hundred and thirty three dollars and sixty four cents for his costs and charges, by him laid out and expended in and about his defence in this behalf, sustained by the said George H. Davis by the said Court, now here adjudged &c. And that the said George H. Davis may have execution thereof &c.

Memorandum.

Before the jurors aforesaid withdrew from the bar of the Court here the said Nimrod Buckingham by his attorneys aforesaid files in Court here the following Bills of exceptions to wit:

1st Bill of Exceptions.

Nimrod Buckingham vs. George H. Davis } In the Circuit Court for Carroll Cty. April Term 1855. His Honor Thomas Donaldson on the Bench as special Judge.

By the alteration of the Constitution and action under it, being April 1852 the late Carroll County Court was abolished and the Circuit Court for Carroll County became its substitute. His Honor Madison Nelson being the Judge thereof having qualified as such on the 24th day of November 1851 and having previous to this period been of Counsel in this cause. His Honor Thomas Donaldson had been regularly appointed and qualified to try this case upon the ground that His Honor Madison Nelson had been of Counsel in the cause as aforesaid previous to the September Term 1854 of this Court and at that Term he came regularly qualified as such special Judge, and what was done in this case at the last aforesaid September Term of this Court was done before him.—

At the Special Term 1855 His Honor Thomas Donaldson on the Bench. The Plaintiff by his Counsel moved the Court to strike out of the Record, and consider as a nullity all the proceedings in this case which have been had in this cause as the record purports since the April Term 1852 of this Court inclusive of that Term, and previous to the September term 1854, upon the ground that such proceedings are a nullity for want of jurisdiction in the Court under that clause of the Constitution which provides, that a Judge of the Circuit Court shall not sit in a cause in which he has acted as Counsel. The motion being objected to by the Counsel for the defendant and the motion being submitted after argument of the same was by the consideration and judgement of the Court overruled. To which judgement of the Court the plaintiff by his counsel asks leave to accept and prayed the Court to sign and seal this bill of exceptions which is accordingly done on this Eighth day of June 1855.

Thos. Donaldson Seal

2nd Bill of Exceptions.

Nimrod Buckingham vs. George H. Davis } April Term 1855. The Plaintiff in this case by his counsel moved the Court to sign or cause

to be signed, and applied for a warrant of resurvey upon the ground that the only proceeding which had been had in the cause, in contemplation of law since the return of the original writ, were the plea of not guilty and defence on warrant, because all other proceedings except the continuances at the last term of the Court which purports to have been had, were had, when his Honor Madison Nelson was sitting in the case and he was disqualified from sitting therein by the provisions of the constitution of this State by reason of his having been Counsel for one of the parties in the case and that therefore the said proceedings so had when he was sitting in the cause are Coram non judice and that upon such state of the pleadings and proceedings in the cause it was the right of the plaintiffs to have granted to him and to have signed to him said warrant of Resurvey, which motion and application the Court overruled. Whereupon the plaintiff by his Counsel prayed leave to except to the said opinion and ruling of the Court and that the Court would sign and seal this his bill of exceptions, according to the form of the Statute in such case made and provided & which is accordingly done this Eighth day of June 1855.

Thos. Donaldson Seal

3rd Bill of Exceptions.

Nimrod Buckingham vs. George H. Davis } April Term 1855. This case being called for trial the plaintiff by his counsel moved the Court to strike from the record in the case the motion made by the defendant on the 5th day of September 1853 and the leave then granted by the Court to the defendant on said motion to amend the plots & explanations returned to the Court here in this case & to add thereto if necessary and also all the amendments that appear from the record to have been made to said plots & explanations and all additions made thereto subsequent to the said motion by the said defendant & the granting by the Court of the said leave, which appears from the said record to have been made under and by virtue of the said motion and leave of the Court and also to strike from the record the motion made by the plaintiff on the 3rd day of April 1854 & the leave then granted by the Court to the plaintiff to amend the plots & explanations returned to the Court here in the case & to add thereto if necessary and also all the amendments that appear from the record to have been made to said plots and explanations and all additions made thereto subsequent to the said motion of the said defendant and the granting by the Court of the said leave, through His Honor Madison Nelson who was then sitting as Judge in the cause & who as such received the said motions & granted the said leaves was disqualified under the Constitution of this State from sitting as Judge therein, and said motions and leaves and all the proceedings thereunder are therefore coram non judice & void & should be stricken from the record. To the granting of which motion the defendant by his Counsel objected because although his honor Judge Nelson was disqualified under the provisions of the constitution from sitting in