State of Wisconsin  
County of Winnebago

I hereby certify that  
on the 8th day of Dec AD 1870 at the Town  
of Neenah in said County of Winnebago  
personly [sic] served upon the within Deft the  
within summons & complaint by delivery  
to & leaving with him a true copy of the  
within summons and complaint & I further  
certify that I know the within Defendant  
John Hesse to be the Identicle [sic] person men-

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tioned, named & described in the summons  
& complaint & that I Endorsed over my sign-  
ature the date of such service & that – the  
same was a true copy of the original  
Summons & Complaint.

Service	1.00
trvl 32 m	3.20
Copy 16 Fol	<u>1.60</u>
	\$5.80

J. P. Gallup act Sheriff  
By Ephraim Giddings Depy [signature]

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Winnebago County Circuit Court  
Magdalene Hesse Plf  
agst  
John Hesse Deft

I hereby stipulate and agree that the  
above entitled action be tried by said  
court or referred by said court to take testimony  
and thereafter tried at its present December  
term or at any subsequent term thereof  
without any other or further notice thereof or  
any subsequent proceedings in said  
case and hereby waive all irregularities  
therein –

Dated Neenah Dec 20, 1870

John Hesse [real signature]

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Winnebago County Circuit Court  
Magdalen Hesse Plt  
agst  
John Hesse Deft

And now comes the Defendant in the  
above entitled action and for answer in person  
says, that he admits each and every allegation  
in the plaintiffs complaint to be true –  
and said defendant further answering consents  
that all of the children of this defendant and  
said plaintiff be given & placed under the  
care & protection and control of said plaintiff  
and he hereby further admits that the farm

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described in said complaint is the sole &  
separate property of said plaintiff & he avers  
& releases all right title and interest thereto or therein  
and he further consents that all the personal  
property now on said farm of every name  
& description, except one yoke of oxen, one horse,  
one single harness. & one single wagon & butcher tools, be assigned  
to said plaintiff, and set over to her for her  
& the children's support – together with a certain  
note given by C. Melzar [Melzer] & L. Vose [Voss] to M. Hesse  
or \_\_\_\_\_, for \$200, last spring, & due about one  
year from next October, & now in the hands of Henry  
Hesse = that Plaintiff have the relief demanded.

Dated December 17, 1870

John Hesse [real signature]

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Winnebago County Circuit Court  
Magdalene Hesse Plt  
agst  
John Hesse Deft

On reading and filing the answer of the defendant  
in the above entitled action, admitting the allegations  
in the complaint to be true, and consenting that  
the relief demanded in said complaint be granted,  
and also on reading and filing the stipulations of said  
defendant, consenting that said action be referred  
or tried without notice to said defendant at the present  
or subsequent term of said court,  
On motion of J. B. Hamilton, plaintiff's attorney, it is  
ordered that said action be the same is hereby referred  
to John Potter Jr. to take testimony  
therein and to report the same to this court without  
delay -.

Dated Oshkosh December 21, 1870

D. J. Pulling [real signature]  
Judge

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State of Wisconsin  
Winnebago County Circuit Court  
Magdalene Hesse Plt  
agst  
John Hesse Deft

The above cause having been referred to  
me John Potter Jr by said court to take the  
testimony of Plaintiff therein and report the same to  
said court by order made December 21, 1870  
and hereto answered: I hereby certify that on this 26 day of December  
1870 I proceeded to take the testimony of the  
witnesses produced and whose names are hereafter  
subscribed to their testimony respectively That  
before said testimony was taken or witnesses were  
examined the usual oath to tell the truth  
the whole truth and nothing but the truth in  
said matter and administered to each witness  
and the testimony of each witness given under  
said oath - to wit

Magdalena Hesse being duly sworn ~~to tell~~

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testified as follows - That she is the plain  
tiff. I was married to John Hess [sic]  
on the 16th day of October 1860 at the  
Village of Neenah Wisconsin.

We were married by the Rev. Stuck a  
Minister of the Evangelical Church.

We were married in the church. John  
Heße is the defendant here. I have  
lived and cohabited with him  
ever since up to the time of the com  
mencement of this suit. I have had  
seven children by him five of whom  
are now are now living. The children's

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names are Franklin Hesse the oldest.

He is nine years old and over here

August Hesse eight years old last winter

Caroline Hesse five years old. Henrietta

Hesse two years old and Edward

Hesse one year old the 1st of January

next. The children are all living

with me. Myself and Husband have

lived for the last ten years in the

Town and Village of ~~Village of~~ Neenah, Winnebago County,

Wisconsin, have lived together all

that time as husband & wife. All

that time. I have been to him a faith

ful wife, and discharged all the

duties of a wife. I have always treated

him with kindness and a forbearance.

\_ My husband has treated me in

a cruel and inhuman manner.

He has treated me thus for seven

years. He has struck me with his

hand, done so frequently and

he knocked me against the door,

this was two years ago. He struck me

with his fist, he was attempting to shut

me out of doors at the time. He drove

me away from the house at that

time. He has kicked me different

times. He kicked me in the stomach

so that I fell down on the floor, this

was last June. He kicked me at other times

both before and after that time. He

struck me on the head last summer



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so as to cause blood to flow over my  
clothes. He must have had something  
in his hand at the time.

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\_ He has driven me out of the house  
different times, frequently, once on  
Christmas evening four years ago  
cold weather. He came home about  
ten or eleven O'clock at night, I  
was kept out in the wood shed until  
One O'clock in the night. it was cold.

\_ He locked all the doors and then  
he went to sleep. After he went to  
sleep I crawled out at the window.

\_ A good many other times he turned  
me out of doors. Once I walked  
to the Village of Neenah. dr\_\_ me out  
and would not let me have my  
clothes to dress myself. When I was  
coming to Neenah with my children  
as before mentioned he watched me and  
had a negro woman with him  
and bid me good buy [sic] saying he  
had another woman and put his  
arms around the Negro woman.

\_ He has often threatened to cut my throat.  
said he would make me cold before  
night. Since the commencement of  
this action, the same night the papers  
were served upon him. He came up  
to my bedroom door and into the  
room he wanted some money and  
I could not give it to him. He then  
took out a butcher knife and held  
it to my throat and I asked him  
to let me live for the children's' sake.

\_ I began to dress and went downstairs

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to go out and he got hold of me and  
put the knife to my side. I then gave  
him my purse and he let me go and  
I run out of doors. He has not provided  
anything for the family, not sufficient  
for the support & clothing of them for the last five years. He  
took all the receipt from the farm  
and spent it for liquor. He has been

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an habitual drunkard for the last  
four years and over And at times  
before that. When in liquor he is a  
very ugly and passionate man.

\_ I own the farm where I live. The  
farm is the same described in the com  
plaint. There is a sleigh and 10agon  
on the farm, they are worth \$95. I own  
the household furniture, it is worth  
about two hundred dollars. There is  
about fifteen or twenty bushels of buck  
wheat there and about twenty seven  
bushels of wheat and near One hun  
dred bushels of Oats and some hay  
in the barn from farm to six tons. The  
hay & grain was raised on my place  
that is also a two hundred dollars note given to  
C. Melzer and L. Voze [Voss] \_\_\_\_\_ for \$200 now in the  
hand of his father.

\_ There is not any more grain and  
personal property there than I need  
to take care of myself and children  
with. The 10agon was bought with  
my own money. ~~and~~ He was at the  
house when I came off this morning.  
And he has been repeatedly since  
the commencement of this action.

\_ I have good reason to believe that he

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will come there after this divorce is  
granted and interfere with me  
And the children and property.  
There is also two cows on the place and two calves.  
They are worth all of them about \$90.

Subscribed and sworn  
to before me this 26th  
day of December 1870  
John Potter, Jr.  
Court Courescripicua

Magdalena Hesse [real signature]

-----  
Albert Huxley being duly sworn deposes  
And says that he resides in Neenah  
Wisconsin. He is a farmer, knows the  
parties to this action, has known them  
about six years. I have always known

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him to come home pretty drunk in that time. He has been an habitual drunkard for the last five years. \_ He is a very passionate ugly fellow when in liquor. I lived in the house with them about six months, three years ago last summer. He came home very often very drunk. I have often heard his wife scream and groan from my room. I heard her scream and I went in. She said he had been kicking her. He was pass [sic] out at the time. I have heard her scream and seen her run out of the house frequently and come into my part of the house. At the time she said he had been pounding her in his presence he did not deny it.

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Since I have left there I have seen him go by my place often pretty drunk. I have never seen anything or heard of Anything, but that she had treated him kindly. I have good reason of knowing. At the time she most often ran and came to my part of the barn she was fleeing from his violence.

Subscribed & sworn  
before me this 26th day  
of December 1870  
John Potter Jr.  
Court Courescripicua

Albert Huxley [real signature]

-----  
Ephraim Giddings being duly sworn says that he knows the parties to this suit. I have known her for two years as well. him for about fifteen years. He has been an habitual drunkard for the last four or five years, drunk most of the time. \_ When in liquor he's very ugly and violent. I have been called to his home to take care of him by different persons to prevent him from doing violence to his family. found him at one time perfectly naked yelling up and down the street. \_ He chided

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me as soon I went in. And I would  
have to hold him until he got quiet.  
\_ His family ~~would have~~ had to leave and  
keep out of his sight and could not  
go back until after I would get him  
to sleep. I have been called there for that  
purpose several times. I have been  
there once or twice since the commence

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ment of this suit.

Subscribed & Sworn to  
before me this 26th  
day of December 1870  
John Potter, Jr.  
Court Courescripicua

Ephraim Giddings [signature]

-----  
Franklin Heße being duly sworn says that  
he is the son of them [sic] parties. I have seen  
my father strike my mother a good  
many times. he struck her with his  
fist. I have seen him kick her only  
once. He has driven her out of the  
house a good many times in the night  
time. He struck once with an \_\_\_ last  
summer.

Subscribed & sworn to  
before me this 26th day  
of December 1870  
John Potter Jr  
Court Courescripicua

Franklin X Hesse  
[his mark]

-----  
Magdalena Heße recalled says, that, her  
husband the defendant pointed a loaded  
revolver at her once. this was three years  
ago. he was eating his supper and was  
mad. I said John I would not be so mad  
I saw he was mad and I left and went  
out of doors and took my baby with me  
I hid behind the shed door. I saw  
him coming with a revolver and he  
pointed it at me and I run behind

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the wood pile. He met the hired girl

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coming with the milking. She said why Hesse are you crazy and he then went and kicked her and he kicked the milk over. I stayed there until Mr. Huxley came and we went into the house and then John turned me out of the house again. Two years ago, When we lived in the Village, He came home drunk and very angry so that I locked myself and children up in a room upstairs. He came up stairs and wanted to know if I would open the door and if I did not he would break it in. And I opened the door he had in his hand a long butcher knife in his hand. He stood before me and held the knife up and said he would cut my head off I screamed and children screamed and I run out of the room and got away from him. He was so drunk he would not follow me.

Subscribed and sworn  
to before me this 26th  
day of December 1870  
John Potter, Jr.  
Court Courescripicua

Magdalena Hesse [signature]

[sideways at bottom of page]  
Winnebago Co Cir Court  
Mgdalene Hesse Plt  
agt  
John Hesse

Order of Reference and  
testimony taken in  
pursuance thereof

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State of Wisconsin  
Winnebago County Circuit Court  
Magdalene Hesse, Plnt  
agst  
John Hesse, Deft

At the December Term of said Court held at the  
Court House in Oshkosh December 1870. his Honor  
J. D [sic, should be D. J.] Pulling judge presiding

This cause having been brought on  
to be heard upon the complaint and answer and  
stipulation of the Defendant filed in said matter  
and the proofs taken therein; by John Potter Jr to Whom  
said cause was referred to take & report said testimony,  
and said report and testimony having been &  
duly considered and it appearing therefrom that  
all of the facts charged and alleged in the said  
plaintiff's complaint are true; and that said defendant  
has been for more than a year immediately preceding  
the filing the said complaint a habitual drunkard,  
and that said defendant has for over five years last  
past continued to treat said plaintiff in a cruel and  
inhuman manner and ~~of~~ with such conduct towards her  
as to render it unsafe & improper for her longer to  
cohabit with him; and it appearing further that  
said Plaintiff & Defendant were duly married on the 16th  
day of October AD 1860 at Neenah Wisconsin and that they  
were then and have ever since continued to be residents  
of said town & state and that said parties during  
said marriage have had five living children of the  
names & ages alleged in said complaint; and  
it appearing further that said plaintiff owns as  
her separate property the farm and appurtenances  
on which she now resides, and particularly described  
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in her said complaint and that all the personal  
property thereon and owned by her & said defendant  
is necessary for her & the said children's support and  
Education; and that said defendant is not a proper  
person to have the care & custody of said children\_  
On motion of J. B. Hamilton plaintiff's attorney it is  
adjudged and decreed, and this court by virtue  
of the power therein vested, & in pursuance of the statute  
in such case made & provided doth adjudge &  
decree that the marriage between the said plaintiff

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Magdalene Hesse, and the said defendant John Hesse be dissolved and the same is hereby dissolved and said parties divorced from said Bond of Matrimony accordingly; and the said parties are each of them freed from the obligations thereof.

And it is further ordered adjudged and decreed that the plaintiff Magdalena Hesse have the care and custody and education of all of the said Children Franklin, Auguste, Caroline, Henrietta and Edward Hesse;

And it is further ordered adjudged and decreed that all of the personal property specified in the complaint and on the farm described in said complaint (Except one yoke of oxen, one horse, one single harness & one single wagon & one set of butcher's tools) together with a certain promissory note given by C. Melzer & L. Voss to M. Hesse (the plaintiff) or \_\_\_\_\_ for two hundred dollars, in the spring of 1870 and payable about one year from next October and now in the possession of Henry Hesse, the father of said defendant, be and the same is hereby given & transferred to and assigned to the said plaintiff for her and the said children's maintenance & education

And it is further ordered adjudged and decreed

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that the said defendant be & he is hereby forever barred from all right and interest in & to the farm and appurtenances described in said complaint.

[the end of this paragraph was crossed out and re-written thus:]

The personal property herein above ~~and is hereby~~ given to said plaintiff consists of household furniture in the house occupied by plaintiff, one two-horse wagon, and other farming implements & utensils, wheat, oats & buckwheat & corn on said place and hay in the barn on said place, two cows and two calves and other property described in said complaint & provisions on hand.

[crossed out portion:] ...described in said complaint ~~and that said defendant be perpetually restrained and enjoined from visiting the said plaintiff or family at her home on said farm and from going upon or stopping or staying thereat and that he be perpetually restrained and enjoined from any interference with the person or personal liberty of said plaintiff or of~~

Magdalena Hesse vs John Hesse

Winnebago County, Wisconsin

Circuit Court Judgement Book, vol 6, page 114, case file 3694 (22 photocopied pages)

6 Dec 1870: filed; 26 Dec 1870: depositions; 28 Dec 1870: judgement

transcribed by Karrie Bles with (words struck out as in original); 28 Feb 2022

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~~said children and from any interference with any of  
said personal property.~~

And it is further ordered adjudged and  
decreed that the defendant pay to the said  
plaintiff for her attorney the costs of this action  
to be taxed and that she have execution therefore.

Dated Dec 28, 1870

By the Court

D. J. Pulling [real signature]

Judge