

and that they, respectively, shall be deemed, for the purposes aforesaid, proper certifying officers. And we entertain no doubt that in all cases, where there are sufficient memoranda to enable a clerk to make a regular judgment, it is his duty to do it when requested, and to certify the judgment thus reduced to form, as the judgment rendered in the case. Regular judgments in the court of common pleas have rarely been made up in this state, and yet it has been the constant practice for clerks to make up and certify judgments from the memoranda of their predecessors. Indeed, if this could not be done, great embarrassment would be felt in many cases. Regular judgments are rarely, if ever, entered upon the records of justices of the peace; yet it is the constant practice to make up a regular judgment from the minutes which the justice keeps, and to certify the judgment thus made up, whenever a copy of the judgment is required.

Carlisle, et a.
v.
Thompson.

THE JUDGE OF PROBATE *versus* THOMAS S.
TILLOTSON, et a.

In stating a breach of the condition of an administration bond, in not rendering an account of the administration, it is necessary to aver that goods came into the hands of the administrator for which he was bound to account.

DEBT upon a probate bond. The defendants craved oyer of the bond and the condition, and then pleaded performance of the condition. To this the plaintiff replied, and assigned as a breach of the condition of the bond, that the administrator by whom the bond was given "did not make, or cause to be made, a just and true account of his administration upon oath within one year, according to the tenor and effect of the said writing obligatory."

J. of Probate
v.
Tillotson, et al

To this replication there was a bad rejoinder, to which the plaintiff demurred, and the defendants joined in demurrer.

Pearson and J. Smith, for the plaintiff.

Bell, Bartlett and Young, for the defendants.

By the court. The matter of the replication in this case is very inartificially alleged so far as it goes, and there is a defect in substance. It is not alleged that any goods came to the hands of the administrator, and surely he was not bound to render an account, if he never received any thing. This is settled to be a fatal objection. 1 Pick. 20, *Walker v. Hall*; 13 Johns. 437, *The people v. Dunlop*; 8 B. & C. 556; 2 Chitty's Pl. 622.

And although the rejoinder is bad, yet it is a good answer to a bad replication.

Leave to amend.