

4361

GIBSON.

VS.

REESE

Reference in box - 22

Docket No. | Agenda No.

172

SUPREME COURT.

CENTRAL GRAND DIVISION.

JANUARY TERM,

1871

No. for volume
4361

Referred

Gibson, et al.

72 v. 49.

Rees, et al.

Pleadings

Orders, etc.

1871

RECORD.
PAGE 1. *To the Hon. JOHN M. WILSON, Judge of the Cook
County Court of Common Pleas of the State of
Illinois.*

Humbly complaining, showeth unto your honor, your orator, David Gibson, of New Richmond, in the county of Clermont, and State of Ohio, who brings this his bill of complaint, on behalf of himself and all other persons or their legal representatives who were on the 9th day of January, A. D. 1838, creditors of Henry King, late of the city of Brooklyn, in the State of New York, deceased; that said Henry King, in his lifetime, to wit, on the day of A. D. 1836, purchased of the Board of Canal Commissioners of the Illinois and Michigan Canal, lot six, in block thirty-four, in the original town of Chicago, in the County of Cook, and State of Illinois, at and for the sum or price of six thousand dollars, upon the terms mentioned in an act of the General Assembly of the State of Illinois, entitled "An act for the construction of the Illinois and Michigan Canal," approved January 9, 1836; and that said Henry King, on the same day of A. D. 1836, paid to the treasurer of the said Board of Commissioners of the Illinois and Michigan Canal, the sum of fifteen hundred dollars, being one-fourth of said purchase money, and the further sum of two hundred and seventy dollars, being the interest for one year in advance, on the residue of said purchase money, and executed his three several promissory notes for the sum of fifteen hundred dollars, each payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money, and received from the said treasurer a certificate in the usual

form, numbered 51, bearing date the day and year last aforesaid, signed by said treasurer, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from said treasurer as would entitle the holder to a patent for said premises as provided by law.

Your orator further shows unto your honor, that said Henry King, in his lifetime, to wit, on the day of A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot six, in block thirty-eight, in the original town of Chicago aforesaid, at and for the sum or price of four thousand dollars, upon the terms and conditions mentioned in the act aforesaid, and paid to the said treasurer the sum of one thousand dollars, being one-fourth of said purchase money, and the further sum of one hundred and eighty dollars, being the interest for one year in advance on the residue of said purchase money; and executed his three several promissory notes for the sum of one thousand dollars each, payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance for the residue of said purchase money; and received from the said treasurer a certificate in the usual form, numbered 73, bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided for by law.

Your orator further shows unto your honor, that said

Henry King, in his lifetime, to wit, on the day of
A. D. 1836, purchased of the Board of Commissioners of
the Illinois and Michigan Canal, lot seven, in block twenty-
eight, in the original town of Chicago aforesaid, at and for
sum or price of sixteen hundred and ten dollars, upon the
terms and conditions mentioned in the act aforesaid, and
paid to the said treasurer the sum of four hundred and two
dollars and fifty cents, being one-fourth of said purchase
money, and the further sum of seventy-two dollars and
forty-five cents, being the interest for one year in advance
on the residue of said purchase money, and executed his three
several promissory notes for the sum of four hundred and two
dollars and fifty cents, each payable in one, two and three
years, respectively, bearing interest at the rate of six per cent.
per annum, payable annually in advance, for the residue
of said purchase money, and received from the said treas-
urer a certificate in the usual form, numbered 171, bearing
date the day and year last aforesaid, signed by said treas-
urer, therein stating and reciting the receipt of said money
and promissory notes for the purchase of said premises;
and that upon payment of said notes together with the
interest thereon, agreeably to the provisions of the law
authorizing the sale of said lot, the said Henry King would
receive such a certificate from the said treasurer as would
entitle the holder to a patent for said lot as provided for by
law.

Your orator further shows unto your honor, that said
Henry King, in his lifetime, to wit, on the day of

A. D. 1836, purchased of the Board of Commis-
sioners of the Illinois and Michigan Canal, lot four, in
block forty-six, in the original town of Chicago, aforesaid,
at and for the sum or price of sixteen hundred dollars, upon
the terms and conditions mentioned in the act aforesaid;
and paid to the said treasurer the sum of four hundred dol-
lars, being one-fourth of said purchase money, and the

further sum of seventy-two dollars, being the interest for one year in advance on the residue of said purchase money; and executed his three several promissory notes for the sum of four hundred dollars each, payable in one, two or three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money; and received from the said treasurer a certificate in the usual form, signed by him, and numbered 208, bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot, as provided for by law.

Your orator further shows unto your honor, that said Henry King, in his lifetime, to wit, on the day of A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot four, in block thirteen, of the original town of Chicago, aforesaid, at and for the price or sum of forty-eight hundred and twenty dollars, upon the terms and conditions mentioned in the act aforesaid; and paid to the said treasurer the sum of twelve hundred and five dollars, being one-fourth of said purchase money, and the further sum of two hundred and sixteen dollars and ninety cents, being one year's interest in advance, on the residue of said purchase money; and executed his three several promissory notes for the sum of twelve hundred and five dollars each, payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money; and received from the said treasurer a certificate in the

usual form, signed by him, numbered 160, and bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided for by law.

Your orator further shows unto your honor, that said Henry King, in his lifetime, to wit, on the 9th day of January, A. D. 1838, was indebted and otherwise liable to the several persons, and to certain persons doing business under the several copartnership names and styles hereinafter more particularly mentioned in a certain deed from the said Henry King, and Ann G. King, his wife, to one Edward Eldridge, hereinafter set forth, in the sums and manner in the said deed particularly set forth and described, and was also indebted to divers other persons; and being so indebted and otherwise liable, he, the said Henry King, on the same 9th day of January, A. D. 1838, conjointly with Ann G. King, his wife, made, executed, and delivered to one Edward Eldridge, their certain deed bearing date on the day and year last aforesaid; which said deed was duly acknowledged on the 10th day of January, A. D. 1838, and recorded in the recorder's office of said Cook county, on the 16th day of February, A. D. 1838, and by which said deed, the said Henry King, and Ann G. King, his wife, therein named as the party of the first part, did, for and in consideration of the execution of the trust hereinafter mentioned and set forth, and the sum of one dollar to them in hand paid by the said Edward Eldridge, therein named as the party of the second part, grant, bargain, sell, alien, remise, release, convey, and confirm unto the said party of the second part, and to his heirs and assign for-

ever, among other property therein described, said lot six, in block thirty-four; lot six, in block thirty-eight; lot seven, in block twenty-eight; lot four, in block forty-six, and lot four, in block thirteen, in the original town of Chicago aforesaid. To have and hold all and singular the therein above mentioned and described premises unto the said party of the second part, his heirs and assigns forever. In trust to sell the same or any part thereof, in such manner and at such time and for such prices as the said party of the second part should see fit; and to apply the proceeds, or so much of the same as should be necessary, to the payment of the debts of the said Henry King, in the manner and in the order hereinafter prescribed and set forth and no other, to wit:

First, to pay and discharge, in the order in which they are therein mentioned, all the debts of the said Henry King, set forth and referred in the schedule thereunto annexed, and making a part of said deed, marked "A."

And secondly, when the said debts, and each of them, should be wholly satisfied and discharged in said order, then to pay and satisfy in rateable proportions, according to the various sums due to the several creditors of the said Henry King, and without to any of them over the others or any of them, all the debts, dues and demands specified, mentioned and set forth in the schedule thereto also annexed, and making a part of said deed, marked "B."

And the said Henry King did thereby make, constitute and appoint the said Edward Eldridge his true and lawful attorney, in the name of the said Henry King, or in the name of the said Edward Eldridge, to execute the several trusts therein above appointed and recited, and more especially to sell and convey, alien, mortgage, release or in any wise dispose of or incumber the said property, and to satisfy and pay off all and any mortgages upon the same, or any part thereof; to make and execute all

deeds, instruments and papers whatsoever necessary for the said purposes ; to discharge, pay off and satisfy all the debts due by the said Henry King, mentioned in the schedule thereunto annexed ; and to collect, release, assign or compromise all the debts due to the said Henry King, thereby assigned, subject, however, to the conditions and exceptions therein above ordered and directed. And the said Henry King did thereby further empower the said Edward Eldridge to maintain and defend all suits at law or in equity, to satisfy, assign or suffer judgment ; to constitute, appoint and substitute, and revoke any attorney or attorneys for the further carrying into effect the said powers and trusts, giving and granting unto the said attorneys full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully and perfectly to all intents and purposes as the said Henry King might or could do if personally present, with full power of substitution and revocation, and thereby ratifying and confirming all that said attorney or his substitutes should lawfully do, or cause to be done by virtue thereof. To which said deed was annexed the said Schedules A and B, therein mentioned, as follows :

SCHEDULE A.

The amount which Thomas M. Grosvenor and Henry Eldridge, of Conn., may be liable for or be obliged to pay as bail for the said Henry King in a suit brought against him by Hubbard & Casey, of New York, being between four thousand five hundred and five thousand dollars.

The amount which D. Elston, of Chicago, Illinois, may become liable for, or have to pay for said Henry King, as security for him in suit brought by Phelps, Dodge & Co., of New York, which suit was appealed, \$900 — \$1,000.

The amount for which Thomas S. Hyde has become liable as security for said King in a suit of Hubbard & Casey appealed, \$1,100 to \$1,200.

The balance due from said Henry King to Edward Eldridge, of Boston.

The balance due from said Henry King to Nancy A. King, of Norwich, Connecticut.

SCHEDULE B.

Balance due to Edward Field & Co.,	\$ 553 12
“ Atwater & Pomeroy,	448 53
“ Witherel, Ames & Co.,	1,153 60
“ E. & H. Hull,	122 23
“ Geo. H. Clark,	71 23
“ Snyder & Boyd,	350 00
“ Buller & Parker,	316 73
“ Daniel Colt,	606 00
“ F. A. Huntington,	457 11
“ F. B. Rhodes & Co.,	332 37
“ James Latorette,	600 00
“ Pomeroy & Bull,	1,800 00
“ J. H. Ransom,	200 00
“ H. & D. Tarbox & Co.,	157 75
“ Thompson & Co.,	491 51
“ J. P. Rosevelt & Son,	646 83
“ E. P. & H. Hurger,	1,742 87
“ Collins, Kerk & Co.,	80 00
“ John Bartlett,	631 86
“ J. P. Church & Co.,	1,224 20

Any balance which may be due to Simeon Hyde on settlement of accounts with him.

Any other lawful and just demand against said Henry King not stated in his indebtedness.

As by a copy of said indenture and schedule hereto annexed, marked No. 1, will more fully and at large appear.

Your orator further shows unto your honor, that said Henry King, in order more fully to perfect the title of him, the said King, in the said Edward Eldridge, in said lots hereinbefore mentioned and described, for the uses and purposes in said deed mentioned afterwards, to wit, on the day of A. D. 18 , by his deed of assignment of that

date, assigned and transferred to the said Edward Eldridge, the said five certificates of the treasurer of the Illinois and Michigan Canal, numbered 51, 76, 160, 171 and 208, hereinbefore mentioned and set forth, which said assignment was duly proven before one Henry Sherman, a notary public, as required by the law of this State.

Your orator further shows unto your honor, that on the 27th day of February, A. D. 1841, at the time of the passage of the act of the General Assembly of the State of Illinois, hereinafter next mentioned, the said lots had become forfeited by reason of the said King's non-payment of the residue of said purchase money, and the interest thereon, according to the terms of said contracts. And that on the day and year last aforesaid, the General Assembly of the State of Illinois passed an act entitled "An act for the relief of purchasers of canal lots" in Chicago, and Ottawa in 1836, approved February 27th, 1841, wherein and whereby it was enacted, among other things, that all persons who had theretofore purchased any of the property belonging to the canal, any of the canal lands, or any of the lots in any town sold by authority of the State, and who had made advances to the State by way of payment for the same, and also had by any means forfeited the same by not complying with the other stipulations of the contract, should be entitled to the relief hereinafter granted, upon the conditions hereinafter mentioned, that is to say: every person who had paid any money upon such purchase, should first ascertain the amount from the proper authority, and next he should have or procure to be described the particular lot or land upon which payment should have been made, and should be allowed the right to select so much of his original purchase, at his option, as the said payments would cover, deducting from the original price stipulated for, thirty-three and one-third per centum.

Sec. 2. Said purchaser should relinquish all claim to .

the lot or lands which he did not choose to purchase, and in writing make his selection known to the Board of Canal Commissioners, who were thereby authorized and required to procure and deliver to such purchaser, a deed or patent for the same, agreeably to the laws then in force for patenting lands and lots by canal commissioners.

Sec. 3. If any balance should be due to the canal fund, the same should be promptly paid at the rate aforesaid, but it should in no case be allowed that the said board should issue scrip of forfeited payments that might in any event become currency for the payment of any other lands or lots belonging to the canal at any other than the amount of purchase, but that the same balance, if any, should be liquidated by the conveyance of lands or lots originally sold, and the original amount or price given at the time of purchase, with the deduction before mentioned.

Sec. 4. That it should be lawful for any purchaser to relinquish a part of a lot by fourths or halves, in proportion to the depreciated value theretofore, fixed by said act, but not by any other mode than leaving to the State as much front as rear.

Sec. 5. It might be lawful for any purchaser as aforesaid to place his payment which had been so forfeited on one piece of land not a town lot, or on one or near town lots or such particular lot or piece of land as he might deem proper at the original purchase price with the deduction aforesaid, but in no case should it be allowed to any such purchaser to place this payment on any lands or lots at any other price or valuation than as before mentioned.

Sec. 7. The rights of the purchasers under the provisions of said act might be the subject of transfer in writing, signed by the purchaser or his legal representative, which should be filed and recorded by the board; as by the said act will more fully and at large appear.

Your orator further shows unto your honor, that said

Edward Eldridge, afterwards, to wit, on the day of
 A. D. 184 , made, executed and delivered to one
 James H. Collins, a certain power of attorney, therein
 and thereby authorizing and empowering him, the said
 James H. Collins, to perfect the title to any one or more of
 the said lots by surrendering, assigning or transferring
 the same or any part thereof, as by the said power of attor-
 ney, a copy whereof your orator brings here into court,
 will more fully and at large appear.

Your orator further shows unto your honor, that said
 Edward Eldridge, afterwards, to wit, on the 17th day of
 May, A. D. 1843, in pursuance of said act aforesaid, by
 his attorney, James H. Collins, relinquished to the State,
 lot seven, in block twenty-eight, lot four, in block forty-six,
 and lot four, in block thirteen, aforesaid, and made choice
 of, and selected said lot six, in block thirty-four, and the
 east half of lot six, in block thirty-eight, in pursuance of
 the provisions of the act aforesaid. That the original pur-
 chase price of said lot six, in block thirty-four, and the
 east half of lot six, in block thirty-eight, was, after making
 the deduction aforesaid, five thousand three hundred and
 thirty-three dollars and thirty-four cents, and that the pay-
 ments made by the said Henry King on the said lots so
 relinquished to the State as aforesaid, and upon the said
 lot six, in block thirty-four, and the east half of lot six, in
 block thirty-eight, so selected and chosen as aforesaid,
 amounted to the sum of four thousand seven hundred and
 twenty-eight dollars and eighty-five cents, leaving a bal-
 ance due to the State on account of said lot six, in block
 thirty-four, and the east half of lot six, in block thirty-
 eight, so selected and chosen as aforesaid, of six hundred
 and four dollars and forty-nine cents; which sum last men-
 tioned was paid, not as your orator charges, out of the
 funds arising as hereinafter mentioned by the said Edward
 Eldridge, to the treasurer of the said board of commis-

sioners of the Illinois and Michigan Canal; whereby the said Edward Eldridge became entitled to, and did receive from the Governor of the State, patents for said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in the usual form, severally signed by the said Governor, and countersigned by the Secretary of State, with the seal of the State thereto affixed; as by the said patents will more fully and at large appear.

Your orator further shows unto your honor, that said Edward Eldridge, on the 19th day of May, A. D. 1843, by his said attorney, James H. Collins, sold, assigned, and transferred unto one Benjamin Jones, the west half of said lot six, in block thirty-eight, aforesaid, for a large sum of money, to wit, the sum of six hundred and four dollars and forty-nine cents, and from the monies so arising from said sale, your orator charges the said payment to the State aforesaid was made by the said Eldridge; and your orator further charges that nothing more than a trifling sum, if anything, was advanced by said Eldridge, in perfecting in him the title to said lot and half lot as aforesaid.

Your orator further shows unto your honor, that all the right, title, interest and estate of the said Henry King, in and to said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, aforesaid, resulting by operation of law from the said deed of the said Henry King, and Ann G. King, his wife, to said Edward Eldridge, hereinbefore mentioned and set forth, came to, and by sale, transfer and assignment became vested in, one Edward Eldridge, a resident of the State of Connecticut, who is made a party defendant hereto.

Your orator further shows unto your honor, that the liability of the said Thomas M. Grosvenor, and Henry Eldridge, as bail for the said Henry King, at the suit of Hubbard & Casey, in said deed of assignment mentioned, was, soon after the execution thereof, discharged, by the

surrender of the body of said Henry King, by said Henry Eldridge, in discharge of his said liability as bail as aforesaid.

Your orator further shows unto your honor, that the liability of said D. Elston, as security for said Henry King, in a suit brought by Phelps, Dodge & Co., against said King, in said deed of assignment mentioned, was discharged by a sale of property upon the execution issued on the judgments rendered in said suit, whereby the liability of said Elston became and was extinguished and discharged.

Your orator further shows unto your honor, that the liability of the said Thomas S. Hyde, as security for said Henry King, in the suit of Hubbard & Casey, against the said King, in said assignment mentioned, was discharged by a sale of property upon the execution issued on the judgment rendered in said suit, whereby the liability of said Hyde became and was extinguished and discharged.

Your orator further shows unto your honor, that the said Nancy A. King, on the 15th day of October, A. D. 1845, by her deed of release under her hand and seal of that date, did release, acquit and discharge him, the said Edward Eldridge, his heirs, executors, and administrators, of and from all claims and demands which she had or might have, under and by virtue of said deed of assignment; as by the said deed of release will more fully and at large appear.

Your orator further shows unto your honor, that on the same 15th day of October, A. D. 1845, the said Edward Eldridge, and Henry King, entered into an agreement of that date, by which the said Edward Eldridge agreed to sell and convey to the said Henry the said lot and half lot aforesaid, upon certain terms and conditions therein

mentioned; as by a copy of said agreement hereto attached, will more fully appear.

Your orator further shows, that said Henry King, in his lifetime, nor his heirs, executors, or administrators since his disease, never did or have complied with the terms and conditions of said agreement on his part to be kept, done and performed, and the same ought to be cancelled and discharged.

Your orator further shows, that said Henry King, afterwards, to wit, on the day of A. D. 18 , died intestate, leaving said Ann G. King, his widow, and Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, his children and heirs-at-law; and that the said Ann G. King, and Julia King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, now claim some right, title or interest in and to said premises, under and by virtue of said contract last above mentioned, and the said Ann G. King, as the widow of her said husband.

Your orator further shows, that on or about the day of A. D. 1848, the said Edward Eldridge, mentioned in said deed of assignment, died intestate, leaving Hannah Eldridge, his widow, and Edward Eldridge, Jr., Helen Eldridge, Henry Eldridge, Constantine Eldridge, and Harriet Eldridge, children, and only heirs-at-law of said Edward Eldridge. That said Edward Eldridge, Jr., and Hannah Eldridge, have taken out letters of administration upon the estate of the said Edward Eldridge, and are now the qualified acting administrators upon said estate.

Your orator further shows unto your honor, that all of the several debts mentioned in schedule "B," to said deed of assignment, have been assigned to your orator, and that the same are now due to your orator; as by the several assignments of the same in the possession of your

orator, ready here in court to be produced and shown, will more fully and at large appear. And your orator charges that the said Edward Eldridge, Jr., Helen Eldridge, Constantine Eldridge, and Harriet Eldridge, now hold the legal title of said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in trust for the uses and purposes mentioned in said deed of assignment, and that by reason of the death of the said Edward Eldridge, the trust so created cannot be executed without the aid and assistance of this honorable court in the premises.

Your orator further shows unto your honor, that the sum of money due the estate of Edward Eldridge, with the interest on the same, is over five thousand dollars, and that the said Edward Eldridge and Hannah Eldridge, as such administrators, are ready and willing to receive the same, and execute all necessary receipts therefor. And your orator well hoped that the said trust might be executed agreeably to the terms and conditions of said deed of assignment, as in justice and equity it ought to be done.

But now, so it is, may it please your honor, that said Ann G. King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, and said Edward Eldridge, Jr., Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constantine Eldridge, and Harriet Eldridge, combining and confederating together to wrong and oppress your orator in the premises, neglect and refuse to comply with your orator's reasonable requests to take any active measures so to do. To the end, therefore, that the said defendants may true and perfect answer make to all and singular the matters and things hereinbefore set forth—not under oath, an answer under oath being hereby expressly waived—and that as fully and particularly as if the same were herein again repeated, and they thereunto particularly interrogated according to the best of their respective knowledge, information and belief.

And that some suitable and proper person may be appointed by your honor as a trustee in the place of the said Edward Eldridge, deceased, and that by an order and decree of your honor, the several parties, defendants hereto, may release and convey unto said trustee all their right, title and interest in and to the premises aforesaid; and in default thereof that such conveyance may be made by the master of said court, for and in their behalf, and that the said trustee may be decreed to sell and dispose of said premises in such way and manner as your honor shall order and direct, and execute the necessary conveyance or conveyances to the purchaser or purchasers of the same, and pay over the proceeds of said sale to your orator, and such other parties as may appear to be entitled thereto; and that your orator may have such other and further relief in the premises as the nature of his case, and equity and good conscience may require.

May it please your honor, the premises considered, to grant unto your orator a writ of summons of the people of the State of Illinois, directed to the sheriff of Cook County, and returnable to the term of said court to be held on the day of September, A. D. 1855, thereby commanding him to summons the said Ann G. King, Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, Thomas G. King, Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constantine Eldridge, Harriet Eldridge, to be and appear before said court on the return day thereof, and then and there to stand to and abide such order and decree thereon as to your honor shall seem meet.

DAVID GIBSON.

By his Solicitor,

C. BECKWITH.

HIGGINS, BECKWITH & STROTHER,
Solicitors, and of Counsel.

DAVID GIBSON,

vs.

EDWARD ELDRIDGE, HANNAH ELDRIDGE,
 HELEN ELDRIDGE, HENRY ELDRIDGE,
 CONSTANCE ELDRIDGE, HARRIET EL-
 DRIDGE, ANN G. KING, JULIA KING,
 SUSAN M. KING, HENRY KING, HAR-
 RIET A. KING, EDWARD P. KING, and
 THOMAS P. KING.

And now, on this 9th day of April, comes the said complainant, by his solicitor, C. Beckwith; and it appearing to the court here that said defendants, Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, Harriet Eldridge, and Ann G. King, have entered their appearance herein; and the said defendants above named also coming this day by their solicitor, James P. Root: on motion of the solicitor of the complainant, it is ordered, that the said Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, Harriet Eldridge, and Ann G. King, do plead, answer or demur to said complainant's bill of complaint *instanter*. And on like motion of the said complainant's solicitor, it is ordered that said complainant's bill of complaint be dismissed without prejudice as to the said Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas P. King. And the said Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, Harriet Eldridge, and Ann G. King, having failed and neglected to plead, answer or demur to said complainant's bill of complaint, agreeably to the foregoing order of the court herein: on motion of the said complainant's solicitor, it is ordered and decreed, as to so much of said complainant's bill as seeks relief with respect to the east half of lot six, in block thirty-eight, in the original

town of Chicago, that the same be dismissed without prejudice, and as to the residue of the said complainant's bill, it is ordered and decreed that the same be taken *pro confesso*.

And the substance of the complainant's bill appearing to be that one Henry King, in his lifetime, to wit, in the year 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, the lots hereinafter next mentioned, for the sums or prices hereinafter next mentioned, that is to say, lot six, in block thirty-four, for six thousand dollars; lot six, in block thirty-eight, for four thousand dollars; lot seven, in block twenty-eight, for sixteen hundred and ten dollars; lot four, in block forty-six, for sixteen hundred dollars; and lot four, in block thirteen, for forty-eight hundred and twenty dollars; all in the original town of Chicago, County of Cook, and State of Illinois: And that said Henry King paid to the treasurer of the said Board of Commissioners, in the whole, the sum of forty-five hundred and seven dollars and fifty cents, being one-fourth part of the whole of said purchase money, and the further sum of eight hundred and eleven dollars and thirty-five cents, being the interest for one year, in advance, on the residue of said purchase money; and executed his several promissory notes, payable in one, two and three years respectively, with interest at six per cent. per annum, payable in advance, for the residue of the purchase money of each of said lots, and received from said treasurer his several certificates of sale of each of said lots in the usual form, therein reciting the receipt of one-fourth part of the purchase money of each lot, and one year's interest in advance on the residue thereof, together with said promissory notes; and stating that upon payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of such lots, the said Henry King would receive such certificates from said treasurer as

would entitle the holder thereof to patents for said lots as provided for by law.

And that said Henry King, in his lifetime, to wit, on the 9th day of January, A. D. 1838, was indebted and otherwise liable to the several persons, and to certain persons doing business under the several copartnership names and styles hereinafter more particularly mentioned in a certain deed from the said Henry King, and Ann G. King, his wife, to one Edward Eldridge, hereinafter set forth, in the sums and manner in the said deed particularly set forth and described, and was also indebted to divers other persons; and being so liable, he, the said Henry King, on the same 9th day of January, A. D. 1838, conjointly with Ann G. King, his wife, made, executed and delivered to one Edward Eldridge their certain deed, bearing date the day and year last aforesaid, which said deed was duly acknowledged on the 10th day of January, A. D. 1838, and recorded in the recorder's office of said Cook county, on the 16th day of February, A. D. 1838, and by which said deed the said Henry King, and Ann G. King, his wife, therein named as the party of the first part, did, for and in consideration of the execution of the trust hereinafter mentioned and set forth, and the sum of one dollar to them in hand paid by the said Edward Eldridge therein named as the party of the second part, grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, and to his heirs, among other property therein described, said lot six, in block thirty-four; lot six, in block thirty-eight; lot seven, in block twenty-eight; lot four, in block forty-six; and lot four, in block thirteen, in the original town of Chicago aforesaid; to have and to hold all and singular the therein above mentioned and described premises unto the said party of the second part, his heirs and assigns forever.

In trust to sell the same, or any part thereof, in such manner, and at such time, and for such prices as the said

party of the second part should see fit; and to apply the proceeds thereof, or so much of the same as should be necessary, to the payment of the debts of the said Henry King, in the manner and in the order thereafter prescribed and set forth, and no other.

First, to pay and discharge, in the order in which they are therein mentioned, all the debts of the said Henry King set forth and referred to in the schedule thereunto annexed, and making a part of said deed, marked "A."

And secondly, when the said debts, and each of them, should be wholly satisfied and discharged in said order, then to pay and satisfy in rateable proportions, according to the various sums due to the several creditors of the said Henry King, and without preference to any of them over the others or any of them, all the debts, dues and demands specified, mentioned and set forth in the schedule thereto also annexed, and making a part of said deed, marked "B."

And that the said Henry King did thereby make, constitute and appoint the said Edward Eldridge his true and lawful attorney, in the name of the said Henry King, or in the name of the said Edward Eldridge, to execute the several trusts therein above appointed and recited; and more especially to sell and convey, alien, mortgage, release or in any wise dispose of or incumber the said property, and to satisfy and pay off all and any mortgages upon the same, or any part thereof; to make and execute all deeds, instruments and papers whatsoever necessary for the said purposes; to discharge, pay off and satisfy all the debts due by the said Henry King, mentioned in the schedule thereunto annexed; with full power of substitution and revocation. To which said deed was annexed the said Schedules A and B, therein mentioned, as follows:

SCHEDULE A.

The amount which Thomas M. Grosvenor and Henry Eldridge, of Pomfret, Conn., might be liable for or be obliged to pay as bail for the said Henry King in a suit brought

against him by Hubbard & Casey, of New York, being between four thousand five hundred and five thousand dollars.

The amount which Mr. D. Elston, of Chicago, Ill., might become liable for, or have to pay for said Henry King, as security for him in suit brought by Phelps, Dodge & Co., of New York, which suit was appealed, \$900 to \$1,000.

The amount for which Thomas S. Hyde had become liable as security for said King in a suit of Hubbard & Casey, appealed, \$1,100 to \$1,200.

The balance due from said Henry King to Edward Eldridge, of Boston.

The balance due from said Henry King to Nancy A. King, of Norwich, Connecticut.

SCHEDULE B.

Balance due to Edward Field & Co.,	\$ 553 12
“ Atwater & Pomeroy,	448 53
“ Wetherel, Ames & Co.,	1,153 60
“ E. & H. Hull,	122 23
“ Geo. H. Clark,	71 23
“ Suydam & Boyd,	350 00
“ Butler & Barker,	316 73
“ Daniel Colt,	606 00
“ F. A. Huntington,	457 11
“ F. B. Rhodes & Co.,	332 37
“ James Latourette,	600 00
“ Pomeroy & Bull,	1,800 00
“ J. H. Ransom,	200 00
“ H. & D. Tarbox & Co.,	157 75
“ J. P. Roosevelt & Son,	646 83
“ E. P. & H. Heyer,	1,742 87
“ Collins, Keese & Co.,	80 00
“ John Bartlett,	631 86
“ J. P. Church & Co.,	1,224 20

Any balance which might be due to Simeon Hyde on settlement of accounts with him.

Any other lawful and just demand against said Henry King not now stated in his indebtedness; as appears by a copy of said indenture annexed to said bill.

And that said Henry King, in order more fully to perfect the title of him, the said King, in said Edward Eldridge, in said lots hereinbefore mentioned, for the uses and purposes in said deed mentioned, afterwards, to wit, on the day of A. D. 18 , by his deed of assignment of that date, assigned and transferred to the said Edward Eldridge, the said five certificates of the treasurer of the Illinois and Michigan Canal, numbered 51, 76, 160, 171 and 208, before mentioned, which said assignment was duly proven before one Henry Sherman, a notary public, as required by the laws of this State.

And that on the 27th day of February, A. D. 1841, at the time of the passage of the Act of the General Assembly of the State of Illinois, passed on the day and year aforesaid, and entitled "An Act for the relief of the purchasers of canal lots in Chicago, and Ottawa, in 1836," approved February 27, 1841, the said lots had become forfeited, by reason of the said King's non-payment of the residue of the purchase money thereof, and the interest thereon, according to the terms of said contracts.

And that said Edward Eldridge, afterwards, to wit, on the day of A. D. 184 , made, executed and delivered to one James H. Collins, a certain power of attorney therein, and thereby authorizing him, the said James H. Collins, to perfect the title to any one or more of the said lots by surrendering, assigning, or transferring the same or any part thereof, as appears from said power of attorney.

And that said Edward Eldridge, afterwards, to wit, on the 17th day of May, A. D. 1843, in pursuance of the aforesaid Act, by his attorney, said James Collins, relinquished to the State, lot seven, in block twenty-eight, lot four, in block forty-six, and lot four, in block thirteen, aforesaid, and made choice of and selected said lot six, in block thirty-four, and the east half of lot six, in block

thirty-eight, in pursuance of the aforesaid Act; that the original purchase price of said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, was, after making the deduction aforesaid, five thousand three hundred and thirty-three dollars and thirty-four cents, and that the payment made by the said Henry King, on the said lots so relinquished to the State as aforesaid, and upon the said lot six, in block thirty four, and the east half of lot six, in block thirty-eight, so selected and chosen as aforesaid, amounted to the sum of four thousand seven hundred and twenty-eight dollars and eighty-five cents, leaving a balance due to the State on account of said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, so selected and chosen as aforesaid, of six hundred and four dollars and forty-nine cents, which sum last mentioned was paid, as shown in said bill, out of trust funds arising as hereinafter mentioned, by the said Edward Eldridge, to the treasurer of the Board of Commissioners of the Illinois and Michigan Canal; whereby the said Edward Eldridge became entitled to, and did receive from the Governor of the State, patents for said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in the usual form and severally signed by the said Governor, and countersigned by the Secretary of State, with the seal of the State thereto severally affixed; as by said patents doth fully appear.

And that said Edward Eldridge, on the 19th day of May, A. D. 1843, by his said attorney, James H. Collins, sold, assigned, and transferred unto one Benjamin Jones, the west half of said lot six, in block thirty-eight aforesaid, for a large sum of money, to wit, the sum of six hundred and four dollars and forty-nine cents, and from the moneys so arising from said sale that said payment to the State, as aforesaid was made by said Eldridge, and

that nothing more than a trifling sum, if anything, was advanced by said Eldridge, in perfecting in him the title to said lot as aforesaid.

And that all the right, title, interest, and estate of said Henry King, in and to said lot six, in block thirty-four, and of the east half of lot six, in block thirty-eight, aforesaid, resulting by operation of law from the said deed of the said Henry King, and Ann G. King, his wife, to said Edward Eldridge, came to, and by sale, transfer, and assignment became vested in, one Edward Eldridge, a resident of the State of Connecticut, and named as a party in said bill.

And that the liability of said Thomas M. Grosvenor, and Henry Eldridge, as bail for the said Henry King, at the suit of Hubbard & Casey, in said deed of assignment mentioned, was, soon after the execution thereof, discharged by the surrender of the body of said Henry King, by said Henry Eldridge, in discharge of said liability as bail, as aforesaid.

And that the liability of said D. Elston, as security for said Henry King, in said deed of assignment mentioned in the suit brought by Phelps, Dodge & Co., was discharged by a sale of property upon the execution issued on the judgment rendered in said suit, whereby said liability became extinguished.

And that the liability of Thomas S. Hyde, as security for said Henry King, in the suit of Hubbard & Casey, against said King, in said assignment mentioned, was discharged by a sale of property upon the execution issued on the judgment rendered in said suit, whereby the liability of said Hyde became extinguished.

And that Nancy A. King, in said bill named, on the 15th day of October, A. D. 1845, by her deed of release under her hand and seal of that date, did release, acquit, and discharge him, the said Edward Eldridge, his heirs,

executors and administrators, of and from all claim and demand which she had or might have, under and by virtue of said deed of assignment; as by the said deed of release fully appears.

And that on said 15th day of October, A. D. 1845, the said Edward Eldridge, and Henry King, entered into an agreement of that date, by which the said Edward Eldridge agreed to sell and convey to the said Henry, the said lot and half lot aforesaid, upon certain terms and conditions therein mentioned; as by a copy of said agreement fully appears.

And that said Henry King, in his lifetime, nor his heirs, executors, or administrators since his decease, never did or have complied with the terms and conditions of said agreement on his part to be kept, done and performed, and the same ought to be cancelled and discharged.

And that on or about the day of A. D. 1848, the said Edward Eldridge mentioned in said deed of assignment, died intestate, leaving Hannah Eldridge, his widow, and Edward Eldridge, Jr., Helen Eldridge, Henry Eldridge, Constance Eldridge, and Harriet Eldridge, children and only heirs-at-law, of said Edward Eldridge. That said Edward Eldridge, Jr., and Hannah Eldridge, have taken out letters of administration upon the estate of the said Edward Eldridge, and are now the qualified acting administrators upon said estate.

And that said Henry King, on or about the day of A. D. 18 , died intestate, leaving said Ann G. King, his widow, and Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, his children and heirs-at-law, and that the said Ann G. King, and Julia King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, now claim some right, title, or interest, in and to said premises, under and by virtue of said contract last above

mentioned, and the said Ann G. King, as the widow of her said husband.

And that all of the several debts mentioned in schedule "B," to said deed of assignment, have been assigned unto David Gibson, the said complainant, and that the same are now due to said complainant, and wholly; as by the several assignments of the same in possession of said complainant ready here in court to be produced and shown.

And that said Edward Eldridge, Jr., Helen Eldridge, Henry Eldridge, Constance Eldridge, and Harriet Eldridge, now hold the legal title of said lot six, in block thirty-four, and the east half of lot six, in block thirty eight, in trust for the uses and purposes mentioned in said deed of assignment, and that by reason of the death of said Edward Eldridge, the trust so created cannot be executed without the aid and assistance of this Honorable Court in the premises. And that the sum of money due the estate of the said Edward Eldridge, with interest on the same, is over the sum of five thousand dollars, and that the said Edward Eldridge, and Hannah Eldridge, as such administrators, are ready and willing to receive the same, and execute all necessary receipts therefor.

Whereupon it is considered, ordered, adjudged, and decreed by the court, that Robert S. Blackwell, Esquire, be and he is hereby appointed trustee in the place and stead of the said Edward Eldridge, deceased; and that the said defendants, Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, and Harriet Eldridge, do severally, on demand being made upon them severally, by their deeds of conveyance under their respective hands and seals, to be acknowledged in accordance with the laws of this State, convey, assign, and transfer unto the said Robert S. Blackwell, Esquire, and his heirs, the said lot six, in block thirty-four, in the original town of Chicago, being part of the

trust estate vested in the said Edward Eldridge, deceased, by said indenture, bearing date the 9th day of January, A. D. 1838, and which came to the said defendants by descent, upon the same trusts mentioned in said indenture, and for the uses and purposes therein mentioned; and in default thereof, that such conveyance or conveyances be executed by L. C. P. Freer, the master in chancery of Cook county, in the manner above mentioned, who is hereby specially appointed a commissioner for that purpose, such default to be shown to the master by the affidavit of some credible person.

And it is further ordered and decreed by said court, that said Robert S. Blackwell, so appointed as trustee as aforesaid, do proceed to sell said lot six, in block thirty-four, in the original town of Chicago, together with all the right, title, and interest of the said defendants, or either of them therein, or thereto, at public auction, at the north door of the Court House, in the city of Chicago, in the county of Cook aforesaid, to the highest bidder, upon the terms of one-third cash down, and the balance in six and twelve months from the day of sale; having first given notice of the time and place of such sale by advertisement published in one of the daily newspapers published in the city of Chicago aforesaid, the first of which publications to be, at least, thirty days before the time appointed for such sale; and that the said complainant be at liberty to bid at such sale, and become the purchaser of said premises if he shall think fit.

And it is further ordered and decreed, that said Robert S. Blackwell, upon such sale being made as aforesaid, do make, execute and deliver to the purchaser a deed of said premises under his hand and seal, to be acknowledged in accordance with the laws of this State, receiving therefor one-third of the said purchase money, and the bond and mortgage upon said premises of the purchaser for

the other two-thirds thereof, and that he do make report to this court of his doings under this order and decree, with all convenient speed.

And it is further ordered, adjudged and decreed, that all persons to whom the said Henry King was in anywise indebted, or their assigns, or the present holders of such indebtedness, be at liberty to prove the same, together with their right and title thereto, before L. C. P. Freer, the master in chancery of Cook county, within three months from this date, and that said master give notice in some daily newspaper published in Chicago, aforesaid, and in the New York Daily Herald, and the New York Daily Times, to all persons having claims against said Henry King on account of indebtedness by him, on said 9th day of January, A. D. 1838, requiring all such persons to present and establish their said claims before him, the said master, within the time required by this order.

Such notice to be published at least four weeks successively, and the first publication to be at least four weeks before the expiration of said three months; and that said master report his doings to this court with all convenient speed; and the said court doth reserve for further consideration all further directions in the cause, with liberty to any of the parties to apply for further order herein.

Afterwards, on the 28th day of March, 1857, the following order was entered :

In Chancery.

DAVID GIBSON, <i>vs.</i> EDWARD ELDRIDGE <i>et al.</i>	}	<i>Bill.</i>
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The said complainant, by F. H. Kales, his counsel, being present, and it appearing satisfactorily to the court that the order or decree of this court, entered in the above cause on the 9th day of April, 1856, should, in respect to the time of proving up claims against Henry King before the master, and also in respect to the time of making sale of the premises thereby directed to be sold, be so reformed as to read thirteen months, instead of three months,

It is therefore ordered and adjudged, that said decree be so reformed as to read thirteen months, instead of three months, both in respect to the proving up of said claims, and also in respect to the making of the sale of the premises mentioned in said decree.

Afterwards, on the 14th day of July, 1858, the following order was entered :

DAVID GIBSON, <i>vs.</i> ANN G. KING, EDWARD ELDRIDGE, JR., HANNAH ELDRIDGE, HELEN ELDRIDGE, HENRY ELDRIDGE, and others.	}	<i>Bill.</i>
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On the pleadings and proceedings in this cause, and on reading the affidavit filed therein on the thirteenth day of July, instant, and on motion of Spafford & Jones, solicitors on behalf of Henry Young, surviving assignee of James N. Hyde, who was, on the 9th day of January, in the year 1838, a creditor of Henry King,

Ordered, that Robert S. Blackwell, Esq., heretofore

appointed a trustee in this cause, do desist, and altogether refrain from taking any action as such trustee, in and about the matters connected with said cause, and that he do especially refrain from taking any step or proceeding whatever with reference to the sale or other disposition of, or in any manner interfering with the lots, or either of them, described in the bill of complaint in this cause, and now involved therein, until the further order of this court.

Afterwards, on the 24th day of May, 1859, the following order was entered :

DAVID GIBSON,	}	<i>Order.</i>
<i>vs.</i>		
EDWARD ELDRIDGE <i>et al.</i>		

Whereas, it appears to the court, that, by a decretal order, made in this cause on the ninth day of April, 1856, it was ordered, adjudged and decreed in substance that all persons to whom the said Henry King was indebted, or their assigns, or the present holders of such indebtedness, be at liberty to prove the same and their title thereto, before L. C. P. Freer, master in chancery, within three months from said date, and that said master give notice, in some daily newspaper published in Chicago, and in the New York Daily Herald and the New York Daily Times, to all persons having claims against said Henry King on account of indebtedness by him on said 9th January, A. D. 1838, requiring all such persons to present and establish their said claims before him, the said master, within the time required by said order, such notice to be published at least four weeks successively, the first publication to be at least four weeks before the expiration of said three months; and whereas, by a subsequent order of said court, upon its appearing satisfactorily to the court that said order should be amended as to the time given for the creditors aforesaid to establish their claims as aforesaid, it was ordered that

said decretal order be so amended as to read thirteen months instead of three months, and whereas, by the said amendment the time so given would expire on the ninth day of May, 1857, and it appears by the certificates of the publishers of said papers, attached to the notices attempted to be given in pursuance of said orders, that said notices required said claimants to establish their said claims as aforesaid, before said master in chancery on or before the 9th day of April, 1857, instead of the ninth day of May, 1857, as by said notice now set forth, will more fully appear in the words and figures as follows: "To all whom it may concern: Take notice, that pursuant to a decree of the Cook County Court of Common Pleas, in and for the County of Cook and State of Illinois, on the chancery side thereof, made in a certain cause, wherein David Gibson is complainant, and Edward Eldridge and others are defendants, all persons having claims against Henry King, formerly of the city of New York, and now deceased, contracted, or in any manner by said Henry King incurred, upon or prior to the 9th day of January, A. D. 1838, are required to present and establish their said claims, and prove up the same, before me, L. C. P. Freer, Master in Chancery in and for said county of Cook, at my office in the city of Chicago, in said county, on or before the 9th day of April, A. D. 1857. L. C. P. FREER, Master in Chancery, Cook county, Illinois."

Now, therefore, upon the motion of Waller & Caulfield, attorneys for Edward G. Hyde, one of the claimants, it is ordered, for the purpose of curing the error in said publications, that the time for said claimants to appear and establish their claims before said master, be extended ninety days from this 24th day of May, A. D. 1857, and that said master give notice in a daily newspaper published in Chicago, requiring said claimants to present and establish their said claims before him within the time required by this order,

said notice to be published at least four weeks successively in said papers, the first publication to be at least four weeks before the expiration of said ninety days, and that the certificate of the publisher or editor of said paper shall be sufficient proof of said publication; and whereas, also, it was ordered, by the said order entered on the 9th April, 1856, that said heirs of Edward Eldridge should make deeds of the property in question to Robert S. Blackwell, as trustee, on demand being made of them therefor, and in default by the said heirs, said Freer should make such deed; and whereas, it is not designated by said order what shall constitute a demand on such heirs, or how said Blackwell shall proceed in making said demand,

It is therefore adjudged and ordered, that said demand may be made by any party in interest, or Robert S. Blackwell, as trustee, or his successor as trustee, by filing in the office of the clerk of this court, a demand in writing, addressed to the said parties, for said deed, and serving a copy of such written demand on James P. Root, the attorney who has appeared for said parties in this cause. And if within thirty days after the filing of such written demand, and service of the same as aforesaid, the parties neglect or refuse to make said deed as provided by said former order, that in such case the said L. C. P. Freer, master in chancery, shall be authorized to make said deed in the same manner as if the said demand had been made personally, and an affidavit of any credible person of the service of a copy of such demand upon the said James P. Root, together with the affidavit of said Robert S. Blackwell, or his successor, of the non-execution of said deed to him, shall be evidence of default to authorize said Freer to make, execute and deliver said deed to said Robert S. Blackwell as trustee aforesaid.

Afterwards, on the 13th day of January, 1860, the following order was entered :

DAVID GIBSON,	}	<i>Bill.</i>
<i>vs.</i>		
EDWARD ELDRIDGE <i>et al.</i>		

On reading and filing the petition of James H. Rees, and on motion of his solicitor, it is ordered that said Rees be and he hereby is made a party complainant to the bill of complaint in this cause, and leave given to file supplemental bill.

Afterwards, to wit, on the day of A. D. 1860, said Rees filed his said supplemental bill, which is in the words and figures following :

To the Judges of the Superior Court of Chicago :

IN CHANCERY :

Your Orator, James H. Rees, of the City of Chicago, brings this his bill of complaint, against the defendants hereinafter named, in the nature of a supplemental bill, in behalf of himself and all other persons or their legal representatives or assigns, who were on the ninth day of January, in the year one thousand eight hundred and thirty-eight, creditors of Henry King, late of the city of Brooklyn, in the State of New York, deceased, leave of the court having been first had and obtained, and thereupon your orator, humbly complaining, showeth unto your honors,

That your orator is informed and believes that one William Young, then of Chicago, in the State of Illinois, on the twenty-second day of June, in the year one thousand eight hundred and thirty-six, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot six, in block thirty-four, in the original town of Chicago, in the county of Cook, in the State of Illinois, at and for the

sum or price of six thousand dollars, upon the terms mentioned in an Act of the General Assembly of the State of Illinois, entitled "An Act for the construction of the Illinois and Michigan Canal," approved January 9th, 1836, and that said William Young, on the same day first above mentioned, in the year 1836, paid to the treasurer of the Illinois and Michigan Canal, the sum of fifteen hundred dollars, being one-fourth of said purchase money; and the further sum of two hundred and seventy dollars, being the interest for one year in advance on the residue of said purchase money, and executed his three several promissory notes for the sum of fifteen hundred dollars each, payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of such purchase money; and received from the treasurer of said State, a certificate in the usual form, numbered 51, bearing date the day and year last referred to, signed by said treasurer, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said William Young should receive such a certificate from the said treasurer as would entitle the holder to a patent for said premises, as provided for by law; that on or about the 26th day of October, 1836, the said William Young conveyed and assigned to Henry King, of Chicago, the said certificate, and all interest in said lot six, block thirty-four, and acknowledged the same before a notary, and henceforth became substituted for said William Young, as owner of said certificate, and the interest in said land, and said Young did, on the same day last aforesaid, execute a deed of said lot to said King, which deed was recorded in the recorder's office of Cook

county, November 30, 1836, in Book "R," page 295, reference being thereto had.

And your orator further shows unto your honors, on like information and belief, that said Henry King, in his lifetime, and on the twenty-second day of June, 1836, purchased of the said Board of Commissioners of the Illinois and Michigan Canal, lot six, in block thirty-eight, in the original town of Chicago aforesaid, at and for the sum or price of four thousand dollars, upon the terms and conditions mentioned in the Act aforesaid; and paid to the said treasurer the sum of one thousand dollars, being one-fourth of said purchase money, and the further sum of one hundred and eighty dollars, being the interest for one year in advance on the residue of said purchase money, and executed his three several promissory notes for the sum of one thousand dollars each, payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money; and received from the said treasurer a certificate in the usual form, numbered 73, bearing date the day and year aforesaid, of the like tenor and effect of the certificate above described and set forth, therein stating and reciting the receipt of said money and promissory notes for the purchase of the said premises, and that upon the payment of the said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided for by law.

And your orator further shows unto your honors, that said Henry King, in his lifetime, to wit, on the twenty-fifth day of June, A. D. 1836, as your orator is in like manner informed and believes, purchased of the said Commissioners of the Illinois and Michigan Canal, lot seven, in block twenty-eight, in the original town of Chicago, afore-

said, at and for the price or sum of sixteen hundred and ten dollars, upon the terms and conditions mentioned in the Act aforesaid, and paid to the said treasurer the sum of four hundred and two dollars and fifty cents, being one-fourth of said purchase money; and the further sum of seventy-two dollars and forty-five cents, being the interest for one year in advance on the residue of said purchase money, and executed his three several promissory notes for the sum of four hundred and two dollars and fifty cents each, payable in one, two and three years, respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of the purchase money, and received from the said treasurer a certificate in the usual form, numbered 171, bearing date the day and year last aforesaid, signed by said treasurer, therein stating and reciting the receipt of said money and promissory notes, for the purchase of said premises; and that upon payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of the said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided for by law.

And your orator further shows unto your honors, that said Henry King, in his lifetime, and on the twenty-fifth day of June, A. D. 1836, as your orator is in like manner informed and believes, purchased of the said Commissioners of the Illinois and Michigan Canal, lot four, in block forty-six, in the original town of Chicago, at and for the sum or price of sixteen hundred dollars, upon the terms and conditions mentioned in the Act aforesaid, and paid to the said treasurer the sum of four hundred dollars, being one-fourth of said purchase money, and the further sum of seventy-two dollars, being the interest for one year in advance on the residue of said purchase money, and exe-

cuted his three several promissory notes for four hundred dollars each, payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money, and received from said treasurer a certificate, in the usual form, signed by him, and numbered 208, bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory notes for the purchase money of said premises, and that upon the payment of said notes, together with interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from said treasurer as would entitle the holder to a patent for said lot, as provided for by law.

And your orator further shows unto your honors, on like information and belief, that said Henry King, in his lifetime, to wit, on the twenty-fourth day of June, A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot four, in block thirteen, in the original town of Chicago, aforesaid, at and for the price or sum of forty-eight hundred and twenty dollars, upon the terms and conditions mentioned in the Act aforesaid; and paid to the said treasurer the sum of twelve hundred and five dollars, being one-fourth of said purchase money, and the sum of two hundred and sixteen dollars and ninety cents, being one year's interest in advance on the residue of said purchase money; and executed his three several promissory notes, for the sum of twelve hundred and five dollars each, payable in one, two and three years respectively, bearing interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money; and received from the said treasurer a certificate in the usual form, signed by him, and numbered 160, and bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory

notes, for the purchase of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot, as provided for by law.

And your orator further shows unto your honors, that he is informed and believes that the said Henry King, in his lifetime, to wit, on the 9th day of January, A. D. 1838, was indebted and otherwise liable to the several persons, and to certain persons doing business under the several copartnership names and styles, hereinafter more particularly mentioned in a certain deed from the said Henry King and Ann G. King, his wife, to one Edward Eldridge, hereinafter set forth, in the sums and manner in said deed particularly set forth and described, and was also indebted to divers other persons; and being so indebted and otherwise liable, he, the said Henry King, on the same 9th day of January, A. D. 1838, jointly with Ann G. King, his wife, did make, execute and deliver to one Edward Eldridge, of the city of Boston, their deed of assignment, bearing date on the day and year last aforesaid, which said deed was duly acknowledged on the tenth day of January, A. D. 1838, and recorded in the recorder's office of said Cook county, on the sixteenth day of February, 1838, in Book T of Deeds, page 287, and by which said deed the said Henry King and Ann G. King, his wife, therein named as the party of the first part, did, for and in consideration of the execution of the trusts hereinafter mentioned and set forth, and the sum of one dollar, to them in hand paid by the said Edward Eldridge, therein named as the party of the second part, grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, among other property therein described, said lot six in block thirty-four; said lot

six in block thirty-eight; said lot seven in block twenty-eight; said lot four in block forty-six; and said lot four in block thirteen, in the original town of Chicago; to have and to hold all and singular the therein above mentioned and described premises unto the said party of the second part, his heirs and assigns forever; in trust to sell the same or any part thereof, in such manner and at such prices as the said party of the second part should see fit; and to apply the proceeds thereof, or so much of the same as should be necessary, to the payment of the debts of the said Henry King, in the manner and in the order therein-after prescribed and set forth, and no other, to wit: First, to pay and discharge in the order in which they are therein mentioned, all the debts of the said Henry King, set forth and referred to in the schedule thereunto annexed, and making a part of said deed marked A; and secondly, when the said debts and each of them should be wholly satisfied and discharged in said order, then to pay and satisfy in rateable proportions, according to the various sums due to the several creditors of the said Henry King, and without preference to any of them over the others or any of them, all the debts, dues and demands specified, mentioned and set forth in the schedule thereunto also annexed, and making part of said deed, marked B; and the said Henry King did thereby make, constitute and appoint the said Edward Eldridge his true and lawful attorney, in the name of the said Henry King, or in the name of the said Edward Eldridge, to execute the several trusts therein above appointed and recited; and more especially to sell and convey, alien, mortgage, release, or in anywise dispose of or incumber the said property; and to satisfy and pay off all and any mortgage upon the same or any part thereof; to make and execute all deeds, instruments and papers whatsoever necessary for the said purposes; to discharge, pay

King to Edward Eldridge, of Boston; the balance due from said Henry King to Nancy A. King, of Norwich, Connecticut.

SCHEDULE B.

Balance due to	Edward Field & Co.,	\$ 553 12
"	Atwater & Pomeroy,	448 53
"	E. & H. Hull,	122 23
"	Wetherell, Ames & Co.,	1,153 60
"	George H. Clark,	71 23
"	Sydam & Boyed,	350 00
"	Butler & Barker,	316 73
"	Daniel Colt,	606 00
"	F. A. Huntington,	457 11
"	T. B. Rhodes & Co.,	332 37
"	James Latourette,	600 00
"	Pomeroy & Bull,	1,800 00
"	J. H. Ransom,	200 00
"	H. & D. Tarbox & Co.,	157 75
"	Thompson & Co.,	491 51
"	J. P. Roosevelt & Son,	646 83
"	E. P. & H. Hyer,	1,742 87
"	Collins, Keese & Co.,	80 00
"	John Bartlett,	631 86
"	S. P. Church & Co.,	1,224 20

Any balance which may be due to Simeon Hyde on settlement of accounts with him; any other lawful and just demands against said Henry King, not now stated in his indebtedness.

As by reference to the said deed of assignment in the hands of the heirs of said Edward Eldridge, defendants hereto, and which your orator prays may be produced and set forth, or to the record thereof, remaining in the recorder's office of Cook county, and a copy whereof is hereto annexed, marked Exhibit No. 1, will more fully and at large appear.

And your orator further shows unto your honors, that he is informed and believes that the said Henry King, in order

the more fully to perfect the title of him, the said King, in the said Eldridge, in said lots hereinbefore mentioned and described, for the uses and purposes in said deed mentioned, afterwards, to wit, on or about the said ninth day of January, 1838, by his deed of assignment of that date, assigned and transferred to the said Edward Eldridge, the said five certificates of the treasurer of the Illinois and Michigan Canal, numbered 51, 76, 160, 171 and 208, hereinbefore mentioned and set forth, which said assignment was duly proven before one Henry Sherman, a notary public, as required by the laws of the State of Illinois.

And your orator further shows unto your honors, on information and belief, that on the twenty-seventh day of February, A. D. 1841, the time of the passing of the Act of the General Assembly of the State of Illinois, hereinafter next mentioned, the said lots had become forfeited by reason of the said King's non-payment of the residue of said purchase money, and the interest thereon, according to the terms of the said contracts, and on the day and year last aforesaid, the General Assembly of the State of Illinois passed an Act entitled "An Act for the relief of the purchasers of canal lots in Chicago and Ottawa, in 1836," approved February 27, 1841, wherein and whereby it was enacted, among other things, that all persons who had theretofore purchased any of the property belonging to the canal, any of the canal lands, or any of the lots in any town sold by authority of the State, and who had made advances to the State by way of payment for the same, and who had by any reason forfeited the same by not complying with the other stipulations of the contract, should be entitled to the relief thereafter granted upon the conditions thereafter mentioned, that is to say: Every person who had paid any money upon such purchase, should first ascertain the amount from the proper authority, and next he should have or procure to be described the particular lot or land upon

which payment should have been made, and should be allowed the right to select so much of his original purchase, at his option, as the said payment would cover, deducting from the original price stipulated for thereby, thirty-three and one-third per centum. By § 2 of said Act it was provided that said purchaser should relinquish all claim to the lot or land which he did not choose to purchase, and in writing make his selection known to the Board of Commissioners, who were thereby authorized and required to procure and deliver to such purchaser, a deed or patent for the same, agreeably to the laws then in force for patenting lands and lots sold by canal commissioners.

By § 3. If any balance should be due to the canal fund, the same should be promptly paid at the rate aforesaid, but it should in no case be allowed that the said board should issue script of forfeited payments that might in any event become currency, for the payment of any other lands or lots belonging to the canal, or any other than the amount of purchase, but that the same balance, if any, should be liquidated by the conveyance of lands or lots originally sold, and at the original amount or price given at the time of purchase, with the deduction before mentioned.

By § 4. That it should be lawful for any purchaser to relinquish a part of a lot by fourths or halves, in proportion to the depreciated value theretofore fixed by said Act, but not by any other mode than leaving to the State as much front as rear.

By § 5. It might be lawful for any purchaser, as aforesaid, to place his payment which had been forfeited on one piece of land, not a town lot, or on one or more town lots, or such particular lot or piece of land, as he might deem proper, at the original purchase price, with the deduction aforesaid, but in no case should it be allowed to any such purchaser to place the payment on any other lands or lots at any other price or valuation than before mentioned.

By § 7. The rights of the purchaser under the provisions of said Act might be the subject of transfer in writing, signed by the purchaser or his legal representatives, which should be filed and recorded by the board; as by the said Act, reference being thereto had, will more fully and at large appear.

And your orator further shows unto your honors, that he is informed and believes that the said Edward Eldridge took upon himself the execution of said trusts conferred upon him by said deed of assignment, and afterwards and before the surrender of a part of said lots hereinafter mentioned, the precise date being unknown to your orator, did make, execute and deliver to one James H. Collins, a counsellor at law, in Chicago, a certain power of attorney, therein and thereby authorizing and empowering him, said Collins, to perfect the title to any one or more of the said lots, by surrendering, assigning or transferring the same or any part thereof, as by the said power of attorney, now on file in the office of the State trustee of the canal board, as your orator is informed and believes, reference being thereto had, will more fully and at large appear.

And your orator further shows unto your honors, that he is informed and believes that said Edward Eldridge, afterwards, to wit, on the seventeenth day of May, A. D. 1848, in pursuance of the said Act, by his said attorney, James H. Collins, relinquished to the State said lot seven, in block twenty-eight, said lot four, in block forty-six, and said lot four, in block thirteen, aforesaid, and made choice of and selected said lot six, in block thirty-four, and the east half of said lot six, in block thirty-eight, in pursuance of the provisions of the Act aforesaid; that the original purchase price of said lot six, in block thirty-four, and the east half of lot six in block thirty eight, was, after making the deductions aforesaid, five thousand three hundred and thirty-three dollars and thirty-four cents, and that the pay

ment made by the said Henry King, on said lots so relinquished to the State, as aforesaid, and upon said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, so selected and chosen, as aforesaid, amounted to the sum of four thousand seven hundred and twenty-eight dollars and eighty-five cents, leaving a balance due to the State, on account of said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, so selected and chosen, as aforesaid, of six hundred and four dollars and forty-nine cents; which last mentioned sum was paid (but as your orator states on information and belief, out of trust funds, arising as hereinafter mentioned) by the said Edward Eldridge to the treasurer of the said Board of Commissioners of the Illinois and Michigan Canal; whereby the said Edward Eldridge became entitled to and did receive from the Governor of the State of Illinois, patents for said lot six, in block thirty-four, and the east half of said lot six, in block thirty-eight, in the usual form, severally signed by the Governor, and countersigned by the secretary of State, with the seal of the State thereto severally affixed; as by the said patents, reference being thereto had, will more fully and at large appear.

And your orator further shows unto your honors, that he is informed and believes that said Edward Eldridge, on the nineteenth day of May, 1843, by his said attorney, James H. Collins, sold, assigned, and transferred unto one Benjamin Jones, the west half of lot six, in block thirty-eight, aforesaid, for a large sum of money, to wit, for the sum of six hundred and four dollars and forty-nine cents, and from the moneys arising from said sale, your orator states, on information and belief, that the said payment to the State, as aforesaid, was made by the said Eldridge. And your orator further states and avers that nothing whatever, as he is informed and believes, was advanced by the said Eldridge,

in perfecting in him the title to said lot and half lot, as aforesaid.

And your orator further shows unto your honors, and avers, that all the right, title and interest of the said Henry King in and to said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in Chicago, by means of the premises, and the fee simple title thereto, became vested in the said Edward Eldridge, subject to the trusts declared in said deed of assignment of the ninth day of January, 1838, aforesaid.

And your orator further shows unto your honors, that he is informed and believes, and therefore so alleges and states, that the liability of the said Thomas M. Grosvenor, as bail for said Henry King at the suit of Hubbard & Casey, in said deed of assignment mentioned, was, soon after the execution thereof, discharged by the surrender of the body of the said Henry King by said Henry Eldridge, in discharge of his liability as bail as aforesaid; that the liability of the said D. Elston, as security for said Henry King, in a suit brought by Phelps, Dodge & Co., against said King, in said deed of assignment mentioned, was discharged by a sale of property upon execution issued on the judgment rendered in said suit, whereby the liability of said Elston became and was extinguished and discharged; and that the liability of the said Thomas S. Hyde, as security for the said King, in the suit of Hubbard & Casey, against the said King, in said assignment mentioned, was discharged by a sale of property upon the execution issued on the judgment rendered in said suit, whereby the liability of said Hyde became and was extinguished and discharged; and also that the said Nancy A. King, on the 15th day of October, A. D. 1845, by her deed of release, under her hand and seal of that date, did release, acquit and discharge him, the said Edward Eldridge, his executors and administrators, of

and from all claims and demands, which she had or might have under and by virtue of said deed of assignment; as by the said deed will more fully appear.

And your orator further shows unto your honors, that he is informed and believes that on or about the fifteenth day of October, A. D. 1845, the said Edward Eldridge and Henry King, the said assignor, entered into an agreement of that date, by which the said Edward Eldridge, among other things, agreed to convey, upon certain terms and conditions in said agreement, among other things more particularly stated, the said lot six, in block thirty-four, on certain terms, and the said east half of lot six, in block thirty-eight, on certain other terms—which said terms and conditions were never, in fact, in any respect fulfilled or performed by the said Henry King, or in his behalf, and which said agreement, your orator states and avers, was a violation of the trusts so conferred upon said Eldridge, as aforesaid, as hereinafter more particularly set forth, as both said Eldridge and said King well knew; as by reference to said original agreement, ready to be produced and proved, and a copy whereof is hereto annexed, marked Exhibit No. 2, will more fully and at large appear, reference being thereto had.

And your orator further shows and states, that the said agreement was afterwards, and on the 28th day of October, 1847, recorded in the office of the recorder of deeds, in said Cook county, in Book 24, page 388; as by reference thereto will also more fully appear.

And your orator further shows unto your honors, that he is informed and believes that the said Edward Eldridge departed this life on or about the eighth day of September, A. D. 1847, intestate, at Pomfret, in the State of Connecticut, never having parted with said title, held in trust, and that he left him, surviving, Hannah Eldridge, his widow, and Edward Eldridge, Jr., Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance Eld-

is over the sum of five thousand dollars, and that the said Edward Eldridge, and Hannah Eldridge, as such administrators, are ready and willing to receive the same and execute all necessary receipts therefor; that said Henry King, departed this life intestate some time in the year 1850, leaving Ann G. King, his widow, and Julia King, Susan M. King, Henry King, Jr., Harriet A. King, Edward P. King, and Thomas G. King, his children and heirs-at-law, and that they claimed some interest in and to said premises by virtue of said agreement above mentioned, of the 15th of October, 1845, and praying that the said widow and heirs of said Edward Eldridge, and the said widow and heirs of the said Henry King, who were made the only defendants to said bill, might be decreed to release unto a trustee, to be appointed by the court, all interest in said premises — that such trustee might be appointed in the place of said Edward Eldridge, deceased — and that such trustee might be decreed to sell and dispose of said premises, and pay over the proceeds to the said David Gibson, and such other persons as might appear to be entitled thereto.

And your orator further shows unto your honors, that all of said defendants to said original bill of complaint, were proceeded against without the service of process as non-residents by publication and service of a copy of said original bill under the statute; that on the ninth day of April, 1856, the said bill was, on motion of said David Gibson, dismissed as to the widow and heirs of the said Henry King, deceased, and taken as confessed by the said other defendants; and thereupon it was ordered by this court, that the said defendants, the widow and heirs of the said Edward Eldridge, deceased, should release and convey unto Robert S. Blackwell, Esquire, of the city of Chicago, then and there appointed trustee in place of said Eldridge, said lot six, in block thirty-four, aforesaid, a part of said trust

property on demand, or in default thereof; that such conveyance be executed by L. C. P. Freer, Esquire, a master of this court, and special commissioner for that purpose; and that the said trustee might sell said lot six, in block thirty-four, at public sale in the manner therein stated; and it was also then and there further ordered and decreed by the said court, that all persons to whom the said Henry King was in anywise indebted, or their assigns, or the present holders of such indebtedness, should be at liberty to prove the same, together with their right and title thereto, before L. C. P. Freer, Esquire, the master in chancery of Cook county, within a time limited by said court, and on notice to be published as in said order directed, calling upon all persons having claims against said Henry King, on account of indebtedness by him, on the ninth day of January, A. D. 1838, to present and establish their said claims; as by the proceedings of record in said court, in said original suit, reference being thereto had, will more fully and at large appear.

And your orator further shows unto your honors, that he is informed and believes that L. C. Paine Freer, the said master in chancery, was duly charged with the execution of the said order, and that such proceedings were afterwards had before him, that on or about the twelfth day of July, A. D. 1859, divers persons, to wit, Henry Young, of the city of New York, and Isaac C. Hunt, of the city of New York, and on or about the fourteenth day of July, 1857, Edward G. Hyde, of the city of New York, made themselves parties to the said proceedings by filing before the said master in chancery their divers claims as owners of portions of said indebtedness of Henry King, embraced in Schedule B, annexed to said deed of assignment; that testimony has been taken before the said master, in regard to said claims; that said proceedings yet remain open before the said master, he, the said master,

not having reported upon any claims as proved and established before him ; that no claims have been presented or established before the said master, on the part of said David Gibson, nor any proof been made before said master, of any such claims ; nor has any proof been offered before said master, of the amount due to the administrators or to the estate of said Edward Eldridge, from said Henry King.

And your orator further shows unto your honors, by^o way of supplement, that afterwards, to wit, on the twentieth day of November, A. D. 1859, in part performance of said decree and order aforesaid, the widow and heirs of the said Edward Eldridge, deceased, having failed to release and convey to the said Robert S. Blackwell, Esquire, the said lot six, in block thirty-four, aforesaid, on due demand made pursuant to said decree, and the orders and directions of this court, the said L. C. Paine Freer, Esquire, the said master in chancery for Cook county, and special commissioner for that purpose, did make, execute and deliver to the said Robert S. Blackwell, as trustee, as aforesaid, and who accepted the said trust, a release and conveyance in due form of all the right, title and interest of the said Edward Eldridge, deceased, and of his said widow and heirs, in and to said lot six, in block thirty-four, in the original town of Chicago, which said conveyance was acknowledged on the thirtieth day of November, A. D. 1859, and recorded in the said county of Cook, in Book No. 81, of the Record of Deeds, page 586 ; as by reference to said deed, and the record thereof, will more fully and at large appear.

And your orator further shows unto your honors, by way of supplement, that after the said Edward G. Hyde had filed his claim before the said master, as aforesaid, and on the fifteenth day of July, A. D. 1857, your orator became the absolute owner, by sale and transfer by the said

Edward G. Hyde, of his claim, so filed before the said master, to your orator; being the amount due on three certain promissory notes, made by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, to said Henry King, or order, and by him indorsed, and upon which he was liable, more particularly set forth and described in the assignment thereof, under the hand of the said Edward G. Hyde, the original of which is now in the possession of your orator, ready to be produced and proved, reference being thereto had; that your orator is the absolute holder and owner of the said notes, and the said Hyde has no remaining interest therein, and that there is justly and equitably due to your orator, thereon, the full principal and interest secured thereby from the estate of the said Henry King, and included among the debts secured by Schedule B, annexed to said deed of assignment.

And your orator further shows unto your honors, by way of supplement, that at the time of the making of said deed of assignment, by the said Henry King, to the said Edward Eldridge, the said Henry King, as your orator is informed and believes, was justly indebted to the trustees of Illinois College, a corporation created by, and existing under the laws of the State of Illinois, in the amount of the sum of five hundred dollars by a subscription in writing, made by said Henry King, for a good consideration, on the fifth day of July, 1836, and payable to the treasurer of Illinois College, in the manner and according to the terms and conditions in said subscription paper contained, and that afterwards, to wit, on the twenty-second day of December, A. D. 1859, the said claim never having been presented to the said master, or proved in said suit by said Illinois College, or by any person or corporation, the said trustees of Illinois College, by their certain instrument in writing, of that date, under the hand of James Berdan, their treasurer, the common seal of the said

corporation being thereto affixed, did sell, assign, transfer, and set over unto your orator all the right, title, claim and interest of the said Illinois College, in and to the amount of the said subscription of the said Henry King; that the amount thereof, with interest, is justly due and unpaid, and your orator justly entitled to receive the same from the estate of said Henry King, and as included among the debts secured by Schedule B, annexed to said deed of assignment; as by reference to said subscription in writing, now in the possession of your orator, and to the assignment thereof, ready to be produced and proved, will more fully and at large appear

And your orator further shows unto your honors, by way of supplement, that your orator is the holder and owner of the claim of S. P. Church & Co., mentioned and set forth in Schedule B to said deed of assignment of Henry King annexed, amounting, as therein stated, to the sum of \$1,224.20; that as your orator is informed and believes, at the time of the execution of said deed of assignment, the said claim of said S. P. Church & Co. consisted of two several drafts or bills of exchange held by Sheldon P. Church, and John R. Church, partners in business, and merchants in the city of New York, on which said drafts the said Henry King was then liable as drawer, and which drafts were then in suit in the Circuit Court of Cook county, Illinois; that such proceedings were had in said suit that on the sixteenth day of May, A. D. 1839, a judgment was entered in said court in favor of said Sheldon P. Church and John R. Church, against said Henry King, for the sum of one thousand four hundred and eight dollars and sixty-five cents, damages, being principal and interest on said bills of exchange, and the costs of said suit; that said judgment still remains in full force, unreversed and wholly unsatisfied; and that afterwards, the same never

having been paid or assigned or transferred by the said Sheldon P. and John R. Church, or either of them, and on or about the seventh day of April, A. D. 1842, both the said Sheldon P. Church, and the said John R. Church, did present each his petition to the District Court of the United States in and for the Southern District of New York, before the Honorable Samuel R. Betts, District Judge, to be declared a bankrupt under the Act of Congress in that case made and provided, and such proceedings were thereupon afterwards had that on the seventh day of May, A. D. 1842, both Sheldon P. Church and John R. Church were duly declared bankrupts, and William C. H. Waddell was appointed assignee of the estate of each of them under said Act, and the rules of said court, and as such assignee became the holder and owner of the said judgment of said Sheldon P. and John R. Church, against said Henry King; and your orator further shows and states that an order having been duly entered, authorizing the sale of the assets of the said bankrupts in said District Court, afterwards, to wit, on the twelfth day of November, A. D. 1859, the said William C. H. Waddell, as such assignee in bankruptcy, did, for a valuable consideration, grant unto your orator, and convey all the right and title of him, said assignee, in and to the aforesaid judgment in the Cook County Circuit Court, in favor of said Sheldon P. and John R. Church, against said Henry King, before mentioned; and the same with the interest thereon is now justly due to your orator; as by reference to the record and proceedings in the said suit in the Cook County Court remaining, and to the record and proceedings in bankruptcy aforesaid, and to the assignments and transfers of the said William C. H. Waddell, in the possession of your orator, and ready to be produced and proved, will more fully and at large appear.

And your orator further shows unto your honors, that such proceedings were had in said original suit, that after-

wards, and on the thirteenth day of January, A. D. 1860, the said court did, on motion of your orator, order that your orator should be made a party complainant to the said original bill of complaint, and your orator was by said order made such party complainant, and leave was thereby given to your orator to file a supplemental bill ; as by reference to said order will more fully appear.

And your orator further shows unto your honors, that he is informed and believes, and therefore states, that in the lifetime of the said Edward Eldridge, and after he had so received a patent for said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, on the surrender and relinquishment of the said other lands and lots before mentioned, by an instrument in writing, executed by and between the said James H. Collins, the attorney of said Edward Eldridge, and by one Dennis S. Cady, dated Aug. 1st, 1846, he did lease the said lot six, in block thirty-four, to the said Dennis S. Cady, from the 1st day of July, 1846, to the 1st day of May, 1851, a term of four years and ten months, at and for an annual rent of two hundred and fifty dollars ; which lease was afterwards, and on the 26th day of March, 1847, assigned by said Dennis S. Cady to Edward H. Aikin and James E. Aikin ; and that on the expiration of said term, the said Edward Eldridge, Jr., by E. H. Sheldon, his attorney, did demise and lease the said lot six, in block thirty-four, to Edward H. Aikin, by an instrument in writing, executed by and between said Eldridge and said Aikin, dated April 30, 1851, for the term of five years, from the first day of May, 1851, and to and until the first day of May, 1856, at and for a yearly rent of five hundred dollars ; that said premises were, during all the said time, occupied under said leases, and upon such two leases the said Edward Eldridge and Edward Eldridge, Jr., might have received, and with due diligence should have received, the sum of three thousand seven hundred

and eight dollars and thirty-four cents. And your orator is informed and believes, and so states the fact to be, that the firm of Ogden, Jones & Co., land agents, in the city of Chicago, acting as the business agents of said Edward Eldridge, Jr., and by his permission, direction or appointment, did actually receive of rents paid in to them upon said two leases from and after the fourth day of November, A. D. 1850, and to the tenth day of November, A. D. 1855, the quarterly accruing rents upon each of the said leases, amounting to the sum of twenty-five hundred dollars, and also from the said James H. Collins, the sum of five hundred dollars, in addition, as a balance due from him for rents collected and received by him on said first mentioned lease, making in all the sum of three thousand dollars of such rents actually received by said Ogden, Jones & Co., as the business agents of said Edward Eldridge, Jr., and that of this sum the said Ogden, Jones & Co. did remit and pay over to, and the said Edward Eldridge, Jr., acting as administrator of the estate of his said father, (with the said Hannah as his co-administratrix,) and as heir and agent for the other heirs to said estate, did receive from said Ogden, Jones & Co. the sum of two thousand six hundred and one dollars and seventeen cents, on account of said rents, after deducting all taxes, charges, commissions and exchange.

And your orator further shows unto your honors, that the amount of rents which the said Edward Eldridge, in his lifetime, or the said Edward Eldridge, Jr., since his death, might have received for the said premises, or the said sum of money actually known to have been received by the said Edward Eldridge, administrator, etc., as aforesaid, should in equity be applied as of the date, when received upon any indebtedness, to be proved by the said administrators of said Edward Eldridge, deceased, against the estate of said Henry King, under the said deed

of assignment, aforesaid, and as a payment upon the same, or should be accounted for by said Edward Eldridge and Hannah Eldridge, as administrators of said Edward Eldridge, deceased.

And your orator further shows unto your honors, by way of supplement, that he is informed and believes that no rent was paid upon said last mentioned lease to said Ogden, Jones & Co., after the expiration of the then current quarter in which said David Gibson exhibited his said original bill of complaint, as aforesaid, but that the last six months rent due upon said lease, amounting to the sum of two hundred and fifty dollars, was received by Zenas Cobb, of the city of Chicago, as the agent and attorney of the said David Gibson, by and with the assent of said Edward Eldridge, Jr., or for the said Edward Eldridge, Jr., and with his permission, as administrator, and has been received, and should be accounted for in this suit, either by the said Gibson or the said Eldridge.

And your orator further shows unto your honors, by way of supplement, that the said David Gibson is now in the possession, assuming the control, and receiving the rents of said lot six, in block thirty-four; that said premises consist of eighty feet front on the north side of Randolph street, in the city of Chicago, fronting the court house square, running back 180 feet to the alley, and have on the Randolph street front four buildings used as stores and dwellings, and on the alley a commodious livery stable, and have been rented by the said Zenas Cobb, for and in the name of said Gibson, to five several tenants now occupying the same, to wit: to Peter Dunn, west quarter front, 80 feet deep, at a rent of three hundred dollars per year; to George W. Colby, east half of west half same, at a yearly rent of seven hundred and fifty dollars; to Jacob Rome, west half of east half same, at a yearly rent of three hundred and sixty dollars;

to Joseph Gastreich, east one quarter same, at a yearly rent of seven hundred and twenty dollars; to Patrick R. Morgan, rear on alley, 100 feet deep, at a yearly rent of two hundred and fifty dollars. And your orator is informed and believes, that soon after the filing of the said bill, and more particularly after the expiration of the lease above mentioned, made to Edward H. Aikin, with the permission of the said Edward Eldridge, Jr., and in pursuance of some arrangement between said Eldridge and said Cobb and Gibson, he, the said David Gibson, assumed the control and possession of the said lot six, in block thirty-four, by the said Zenas Cobb, acting for him and in his name, and as his agent, by his permission, procurement or authority, and has ever since received the rents for the said property; that said rents have, during each and every year since the filing of said bill, amounted to a large sum of money, and in the aggregate, as your orator is informed and believes, and therefore states, to at least the sum of ten thousand dollars, from the first day of November, 1855, to the first day of August, 1860; that said premises have been leased in the name of said David Gibson, and the rents received for, and the receipts for said rents, given in the name of said Gibson, by the said Zenas Cobb, acting for him, and as his attorney, and by his permission, procurement and authority. And your orator is informed and believes, and therefore so states, that the said David Gibson and the said Zenas Cobb are privately interested together, as joint partners, in the profit to be derived and realized out of the purchase in the name of said Gibson, or otherwise, of the demands and claims against the estate of said Henry King, mentioned and set forth in the said original bill of complaint, or such portion thereof as shall prove to have been purchased by said Gibson, as in said bill alleged, and that said David Gibson and said Zenas Cobb are also privately partners in and jointly inter-

ested together in all benefits, advantages, speculation and profit to be derived or made out of said premises, and the occupancy thereof and rents received therefor, or in any title to be acquired to said premises; and your orator avers and states, that the assumption of control over said property, and the receipt of the said rents for the same, and the appropriation thereof by the said Zenas Cobb and the said David Gibson, since the filing of the said original bill, and during the pendency thereof, were and are in fraud of the rights of the trustee, and the other creditors under said trust, and amongst others of your orator, and that the said Gibson should be held as a trustee therefor, and accountable for any and all sums of moneys received for such rents by the said Zenas Cobb, as aforesaid.

And your orator further shows unto your honors, by way of supplement, that since the exhibiting of the said original bill by the said David Gibson, in the year 1855, the said lot six, block thirty-four, has been assessed for taxation to the said original tenants, E. H. & E. Aikin, with the exception of the State and county tax for the years 1858 and 1859, which was assessed to said Zenas Cobb, and that the said taxes, State, city and county, have been paid by the said Zenas Cobb, out of the rents received for said premises, or paid by and allowed to the tenants out of or in addition to said rents, except the city taxes for the year 1858, amounting to the sum of about \$260.45; that the said lot six, block thirty-four, was, on the seventeenth day of March, 1859, sold for said city tax, and bid off by the said Zenas Cobb, for the said last mentioned sum, and a certificate of such sale in the usual form, issued to said Cobb, entitling him to a deed therefor, unless the same should be redeemed within two years, according to law. Your orator further avers and states, that the said purchase was made by the said Cobb, acting as the authorized agent for the

said David Gibson, and under the said trust title herein set up by your orator, he, said Cobb, having the charge and direction of said property; that the said purchase was made with the money realized from the rents of said property, and at the time of said purchase said Cobb had a larger sum than the amount of said tax in his hands collected for said rents, and your orator therefore states and avers that the said purchase was in equity a payment of the said tax by said Cobb out of said trust funds, and that the said tax certificate should be canceled.

And your orator further shows unto your honors, that he is informed and advised by his counsel, and therefore so avers the fact to be, that by the patents issued to the said Edward Eldridge, deceased, by the Governor of the State of Illinois, for the said lot six in block thirty-four, and the east half of said lot six in block thirty-eight, as hereinbefore mentioned, the title to both said lot and half lot became vested in said Edward Eldridge, deceased, as trustee under and subject to the trusts contained in said deed of assignment from Henry King, before mentioned; and your orator is informed and believes, and therefore so states, that the possession of said lot six, block thirty-four, on Randolph street, has continued and remained in the said Edward Eldridge and his heirs and successors, under the said trust title, since the issue of said patent, as hereinbefore stated and set forth; that the said east half of lot six, block thirty-eight, is situated on Washington street in said city of Chicago, being forty feet front on Washington street, and running back one hundred and eighty feet to an alley, now called Court Place; that said last mentioned premises remained after the issue of said patent vacant and unoccupied land, under the control and supervision of the said Edward Eldridge, deceased, and said Edward Eldridge, Jr., who paid the State, city and county taxes thereon, by James

H. Collins, the authorized attorney, to whom and in whose name the said premises were assessed for taxation, and by and through the said business agents, Ogden, Jones & Co., from the period aforesaid, up to and including the year one thousand eight hundred and fifty-four, and that the amount of said taxes so paid was deducted from the rents so received, as aforesaid, on lot six, Randolph street, and paid out of said trust funds.

And your orator further shows unto your honors, and alleges, that the said agreement hereinbefore mentioned, made on the fifteenth day of October, 1845, between said Edward Eldridge, deceased, in his lifetime, and said Henry King, was a fraud upon the creditors other than said Eldridge interested in said deed of assignment, and amongst others of the creditors represented by your orator, and was upon its face a violation, on the part of said Edward Eldridge, of the trusts reposed in him, and was fraudulently designed by said Eldridge, and said King, to benefit the said King, and defraud the other creditors embraced in Schedule B, annexed to said assignment and secured by the said deed.

And your orator further shows unto your honors, that he is informed and believes that afterwards, and on or about the fifth day of April, A. D. 1849, to further carry out the said fraudulent agreement, purpose and design, the said Henry King, and Ann G., his wife, (said Nancy A. King, the only other remaining unsatisfied creditor embraced in the same class with said Eldridge, joining therein,) did make an absolute deed of the east half of lot six, block thirty-eight, aforesaid, to one Amory Gamage, of the city of New York, for an expressed consideration; and that said Amory Gamage, afterwards, and on or about the fourteenth day of April, A. D. 1852, filed his bill of complaint in the Circuit Court of Cook county, on the chancery side thereof, claiming to be, by the deed aforesaid,

assignee of the rights and interests of said Henry King, in said agreement of October 15, 1845, with said Eldridge.

And your orator further shows unto your honors, that the only parties to the said bill of complaint, last mentioned, were the said Amory Gamage, complainant, and Edward Eldridge, Jr., Hannah Eldridge, Helen Eldridge, Henry Eldridge, Constantine Eldridge, and Harriet Eldridge, therein alleged to be the widow and heirs of the said Edward Eldridge, therein alleged to be deceased; no one of the creditors of said Henry King, secured by Schedule B to said trust deed, being made parties to said bill; that the said bill was filed upon and to carry out the said agreement of October 15th, 1845, and to obtain from said widow and heirs a conveyance of said east half of lot six, block thirty-eight, in the old town of Chicago; that the said bill was based upon the exclusive ground, falsely and untruly (as your orator is informed and believes) therein stated, that the said Edward Eldridge held the patents for said premises as security, and more particularly the patent for said east half of lot six, block thirty-eight, as a security for the loan of five hundred dollars, in the nature of a mortgage for the repayment of said five hundred dollars; that all of said defendants were non-residents, and were proceeded against solely by publication, and without service of process, and that neither of them appeared in said suit, and no defense was made therein, but the said bill was taken as confessed by all the said defendants, except Henry, Helen, and Constantine Eldridge, who appeared by the clerk of said court, appointed as their guardian *pro forma*, on the motion of the said complainant; that an *ex parte* reference was had before George Manierre, Esq., the then master of said court, and afterwards, on an *ex parte* hearing, to wit, on the eighteenth day of August,

A. D. 1853, a certain final decree was taken in said court, for the said complainant, declaring that said east half of lot six, block thirty-eight, was held by said Eldridge, as between him and said King, as a mortgage for the said sum of five hundred dollars, and decreeing that said complainant was entitled to redeem said half lot on payment of said principal sum, with interest, being the sum of seven hundred and thirty-five dollars, into the said court, for the use of the heirs and legal representatives of said Edward Eldridge, deceased, and that thereupon said widow and adult heirs should re-deed and convey said half lot, to said complainant within sixty days from the date of said decree, or in default of so doing, and on the payment of said sum of money, that such conveyance should be made by the said master for them, and for said infants; as by the said bill, and the said proceedings remaining of record in said Circuit Court of Cook county, and to which your orator craves leave to refer, will more fully and at large appear.

And your orator further shows unto your honors, and avers, that the said Amory Gamage had full notice when he took the said deed before mentioned from said Henry King, that the said east half of lot six, in block thirty-eight, was held by said Eldridge, subject to the trusts aforesaid, and had full notice of said deed of January 9, 1838, and of the trusts therein contained, and also had notice that the said agreement of the fifteenth day of October, 1845, of which he, said Gamage, also had full notice, was a fraud upon the creditors under said trust deed, and a violation of said trust, and your orator states and avers that the said Amory Gamage was not a purchaser in good faith, for a valuable consideration without notice of such trust, of the said premises. And your orator further shows and avers, that the said bill, proceedings, and de-

cree of the said Gamage, as aforesaid, were designed and intended to carry out the said fraudulent violation of the said trust; that the neglect of the said widow and heirs of the said Edward Eldridge to appear and defend the said suit, and the voluntary suffering and admitting the said decree by them, was a fraud upon said creditors, and a violation of the duties of said defendants as trustees of the said estate; that the said decree in said suit was obtained upon false suggestion, and by fraudulent collusion between the the complainant and defendants in said suit; that the fact that the said east half of said lot six, in block thirty-eight, was held by said Edward Eldridge, deceased, in trust for the general creditors of said Henry King, by said deed of January 9, 1838, was concealed from said Circuit Court, and the said decree was a fraud upon said Circuit Court, sitting in chancery, and is wholly inoperative and void, and that the said decree is also wholly inoperative, and fraudulent, and void, and of no binding force upon and as to your orator, and the other creditors of the said Henry King, and their assigns, interested in and secured under and by said trust deed, who were not parties in the said suit.

And your orator further shows unto your honors, that he is informed and believes, that the widow and heirs of said Edward Eldridge, deceased, did not, within sixty days from said decree, execute the conveyance therein directed, and that on or about the ninth day of February, A. D. 1854, the said Gamage having paid into court the said \$735, as directed, the said Manierre, Esquire, master in chancery, did make, execute and deliver such deed under said decree, to said Amory Gamage, of all the right, title and interest of said widow and adult and infant heirs of said Edward Eldridge, deceased, in said east half of lot six, block thirty-eight, for them, and that said deed was duly

acknowledged, and on the fifteenth day of February, 1854, recorded in the recorder's office, of Cook county, in book 73, page 174; as by reference to said deed or to the record thereof, will more fully and at large appear.

And your orator further shows unto your honors, that, as he is informed and believes, further to carry out such fraud and collusion to procure said decree, and in consummation thereof, the said Edward Eldridge, Jr., as administrator of said Edward Eldridge, deceased, did, on the fourth day of May, A. D. 1855, by his said agents, Ogden, Jones & Co., of Chicago, and on his order, receive from the clerk of said court the said sum of seven hundred and thirty-five dollars, so paid into court on such decree.

And your orator further shows unto your honors, that he is informed and believes that the said Amory Gamage, on the first day of June, 1855, conveyed the west half of said east half of lot six, block thirty-eight, by deed to Thomas B. Bryan, which deed was duly recorded June 2, 1855; that said Amory Gamage, in like manner, on the first day of June, 1855, conveyed the east half of the same half lot, to Charles H. Quinlan, by deed, which deed was duly recorded June 11, 1855; that said Charles H. Quinlan, on the fourth day of September, 1855, conveyed the said east half of the same half lot to Thomas B. Bryan, by deed, which deed was, on the same fourth day of September, 1855, duly recorded; and that afterwards, on the eighteenth day of March, 1856, the said Thomas B. Bryan conveyed to J. Mason Parker, by deed, a certain portion of said east half of lot six, block thirty-eight, described as follows: "Beginning at the south-east corner of said lot six; running thence west, along the south line of said lot, forty feet; thence north, at right angles, eighty feet; thence east, at right angles, forty feet; thence south, at right angles, eighty feet; being forty feet in front of the

east half of said lot six, by a depth of eighty feet;" which said deed was duly recorded March 28, 1856; as by reference to the said deeds of conveyance, when produced and proved, or to the record thereof, will more fully and at large appear.

And your orator further shows unto your honors, that by means of the said conveyances, the said Thomas B. Bryan and J. Mason Parker claim to own the said east half of lot six, in block thirty-eight, as therein granted, and that they are each in possession of their several and respective allotments as before described, but your orator avers and states the fact to be, that the said Amory Gamage, and the said Thomas B. Bryan and J. Mason Parker, and those holding under them, took and can have no title to said premises by virtue of said deed from said Henry King to said Gamage, nor by virtue of said decree of the Cook County Circuit Court, nor by virtue of, or under said deed so made by George Manierre, Esquire, the master in chancery, nor by virtue of the said respective conveyances from the said Amory Gamage and his grantees, as against the creditors of the said Henry King, secured and interested in the said trust deed of assignment; and your orator avers and states that they, the said Amory Gamage, Thomas B. Bryan, and J. Mason Parker, took the said conveyances with full notice of said deed of January 9th, 1838, and with notice that the said land and premises was subject to the trusts created in the said deed of assignment, so made by said King to said Eldridge, and with full notice of said agreement of October 15, 1845, and that the title so attempted to be acquired through the said agreement of October 15, 1845, between said King and said Eldridge, and by the said decree of the Cook County Circuit Court, and the deed of said master, was a fraud upon the rights of the said creditors secured by said assignment, and with notice that the said agreement was a violation of the trusts

conferred upon the said Edward Eldridge, deceased, by said trust deed and assignment, and with full notice that the said decree of the Cook County Circuit Court, of the eighteenth day of August, A. D. 1853, was fraudulent and void as to the said creditors secured by said trust deed, and that they were not parties to said decree, and with full notice that the said deed of said George Manierre, Esq., master, was wholly inoperative and void as to such creditors aforesaid.

And your orator further shows unto your honors, that he is informed and believes that James Lorimer Graham, of the city of New York, Esther Ann Callett, of the city of New York, and Samuel D. Parker, of the city of Boston, Massachusetts, have, or claim some lien by way of mortgage under and from said Amory Gamage, Thomas B. Bryan, and J. Mason Parker, upon the title claimed by them in and to said premises, but your orator avers and charges that each and every of the said persons, claimants as aforesaid, took the said lien or incumbrance subject to and with full notice of such trusts and of said deed of January 9, 1838, and said agreement of Oct. 15, 1845, before mentioned, and that no one of the persons above named is a purchaser or incumbrancer upon said premises in good faith for a valuable consideration, without notice of the trusts created by said deed of assignment, and that each and every of said claims is subject to the trusts herein set forth in behalf of the creditors of said King, created by the said deed of assignment.

And your orator further shows, that the above facts in relation to the receipt of rents of lot 6, block 34, by said Eldridges, and to said deed by said King to said Gamage, the filing of said bill by said Gamage, and the various conveyances of and upon said lot six, block thirty-eight, are herein set forth by way of amendment to said original

bill of said David Gibson, and have been ascertained by your orator since the filing of said bill.

And your orator further shows unto your honors, that he is advised that your orator and the said other creditors of the said Henry King have the right to have the said lot six, block thirty-four, and the east half of lot six in block thirty-eight, sold, and the proceeds thereof, together with the whole rents and profits thereof, applied to the payment of said debts of said King; and your orator well hoped that the said above mentioned persons would respectively have released all claim thereto, and that the said administrators of said Edward Eldridge, deceased, and the said David Gibson and Zenas Cobb, and the said other persons, would have come to an account with your orator and the said trustee for the rents so received by them for said premises, as in equity and good conscience they should have done.

But now so it is, may it please your honors, that the said David Gibson, Zenas Cobb, Edward Eldridge, Jr., and Hannah Eldridge, administrator and administratrix of, etc., of the said Edward Eldridge, deceased, Edward Eldridge, Jr., Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance Eldridge, Helen G. Eldridge, Amory Gamage, Thomas B. Bryan, J. Mason Parker, James Lorimer Graham, Esther Ann Callett, and Samuel D. Parker, George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich, and Patrick R. Morgan, combining and confederating together to and with divers other persons as yet to your orator unknown (but whose names, when discovered, your orator prays may be inserted herein as defendants, and they made parties hereto with proper and apt words to charge them), how to injure and oppress your orator: the said confederates, the said Edward Eldridge, Jr., Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance

Eldridge, and Helen G. Eldridge, and the said Amory Gamage, Thomas B. Bryan, J. Mason Parker, James Lorimer Graham, Esther Ann Callett, and Samuel D. Parker, neglect and refuse to release the said premises, and particularly the east half of said lot six, block thirty-eight, to the said trustee, and sometimes pretending that the said Edward Eldridge, deceased, held the same as security in the nature of a mortgage to secure the payment of a certain sum of money by the said Henry King, and sometimes pretending that by a valid decree of the Cook County Circuit Court in the State of Illinois, the title to said lot has become vested in said Amory Gamage and his assigns, without notice of any trust; and sometimes the said associates give out and pretend that the said Gamage and his assigns have acquired a good and sufficient title adversely by color of said deed to said Gamage, with actual possession and payment of taxes for seven years; the said confederates, Edward Eldridge, Jr., administrator, and Hannah Eldridge, administratrix, sometimes pretending that no moneys have come to their hands on account of the rent of said premises, and at other times giving out and pretending that the same was small and inconsiderable after payment of taxes and other incidental expenses; the said confederates David Gibson and Zenas Cobb sometimes pretending that he, said David Gibson, has not, since the filing of the said original bill assumed the control of the said lot six, block thirty-four, and received the rents therefor; and sometimes the said confederates give out and pretend that although said Gibson has received the said rents, yet that the amount is small and inconsiderable over and above the taxes and other incidental expenses, paid by said Gibson; and at other times the said confederates give out and pretend that the said David Gibson received the said rents of

said premises in his own right and by virtue of an independent, adverse and paramount title thereto.

Whereas your orator expressly charges the truth to be that the said Edward Eldridge, deceased, held the said premises in trust for your orator and others, creditors of said King as above set forth; that the said decree of the Cook County Circuit Court was void for fraud, was a fraudulent violation of said trust, and is wholly fraudulent, void and inoperative as against the creditors of said King, not parties thereto; that the said confederates and each of them purchased said premises with full notice of said trust; that the said Gamage and those holding under him have not been in actual possession of said premises, and paid the taxes thereon for seven successive years; and your orator further expressly charges the truth to be that the said rents received for said lot six, block thirty-four, by said Edward Eldridge, administrator, and Hannah Eldridge, administratrix, amount to a large sum over and above the taxes and incidental expenses paid upon the same, which latter your orator charges were comparatively inconsiderable; and your orator further expressly charges the truth to be that the rents received by the said David Gibson for said lot six, block thirty-four, amounted to a large sum over and above the taxes and other incidental expenses paid by said Gibson, and that the latter were comparatively small and inconsiderable, and that said Gibson received the same under the said trust title, and as trustee, and is estopped by his said original bill herein from setting up or alleging the contrary.

All which actings and doings of the said confederates are contrary to equity and good conscience, and tend to the manifest wrong, injury and oppression of your orator, and the other creditors of the said Henry King, deceased.

In tender consideration whereof, and forasmuch as your orator is remediless in the premises, at and by the strict

rules of the common law, and is only relievable in a court of equity, where matters of this nature are properly cognizable and relievable.

To the end, therefore, that the said David Gibson, Zenas Cobb, Edward Eldridge, Jr., administrator, and Hannah Edridge, administratrix, of, etc., of Edward Eldridge, deceased, and Edward Eldridge, Jr., Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance Eldridge, Helen G. Eldridge, Amory Gamage, Thomas B. Bryan, J. Mason Parker, James Lorimer Graham, Esther Ann Callett, Samuel D. Parker, George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich, Patrick R. Morgan, and Robert S. Blackwell, trustee, etc., may full, true and perfect answers make (your orator hereby waiving, pursuant to the statute, the necessity of the answer of such defendants being put in under the oaths of such defendants, or the oath of either of them,) according to the best of their respective knowledge, information and belief, to all and singular the matters and charges, aforesaid, and that as fully and particularly in every respect as if the same were here again repeated, and they thereunto particularly interrogated; and that the said decree of the Cook County Circuit Court, of August 18th, 1853, may be decreed fraudulent and void, as to your orator and the other creditors of said Henry King, under said trust deed and assignment, and that the said deed in behalf of the widow and heirs of said Edward Eldridge, deceased, made by George Manierre, Esquire, master in chancery, may be declared null and void; and that the said east half of lot six, in block thirty-eight, may be declared by this court subject to the trusts aforesaid, created in behalf of your orator, and the said other creditors of the said Henry King, and that the said Edward Eldridge, Jr., and Hannah Eldridge, as administrator and administratrix of the said Edward Eldridge, deceased, may be decreed to come to an

account with the said trustee, heretofore appointed, as aforesaid, for the said rents received, or which might, with due diligence, have been received by said Eldridge, in his lifetime, or by them for or on account of the said lot six, in block thirty-four, aforesaid, and that they may pay over the same to said trustee in this suit, or be decreed to allow the same as a payment upon any indebtedness of said King to said Eldridge, to be proved in this suit, under said trust deed; and that said Edward Eldridge, Jr., Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance Eldridge, and Helen G. Eldridge, children and heirs-at-law, and Hannah Eldridge, widow of said Edward Eldridge, deceased, and the said Amory Gamage, Thomas B. Bryan, J. Mason Parker, James Lorimer Graham, Esther Ann Callett, and Samuel D. Parker, may be decreed to release and convey to the said Robert S. Blackwell, the trustee so appointed in the place and stead of said Edward Eldridge, deceased, all their right, title and interest in and to the east half of said lot six, block thirty-eight, aforesaid, (or that such conveyance may be made by a master of this court for them), and to come to an account for and pay over to the trustee, aforesaid, the rents and profits thereof, received by them or either of them; and that said David Gibson and Zenas Cobb may be decreed to come to an account with said trustee, and pay over to him, or to a receiver to be herein appointed, the said rents so received by said Gibson or by said Cobb for him since the exhibiting of said original bill by said Gibson, of any part of said premises, known as lot six, block thirty-four, on Randolph street, or that the amount of such rents, with the interest thereon, may be charged to said Gibson, and applied as so much payment upon any indebtedness of said King, secured by said trust deed and held by said Gibson, to be proved in this suit; and that they, the said David Gibson and Zenas Cobb, may be restrained and enjoined by the order and decree of

this honorable court from interfering or meddling with the possession by the said trustee of the said lot six, block thirty-four, or of any part thereof, and from continuing or retaining such possession, and from leasing the said premises, and from collecting, receiving, or in any manner meddling with the rents payable by the said tenants therefor, as aforesaid; and that the said George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich, and Patrick R. Morgan, may be restrained and enjoined from paying over the rents due, or to become due, upon their leases, or for the use and occupation of said premises, to the said David Gibson or the said Zenas Cobb, or their agents or attorneys, or to any other person than the said trustee, Robert S. Blackwell, or the receiver to be appointed herein, and that the said Zenas Cobb may be restrained and enjoined from selling, assigning or transferring said certificate of purchase of said lot six, block thirty-four on said tax sale, or from receiving any deed upon such certificate and purchase, and that said certificate may be decreed to be surrendered up, and returned and canceled, and that a receiver of said rents may be appointed by this court, or the said trustee directed to collect and receive the same; and that the respective creditors of the said Henry King, under the deed of assignment, aforesaid (including the said David Gibson, complainant in said original bill, and the said administrators of the said Edward Eldridge, deceased,) may be required to present, establish, and prove their demands and claims within a certain time by the said court to be specified (if any, they have) against the said Henry King, secured by the said deed, (without prejudice to the proofs already taken before said master, as aforesaid) before the said L. C. P. Freer, Esquire, or some other of the masters of this court, under the direction of said court; and that the said premises, being the said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, may be sold by the said trustee, under the direction of this court,

and the said trustee authorized to execute the necessary conveyances to the purchaser thereof, and that the proceeds of said sale, and the rents, issues and profits of said premises received and paid into court, may be distributed by this court amongst the creditors of said Henry King found entitled thereto, according to the terms of said deed of assignment, and that your orator and all others coming in and making themselves parties may have the full benefit of such original suit and proceedings aforesaid, and that your orator may have such other and further relief, or either and both, in the premises as shall be agreeable to equity and good conscience, and as the nature of his case may require.

May it please your honors, the premises considered, to grant unto your orator the people's most gracious writ of injunction, issuing out of and under the seal of this court, directed to the said David Gibson, Zenas Cobb, George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich, and Patrick R. Morgan, restraining and enjoining the said David Gibson and Zenas Cobb from interfering or meddling with the possession by Robert S. Blackwell, Esquire, trustee, etc., of the premises known as lot six, in block thirty-four, in the old town of Chicago, situated on the north side of Randolph street, in the city of Chicago, and from continuing and remaining in possession thereof, and from collecting or receiving from the said George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich and Patrick R. Morgan, tenants on said premises, or from any other person, any rents for said premises or any part thereof, and restraining the said last named persons from paying to said David Gibson or Zenas Cobb any such rent due or to become due for the use of the said premises, and the said Gibson and Cobb from making any lease of any part of said premises, and from selling, assigning or disposing of any existing lease of the same, and enjoining and restraining the said Zenas

Cobb from selling, assigning or transferring the certificate of purchase of said lot six, in block thirty-four, sold for city taxes, on the seventeenth day of March, 1859, and issued by the city collector of the city of Chicago, to the said Zenas Cobb, and from receiving any deed on the said certificate and purchase, until the further order of this court.

May it please your honors also to grant unto your orator the people's writ of summons in the nature of a subpoena, issuing out of and under the seal of this court, directed to the said David Gibson, Zenas Cobb, Edward Eldridge, Jr., administrator, and Hannah Eldridge, administratrix, of, etc., of Edward Eldridge, deceased, Hannah Eldridge, and Edward Eldridge, Jr., individually, Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance Eldridge, and Helen G. Eldridge, Amory Gamage, Thomas B. Bryan, J. Mason Parker, James Lorimer Graham, Esther Ann Callett, Samuel D. Parker, George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich, and Patrick R. Morgan, and Robert S. Blackwell, trustee, etc., therein and thereby commanding them, and each of them, by a certain day, and under a certain penalty, to be and appear in this honorable court, to answer this your orator's bill of complaint, and to stand to, abide by, and perform such decree as the court shall make in the premises, and shall be agreeable to equity and good conscience. And your orator will ever pray, etc.

JAMES H. REES.

GOODWIN, LARNED & GOODWIN,

Solicitors, and of Counsel for Complainant.

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

James H. Rees, of the city of Chicago, being duly sworn, says that he has heard the foregoing bill of complaint signed by him read; that he knows the contents thereof, and that

the same is true of his own knowledge, except such matters as are therein stated on his information and belief, and as to those matters he believes it to be true.

JAMES H. REES.

Sworn this 31st day of August, }
A. D. 1860, before me,

W. KIMBALL, *Clerk.*

EXHIBIT No. 1.

This Indenture, made the ninth day of January, one thousand eight hundred and thirty-eight, between Henry King, of the city of New York, late of Chicago, in the State of Illinois, merchant, and Ann Grosvenor, his wife, parties of the first part, and Edward Eldridge, of the city of Boston, merchant, party of the second part, Witnesseth, That the said parties of the first part, for and in consideration of the execution of the trust hereinafter mentioned and set forth, and the sum of one dollar, lawful money of the United States of America, to them in hand paid by the said party of the second part, at or before the ensembling and delivery of these presents, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all those certain lots, pieces and parcels of land, with the buildings thereon situated, at Chicago, in the State of Illinois, and known as *lots* number four (4), in block (6) six, lots number nine and thirteen (Nos. 9 and 13), in block eleven (11), lot number seven (No. 7), in block fifteen (15), and lot number four (No. 4), in Wolcott's Addition to Chicago. Also, those certain

water lots known as numbers twenty-six, twenty-seven and twenty-eight (Nos. 26, 27 and 28), in Kinzie's Addition to Chicago, and which were purchased of Walter Newbury and Charles Butler; also, those certain other water lots, known as numbers fifteen, sixteen and seventeen (Nos. 15, 16 and 17), in Kinzie's Addition, and which were purchased on the third day of February, one thousand eight hundred and thirty-six, of Grant Goodrich and T. G. Wright; also, that certain other lot known as lot number six (No. 6), in block thirty-four, (34) of the original town; also, those certain other lots known as water lots number four (4), in block thirteen (13), *lots* number six in *block* thirty-eight, number seven in block twenty-eight (28), and lot number four (No. 4), in block forty-six; also, that other lot known as lot numbers three (3), in the subdivision of lots numbers three, four, five, six (Nos. 3, 4, 5, and 6), in block number fourteen (No. 14), bought of Frederic Bronson; also, all those other certain pieces and parcels of land situated in the State of Illinois, which are known and described as follows, to wit: one undivided sixth part of the south half and north-west quarter of Section two (2), in Township thirty-three (33) north, Range eight east of the third principal meridian; also, of the north-east quarter Section number two (2), Township thirty-four (34) north, Range ten east; also, the west half of the south-east quarter Section thirty-five (35), Township thirty-eight (38) north, Range fourteen east; also, of the east half of south-west quarter Section thirty-five (35), Township thirty-eight (38) north, Range fourteen east; also, the west half of the south-east quarter Section thirty-four (34), Township thirty-eight (38) north, Range fourteen east; also, of the east half of south-west quarter of Section thirty-four (34), township thirty-eight north, Range fourteen east—all which last mentioned parcels were purchased of E. C. Brackett, on the

twelfth day of March, one thousand eight hundred and thirty-six ; also, the undivided interest of one-third part of the south half and north-west quarter of Section two (2), in Township thirty-three (33) north, Range eight east of the third principal meridian, which was purchased of A. Garrett ; also, all the undivided interest of the said parties of the first part, in and to certain lands bought of James Grant, and mortgaged to the Bank of Illinois, being one-half part of three hundred and twenty acres of land in the south half of Section thirty-two (32), Township thirty-four (34) north, east, and one-half part of one hundred and sixty acres in north-east quarter of Section thirty-two (32), Township thirty-four (34), one east ; also, all the undivided interest being three-quarter parts of the following parcels of land, viz : the west half of north and west half of south-west quarter of Section thirty-two (32), of Township thirty-two (32) north, Range number one east, one hundred and sixty acres ; also, the north-west quarter of Section thirty-two, Township thirty-four, one east, one hundred and sixty acres ; also, the south-west quarter of Section thirty, Township thirty-four, two east, being one hundred and fifty-four acres and thirty-six rods ; also, the south-west quarter of Section six (6), Township thirty-two (32), one east, containing one hundred and thirty-three acres and sixty rods ; also, the north-west quarter of Section two (2), Township thirty-two (32), one east, containing one hundred and seventy-six acres and thirty-six rods ; also, the south-west fractional quarter of Section two (2), Township fifteen (15), eleven east, containing nineteen acres and twenty-five rods ; also, the south-east fractional quarter of Section two, Township fifteen (15), eleven east, containing sixty-three acres and seventy-four rods, more or less ; also, the west half of the south-west quarter of Section thirty-five (35), Township sixteen east, containing eighty acres, more or less ; also, the east half of Section twenty-four (24), Township thirty-four (34), one

east, containing three hundred and twenty acres, more or less; also, the south half of Section two (2), Township thirty-two (32), one east, containing three hundred and twenty acres, be the same more or less; and also all the accounts and debts, household furniture, books, and other property of what nature or kind soever, in the hands or under the care of Joseph Balestier, Esquire, of said Chicago, attorney at law, or in the hands or in the care of B. W. Raymond & Co., of said Chicago, and any sum or sums of money which may be due from them to said King; also, all demands, debts and effects in the hands of Morris and Scammon, of Chicago; also, any other debts, demands and book accounts due to me at Chicago, and not already hereinbefore mentioned and specified.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also, all the estate, right, title, interest, dower, and right of dower, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to the above described premises, and every part and parcel thereof, with the appurtenances.

To have and to hold, all and singular the above mentioned and described premises unto the said party of the second part, his heirs and assigns forever. In trust to sell the same or any part thereof in such manner and at such time and for such prices as the said party of the second part shall see fit, and to apply the proceeds thereof, or so much of the same as shall be necessary, to the payment of the debts of the said Henry King, in the manner and in the order hereinafter prescribed and set forth, and in no other, to wit: First, to pay and discharge, in the order in which they are therein mentioned, all the debts of the said Henry King, set forth and *referred* to in the schedule hereto

annexed, and making part of these presents, marked A, and, Secondly, when the said debts shall and each of them shall be wholly satisfied and discharged in said order, then to pay and satisfy in rateable proportions according to the various sums due to the several creditors of the said Henry King, and without preference to any of them over the others, or any of them, all the debts, dues and demands specified, mentioned and set forth in the schedule hereto also annexed and making part of these presents, marked B ; and the said Henry King, one of the parties hereto of the first part, hath made, constituted and appointed, and by these presents doth make, constitute and appoint, the said Edward Eldridge, party hereto of the second part, his true and lawful attorney, in his own name, or in the name of the said party of the *second* part, to execute the several trusts above appointed and recited, and more especially to sell and convey, alien, mortgage, release, or in anywise dispose of or incumber the said property, and to satisfy and pay off all and any mortgages upon the same, or any part thereof, to make and execute all deeds, instruments and papers whatsoever, necessary for the said purposes, to discharge, pay off and satisfy all the debts due by the said Henry King, mentioned in the schedule hereunto annexed, and to collect, release, assign or compromise all the debts due to the said Henry King, hereby assigned, subject, however, to the conditions and exceptions above ordered and directed. And the said Henry King doth further empower the said party of the second part to maintain and defend all suits at law and in equity, to satisfy, assign or suffer judgments, to constitute and appoint, substitute and revoke any attorney or attorneys, for the further carrying into effect the said powers and trusts, giving and granting unto the said attorneys full power and authority to do and perform all and every act and thing whatsoever, requisite and necessary

to be done in and about the premises as fully and perfectly, to all intents and purposes, as the said Henry King might or could do if personally present, with full power, as aforesaid, of substitution and revocation ; hereby ratifying and confirming all that the said attorney or his substitute shall lawfully do or cause to be done by virtue hereof.

In Witness Whereof, the parties of the first part, to these presents, have hereunto set their hands and seals the day and year first above written.

HENRY KING. [L. s.]

ANN G. KING. [L. s.]

Sealed and delivered in the presence of

ROBT. GILES, JR.

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.

On the tenth day of January, 1838, before me personally appeared Henry King, and Ann G., his wife, known to me to be the individuals described in and who executed the foregoing indenture, and severally acknowledged that they executed the same for the uses and purposes therein mentioned ; and the said Ann G. being by me previously examined apart from her husband acknowledged that she executed the same freely, and without any fear or compulsion of her said husband.

ROBT. GILES, JR.,

Commissioner of Deeds City and County of New York.

SCHEDULE A.

The amount which Thomas M. Grosvenor and Henry Edridge, of Pomfret, Connecticut, may become liable for,

Any balance which may be due to Simeon Hyde on settlement of accounts with him; any other lawful and just demands against said Henry King, not now stated in his indebtedness.

Filed February 16th. Recorded February 24th, 1838.
[No. 5965.]

RICH'D J. HAMILTON, *Recorder.*

EXHIBIT NO. 2.

This Indenture, made the fifteenth day of October, in the year of our Lord one thousand eight hundred and forty-five, between Henry King, of the city of Brooklyn, in the State of New York, of the first part, and Edward Eldridge, of Pomfret, in the State of Connecticut, of the second part. Whereas, the said party of the first part being indebted unto the said party of the second part in a large sum of money, to wit, in the sum of five thousand dollars, or thereabouts, he did, by Indenture, bearing date the 9th day of January, in the year of our Lord 1838, assign and convey unto the said party of the second part, certain lots pieces or parcels of land, with the buildings thereon standing, situate at Chicago, in the State of Illinois, and also, other lands, together with the household furniture, books, and other property, as will by said Indenture (reference being thereunto had), fully appear, In Trust, to sell the same or any part thereof, in such manner and at such times, and for such prices as the said party of the second part shall see fit, and to apply the proceeds thereof, or so much of the same as should be necessary, to the payment of the debts of the said Henry King, in the manner and in the order thereafter prescribed and set forth, and in no other, to wit: First, to pay and discharge, in the order in which they are

therein mentioned, all the debts of the said Henry King, set forth and referred to in a certain Schedule thereunto annexed, marked A; and secondly, when the said debts should be wholly satisfied and discharged in said order, then to pay and satisfy in rateable proportions, according to the various sums due to the several creditors of the said Henry King, and without preference to any of them over the others, or any of them, all the debts, dues and demands specified, mentioned and set forth in another Schedule thereunto also annexed, marked B.

And whereas, the preferred debts set forth in said Schedule A, were, 1st, the amount which Thomas M. Grosvener and Henry Eldridge might become liable to pay, as bail, for the said Henry King, in a certain suit brought by the firm of Hubbard & Casey, of New York, upon a claim amounting to between four thousand five hundred and five thousand dollars. Second. The amount which Mr. D. Elston, of Chicago, Illinois, might become liable for or have to pay for said Henry King, as security for him in a suit brought by Phelps, Dodge & Co., of New York, which said suit was appealed, and was for between nine hundred and one thousand dollars. Third. The amount for which Thomas S. Hyde had become liable as security for said Henry King in a suit brought by the firm of Hubbard & Co., of Chicago, which was to have been appealed, and was for between eleven hundred and twelve hundred dollars. Fourth. The balance due by said Henry King to said Edward Eldridge, then of Boston, in the State of Massachusetts; and, Fifth, the balance due from said Henry King to Nancy A. King, of Norwich, Connecticut.

And whereas, the first of said trusts soon after was satisfied by the surrender made by the said Henry Eldridge, one of said bail, of the body of the said Henry King, in discharge of the liability of said bail, and the second of said

trusts was also satisfied by virtue of the said claim of the said Phelps, Dodge & Co. having been paid under an execution levied upon the furniture referred to in said deed of trust, and the sale thereof at said Chicago, and the third of said trust was satisfied by a sale of property at Juliette, in the State of Illinois, belonging unto Miss Nancy A. King, whereby the liability of the said Thomas S. Hyde was superceded, leaving the said Edward Eldridge, and the said Nancy A. King, the sole persons interested under the preferences contained in said assignment.

And whereas, the whole of said lands, and the whole of said household furniture mentioned in said deed of trust, were sold under execution against the said Henry King, in the year 1838, or under foreclosure of certain mortgages upon the said assignees' property executed by the said Henry King, prior to the execution of said assignment, whereby the whole of the property specified in the aforesaid assignment became forfeited, including certain property situate in Chicago, aforesaid, the title whereof had been derived from the commissioners of the Michigan and Illinois Canal Company, and on which payments of twenty-five per cent. of the original consideration had been paid to said company.

And whereas, under an Act of the State of Illinois, allowing a right of redemption unto persons interested in property on which payments had been originally made to the said canal commissioners, the said Edward Eldridge, with the view to save his aforesaid debt of five thousand dollars, independent and irrespective of any trusts, and in reference only to the protection of himself, has applied for and received from the said canal commissioners a regrant of two pieces of land situate in said Chicago, to wit: first, a certain lot of ground situate in Randolph street, Chicago, with a house and blacksmith shop thereon standing, and known and distinguished as lot No. 6, in block No. 34,

original town of Chicago, and second, the east half of lot No. 6, in block No. 38, situate on Washington street, original town of Chicago, which said two pieces of property he holds in his own right and divested of all obligations incident to the aforesaid deed of trust. And whereas the said party of the first part has preferred claims against the said party of the second part by reason of his having held a power of attorney from the said party of the second part, in relation to the property described in said assignment or trust deed, and of his having unsuccessfully laid out money in protecting the same for several years, which said claims the said parties have agreed to terminate.

Now, therefore, this Indenture witnesseth, that the said party of the first part, for and in consideration of the premises, and of one dollar to him in hand paid by the said party of the second part, at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath remised, released and forever discharged, and doth by these presents remise, release and forever discharge the said party of the second part, of and from all claims and demands of every name, nature or description, hereinbefore preferred or contracted, and also doth release, quit claim and discharge all and singular the property, real or personal, of the said party of the second part, wheresoever situate, of and from all claims and demands whatsoever, he, the said party of the first part, hereby acknowledges himself fully satisfied, contented and paid by the said party of the second part, for all claims, express or implied, which he ever had against him, arising antecedent to the date of these presents. And the said party of the second part, for and in consideration of the premises, and of the sum of one dollar to him in hand paid by the said party of the first part, doth hereby agree to accept and pay the said party of the first part draft for the sum of five hundred

dollars, payable in six months from the date hereof, by way of loan by the said party of the second part unto the said party of the first part, and in case said acceptance shall be paid by the said party of the first part, his executors or administrators, at the maturity thereof, then the said party of the second part doth further covenant and agree with the said party of the first part to convey unto him and his heirs the said east half of said lot No. 6 in block No. 38, original town of Chicago, upon request. To have and to hold unto the said party of the first part, his heirs and assigns forever. But in case the said acceptance shall not be paid by the said party of the first part, at the maturity thereof, then the said party of the second part shall be under no obligation to convey the said lot No. 6, in said block No. 38, unto said party of the first part, but shall hold the same in his own right, and for his own exclusive benefit, in satisfaction of said loan of five hundred dollars. And furthermore, the said party of the second part hath covenanted and agreed with the said party of the first part that if he, the said party of the first part, his executors or administrators, shall pay unto the said party of the second part the sum of five thousand dollars, without interest, at any time within two years from the date hereof, then he, the said party of the second part, will convey unto the said party of the first part, his heirs or assigns, the aforesaid lot No. 6 in block No. 34, original town of Chicago, and situate in Randolph street as aforesaid. To have and to hold unto the said party of the first part, his heirs and assigns, forever. And also that in case he, the said party of the second part, shall sell the said lot No. 6, in block No 34, situate in Randolph street, by the consent of the said party of the first part, at any time within the period of two years from the date hereof, for a sum exceeding the sum of five thousand dollars, that then he will pay the surplus over and above said sum of five thousand dol-

lars to said party of the first part, his executors or administrators, but in no event shall the right to take said lot at said sum of five thousand dollars, or to any surplus over and above said sum of five thousand dollars, be extended beyond said period of two years from the date of these presents.

And whereas the aforesaid trust deed and power of attorney were sent by the said party of the first part to said Chicago to be recorded, and have never been returned, the said party of the first part hereby covenants and agrees with the said party of the second part, his executors and administrators, to cause the same to be restored to said party of the second part, as soon as practicable. It being mutually understood and agreed between the parties to these presents, that the said power of attorney has been revoked, and is hereby absolutely annulled, made void and of no effect.

In Witness Whereof, the said parties to these presents have hereunto set their hands and seals the day and year first above written.

HENRY KING. [SEAL.]

EDW'D ELDRIDGE. [SEAL.]

Sealed and delivered in the presence of

(Words "assign and," "first," "doth hereby agree," "and by the consent of the said party of the first part," interlined before execution.)

As to Henry King, David P. Hall.

As to Edward Eldridge, George S. Partridge.

Afterwards, on the day of August, 1860, the following order was entered :

JAMES H. REES,

vs.

DAVID GIBSON,

ZENAS COBB,

and others.

Bill for Injunction, etc.

Motion for Rule and Injunction.

On reading the complainant's bill of complaint in this cause, exhibited pursuant to leave granted, together with affidavit annexed, and on motion of Messrs. Goodwin, Larned & Goodwin, complainant's solicitors :

It is ordered that said bill of complaint and affidavit be filed ; and that the said defendants, David Gibson and Zenas Cobb, show cause before the court on the 2nd Monday of September, 1860, at 10 o'clock A. M., or as soon as counsel can be heard, why a preliminary injunction should not issue, and a Receiver be appointed, according to the prayer of said bill ; and it is further ordered, that all acts and proceedings by the defendants in this cause sought to be restrained by said bill, and particularly the receiving or paying the rents of lot 6, block 34, on Randolph street, be stayed and enjoined until the decision of the court on such order to show cause.

Afterwards, to wit, on the 19th day of October, A. D. 1860, the said David Gibson filed his answer to said bill of said Rees, in the words following:

SUPERIOR COURT OF CHICAGO.

IN CHANCERY.

The separate answer of David Gibson, one of the defendants, to the bill of complaint of James H. Rees, complainant.

This defendant, now and at all times hereafter saving all manner of benefit of exception to said bill, for answer thereto, or unto so much or such parts thereof as he is advised is or are necessary or material for him to make answer unto, answering, says:

That it is true that in the year 1836, the said Henry King became possessed of certain canal certificates of purchase of the certain lands and premises in the said bill of complaint alleged, which certificates were duly issued by the board of commissioners of the Illinois and Michigan Canal, and conformed to the terms of sale of said lands, fixed by law, by an Act of the Legislature of the State of Illinois, approved January 9th, 1836, and entitled "An Act for the construction of the Illinois and Michigan Canal."

That said Henry King, at the time aforesaid, and also on the 9th day of January, 1838, held the said certificates of purchase, subject, however, to the terms and conditions in said Act specified.

That afterwards, to wit, on the 9th day of January, A. D. 1838, while he, the said Henry King, was so the holder of said certificates, as aforesaid, and subject to the terms and conditions aforesaid, and before he had obtained or became entitled to have a conveyance of the said lands and premises, and before he had complied with the terms and condi-

tions in said Act specified, he, the said Henry King, did make and execute the certain deed of assignment, of the date aforesaid, set forth and mentioned in the said complainant's bill of complaint, setting forth therein that he had, amongst other things, thereby conveyed the lands aforesaid, with other property, for the certain purposes therein specified, by means of which assignment all the interest which said King had in said premises at the time of said assignment, and no other or greater interest passed to the said Eldridge, as the assignee of said King.

That previously, to wit, on the day of A. D. 1837, all and singular the lands and premises in the said canal certificates mentioned and described, including the said lot 6, in block thirty-four, and the east half of said lot six, in block thirty-eight, in the original town of Chicago, mentioned in said complainant's bill of complaint were, and long previous thereto and to said assignment had become, wholly forfeited to the State of Illinois, for the benefit of the canal fund of said State, under and by virtue of the Act aforesaid, by reason of the non-compliance of the purchasers at said sales, or by said King, or by any person who held the said certificates, with the terms of said certificates, or with the provisions of said Act, in manner and form as is alleged in said bill of complaint; that by reason of the said forfeiture, all the interest of said King in and to the said lands so assigned, in said Eldridge, for the purposes aforesaid, became wholly divested out of said King, and out of said Eldridge; and the said lands became, by reason of forfeiture under the laws of the State of Illinois, both at law and in equity the property of the said State of Illinois, for the use of its canal fund, as aforesaid, wholly freed from the debts of the said Henry King, charged or attempted to be charged thereon, by virtue of the said deed of assignment to the said Edward Eldridge, and then and there

became, under the provisions of the law aforesaid, subject to sale, without let or stay, extent of time or subsequent relief, of any kind whatever, to the purchaser or holder of the said canal certificates.

That afterwards, to wit, on the day of February, 1841, the Legislature of the State of Illinois passed an Act entitled "An Act for the relief of purchasers of canal lots in Chicago and Ottawa, in 1836," which is the same Act referred to and in part set forth in said complainant's bill of complaint; to which said Act, for more certainty, reference is hereby had, and this defendant prays that the same may be taken as a part of this his answer, as fully as if the same were here set forth at length.

That it was and is, amongst other things, provided in said Act, that all persons who had theretofore purchased any of the canal lands, or any of the lots in any town, sold by authority of the State, and who had made advances to the State, by way of payment for the same, and who had by any means forfeited the same, by not complying with the other stipulations of the contract, should be entitled to the relief thereafter granted, upon the conditions thereafter mentioned, that is to say, every person, who, amongst other things, should have paid any money upon such premises, should first ascertain the amount, from the proper authority, and next, that he should have or procure to be described, the particular lot or land upon which payment should have been made, and should be allowed the right to select so much of his original purchase, at his option, as the said payments would cover, deducting from the original price stipulated for, thirty-three and one-third per centum. And it was also provided, by the said Act, that the rights of purchasers, under the provisions of said Act, might be the subject of transfer in writing, signed by the purchaser or his legal representatives. That said Henry King had,

before the said premises became forfeited to the State, as aforesaid, made large advances, and paid money, on his said purchases, prior to the time of making his said assignment, but that no moneys were paid on said purchases, thereafter, by any person or persons, up to the time of said forfeiture; and that he, the said King, and no other person, upon the passage of the said relief Act, became entitled to avail himself of the benefits thereof, and to acquire a new interest in and to such portion as he should thereafter designate, of the lands mentioned in the said canal certificates, which were held by him, as hereinbefore and in said bill of complaint stated and shown. That afterwards, to wit, on the 17th day of May, 1843, one Edward Eldridge, acting, nominally, in his own behalf, but really in right of the said Henry King, relinquished to the State a portion of the said premises, although the same had become absolutely forfeited, as aforesaid, and selected the said lot six, in block thirty-four, and the east half of said lot six, in block thirty-eight, and perfected the right of said King, so granted to him by said Act, to have a patent for said lands last mentioned, in pursuance thereof. That by means of the said Act of Legislature last mentioned a new right of property at the time of the passage of said Act, and thereby, to wit, on the 27th day of February, 1841, first accrued to the said King, in respect to the premises last aforesaid, subject to his performance of the conditions in said Act mentioned. And that he did, on said 17th day of May, 1843, by and through the said Edward Eldridge, as aforesaid, perform all and singular the conditions necessary to entitle him to a patent for the last mentioned lots and parcels of land.

That after the passage of the said Act of the Legislature, granting relief to said King, (among others) as aforesaid, before said King had performed the conditions mentioned in said Act, and while the right of said King under the Act

aforesaid still remained in him, untransferred, and while the whole title, both legal and equitable, in said lots, was vested in the State of Illinois, subject only to the rights of said King, under said relief law, wholly freed from the debts in and by said assignment, charged, or attempted to be charged thereon, that is to say, on the fourth day of March, A. D. 1843, by an order of the District Court of the United States of America, for the Southern District of New York, sitting in bankruptcy, under and by virtue of an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," passed the 19th day of August, 1841, it was by said court duly decreed and declared, that the said Henry King, having on the 24th day of January, then last past, filed a petition, duly verified, praying to be declared a bankrupt, and satisfactory proof being made of due publication of notice to all persons interested, to appear in court and show cause against said petition, and the court being there moved to grant the prayer of said petition, and no cause being shown to the contrary, and the petition and proofs having been inspected and considered by the court, and having been found in conformity with the requirements of the Act of Congress, it was therefore, on motion of counsel for said petitioner, the said King, ordered and decreed by said court, that said King be, and that he was thereby declared and decreed a bankrupt pursuant to the Act of Congress aforesaid.

That by reason of said decree, and of the laws of the United States in such case made and provided, all rights of property of said King, so acquired by said relief law, in and to the said land or any part thereof, described in said canal certificates, became by mere operation of law, *ipso facto* from the time of said decree divested out of said King, and then and there became vested in the assignee before that time duly appointed by said court, to wit, one Wm. Coven-

try H. Waddell, who then was the official or general assignee in bankruptcy, duly appointed in pursuance of the laws of the United States, and of the rules of the Circuit and District Courts of the United States, for the said Southern District of New York.

And this defendant says that at the time the said decree was so made as aforesaid, none of the debts then owed by said Henry King were a charge or lien on said lot six, in block thirty-four; and he avers that the pretended claims represented by said Rees, and now exhibited by him in his said bill of complaint, but not specifically mentioned in said assignment or schedule thereto so made, to said Eldridge, were not at the time last aforesaid, nor have they since become, liens upon said parcels of land. And this defendant says that after the interest of said King in said lots was so granted to him by the Legislature of Illinois, as aforesaid, subject to the conditions aforesaid, and after the same had become so vested in said assignee in bankruptcy, to wit, on the day of June, 1843, the said Edward Eldridge, in his own name, obtained patents for said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in the form stated in said bill of complaint. That said patents were obtained by said Eldridge, really for the benefit of said King, and entirely independent of said assignment, made to him on the 9th day of January, 1838, by said King. And the said defendant denies that all or any of the right, title or interest of said King in or to the said lot six, in block thirty-four, or the east half of lot six, in block thirty-eight, which he acquired by and through the said relief Act, became vested in the said Edward Eldridge, subject to all or any of the trusts declared in said deed of assignment, of the 9th day of January, 1838, as is by said complainant's bill of complaint supposed; but this defendant avers, that by reason of the premises, he, the said

yet that it was and is provided, amongst other things in said assignment, that said Eldridge should have power to sell and convey, either in his own name or in the name of said King, the property mentioned in said assignment, and to make and execute all papers necessary for said purposes, and to pay off the debts mentioned in said assignment, in the manner therein provided. And this defendant further says, that at the time of making the said assignment, said King was justly indebted to said Eldridge in the sum of five thousand dollars, or thereabouts, and that in and by the terms of the said assignment, he, the said Eldridge, was a preferred creditor to the extent of his said claim against the said King, and entitled to pay and satisfy his said debt out of said property, which came to him by virtue of said assignment, and before paying any of the debts mentioned in said Schedule B; and to sell so much or such portion of said trust property as might be necessary therefor; and he, the said Eldridge, having obtained the title to said lots or parcels of land by conveyance from the Governor of the State of Illinois as aforesaid, afterwards, to wit, on the 15th day of October, A. D. 1845, and while said King was so owing him the said sum of five thousand dollars, and before he, the said King, had paid the same to said Eldridge, the said Eldridge and the said King did enter into the certain instrument bearing date the day and year aforesaid, and by them duly signed and sealed, whereby, among other things, the said Eldridge covenanted and agreed with said King that, if he would, within two years from the date thereof, pay to said Eldridge the said sum of five thousand dollars, that he, the said Eldridge, would convey said lot 6, in block 34, to him, the said King; to which said agreement, for more certainty, reference is hereby had, and this defendant prays that the same may be taken as a part of this his answer to said bill of complaint; and this defendant doth aver

that, at the time said agreement was so made, that if the said property was in any way subject to the trusts in said assignment contained, which this defendant denies, then the parties thereto had the right to make the same; and that under and by the terms of the said assignment, as well as otherwise, the said Eldridge, in a manner wholly consistent with the powers in said assignment contained, did agree to sell the said lot 6, in block 34, to said King, and did apply the proceeds then or thereafter to be obtained from said sale, directly to the payment of the said sum of five thousand dollars so owed to him by said King as aforesaid; and that afterwards the said agreement was carried out in the manner hereinafter more particularly mentioned. And this defendant avers that, at the time said agreement was entered into, the said sum of five thousand dollars, so agreed to be paid for lot six, in block 34, was much more than the same was then worth; and that said sale, or agreement to sell, was in all respects fair in its terms, and in no manner prejudicial to the rights of other parties at the time said agreement was entered into as aforesaid.

And this defendant further says, that afterwards, and before said two years had elapsed within which the said Eldridge was to make said conveyance to said King, to wit, on the 8th day of September, A. D. 1847, the said Edward Eldridge departed this life and died intestate, leaving him surviving, his widow and the certain heirs who are hereinafter more particularly mentioned; and never having parted with the title to said land, but having made the said agreement relating thereto above mentioned. And this defendant further says, that after the death of said Eldridge, his said heirs did not, within said two years from and after said contract was so made as aforesaid, make, or offer to make, to said King, any conveyance of said lot, but, on the contrary thereof, this defendant says that the said heirs were at that time, and for a long time thereafter continued

to be, unable to make said King any conveyance of said lot, for that certain of said heirs, to wit, were at that time minors, and so continued to be till some time in the year 1857, when the youngest of said heirs, to wit, first arrived at the age of twenty-one years, until which last mentioned year, the heirs of said Edward Eldridge were wholly unable to perform this part of said contract, and convey the said lot to said King or his legal representatives. And this defendant further says, that after the death of said Eldridge, to wit, in the year 1850, the said Henry King died intestate, without having parted with his interest in said contract, leaving him surviving, Ann G. King, his widow, and the certain heirs in said original bill of complaint mentioned, to whom all the right, title and interest of said Henry King in and to said premises, by virtue of said contract of October, A. D. 1845, came and descended; that afterwards, to wit, on 1854, the said widow and heirs claimed an interest in and right to said lot 6, in block 34, under and by virtue of said contract made by said Eldridge to said Henry King, and on the day and year last aforesaid, this defendant purchased their said supposed interest in and to said premises, for a large sum of money, then paid to them therefor, to wit, the sum of eleven thousand dollars, and then and there received conveyances of said supposed interest, by means of which all the interest therein so vested, as aforesaid, in said King, became vested in this defendant.

And afterwards, to wit, on the day of A. D. 1857, the youngest of the heirs of the said Edward Eldridge having, during that year, reached lawful age, this defendant received a conveyance from the said heirs of said Edward Eldridge, for said lot 6, in block 34, and paid them a large sum of money therefor, to wit, the sum of ten thousand dollars, which said sum they, the said heirs, then and there

received, as they had a right to do, on account of or on said contract, so made on the 15th day of October, 1845, as aforesaid, between said Eldridge and the said Henry King, by means whereof all the title and interest, if any, so remaining in said Edward Eldridge, and vested in him, in and to said lot 6, in block 34, by virtue of said assignment, or in any other way and manner, became and then and there was transferred and conveyed to this defendant, wholly freed from all and singular the claims and debts owed by said Henry King to any person or persons; and from the said debts claimed by said Rees to be now held and owned by him, as is in his said bill of complaint alleged and set forth. And this defendant, further answering, says, that it is true, as alleged in said complainant's bill, that the said Edward Eldridge departed this life on or about the 8th day of September, 1847, never having conveyed away the title to said lots, so held by him as aforesaid, and that he left heirs surviving, Hannah Eldridge, his widow, and Edward Eldridge Junior, Henry G. Eldridge, Eliza E. Eldridge, Frances H. Eldridge, Constance Eldridge, Helen G. Eldridge, and Mary Ann Eldridge, his only children and heirs-at-law, of whom the said Mary Ann Eldridge departed this life in 1850, unmarried and intestate. That after the death of said Edward Eldridge, and after the said original bill in said complainant's bill of complaint mentioned, was filed, and after the said order of the 9th day of April, 1856, had been made by the court, as mentioned in said complainant's bill of complaint, but before said Freer had made said conveyance to said Blackwell, to wit, on the day of A. D. 1857, the said surviving widow and heirs of the said Edward Eldridge, deceased, by their deed of that date, conveyed the said lots of land, and whatsoever title thereto had become vested in them by the death of said Edward Eldridge, to this defendant; and that said conveyance to

said Blackwell was made without the knowledge or procurement of this defendant or his solicitors, and at the instance of said Rees. And that the defendant about the time last aforesaid, and before said conveyance to said Blackwell, entered into the possession of said lots or parcels of land, and has ever since been and still is in the possession thereof, and that by means of the premises, he, this defendant, subsequent to the filing of his said original bill, and the entry of said order, to wit, on the day of March, 1860, was and now is the owner in fee of the said lots or parcels of land, as he verily believes; and that the title thereto, both legal and equitable, hath, since the entry of said order, become absolutely vested in him, this defendant; and he, this defendant, is advised by his counsel, and therefore he avers, that the said title to the said parcels or lots became so vested in him, wholly freed and discharged of and from all and singular the debts owed by said Henry King, on the said 9th day of January, 1838, to any persons or person, and of and from the trusts, express or implied, in the said deed of assignment of said King, bearing date the day and year last aforesaid, alleged to be contained.

This defendant, further answering, says, that by reason of the matters hereinbefore and hereinafter set forth, the said premises became wholly discharged of and from all and each of the debts of the said Henry King, which he owed to any person or persons on said 9th day of January, 1838, as well by reason of the matters aforesaid, as in this, to wit, that while the legal title to said premises was vested in the said State of Illinois, after the forfeiture so made by said King as aforesaid, and while the said premises were wholly freed from said debts, and before any proceedings were had or taken by said Henry King, or by any one in his behalf or otherwise, to perfect the title under said relief-law in or to the said lands or any part thereof,

described in said canal certificates, and before that time conveyed to said Eldridge, as aforesaid, the said Henry King, then a resident of the State and Southern District of New York, and owing debts which had not been created in consequence of any defalcation as a public officer, or as executor, administrator, guardian or trustee, or while acting in any other fiduciary capacity, by his petition, duly verified, and made according to the form of the statute in such case made and provided, and duly exhibited and filed in the District Court of the United States, in bankruptcy, for the Southern District of New York, on the day of January, 1843, therein, did declare himself unable to meet his debts and engagements, and did apply for the benefit of said bankruptcy law, so passed on the 19th day of August, 1841, as aforesaid; and afterwards, to wit, on the 4th of March A. D. 1843, in pursuance of the statutes of the United States, in such case made and provided, the said court did, as hereinbefore alleged, decree and declare said Henry King to be a bankrupt within the true intent and meaning of said bankrupt law of 1841. And this defendant says, that after the expiration of ninety days from and after the rendition of said decree in bankruptcy by the said court, and after seventy days notice in a public newspaper, designated for that purpose by said court, to all creditors who had proved their debts, and other persons in interest, to appear at a particular time and place, to show cause why a certificate and discharge in due form of law, should not be granted to said King, according to the said statute in such case made and provided, and after the said bankrupt had surrendered all his property and right of property, including his interest in and to the said lots and parcels of land, as required by said bankrupt act, and a majority in number and value of his creditors, who had proven their debts, having failed to file their written dissent thereto, as required by law, he, the said King, afterwards, to wit, on the

day of A. D. 1845, became and was entitled to a full discharge from all his debts, to be decreed and allowed to him by said court; and that said court, on the petition of said King, duly filed for that purpose, did then and there accordingly grant to him the said King, such discharge and certificate in due form of law; and this defendant avers, that all and each of the debts mentioned in said deed of assignment, including the said claims set forth in the bill of complaint of said Rees, and existing against said King, on the said 9th day of January, 1838, were, and each was, provable under the said bankrupt law of August 19th, 1841, against said King, in the said bankruptcy proceedings, so had in said District Court of the United States, for the Southern District of New York, as aforesaid. And this defendant avers, that by reason of said discharge and certificate so granted, as aforesaid, to said King, all and every of the said debts so provable under said Act as aforesaid, including the said debts and claims set forth as belonging to said Rees, as is in his said bill of complaint alleged, were fully and completely discharged by force of the statutes of the United States, in such case made and provided, and of the said certificate and discharge so granted as aforesaid; and this defendant, who obtained said conveyance of title to said parcels of land, through said King, and through the said assignee's sale and other proceedings in the matter of bankruptcy of said King, as hereinbefore set forth and alleged, and through the ways and means in this answer set forth, and otherwise, prays the same benefit and advantage of the said release and discharge, as if he had pleaded the same in bar of each and every of the said pretended claims against said King, alleged by said Rees, in his said bill, to be owned by him, and in bar of the relief prayed thereon in said complainant's bill of complaint against the said lots or parcels of land. And this defendant, further answering, says,

that it is true that he did, on the 13th day of August, 1855, file his said bill of complaint in the said Cook County Court of Common Pleas, as is in the said bill of complaint of said Rees alleged; to which said bill, for the allegations therein contained, this defendant begs leave to refer for more certainty; and this defendant says, in relation to said bill and the filing thereof, that prior to the filing of the same he had been in negotiation with divers parties, to wit, the heirs of said Henry King, for the purchase of the said parcels of land, and for the purpose of perfecting the title thereto, after acquiring certain conveyances thereof from the heirs of said King, which said conveyances were duly recorded before the filing of his said original bill, he caused the said bill of complaint to be filed, so that all persons who should, for any cause, as creditors of said King prior to said 9th day of January, 1838, be disposed to assert any rights against said parcels of land, by reason of the said assignment of said King to the said Edward Eldridge, might have an opportunity to have the question whether such rights do actually exist, and whether the same were or are still liens against said parcels of land, judicially and finally determined, to the end, however, that the title to said premises might through that means be perfected, and the apparent cloud resting upon the title thereto, by reason of said assignment, be thus removed. And this defendant further says, in relation to said bill and the allegations thereof, that no final decree has ever been rendered thereon in this cause; and that said bill was not signed by this defendant; and that no person or persons, solicitors of this defendant, or otherwise, were authorized to make any admissions therein on behalf of this defendant, inconsistent with, or contradictory of, the actual facts set forth in this answer of the said defendant, so far at least as related to any claims other than those there represented and held by this defendant. And he, this

defendant, denies that he is by said original bill in any manner estopped from setting up in his behalf, by way of answer to the said bill of complaint of said Rees, the real facts, or from claiming the absolute title to said premises, as against the adverse claims, pretensions and interests of said James H. Rees, therein or thereto, as is set forth and alleged in the bill of complaint of said Rees. And this defendant avers, that he had no knowledge of the existence of any claims or supposed claims against said King at the time his said bill was filed, other than the claims then represented by him and set forth or mentioned in his said bill; and this defendant avers, that at the time of filing his said bill he did not know that any title to said premises had become vested in said assignee in bankruptcy, as is hereinbefore set forth; nor that said King and said Eldridge had, with the intent and purpose hereinbefore stated, entered into the said agreement, bearing date the 15th day of October, 1845, although he admits that he then knew that some agreement of that date had been made between them. This defendant further says, that to the end that he might obtain a perfect title to said parcels of ground, he did, although he protests that the same was unnecessary, purchase, or cause to be purchased and assigned to him, all and every of the debts mentioned in Schedule B, annexed to the said deed of assignment, including the said claim of J. P. Church and Co. against said King, which said claim was duly assigned, and came to this defendant through an assignment made to him by said Waddell, as assignee in bankruptcy, of the property and effects of the said John R. Church and Sheldon P. Church, who were declared bankrupts, at the time and in the manner and form alleged in said complainant's bill of complaint, and that the assignment and sale thereof to this defendant were made as aforesaid, long prior to the assignment thereof by said Waddell to

said Rees, as will appear by the said assignments when the same are produced and shown, by reason of which said assignment and transfer to this defendant, he became possessed of and entitled to the said claim or judgment and of all the interest of said J. P. Church & Co. therein, and he denies that the said Rees has any interest therein as alleged in his said bill; and he avers that the amount of said claims so purchased by him, is greatly in excess of the gross amounts of the rents, issues and profits of said premises, since he became possessed thereof.

And this defendant, further answering, says, that in the course of his obtaining title to said parcels or lots, he paid, or caused to be paid, and expended large sums of money, other than in buying said claims mentioned in said Schedule B, that is to say, to the heirs of Edward Eldridge, on account of said lot 6, in block 34, the sum of ten thousand dollars; to Ann G. King, the widow of said Henry King, and to the heirs of said Henry King, the sum of eleven thousand dollars; which said sums they claimed for their interests in and charges against the same. And this defendant further says, that since the day of A. D. 1854, he has paid out large sums of money for taxes and assessments, both ordinary and extraordinary, and for improvements of a local nature, assessed against said lot 6, in block 34, and that such sums so paid for taxes and assessments as aforesaid, are greatly in excess of the rents, issues and profits which he has received, or been able to collect or realize out of said lot 6, in block 34; and he, this defendant, doth and will insist, that in case the said lots or parcels of land are in any manner disposed of, or held to be bound for the benefit of the creditors, or any of them, of said Henry King, (while this defendant protests that the said parcels should not be so held or bound or in any way disposed of) that all and every of the said claims mentioned in the said

Schedule B, and purchased by this defendant, all and every of which remain as yet unpaid to this defendant, constitute a proper charge, in behalf of this defendant, against both of said parcels of land, and in his favor—and in that case also that all and every the other sums of money expended by this defendant as aforesaid constitute a charge in favor of this defendant, against said lot 6, in block 34, and that in case the said parcels should be held to be subject to the claims of the creditors of said King as aforesaid, that he, this defendant, should be allowed and paid the amount of his said claims, and all his reasonable expenditures incurred as aforesaid.

And this defendant, further answering, says that the said several matters and things in the said complainant's present bill, stated by way of supplement, arose and existed before and at the time said complainant became a party to said original bill filed in this cause, and that said matters and things should now be introduced, and ought so to be, if necessary, by amending the said original bill, and not by way of supplement; whereof, and of all of which, this defendant prays the same benefit as if he had specially pleaded the same in bar of said complainant's said bill, and of the maintenance thereof.

And this defendant, further answering, says, as to all and each of the said claims represented by said Rees and alleged to be owned by him, as in his said bill stated, that said pretended claims accrued against said King, if at all, prior to the 9th day of January, 1838, and are of long standing, that each and every of them are stale and antiquated demands, and that the original transactions out of which the same arose, as well as the lawfulness and justice of the said claims themselves, have become greatly obscured by lapse of time, and for that reason, as well as by reason of the other matters and things hereinbefore set forth, he, this defendant, insists

that the said claims do not constitute a proper charge against the said parcels of land, as is pretended in said complainant's said bill of complaint; and that said Rees is not entitled to have the said premises, or the avails thereof, subjected to the payment of said pretended claims, or any of them, or any part thereof. And this defendant, further answering, avers, on information and belief, that the right and interest in and to said parcels of land so claimed by said Rees, and by all persons other than this defendant, who is in possession of said premises as aforesaid, is an interest touching the property and rights of property in and to said premises as aforesaid, adverse to the interest therein so vested, on said 4th day of March, 1843, in the said assignee in bankruptcy as aforesaid; which said interest became heretofore and now is vested in this defendant by conveyance, through and under said assignee in bankruptcy. And this defendant says that by the 8th section of an Act of Congress of the United States, duly approved August 19th, 1841, entitled, "An Act to establish a uniform system of bankruptcy throughout the United States," under which the proceedings in the matter of bankruptcy of the said Henry King were had as hereinbefore in this answer alleged, it was and is enacted as follows, to wit:

"§ 8. The circuit court within and for the district where the decree of bankruptcy is passed, shall have concurrent jurisdiction with the district court of the same district, of all suits at law and in equity, which may and shall be brought by any assignee of the bankrupt, against any person or persons claiming an adverse interest, or by such person against such assignee, touching any property or rights of property of said bankrupt transferable to, or vested in, such assignee; and no suit at law or in equity shall, in any case, be maintainable by or against such assignee, or by or against any person claiming an adverse interest touching the property and rights of property afore-

said, in any court whatsoever, unless the same shall be brought within two years after the declaration and decree of bankruptcy, or after the cause of suit shall first have accrued." And this defendant says, that said King was declared and decreed to be a bankrupt on the said 4th day of March, 1843, and that more than two years had elapsed since the decree and declaration of bankruptcy, and since the cause of this suit first accrued prior to the bringing of the same, as is hereinbefore and in and by the bill of said Rees shown; and this defendant doth and will insist upon the said section of the Act aforesaid, as against the pretended interest of said Rees, and of all others who shall come in under his said bill, in or to said parcels of land in any manner whatsoever, and against the maintainance of this suit in their behalf, or in behalf of any of them, and he prays the same benefit of the said Act and of the section thereof above set forth, as if he had pleaded the same in bar to the maintainance of this suit by said Rees, and to his said bill of complaint, and to the relief therein prayed, and in bar to the enforcement of said pretended claims against said parcels of land mentioned in said bill of complaint. And this defendant, further answering, says, that he does not know whether the said pretended claims exhibited before said Freer by said Rees, or by any other person or persons, as is in said bill of said Rees alleged, were just and lawful debts owed by said Henry King, upon or prior to said 9th day of January, 1838, as is in said bill supposed, and therefore this defendant denies the same; and leaves the said Rees, and all others who shall so pretend and exhibit any claims, to prove the same as they may be advised.

And this defendant says, that said Rees was not one of the creditors of said Henry King on the said 9th day of January, 1838, but that he has lately purchased and bought up the said pretended claims set forth in his said bill, and

that the same were so purchased at almost nominal amounts, and for considerations greatly less than the face of said claims, as this defendant is informed and believes; and this defendant, further answering, avers upon his information and belief, that none of the pretended claims so presented by said Rees, or by any other person or persons, before said L. C. P. Freer, or in this court, as claims existing against said Henry King prior to or on the said 9th day of January, 1838, were, at the time of the filing of the said original or of said supplemental bills, liens or charges on the said premises, or any part thereof, by the reason of the said assignment to said Eldridge, or by reason of anything therein contained; and he doth and will insist, that said pretended claims are not, nor are any of them, a proper charge against the said premises, or any part thereof.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged, without this, that there is any other cause, matter or thing in the said complainant's bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein or hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true, to the knowledge or belief of this defendant; all which matters and things this defendant is ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

DAVID GIBSON,

By ZENAS COBB, *his Att'y in fact*

STATE OF ILLINOIS, }
COOK COUNTY. } ss.

Zenas Cobb, of said County, being duly sworn, says, that he is the agent and attorney in fact of the said David Gib-

And afterwards, on the 19th day of October, 1860, the said Zenas Cobb filed his disclaimer in answer to the bill of complaint of said Rees, in the words following :

SUPERIOR COURT OF CHICAGO.

IN CHANCERY.

The disclaimer of Zenas Cobb, one of the defendants, to the bill of complaint of James H. Rees, etc.

This defendant, saving to himself all benefit of advantage that may or can be taken to said bill, saith, that he doth not know that he, this defendant, to his knowledge and belief, had, at the time said bill was filed, nor did he claim or pretend to have, nor doth he now claim, any right, title or interest, of, in or to the said premises in said complainant Rees' said bill mentioned, or to any part thereof; all of which he is ready to maintain and aver; etc.; and he prays to be hence dismissed, with his reasonable costs, etc.

ZENAS COBB,

By F. H. KALES, his Attorney and Solicitor.

son in the foregoing answer named, and that said Gibson resides in the State of Ohio, near Cincinnati, where he now is, as this deponent believes; this deponent further says, that he has information and knowledge touching the matters stated in the foregoing answer, and that the matters and facts therein stated are true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes the said answer to be true.

ZENAS COBB.

Sworn to before me this 19th day of October, A. D. 1860.

WALTER KIMBALL, *Clerk*.

Afterwards, on the 20th day of December, 1860, the following order was entered :

JAMES H. REES,

vs.

DAVID GIBSON, ZENAS COBB,
EDWARD ELDRIDGE, Jr., Adm'r and
HANNAH ELDRIDGE, Adm'x of Ed-
ward Eldridge, deceased.

Bill.

On reading the said complainants' bill in the nature of a supplemental bill heretofore filed, and the affidavits therewith filed, and upon the order heretofore entered in said cause, that the defendants show cause why a preliminary injunction should not issue and a receiver be appointed according to the prayer of said bill, and on hearing Messrs. Goodwin, Larned & Goodwin for the complainant, and Messrs. Stewart & Kales for the defendants, it is ordered by the court, that the defendants, David Gibson

and the said Zenas Cobb (except as receiver) be restrained and enjoined from interfering or meddling with the possession by Robert S. Blackwell, Esq., trustee of the premises known as lot six, in block thirty-four, in the original town of Chicago, situated on the north side of Randolph street in said city of Chicago, or any part thereof, and that said Gibson be restrained from continuing and remaining in possession thereof, and from collecting or receiving from the said George W. Colby, Peter Dunn, Jacob Rome, Joseph Gastreich, and Patrick R. Morgan, tenants on said premises, or from any other person, any rents for said premises or any part thereof, and that the said last named persons be enjoined and restrained from paying to the said David Gibson, or to any other person than the receiver of this court, any rent due or to become due for the use of said premises, and that the said Gibson be further enjoined and restrained from making any lease of the said premises, and from selling, assigning or disposing of any existing lease of the same, and that the said Gibson and Cobb be enjoined from making any conveyance of the said property or any part thereof, and from selling, transferring or assigning the certificate of purchase of said lot six, in block thirty-four, sold for city taxes on the 17th March, 1859, issued to said Cobb, and from receiving any deed on such certificate and purchase until the further order of this court in the premises; and that Zenas Cobb be, and he is hereby appointed receiver of the rents and profits of the said premises, viz, the said lot six, in block thirty-four, original town of Chicago, with the usual powers, on his filing with the clerk of this court, a bond in the usual form, in the penalty of five thousand dollars, with John S. Newhouse as security, within twenty days after the date of this order; and it is further ordered, that the said Colby, Dunn, Rome, Gastreich, and Morgan, the tenants of said premises or portions thereof, do respect-

tively attorn to the said receiver, and that the said tenants respectively pay over to the said receiver the rents due and to become due by them and each of them as such tenants; and it is further ordered, that the said receiver shall forthwith, upon the collection of said rents or any part thereof, bring the same into court and deposit the same with the clerk of this court, except such portion thereof as shall be expended for state, city and county taxes or assessments now levied, or which may hereafter be levied, on said premises, for which vouchers shall at the same time be filed, and that said receiver or other parties in interest have leave to apply to this court for modifications of this order, or for further directions in the premises, as he or they may be advised; and that the said receiver shall make a report in writing, once in six months, and oftener as the court shall so direct, giving a full account of his receipts and disbursements in the premises.

Afterwards, to wit, on the 20th day of December, A. D. 1860, the said Thomas B. Bryan filed his answer herein to the bill of said Rees, in the words following:

STATE OF ILLINOIS, }
COOK COUNTY, } ss.

In the Superior Court of Chicago—In Chancery.

The separate answer of Thomas B. Bryan, one of the defendants to the bill of complaint of James H. Rees, complainant.

This defendant now and at all times hereafter saving and reserving all manner of benefit of exception to said bill, for answer thereunto, or to such parts thereof as he is advised are material or necessary for him to make answer unto, answering, says:

That he believes it to be true, that Henry King, at the times and in the manner in said bill of complaint described,

became possessed of the said certificates of purchase of the canal commissioners in said bill mentioned, as is in said bill alleged.

But this defendant avers, that said King received and held said certificates subject to the terms and conditions of an Act of the Legislature of the State of Illinois, approved January 9th, A. D. 1836, entitled "An Act for the construction of the Illinois and Michigan Canal," under the provisions of which Act said certificates were issued.

And this defendant avers, that the lands mentioned in said certificates, and all the rights of said King as owner of and growing out of said certificates, and all rights growing out of any payments of money made to said canal commissioners upon the said lands in the said certificates mentioned, were, and had become, prior to and on the 9th day of January, A. D. 1838, by virtue of the provisions of the said Act, and by reason of the non-compliance of said King therewith, and by reason of the non-payment of the second installment of the purchase money due to said canal commissioners upon said certificate, absolutely and irrevocably forfeited to the State of Illinois for the benefit of the canal fund; so that this defendant avers, that at the time of the making of the assignment by said King to one Edward Eldridge, dated January 9, 1838, as hereinafter mentioned, the said Henry King had no right or interest, either legal or equitable, present or prospective, in or to the lands named in said certificates, or any of them.

And this defendant, further answering, says, that he believes it to be true that said Henry King did, on January 9th, A. D. 1838, together with Ann G. King, his wife, make, execute and deliver to one Edward Eldridge his deed of assignment of that date, of which this defendant believes the paper annexed to said bill of complaint marked "Exhibit No. 1," to be a true copy.

But this defendant avers that said deed, although made as aforesaid, was not entitled to record under the laws of Illinois, and though it may have been in fact recorded, such record did not constitute notice to any parties whatever of the contents of said deed or of its existence.

And this defendant, further answering, says, that said deed of assignment, so far as said King undertook by it to convey any interest in lot six (6), in block thirty-eight (38), in the original town of Chicago, in said Cook county and State of Illinois, if said King did undertake thereby to convey any interest in said lot, was void for uncertainty, in this, that the only description in said deed which was in any feature applicable to or descriptive of said lot six (6), in block thirty-eight (38), in the original town of Chicago aforesaid, is that contained in the clause which reads as follows, to wit: "Also those certain other lots known as water lots number four (4), in block thirteen (13); lot number six, in block thirty-eight; number seven, in block twenty-eight; and lot number four (No. 4), in block forty-six."

And this defendant avers, that there were, at the time of the date of said deed, several lots "situated at Chicago in the State of Illinois," to either of which the description "lot number six, in block thirty-eight," would equally well apply, and of neither of which was it any more accurate description than of either of the others, to wit: Lot number six, in block thirty-eight in Carpenter's Addition to Chicago, aforesaid; lot number six, in block thirty-eight in the School Section Addition to Chicago, aforesaid; and lot number six, in block thirty-eight, in the original town of Chicago; and it cannot be determined, from anything in said deed contained, to which of said lots six, in block thirty-eight, the said description was intended to apply, if to either of them.

So that this defendant avers that no lien or equity in favor of the creditors of said King, mentioned in or referred to in said deed of assignment, attached to said lot number six, in block thirty-eight, in the original town of Chicago, by virtue of said deed of assignment, as against subsequent purchasers of said lot; nor did said deed, by means of said uncertain description, constitute any notice to subsequent purchasers, that said King claimed to have any interest in said lot, or that said King undertook or intended by said deed to convey said lot number six, in block thirty-eight, in the original town of Chicago, or any interest therein, to said Eldridge, for the benefit of his creditors.

And this defendant, further answering, says, he believes it to be true that said King, on or about January 9, 1838, assigned and transferred to said Eldridge the said five certificates of the canal commissioners in complainant's bill mentioned, as is in said bill alleged. But this defendant avers, that neither he nor the parties through whom he claims title, as hereinafter mentioned, had, prior to or at the time when they severally received their deeds and paid the consideration money for the east half of said lot six, in block thirty-eight, in the original town of Chicago, any notice that said King ever held or owned said canal certificates of purchase, or that he assigned the same to said Eldridge as aforesaid.

And this defendant, further answering, admits that at and prior to February 27, 1841, the said lots, in said canal certificates mentioned, had become forfeited to the State of Illinois, and that on the day and year last aforesaid, the Legislature of the State of Illinois passed an Act entitled "An Act for the relief of purchasers of canal lots in Chicago and Ottawa in 1836," the terms of which Act were substantially the same as alleged in said complainant's bill, but to which original Act itself, for greater certainty as to its terms, this defendant would refer.

block thirty-eight, all in the original town of Chicago, became, by the means set forth in said complainant's bill; or by any means whatsoever, vested in said Edward Eldridge, subject to the trusts declared in said deed of assignment of January 9, 1838.

And this defendant, further answering, admits that he believes it to be true that the liabilities mentioned in schedule A, attached to said King's assignment of January 9, 1838, were discharged in the manner set forth in said complainant's bill.

And this defendant, further answering, admits and avers that on October 15th, A. D. 1845, the said Henry King and Edward Eldridge entered into an agreement in writing of that date, of which a correct copy, marked "Exhibit No. 2," is annexed to the said complainant's bill; but this defendant denies that said agreement was a violation of the trusts conferred upon said Eldridge by said assignment of January 9, 1838. And on the contrary thereof, this defendant alleges that if, by means of said assignment, as alleged in said bill, or by any other means whatsoever, the said lots in said agreement of October 15, 1845, mentioned, were held in trust by said Eldridge for the creditors mentioned in said assignment, (which fact this defendant denies); yet by virtue of the provisions of said assignment the said Eldridge had the power and right in good faith to contract for the sale of and to sell the said lots in said agreement mentioned, to any person or persons who should contract to pay and should pay an adequate consideration therefor. And this defendant says that by said agreement of October 15, 1845, the said Eldridge did agree, as he well might do under the terms of said assignment, to sell and convey said east half of lot six, in block thirty-eight, in the original town of Chicago, to said King, his heirs and assigns, upon payment by him or them of the sum of five hundred dollars, in six months from the date of said agreement, and

that afterwards said agreement was carried out and enforced in the manner hereinafter described.

And this defendant avers that at the time of making said agreement the said sum of five hundred dollars was the full, adequate and fair value of said east half of said lot six, and that said agreement was *bona fide* and in all respects fair in its terms and conditions, both as regards the parties thereto and any other person or persons claiming to be interested in said half lot.

And this defendant, further answering, upon information and belief, avers, that said Edward Eldridge died sometime in the year 1847 or 1848, leaving him surviving, his widow, Hannah Eldridge, and his children and heirs-at-law, Hannah, Edward, Helen, Henry, Constantine, and Harriet Eldridge, and no others.

And this defendant, further answering, avers, that on April 5th, A. D. 1849, the said Henry King, (Ann G. King, his wife, and Nancy A. King, joining him in the conveyance), did, by his deed of that date, assign and convey to one Amory Gamage, the said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, and all the right and interest of said Henry King in and to the agreement of October 15, 1845, aforesaid, and in and to the said half lot by virtue of said agreement, for the consideration of eleven hundred dollars, which was then paid to said Henry King, by said Gamage, therefor; by which said assignment and conveyance, this defendant avers, that all the rights of said Henry King, under and by virtue of said agreement of October 15, 1845, became and were vested in said Amory Gamage.

And this defendant avers, that afterwards, to wit, on April 14, 1852, the said Edward Eldridge, having departed this life as aforesaid, and not having in his lifetime fulfilled the conditions of said agreement of October 15, 1845, by

conveying to said King or his assigns the legal title to said half lot, in said agreement mentioned, the said Gamage filed his bill of complaint in the Circuit Court of Cook county aforesaid, on the chancery side of said court, in which bill of complaint the said Gamage set out said agreement of October 15, 1845, and said deed of April 5, 1849, assigning the same to said Gamage, and offered to bring into court the said sum of five hundred dollars, in said agreement mentioned, and the interest thereon, and prayed that the heirs and legal representatives of said Edward Eldridge, who were all made parties defendant to said bill of complaint, might be ordered and decreed to convey to said Gamage the legal title to said half lot in said agreement of October 15, 1845, mentioned. And such proceedings were thereupon had upon said bill of complaint, that on August 18, 1863, said court decreed a conveyance of said half lot, as aforesaid, by said heirs of said Eldridge, upon payment within sixty days from the date of said decree, by said Gamage, to the clerk of said court, of the said sum of five hundred dollars, and two hundred and thirty-five dollars, being the interest on the same, and further decreed that the defendants to said bill, heirs of said Edward Eldridge, who were of full age, should make such conveyance for themselves, and that in default thereof the master in chancery of said court should execute the conveyance in their names, and that said master should execute said conveyance in behalf of the defendants to said bill, heirs of said Eldridge, who were minors; and that in accordance with said decree, the said Gamage, before the expiration of the sixty days therein mentioned, paid in to the clerk of said court the said sum of five hundred dollars, and the said other sum of two hundred and thirty-five dollars, making in all the sum of seven hundred and thirty-five dollars. And the said defendants who were of full age, failing to make said convey-

ance in accordance with said decree, the master in chancery of said court, George Manierre, Esq., did, on February 9th, 1864, in the name of said defendants, who were of full age, and in the name and behalf of said defendants who were minors, make, execute and deliver to said Gamage his deed of that date, whereby he conveyed the said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, to the said Gamage, to have and to hold the same to said Gamage, his heirs and assigns, forever. And this defendant, for greater certainty, would refer to said bill of complaint and the proceedings thereupon had, a record whereof remains in said Circuit Court of Cook county aforesaid.

And this defendant, avers, that all the heirs and legal representatives of said Edward Eldridge were made parties defendant to said bill of complaint, and had due and legal notice of the pendency thereof, and were duly and legally notified and served with summons to appear in said court and answer said bill; but this defendant admits, that none of the persons or corporations, if any such there were, who were creditors of said Henry King, on January 9, 1838, were made parties to said proceedings by name.

And this defendant expressly denies that said Gamage, at any time before he took said deed of April 5, 1849, from said Henry King, or at any time before he paid the consideration therefor, as aforesaid, had notice that said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, was held by said Eldridge, subject to the trusts mentioned in said assignment of January 9, 1838, or had any notice whatever of said last mentioned deed, or had notice that the trusts therein contained were in force and existence, as respected said half lot, or had notice that said agreement of October 15, 1845, was a fraud upon the creditors under said assignment of January 9, 1838, or was a

violation of the trusts therein expressed; and denies that said Gamage was not a purchaser in good faith, for a valuable consideration, without notice of such trusts on the said premises; and denies that said bill of complaint of said Gamage, and the proceedings that were had thereon as aforesaid, were designed to carry out any fraudulent violation of said trusts; and denies that the conduct of the widow and heirs of said Eldridge in said proceedings were a fraud upon said creditors, or a violation of the duties of said widow and heirs as trustees of said estate; and denies that said decree was obtained upon any false suggestion or by fraudulent collusion; and denies that any fact in relation to said half lot was concealed from said court, or that said decree was a fraud upon said court; and denies that said decree is inoperative or void, or of no binding force upon the complainant Rees, or upon any creditors of said Henry King or their assigns, interested in and secured under said assignment of January 9, 1838; all of which is untruly alleged in said Rees's bill.

But this defendant admits, and avers, that Edward Eldridge, Jr., one of the defendants in said bill of complaint of said Gamage, and an heir of and executor of the will of said Edward Eldridge, did, on May 4, 1855, in behalf of himself and the other heirs and legal representatives of said Edward Eldridge, by whom he was legally authorized thereto, receive and accept from the said clerk of the Circuit Court of Cook county aforesaid the said sum of seven hundred and thirty-five dollars, so paid in to said clerk by said Gamage as aforesaid, and avers, that said heirs and legal representatives did thereby ratify and confirm the proceedings of said court as aforesaid, and the said decree of said court and deed of said master. But this defendant denies that said Edward Eldridge, Jr., so acted with the view to carry out any fraud or collusion.

And this defendant, further answering, admits and avers that on June 1, 1855, the said Gamage, for the consideration of five thousand dollars which was to him then paid by this defendant, sold and conveyed by deed to this defendant, the west half of the east half of said lot six, in block thirty-eight, in the original town of Chicago aforesaid; and that on the same day the said Gamage, for a like consideration of five thousand dollars which was then paid him by one C. H. Quinlan, sold and conveyed by deed to said Quinlan the east half of the said half lot; and that on September 4, 1855, the said Quinlan, for the consideration of eight thousand dollars which was then paid to him by this defendant, sold and conveyed by deed to this defendant, the said east half of said half lot; and that on March 18, 1856, this defendant, for the consideration of thirty thousand dollars, which was to him then paid by J. Mason Parker, sold and conveyed by deed to said Parker a certain portion of said half lot described as follows, to wit: "beginning at the south-east corner of said lot six; running thence west, on the south line of said lot, forty feet; thence north, at right angles, eighty feet; thence east, at right angles, forty feet; thence south, at right angles, eighty feet; being forty feet in front of the east half of said lot six, by a depth of eighty feet."

And this defendant admits and avers, that by means of the said conveyances he and the said Parker claim to own the said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, each his portion as aforesaid, and that they own the same free and divested from any lien, trust or equity in favor of the creditors of said Henry King, and that they are each in the actual possession and occupation of their said respective portions of said half lot.

But this defendant expressly denies that the said Gamage,

Quinlan, Parker and this defendant, or either of them, took their said several conveyances with notice of said deed of January 9, 1838, or with notice that said half lot was subject to the trusts by the said last named deed created, or with notice that the title derived through said agreement of October 15, 1845, and through said decree of said Circuit Court and deed of said master, was a fraud upon the rights of the creditors of Henry King referred to in said deed of January 9, 1838, or with notice that said agreement was a violation of the trusts conferred upon said Edward Eldridge by said last named deed, or with notice that said decree was fraudulent and void as to said creditors.

But this defendant, to the contrary thereof, expressly avers, that neither the said Gamage, Quinlan, Parker, or this defendant, at the time of or at any time prior to their receiving their respective conveyances as aforesaid, or at the time of or at any time prior to their paying the consideration therefor, which they severally paid as aforesaid, had any notice of said deed of January 9, 1838, or of said trusts, or of any fraud or bad faith in said contract of October 15, 1845, or of any lack of power in the parties thereto to make the same, or of any fraud or informality or other defect in said proceedings had upon said Gamage's bill as aforesaid.

And this defendant avers, that he and the said Gamage, Quinlan and Parker, in examining, as they did, the title to said half lot, before taking their said deeds or paying the considerations therefor, as aforesaid, were not bound to and did not go behind the patent of said half lot issued to said Edward Eldridge as aforesaid, and that they had no notice, nor had either of them, of any facts in relation to the issue, ownership, or any transfer of or any trusts or equities relating to the canal certificate of purchase of said half lot. And therefore this defendant says, that as respects the

said Gamage, Quinlan, Parker, and himself, the legal and equitable title to said half lot became and was vested in the said Edward Eldridge, by virtue of said patent, free from any lien or equity in favor of the creditors of said Henry King, or any other person. And that said agreement of October 15, 1845, as respects the said Gamage, Quinlan, Parker, and this defendant, the agreement of said Eldridge, as absolute legal and equitable owner of said half lot, was an agreement competent for him to make, was valid and binding, and that by the deed of said Henry King, of April 5, 1849, by the said proceedings in chancery and master's deed, and by the subsequent conveyances aforesaid, this defendant and the said Parker acquired and hold an absolute title in fee simple to their said respective portions of said half lot, free from any lien or equity, charge or encumbrance thereon, in favor of the said creditors of said Henry King.

And this defendant, further answering, says, that even if the said half lot were originally subject to the trusts expressed in said assignment of January 9, 1838, which this defendant denies, yet this defendant says, that on April 5, 1849, when said Gamage purchased as aforesaid, and at the several dates when said Quinlan, this defendant and said Parker purchased as aforesaid, the said half lot no longer remained and is not now subject to the said trusts in favor of any creditors of said King, whose names and whose debts were not specifically mentioned and described in said deed of January 9, 1838.

And this defendant avers, that only one of the claims pretended by said complainant Rees, in his said bill, to be held by him against said Henry King, to wit, the judgment in favor of S. P. Church & Co., for \$1,224.20, was so specifically mentioned and described in said deed of January 9, 1838. And this defendant, upon information and belief,

avers, that the said complainant, Rees, is not now and never has been the owner of said judgment, and has not now and never has had any interest therein.

And this defendant, further answering, upon information and belief says, that the said complainant Rees is not now, and never has been, the owner of, or in any manner interested in said pretended subscription of five hundred dollars, alleged in said complainant's bill to have been made by said Henry King, on July 5, 1836, payable to the treasurer of Illinois College.

And this defendant says that he has no knowledge, except that furnished by the complainant's bill, and cannot form a belief whether said complainant is the owner by assignment of the amount due on the three pretended notes described in said bill as made by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, to the said Henry King or order, and by him endorsed, as alleged in said bill, but leaves the complainant to prove the same as the court may direct. But this defendant denies that said Henry King was, at the date of said deed of January 9th, 1838, or at any time afterwards, legally liable to pay said supposed notes, or any part thereof, or that said supposed notes were, on said January 9th, 1838, amongst the liabilities of said King, mentioned or included in said deed of January 9th, 1838.

And this defendant says, that he has not sufficient knowledge to found a belief upon whether any of the original claims against said Henry King, now pretended by said complainant in his said bill to be owned by him, have, or ever had, any legal existence, or whether said King was ever legally liable for their payment, and therefore denies the same, and leaves the complainant to make such proof of said facts as this court may direct.

And this defendant, further answering, upon information and belief avers, that if said complainant Rees owns said

pretended claims, or any interest therein, as in said bill alleged, the said Rees paid a merely nominal sum therefor, if any thing, and that he purchased them, if at all, with a full knowledge of the legal and equitable rights of this defendant in said hereinbefore described portion of said half lot, as herein set forth, and with the full knowledge that this defendant had paid the consideration therefor herein set forth, and that this defendant had, in good faith, made thereon the improvements hereinafter described, and further avers that said complainant Rees purchased said claims, if at all, for the mere purpose of speculation.

And this defendant, further answering, says, that each and every of said pretended claims against the said Henry King, alleged in said bill of complaint to be owned by said Rees, if any such claims exist, or ever existed legally, were indebtednesses due and, owing by said Henry King, before and at the time of making his said deed of assignment of January 9th, 1838; that they are stale and antiquated, and that all proof in relation to their origin, character and merits, is obscured and lost in the mists of time; that the owners of said pretended claims have not, during a period of more than twenty years prior to the filing of the complainant's said bill, claimed, or endeavored to establish a claim, to any legal or equitable interest in said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, based upon said assignment of January 9th, 1838, or otherwise, but have, during all that time, slept upon their supposed rights, and only now bring forward their claims when said King and said Eldridge are both for a long time dead; that said owners of said pretended claims have looked on and without interference or suggestion, let or hindrance, permitted said Gamage, Quinlan, Parker, and this defendant, to purchase said premises, and to pay therefor large sums of money as aforesaid, and, at a large expense, as hereinafter mentioned, to make the improvements hereinafter named thereon.

Wherefore this defendant says, that the said pretended claims of said Rees, and all other like claims, do not constitute any proper charge or encumbrance upon said premises, but are, and should be held to be, in a court of equity, wholly barred and outlawed, and the pretended owners thereof are, and should be held to be, equitably estopped from setting up any claim or interest in said premises.

And this defendant, further answering, says, that while the legal title to said half lot was vested in the State of Illinois, after the forfeiture thereof so made as aforesaid, and while the said premises were wholly freed from said debts of said King, and before any proceedings were had or taken by said King, or by any one in his behalf or otherwise, to acquire a title to said premises under said relief-law, the said Henry King then being a resident of the State and Southern District of New York, and owing debts which had not been created in consequence of any defalcation as a public officer, or as executor, administrator, guardian, or trustee, or while acting in any other fiduciary capacity, by his petition duly made and verified, according to the statute in such case made and provided, and duly exhibited and filed in the District Court of the United States in bankruptcy for the Southern District of New York, on the 24th day of January, A. D. 1843, therein did declare himself unable to meet his debts and engagements, and did apply for the benefit of the bankruptcy law passed by the Congress of the United States, and approved by the President on August 19th, 1841, entitled "An Act to establish a uniform system of Bankruptcy throughout the United States;" and such proceedings were thereupon had upon said petition that afterwards, to wit, on the 4th day of March, A. D. 1843, in pursuance of the said Act of Congress and the provisions thereof, the said District Court of the United States did decree and declare said Henry King to be a bankrupt within the true intent and meaning of said

Act of Congress. And this defendant says, that after the expiration of ninety days from and after the rendition of said decree in bankruptcy by the said court, and after seventy days notice in a public newspaper designated for that purpose by said court, to all creditors who had proved their debts, and to all other persons in interest, to appear at a particular time and place therein named, to show cause why a certificate and discharge, in due form of law, should not be granted to the said King, according to the provisions of said Act of Congress, and after the said Henry King had surrendered all his property and right of property as required by said bankrupt Act, and a majority in number and value of his creditors who had proved their debts, having failed to file their written dissent thereto, as required by said Act, he, the said King, afterward, to wit, on the day of

A. D. 1845, became and was entitled to a full discharge from all his debts, to be decreed and allowed to him by said court; and this defendant further avers that said court, on the petition of said King, duly filed for that purpose, did then and there accordingly grant to him, the said King, such discharge and certificate thereof in due form of law.

And this defendant avers, that all and each of the debts mentioned in said deed of assignment, of Jan. 9, 1838, and including said pretended claims now alleged to be owned by said Rees, if said claims were then legal and existing liabilities of said Henry King, were, and each was provable under said bankrupt law against said King, in said proceedings in bankruptcy so had in said district court as aforesaid; and this defendant avers, that by reason of said discharge and certificate thereof, granted by said court to said King as aforesaid, all and every of the debts so provable under said Act as aforesaid, including said pretended debts set forth in the complainant's said bill as belonging to said

Rees, were fully and completely discharged by force of the Act of Congress aforesaid.

And this defendant prays the same benefit and advantage of the said release and discharge, as if he had pleaded the same in bar of each and every of the said pretended claims alleged in the complainant's said bill, to be owned by him, and in bar of the relief in said bill prayed with respect to said half lot.

And this defendant, further answering, admits and avers; that from and after the issue of said patent for the east half of lot six, in block 38, in the original town of Chicago aforesaid, to the said Eldridge as aforesaid, the said half lot remained vacant and unoccupied land, under the control and supervision of said Edward Eldridge and his heirs, and so continued until June 1, 1851, a period of seven years and more; that said Eldridge held the said land, claiming title thereto in good faith, under and by virtue of said patent, and that the heirs of said Eldridge, from and after his decease, held the same, claiming title thereto in good faith under said patent; that from and after the issuance of said patent, and until the time of his decease, the said Edward Eldridge, claiming title as aforesaid, paid all the taxes legally assessed upon said half lot; that the heirs of said Eldridge, claiming title as aforesaid, from and after his decease, paid all the taxes legally assessed upon said half lot, up to and until June 1, 1851. But this defendant denies that said taxes were paid out of any trust funds, or from the proceeds of any trust property, as alleged in said bill, but, on the contrary, avers, that said Eldridge and his said heirs out of his and their own proper money, paid the same.

By reason whereof, and by virtue of said Act of the General Assembly of the State of Illinois, approved March 2, 1839, entitled "An Act to quiet possession and confirm

titles to land," and by virtue of the conveyances aforesaid, to this defendant, of said Eldridge's title to said half lot, this defendant avers, that he should be held, deemed and adjudged to be the legal owner of said half lot, (except the portion sold to said Parker as aforesaid), to the extent and according to the purport of his paper title aforesaid; and that the complainant and all other persons should be held and deemed to be barred and restrained from setting up or maintaining any right or claim thereto.

And this defendant, further answering, says, that while he held the title to that portion of said half lot sold to said Parker as aforesaid, he built thereon a large four-story brick building, at a cost of about ten thousand dollars, and that since he acquired the title to the remainder of said half lot, as aforesaid, he has erected thereon a large and valuable brick building, known as "Bryan Hall," at a cost of about twenty-two thousand dollars; that these improvements were made in good faith, and in the belief that this defendant had, at the times and when they were severally made, a perfect legal and equitable title to said premises.

And this defendant, further answering, avers, that he and the said Gamage and Quinlan, through whom, by the conveyances hereinbefore described, he claims title to the portion of said half lot not sold to said Parker as aforesaid, have been in the actual and continual possession of the premises last described under claim and color of title made in good faith, to wit, under said patent, said agreement of Oct. 15, 1845, and said deed from Henry King, of April 5, 1849, ever since June 1, 1851, and until the present time, and have paid all taxes legally assessed on said premises during said time. That said Gamage took possession of said half lot on June 1, 1851, under said patent, said agreement of October 15, 1845, and said King's deed of April 5, 1849, and continued in possession thereof until June 1, 1855,

and paid all taxes legally assessed thereon during that period; that this defendant took possession of the west half of said half lot on June 1, 1855, under said patent, agreement, and King's deed of April 5, 1849, and said Gamage's deed to this defendant, and continued in possession of the whole thereof up to March 18, 1856, and of all except the south eighty feet thereof, until the present time, and paid all taxes legally assessed on the portions so held by him during said periods that they were respectively so held; that said Quinlan, on June 1, 1855, took possession of the east half of said half lot, under said patent, and said agreement and said King's deed of April 5, 1849, and said Gamage's deed to said Quinlan, and continued in possession thereof until September 4, 1855, and paid all taxes legally assessed thereon during that time; that on September 4, 1855, this defendant took possession of said east half of said half lot, under said patent, said agreement, said King's deed of April 5, 1849, said Gamage's deed to said Quinlan, and said Quinlan's deed to this defendant, and continued in possession of the whole thereof up to March 18, 1856, and of all except the south eighty feet thereof, until the present time, and paid all taxes legally assessed on the portions so held by him during the whole periods that they were respectively so held.

By reason whereof, and by virtue of said Act of the General Assembly of the State of Illinois, approved March 2, 1839, entitled "An Act to quiet possession and confirm titles to land," which Act this court, in analogy to the usage of courts of law in similar cases, will regard and enforce, this defendant avers, that the said complainant and all other persons are and should be barred and restrained from setting up or maintaining any right or claim to that portion of said half lot so held by this defendant as aforesaid, and that this defendant should be held and adjudged by this

court to be the absolute legal and equitable owner of said premises.

And this defendant, further answering, avers, that when said Henry King assigned and transferred said canal certificate of purchase of said east half of lot 6, in block 38, in the original town of Chicago aforesaid, to said Edward Eldridge, as alleged in said complainant's bill, he did not thereby transfer or convey to said Eldridge, or authorize him to receive the rights which subsequently accrued to him, the said King, as the original purchaser of said lot six, under the provisions of said relief-law of 1841. But this defendant avers, that said Henry King, as such original purchaser, became entitled by the passage of said relief-law, to the rights and benefits thereby conferred, and had power and authority by the terms of said relief-law, after its passage, to transfer the said rights and benefits to such person as he pleased, by an instrument in writing, duly executed.

And this defendant, avers, that long after the making of said deed of assignment of January 9, 1838, and subsequently to the passage of said relief-law, and prior to the issuance of the patent of said half lot, to said Eldridge as aforesaid, to wit, on January 1st, 1843, the said Henry King did, by an instrument in writing of that date, duly executed by him, for a valuable consideration therein expressed, and which was then paid him by said Eldridge, transfer and assign to said Eldridge all the rights and benefits which were conferred on the said King by the provisions of said law, one of which said rights this defendant avers to have been the right to purchase the said half lot at a reduced valuation of one-third from the price at which the same was sold, originally, by said canal commissioners.

And this defendant avers, that after the transfer of said rights and benefits aforesaid to said Eldridge, the said Eldridge, out of his own moneys, and not out of any

moneys arising from the funds or property conveyed by said deed of assignment of January 9, 1838, paid to the said canal commissioners the price of said half lot, at the reduced valuation aforesaid, and by virtue thereof, and of said relief-law of 1841, received a patent of said half lot from the Governor of Illinois as aforesaid.

And this defendant avers, that said transfer of said rights and benefits conferred by said relief-law, by said King to said Eldridge as aforesaid, was not and was not intended or expected by said King or said Eldridge, to be for the benefit of the creditors of said King, who were mentioned in, or whose claims were referred to, in said deed of assignment of January 9th, 1838, and did not operate or enure for their benefit.

And this defendant, further answering, avers, that the said rights and benefits conferred by said relief-law did not constitute an interest in real estate, but were a mere right of election or appointment conferred by said law upon the original purchasers therein referred to, which they might use and improve, or decline and renounce, at their pleasure, and which they might transfer by an instrument in writing, in the mode pointed out by said law, but which could not be transferred by, or divested from, such original purchaser, or enure for the benefit of any other person in any other way than by such transfer in writing, made after the passage of said law.

Wherefore, and by the means aforesaid, this defendant avers, that said Eldridge became entitled to and did receive the said patent for said half lot, and held the title thereto, absolutely in his own right, free from all claims, liens, or equities, in favor of the creditors of said Henry King, or of any other person.

And this defendant avers, that if the said Edward Eldridge did not receive the said transfer of the said King's

rights under the relief-law of 1841, in respect to the said half lot, and the patent and title thereto as aforesaid, absolutely in his own right and for his own benefit, free from all claims, liens, and equities, as aforesaid, as this defendant avers, then said Eldridge so received said transfer of said rights, said patent and title, for the use and benefit of said Henry King, divested and free from any lien or equity upon said premises, in favor of any creditors of said King mentioned, or whose debts were referred to in said deed of assignment of January 9th, 1838.

And this defendant avers, that after the passage of said relief-law, and before the said King, or the said Eldridge as the assignee of his said rights under said relief-law, had performed the conditions mentioned in said law, and while the whole title, both legal and equitable, to said half lot, was vested in the State of Illinois, subject only to the rights of said King, or his said assignee thereof, the said Eldridge, under said relief-law, and wholly free from the debts mentioned or referred to in said deed of assignment of January 9, 1838, and claimed in said complainant's bill to be a charge thereon, that is to say, on March 4, 1843, the said Henry King was, by said District Court of the United States for the Southern District of New York, in due form duly and legally decreed to be a bankrupt, under the provisions and within the meaning of said bankrupt law as aforesaid; that by reason of the said decree, and of the said bankrupt law, all rights of said King, so acquired by means of said relief-law as aforesaid, in respect to said half lot, (unless, as this defendant avers, the said rights had, previously to said petition and decree in bankruptcy, become vested in said Eldridge, in his own right and for his own benefit as aforesaid,) became, by mere operation of said bankrupt law, *ipso facto*, from and at the time of said decree, divested out of said King and said Eldridge, and then and there became

vested in the assignee before that time duly appointed by said court, for such purpose, one Mr. Coventry H. Waddell, who was the official and general assignee in bankruptcy, duly appointed in pursuance of the laws of the United States, and of the rules of said District Court.

And this defendant says, that at the time the said decree in bankruptcy was so made as aforesaid, none of the debts then owed by said Henry King were a charge or lien upon said east half of lot 6, in block 38, in the original town of Chicago aforesaid, and avers that the pretended claims alleged in said bill to be owned by the complainant, Rees, but not specifically mentioned in said deed of assignment of January 9, 1838, were not, at the time of said decree, nor have they since become liens upon said half lot.

And this defendant, further answering, avers, that said patent of said half lot so issued to said Eldridge as aforesaid, was obtained and received by him entirely independent of said assignment of January 9, 1838; and this defendant denies that all or any of the rights, title or interest which said King acquired in respect to said half lot by virtue of said relief-law, became vested in said Eldridge, subject to the trusts named in said assignment of January 9, 1838, as in said complainant's bill is untruly alleged, but avers, that by reason of the premises, the said Eldridge, (unless, as this defendant avers, he received and held the patent and title to said half lot absolutely in his own right, free from any equitable claims of said King or any creditor of said King), received and held the said title in trust for the use and benefit of the creditors of said Henry King who should come in under the said proceedings in bankruptcy and prove their claims, agreeably to the provisions of said bankrupt law, and subject to the right of said assignee in bankruptcy to sell and dispose of said half lot in pursuance of said bankrupt act. And this defendant

denies that the said claims against said King, alleged in the complainant's bill to be owned by said Rees, were proved up, or attempted so to be, in said proceeding in bankruptcy.

And this defendant says, that by the eighth section of said bankrupt Act, it is, amongst other things, provided that "No suit in law or equity shall in any case be maintainable by or against such assignee," (meaning any assignee in bankruptcy under the provisions of said Act), "or by or against any person claiming an adverse interest touching the property and rights of property aforesaid," (meaning any property which might be transferred to the assignee in bankruptcy under the provisions of said Act), "in any court whatsoever, unless the same shall be brought within two years after the declaration and decree of bankruptcy, or after the cause of suit shall first have accrued."

And this defendant says, that said King was declared and decreed to be a bankrupt, as aforesaid, on March 4, 1843, and that more than two years had elapsed after said decree and declaration of bankruptcy and since the cause of this suit first accrued, prior to the filing of said complainant's said bill of complaint. And this defendant avers, that the right and interest in and to said parcels of land so claimed by said complainant Rees, as in and by his said bill of complaint set forth, is an interest touching the property and rights of property in and to the premises aforesaid adverse to the interest therein so vested, as aforesaid, in said assignee in bankruptcy, if any such interest became vested in said assignee in bankruptcy, which this defendant denies.

And this defendant doth and will insist that if said assignee in bankruptcy took or acquired any interest in said premises as aforesaid, said eighth section of said bankrupt Act is and should be held to be a bar to the maintenance of the complainant's bill of complaint in favor of said complainant, or any other person; and prays the same benefit of

deed of assignment of that date, of which this defendant believes the paper annexed to said bill of complaint marked "Exhibit No. 1," is a true copy.

But this defendant avers, that said deed, although made as aforesaid, was not entitled to record under the laws of Illinois, and though it may have been in fact recorded, such record did not constitute notice to any parties whatever of the contents of said deed or of its existence.

And this defendant, further answering, says that said deed of assignment, so far as said King undertook by it to convey any interest in lot six (6), in block thirty-eight (38), in the original town of Chicago, in said Cook county and State of Illinois, if said King did undertake thereby to convey any interest in said lot, was void for uncertainty in this, that the only description in said deed which was in any feature applicable to or descriptive of said lot six (6), in block thirty-eight (38), in the original town of Chicago aforesaid, is that contained in the clause which reads as follows, to wit: "Also, those certain other lots known as water lots number four (4), in block thirteen (13); lot number six, in block thirty-eight; number seven, in block twenty-eight; and lot number four (No. 4), in block forty-six." And this defendant avers, that there were at the time of the date of said deed, several lots "situated at Chicago, in the State of Illinois," to either of which the description "lot number six, in block thirty-eight," would equally well apply, and of neither of which was it any more accurate description than of either of the others, to wit: lot number six, in block thirty-eight, in Carpenter's Addition to Chicago aforesaid; lot number six, in block thirty-eight, in the School Section Addition to Chicago aforesaid, and lot number six, in block thirty-eight, in the original town of Chicago; and it cannot be determined from anything in said deed contained, to which of said lots six, in blocks thirty-eight, the said description was intended to apply, if to either of them.

So that this defendant avers, that no lien or equity in favor of the creditors of said King, mentioned in or referred to in said deed of assignment, attached to said lot number six, in block thirty-eight, in the original town of Chicago, by virtue of said deed of assignment, as against subsequent purchasers of said lot; nor did said deed, by means of said uncertain description, constitute any notice to subsequent purchasers, that said King claimed to have any interest in said lot, or that said King undertook or intended by said deed to convey said lot number six, in block thirty-eight, in the original town of Chicago, or any interest therein, to said Eldridge, for the benefit of his creditors.

And this defendant, further answering, says he believes it to be true that said King, on or about January 9, 1838, assigned and transferred to said Eldridge the said five certificates of the canal commissioners in complainant's bill mentioned, as is in said bill alleged. But this defendant avers, that neither he nor the parties through whom he claims title as hereinafter mentioned, had, prior to or at the time when they severally received their deeds and paid the consideration money for the east half of said lot six, in block thirty-eight, in the original town of Chicago, any notice that said King ever held or owned said canal certificates of purchase, or that he assigned the same to said Eldridge as aforesaid.

And this defendant, further answering, admits, that at and prior to February 27, 1841, the said lots in said canal certificates mentioned had become forfeited to the State of Illinois, and that on the day and year last aforesaid the Legislature of the State of Illinois passed an Act, entitled "An Act for the relief of the purchasers of canal lots in Chicago and Ottawa in 1836," the terms of which Act were substantially the same as alleged in said complainant's bill, but for greater certainty this defendant prays leave to refer to said original Act.

This defendant, further answering, says he has no knowledge sufficient to found a belief upon, as to whether said Eldridge executed to one James H. Collins a power of attorney, as in said complainant's bill alleged, or whether said Eldridge, by his said supposed attorney, relinquished to the State of Illinois the lots or any of them in said bill described, as therein alleged, and therefore neither admits nor denies the same, but leaves the complainant to make such proof thereof as the court may direct.

And this defendant, further answering, admits and avers that said Eldridge, on June 9, 1843, became entitled to, and did receive, from the Governor of the State of Illinois, a patent for the east half of lot six, in block thirty-eight, in the original town of Chicago, as is alleged in said bill.

And this defendant, further answering, says he has no knowledge sufficient to found a belief upon, and therefore neither admits nor denies that said Eldridge, by his attorney, the said Collins, sold and conveyed to one B. Jones, the west half of said lot six, in block thirty-eight, in the original town of Chicago, as alleged in said bill, but leaves the complainant to prove the same in such manner as the court may direct. But this defendant denies, that if said Eldridge at any time held any title or interest in said west half of said lot six, he held it for the benefit of said King, or of said King's creditors, under said deed of January 9, 1838; and denies that said Eldridge, in perfecting the title to said east half of said lot six, used any funds or property derived through said deed of January 9, 1838, or any funds or property in which said King or his creditors had any legal or equitable interest.

And this defendant, further answering, denies that any right, title or interest of said King in or to said lot six, in block thirty-four, or in or to the east half of lot six, in block thirty-eight, all in the original town of Chicago, became, by the means set forth in said complainant's bill, or

by any means whatsoever, vested in said Edward Eldridge, subject to the trusts declared in said deed of assignment of January 9, 1838.

And this defendant, further answering, admits that he believes it to be true that the liabilities mentioned in Schedule A, attached to said King's assignment of January 9, 1838, were discharged in the manner set forth in said complainant's bill.

And this defendant, further answering, admits and avers that on October 15, A. D. 1845, the said Henry King and Edward Eldridge entered into an agreement in writing, of that date, of which a correct copy, marked "Exhibit No. 2," is annexed to the said complainant's bill. But this defendant denies that said agreement was a violation of the trusts conferred upon said Eldridge by said assignment of January 9, 1838, and, on the contrary thereof, this defendant alleges, that if by means of said assignment, as alleged in said bill, the said lots in said agreement of October 15, 1845, mentioned, were held in trust by said Eldridge for the creditors mentioned in said assignment (which fact this defendant denies), yet by virtue of the provisions of said assignment, the said Eldridge had the power and right, in good faith, to contract for the sale of and to sell the said lots in said agreement mentioned to any person or persons who should contract to pay and should pay an adequate consideration therefor. And this defendant says, that by said agreement of October 15, 1845, the said Eldridge did agree, as he might well do under the terms of said assignment, to sell and convey said east half of lot six, in block thirty-eight, in the original town of Chicago, to said King, his heirs and assigns, upon payment by him or them of the sum of five hundred dollars in six months from the date of said agreement, and that afterwards said agreement was carried out and enforced in the manner hereinafter described.

And this defendant avers, that at the time of making said agreement, the said sum of five hundred dollars was the full, adequate and fair value of said east half of said lot six, and that said agreement was *bona fide*, and in all respects fair in its terms and conditions, both as regards the parties thereto, and any other person or persons claiming to be interested in said half lot.

And this defendant, further answering, upon information and belief avers, that said Edward Eldridge died sometime in the year 1847 or 1848, leaving him surviving his widow, Hannah Eldridge, and his children and heirs-at-law, Hannah, Edward, Helen, Henry, Constantine, and Harriet Eldridge, and no others.

And this defendant, further answering, avers that on April 5, A. D. 1849, the said Henry King (Ann G. King his wife, and Nancy A. King joining him in the conveyance) did, by his deed of that date, assign and convey to one Amory Gamage, the said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, and all the right and interest of said Henry King in and to the agreement of October 15, 1845, aforesaid, and in and to the said half lot, by virtue of said agreement, for the consideration of eleven hundred dollars, which was then paid to said Henry King by said Gamage therefor; by which said assignment and conveyance this defendant avers, that all the rights of said Henry King, under and by virtue of said agreement of October 15, 1845, became and were vested in said Amory Gamage.

And this defendant avers, that afterwards, to wit, on April 14, 1852, the said Edward Eldridge, having departed this life as aforesaid, and not having in his lifetime fulfilled the conditions of said agreement of Oct. 15, 1845, by conveying to said King or his assigns the legal title to said half lot in said agreement mentioned, the said Gamage filed his bill of complaint in the Circuit Court of Cook

county aforesaid, on the chancery side of said court, in which bill of complaint the said Gamage set out said agreement of Oct. 15, 1845, and said deed of April 5, 1849, assigning the same to said Gamage, and offered to bring into court the said sum of five hundred dollars in said agreement mentioned, and the interest thereon, and prayed that the heirs and legal representatives of said Edward Eldridge, who were all made parties defendant to said bill of complaint, might be ordered and decreed to convey to said Gamage the legal title to said half lot in said agreement of Oct. 15, 1845, mentioned. And such proceedings were thereupon had upon said bill of complaint, that on August 18, 1853, said court decreed a conveyance of said half lot as aforesaid, by said heirs of said Eldridge, upon payment within sixty days from the date of said decree, by said Gamage to the clerk of said court, of the said sum of five hundred dollars, and two hundred and thirty-five dollars, being the interest on the same; and further decreed, that the defendants to said bill, heirs of said Edward Eldridge, who were of full age, should make such conveyance for themselves, and that in default thereof the master in chancery of said court should execute the conveyance in their names, and that said master should execute said conveyance in behalf of the defendants to said bill, heirs of said Eldridge, who were minors. And that, in accordance with said decree, the said Gamage, before the expiration of the sixty days therein mentioned, paid in to the clerk of said court the said sum of five hundred dollars, and the said other sum of two hundred and thirty-five dollars, making, in all, the sum of seven hundred and thirty-five dollars; and the said defendants, who were of full age, failing to make said conveyance in accordance with said decree, the master in chancery of said court, George Manierre, Esq., did, on February 9th, 1854, in the name of said defendants who were of full age, and in the name and behalf of said de-

fendants who were minors, make, execute and deliver to said Gamage his deed of that date, whereby he conveyed the said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, to the said Gamage, to have and to hold the same to said Gamage, his heirs and assigns forever. And this defendant, for greater certainty, would refer to said bill of complaint and the proceedings thereupon had, a record whereof remains in said Circuit Court of Cook county aforesaid.

And this defendant avers, that all the heirs and legal representatives of said Edward Eldridge were made parties defendant to said bill of complaint, and had due and legal notice of the pendency thereof, and were duly and legally notified and served with summons to appear in said court and answer said bill; but this defendant admits that none of the persons or corporations, if any such there were, who were creditors of said Henry King on January 9, 1838, were made parties to said proceedings by name.

And this defendant expressly denies that said Gamage, at any time before he took said deed of April 5, 1849, from said Henry King, or at any time before he paid the consideration therefor as aforesaid, had notice that said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, was held by said Eldridge, subject to the trusts mentioned in said assignment of January 9, 1838, or had any notice whatever of said last mentioned deed, or had notice that the trusts therein contained were in force and existence as respected said half lot, or had notice that said agreement of Oct. 15, 1845, was a fraud upon the creditors under said assignment of January 9, 1838, or was a violation of the trusts therein expressed; and denies that said Gamage was not a purchaser in good faith for a valuable consideration, without notice of such trusts on the said premises; and denies that said bill of complaint of said Gamage, and the proceedings that were had thereon as afore-

said, were designed to carry out any fraudulent violation of said trusts; and denies that the conduct of the widow and heirs of said Eldridge in said proceedings were a fraud upon said creditors, or a violation of the duties of said widow and heirs as trustees of said estate; and denies that said decree was obtained upon any false suggestion, or by fraudulent collusion; and denies that any fact in relation to said half lot was concealed from said court, or that said decree was a fraud upon said court; and denies that said decree is inoperative or void or of no binding force upon the complainant Rees, or upon any creditors of said Henry King, or their assigns, interested in and secured under said assignment of July 9, 1838; all of which is untruly alleged in said Rees's bill.

But this defendant admits and avers, that Edward Eldridge, Jr., one of the defendants in said bill of complaint of said Gamage, and an heir of and executor of the will of said Edward Eldridge, did, on May 4, 1855, on behalf of himself and the other heirs and legal representatives of said Edward Eldridge, by whom he was legally authorized thereto, receive and accept from the said clerk of the Circuit Court of Cook county aforesaid, the said sum of seven hundred and thirty-five dollars, so paid in to said clerk by said Gamage as aforesaid, and avers, that said heirs and legal representatives did thereby ratify and confirm the proceedings of said court as aforesaid, and the said decree of said court and deed of said master; but this defendant denies that said Edward Eldridge, Jr., so acted with the view to carry out any fraud or collusion.

And this defendant, further answering, admits and avers that on June 1, 1855, the said Gamage, for the consideration of five thousand dollars, which was to him then paid by the defendant, Thomas B. Bryan, sold and conveyed by deed to said Bryan the west half of the east half of said

lot six, in block thirty-eight, in the original town of Chicago aforesaid; and that on the same day the said Gamage, for a like consideration of five thousand dollars, which was then paid him by one C. H. Quinlan, sold and conveyed by deed to said Quinlan the east half of the said half lot; and that on September 4, 1855, the said Quinlan, for the consideration of eight thousand dollars, which was then paid to him by said Bryan, sold and conveyed by deed to said Bryan the said east half of said half lot; and that on March 18, 1856, the said Bryan, for the consideration of thirty thousand dollars, which was to him then paid by this defendant, sold and conveyed by deed to this defendant a certain portion of said half lot described as follows, to wit: "beginning at the south-east corner of said lot six; running thence west, on the south line of said lot, forty feet; thence north, at right angles, eighty feet; thence east, at right angles, forty feet; thence south, at right angles, eighty feet; being forty feet in front of the east half of said lot six, by a depth of eighty feet."

And this defendant admits and avers, that by means of said conveyances, he and the said Bryan claim to own the said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, each his portion as aforesaid, and that they own the same free and divested from any lien, trust or equity in favor of the creditors of said Henry King, and that they are each in the actual possession and occupation of their respective portions of said half lot aforesaid.

But this defendant expressly denies that the said Gamage, Quinlan, Bryan, and this defendant, or either of them, took their said several conveyances with notice of said deed of January 9, 1838, or with notice that said half lot was subject to the trusts by said last named deed created, or with notice that the title derived through said agreement of October 15, 1845, and through said decree of said Circuit Court

and deed of said master, was a fraud upon the rights of the creditors of Henry King, referred to in said deed of January 9, 1838, or with notice that said agreement was a violation of the trusts conferred upon said Edward Eldridge by said last named deed, or with notice that said decree was fraudulent and void as to said creditors.

But this defendant, to the contrary thereof, expressly avers that neither the said Gamage, Quinlan, Bryan, or this defendant, at the time of or at any time prior to their receiving their respective conveyances as aforesaid, or at the time of or at any time prior to their paying the consideration therefor, which they severally paid as aforesaid, had any notice of said deed of January 9, 1838, or of said trusts, or of any fraud or bad faith in said contract of October 15, 1845, or of any lack of power in the parties thereto to make the same, or of any fraud or informality or other defect in said proceedings had upon said Gamage's bill, as aforesaid.

And this defendant avers, that he and the said Gamage, Quinlan, and Bryan, in examining, as they did, the title to said half lot before taking their said deeds or paying the considerations therefor as aforesaid, were not bound to and did not go behind the patent of said half lot, issued to said Edward Eldridge as aforesaid, and that they had no notice, nor had either of them, of any facts in relation to the issue, ownership, or any transfer of or any trusts or equities relating to the canal certificate of purchase of said half lot. And therefore this defendant says, that as respects the said Gamage, Quinlan, Bryan, and himself, the legal and equitable title to said half lot became and was vested in the said Edward Eldridge, by virtue of said patent, free from any lien or equity in favor of the creditors of said Henry King, or any other person, and that said agreement of October 15, 1845, was, as respects the said Gamage, Quinlan, Bryan, and this defendant, the agreement of said Eldridge, as abso-

lute legal and equitable owner of said half lot, was an agreement competent for him to make, was valid and binding, and that by the deed of said Henry King of April 5, 1849, by the said proceedings in chancery and master's deed, and by the subsequent conveyances aforesaid, this defendant and the said Bryan acquired and hold an absolute title in fee simple to their said respective portions of said half lot, free from any lien or equity, charge or encumbrance thereon, in favor of the said creditors of said Henry King.

And this defendant, further answering, says, that even if the said half lot were originally subject to the trust expressed in said assignment of January 9, 1838, which this defendant denies, yet this defendant says, that on April 5, 1849, when said Gamage purchased as aforesaid, and at the several dates when said Quinlan, Bryan and this defendant purchased as aforesaid, the said half lot no longer remained and is not now subject to the said trusts in favor of any creditors of said King, whose names and whose debts were not specifically mentioned and described in said deed of January 9, 1838.

And this defendant avers, that only one of the claims pretended by said complainant Rees, in his said bill, to be held by him against said Henry King, to wit, the judgment in favor of S. P. Church & Co. for \$1,224.20, was specifically mentioned and described in said deed of January 9, 1838. And this defendant, upon information and belief, avers, that the said complainant Rees is not now and never has been the owner of said judgment, and has not now and never has had any interest therein.

And this defendant, further answering, upon information and belief, says, that the said complainant Rees is not now and never has been the owner of, or in any manner interested in, said pretended subscription of five hundred dollars, alleged in said complainant's bill to have been made by said

Henry King on July 5, 1836, payable to the treasurer of Illinois College.

And this defendant says, that he has no knowledge, except that furnished by the complainant's bill, and cannot form a belief whether said complainant is the owner by assignment of the amount due on the three pretended notes described in said bill as made by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, to the said Henry King or order, and by him endorsed, as alleged in said bill, but leaves the complainant to prove the same as the court may direct. But this defendant denies that said Henry King was, at the date of said deed of January 9, 1838, or at any time afterwards, legally liable to pay said supposed notes, or any part thereof, or that said supposed notes were, on said January 9, 1838, amongst the liabilities of said King mentioned or included in said deed of January 9, 1838.

And this defendant says, that he has not sufficient knowledge to found a belief upon whether any of the original claims against said Henry King, now pretended by said complainant in his said bill to be owned by him, have, or ever had, any legal existence, or whether said King was ever legally liable for their payment, and therefore denies the same, and leaves the complainant to make such proof of said facts as this court may direct.

And this defendant, further answering, upon information and belief avers that, if said complainant Rees owns said pretended claims or any interest therein, as in said bill alleged, the said Rees paid a merely nominal sum therefor, if anything, and that he purchased them, if at all, with a full knowledge of the legal and equitable rights of this defendant in said hereinbefore described portion of said half lot as herein set forth, and with the full knowledge that this defendant had paid the consideration therefor herein set forth, and that the grantors of this defendant had in good faith made thereon the improvements hereinafter described,

and further avers, that said complainant Rees purchased said claims, if at all, for the mere purpose of speculation.

And this defendant, further answering, says, that each and every of said pretended claims against the said Henry King, alleged in said bill of complaint to be owned by said Rees, if any such claims exist or ever existed legally, were indebtednesses due and owing by said Henry King before and at the time of making his said deed of assignment of January 9, 1838; that they are stale and antiquated, and that all proof in relation to their origin, character and merits, is obscured and lost in the mists of time; that the owners of said pretended claims have not, during a period of more than twenty years prior to the filing of the complainant's said bill, claimed, or endeavored to establish a claim, to any legal or equitable interest in said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid, based upon said assignment of January 9, 1838, or otherwise, but have, during all that time, slept upon their supposed rights, and only now bring forward their claims when said King and said Eldridge are both for a long time dead; that said owners of said pretended claims have looked on, and without interference or suggestion, let or hindrance, permitted said Gamage, Quinlan, Bryan, and this defendant, to purchase said premises, and to pay therefor large sums of money as aforesaid, and at a large expense, as hereinafter mentioned, to make the improvements hereinafter named thereto.

Wherefore this defendant says, that the said pretended claims of said Rees, and all other like claims, do not constitute any proper charge or encumbrance upon said premises, but are and should be held to be, in a court of equity, wholly barred and outlawed, and the pretended owners thereof are, and should be held to be, equitably estopped from setting up any claim or interest in said premises.

And this defendant, further answering, says, that while the

legal title to said half lot was vested in the State of Illinois, after the forfeiture thereof so made as aforesaid, and while the said premises were wholly freed from said debts of said King, and before any proceedings were had or taken by said King, or by any one in his behalf or otherwise, to acquire a title to said premises under said relief-law, the said Henry King then being a resident of the State and Southern District of New York, and owing debts which had not been created in consequence of any defalcation as a public officer, or as executor, administrator, guardian or trustee, or while acting in any other fiduciary capacity, by his petition duly made and verified according to the statute in such case made and provided, and duly exhibited and filed in the District Court of the United States in bankruptcy, for the Southern District of New York, on the 24th day of January A. D. 1843, therein did declare himself unable to meet his debts and engagements, and did apply for the benefit of the bankruptcy law, passed by the Congress of the United States, and approved by the President on August 19th, 1841, entitled "An Act to establish a uniform system of bankruptcy throughout the United States;" and such proceedings were thereupon had upon said petition, that afterwards, to wit, on the 4th day of March, A. D. 1843, in pursuance of the said Act of Congress and the provisions thereof, the said District Court of the United States did decree and declare said Henry King to be a bankrupt within the true intent and meaning of said Act of Congress. And this defendant says, that after the expiration of ninety days from and after the rendition of said decree in bankruptcy by the said court, and after seventy days notice in a public newspaper designated for that purpose by said court, to all creditors who had proved their debts, and to all other persons in interest, to appear at a particular time and place therein named, to show cause why a certificate and discharge in due form of law should not be granted to the said King,

according to the provisions of said Act of Congress, and after the said Henry King had surrendered all his property and right of property, as required by said bankrupt Act, and a majority in number and value of his creditors, who had proved their debts, having failed to file their written dissent thereto, as required by said Act, he, the said King, afterwards, to wit, on the day of A. D. 1845, became and was entitled to a full discharge from all his debts, to be decreed and allowed to him by said court. And this defendant further avers, that said court, on the petition of said King, duly filed, for that purpose, did then and there accordingly grant to him, the said King, such discharge, and certificate thereof, in due form of law.

And this defendant avers, that all and each of the debts mentioned in said deed of assignment of January 9, 1838, and including said pretended claims now alleged to be owned by said Rees, if said claims were then legal and existing liabilities of said Henry King, were, and each was provable under the said bankrupt law against said King in said proceedings in bankruptcy, so had in said District Court as aforesaid; and this defendant avers, that by reason of said discharge and certificate thereof, granted by said court to said King as aforesaid, all and every of the debts so provable under said Act as aforesaid, including said pretended debts set forth in the complainant's said bill as belonging to said Rees, were fully and completely discharged by force of the Act of Congress aforesaid.

And this defendant prays the same benefit and advantage of the said release and discharge as if he had pleaded the same in bar of each and every of the said pretended claims alleged in the complainant's said bill to be owned by him, and in bar of the relief in said bill prayed with respect to said half lot.

And this defendant, further answering, admits and avers, that from and after the issue of said patent for the east half

of lot 6, in block 38, in the original town of Chicago, to the said Eldridge as aforesaid, the said half lot remained vacant and unoccupied land, under the control and supervision of said Edward Eldridge and his heirs, and so continued until June 1, 1851, a period of seven years and more; that said Eldridge held the said land, claiming title thereto in good faith under and by virtue of said patent, and that the heirs of said Eldridge from and after his decease held the same, claiming title thereto, in good faith, under said patent; that from and after the issuance of said patent and until the time of his decease, the said Edward Eldridge, claiming title as aforesaid, paid all the taxes legally assessed upon said half lot; that the heirs of said Edward Eldridge from and after his decease, claiming title as aforesaid, paid all the taxes legally assessed upon said half lot, until June 1, 1851. But this defendant denies that said taxes were paid out of any trust funds or from the proceeds of any trust property as alleged in said bill, but on the contrary, avers, that said Eldridge and his said heirs, out of his and their own proper money paid the same.

By reason whereof, and by virtue of said Act of the General Assembly of the State of Illinois, approved March 2, 1839, and by virtue of the conveyances aforesaid to this defendant, of said Eldridge's said title to that portion of said half lot so now held by this defendant aforesaid, this defendant avers that he should be held, deemed and adjudged to be the legal owner of said premises, to the extent and according to the purport of his paper title aforesaid, and that the complainant and all other persons should be held and deemed to be barred and restrained from setting up or maintaining any right or claim thereto.

And this defendant, further answering, says, that while the said Bryan held the legal title to that portion of said half lot hereinbefore described as now owned and occupied by this defendant, the said Bryan built thereon, for his own

use, a large four story-brick building, at the expense of about ten thousand dollars; and that the said Bryan has erected upon the remaining portion of said half lot, a large and valuable building, known as Bryan's Music Hall, at a cost of about twenty-two thousand dollars; that these improvements were made in good faith, and in the belief that the said Bryan had at the time when they were severally made, a perfect title, legal and equitable, to said premises.

And this defendant, further answering, avers, that he and the said Bryan, Quinlan, and Gamage, through whom by the conveyances hereinbefore described, he claims title to the portion of said half lot hereinbefore described, have been in the actual continuous possession of said portion of said half lot under claim and color of title made in good faith, to wit, under said patent, said agreement of Oct. 15, 1845, and said deed from Henry King and wife, and Nancy A. King, of April 5, 1849, ever since June 1, 1851, and until the present time, and have paid all taxes legally assessed on said land during said time.

That the said Gamage took possession of said half lot on June 1, 1851, under said patent, said agreement of October 15, 1845, and said Henry King's deed of April 5, 1849, and continued in possession thereof until June 1, 1855, and paid all taxes legally assessed thereon during that period; that said Bryan took possession of the west half of said half lot on June 1, 1855, under said patent, agreement, and said Henry King's deed of April 5, 1849, and said Gamage's deed to said Bryan, and continued in possession thereof until March 18, 1856, and paid all taxes legally assessed thereon during said time; that said Quinlan, on June 1, 1855, took possession of the east half of said portion of said half lot under said patent, said agreement, and said Henry King's deed of April 5, 1849, and said Gamage's deed to said Quinlan aforesaid, and continued in possession thereof until September 4, 1855, and

paid all taxes legally assessed thereon during that time; that on said September 4, 1855, said Bryan took possession of said east half of said half lot under said patent, said agreement, and said Henry King's deed of April 5, 1849, and said Gamage's deed to said Quinlan, and said Quinlan's deed of September 4, 1855, aforesaid, and continued in possession thereof until March, 18, 1856; that on March 18, 1856, this defendant took possession of said portion of said half lot, under said Henry King's deed of April 5, 1849, and said Gamage's two deeds of June 1, 1855, and said Quinlan's deed of September 4, 1855, and said Bryan's deed of March 18, 1856, and has ever since had possession thereof, and has paid all taxes legally assessed thereon during that time.

By reason whereof, and by virtue of an Act of the General Assembly of the State of Illinois, approved March 2, 1839, entitled "An Act to quiet possession and confirm titles to land," which Act this court, in analogy to the usage of courts of law in similar cases, will regard and enforce, this defendant avers, that the said complainant and all other persons are and should be barred and restrained from setting up or maintaining any right or claim to said portion of said half lot so held by this defendant as aforesaid, and that this defendant is and should be held and adjudged by this court to be the absolute legal and equitable owner of said premises.

And this defendant, further answering, avers, that when said Henry King assigned and transferred said canal certificate of purchase of said east half of lot six, in block thirty-eight, in the original town of Chicago, to said Edward Eldridge, as alleged in said complainant's bill, he did not thereby transfer or convey to said Eldridge, or authorize him to receive, the rights which subsequently accrued to him, the said King, as the original purchaser of said lot six, under the provisions of said relief law of 1841. But

this defendant avers, that said Henry King, as such original purchaser, became entitled by the passage of said relief law, to the rights and benefits thereby conferred, and had power and authority by the terms of said law after its passage, to transfer the said rights and benefits by an instrument in writing. And this defendant avers, that long after the making of said deed of assignment of January 9, 1838, and subsequently to the passage of said relief law, and prior to the issuance of the patent of said half lot to said Eldridge as aforesaid, to wit, on November 1, 1842, the said Henry King did, by an instrument in writing of that date, for a valuable consideration therein expressed, and which was then paid him by said Eldridge, transfer and assign to said Eldridge all the rights and benefits which were conferred on the said King by the provisions of the said law, one of which said rights this defendant avers to have been the right to purchase the said half lot at a reduced valuation of thirty-three and one-third per cent. from the price at which the same was sold originally by said canal commissioners. And this defendant avers, that after the transfer of said rights and benefits as aforesaid, the said Eldridge, out of his own moneys, and not out of any moneys arising from the funds or property conveyed by said deed of assignment of January 9, 1838, paid to the said canal commissioners the price of said half lot at the reduced valuation aforesaid, and by virtue thereof, received a patent from the Governor of Illinois therefor as aforesaid.

And this defendant avers, that said transfer of said rights and benefits conferred by said relief law, by said King to said Eldridge as aforesaid, was not, and was not intended or expected by said King or said Eldridge to be for the benefit of the creditors of said King, who were mentioned in or whose claims were referred to in said deed of

assignment of January 9, 1838, and did not operate or enure for their benefit.

And this defendant, further answering, avers, that the said rights and benefits conferred by said relief law, did not constitute an interest in real estate, but were a mere right of election or appointment conferred by said law upon the original purchasers therein referred to, which they might use and improve or decline and renounce at their pleasure, and which they might transfer by an instrument in writing in the mode pointed out by said law, but which could not be transferred by or divested from such original purchaser, or enure to the benefit of any other person in any other way than by such transfer in writing made after the passage of said law.

Wherefore, and by the means aforesaid, this defendant avers, that said Eldridge became entitled to and did receive the said patent for said half lot, and held the title thereto absolutely and in his own right, free from all claims, liens or equities in favor of the creditors of said Henry King, or of any other person.

And this defendant avers, that if the said Edward Eldridge did not receive the said transfer of the said King's rights under said relief law of 1841, in respect to the said half lot, and the patent and title thereto as aforesaid, absolutely and in his own right and for his own benefit, free from all claims, liens and equities as aforesaid, (as this defendant avers that he did,) then said Eldridge so received said transfer of said rights, said patent and title, for the use and benefit of said Henry King, divested and free from any lien or equity upon said premises in favor of any creditors of said King mentioned, or whose debts were referred to in said deed of assignment of January 9, 1838.

And this defendant avers, that after the passage of said relief law, and before the said King, or the said Eldridge as the assignee of his said rights, had performed the condi-

tions mentioned in said relief law, and while the whole title, both legal and equitable, in said half lot was vested in the State of Illinois, subject only to the rights of said King, or his said assignee thereof, the said Eldridge, under said relief law, and wholly free from the debts mentioned or referred to in said deed of assignment of January 9, 1838, and claimed in said complainant's bill to be a charge thereon, that is to say, on March 4, 1843, the said Henry King was, by said District Court of the United States for the Southern District of New York, in due form, duly and legally decreed to be a bankrupt, under the provisions and within the meaning of said bankrupt law as aforesaid; that by reason of said decree and of the said bankrupt law, all rights of said King so acquired by means of said relief law as aforesaid, in respect to the said half lot, unless, as this defendant avers, the said rights had, previously to said petition in bankruptcy and said decree, become vested in said Eldridge in his own right and for his own benefit as aforesaid, became by mere operation of said bankrupt law, *ipso facto*, from and at the time of said decree, divested out of said King and said Eldridge, and then and there became vested in the assignee, before that time duly appointed by said court for such purpose, one Wm. Coventry H. Waddell, who was the official and general assignee in bankruptcy, duly appointed in pursuance of the laws of the United States, and of the rules of said District Court.

And this defendant says, that at the time the said decree in bankruptcy was so made as aforesaid, none of the debts then owed by said Henry King were a charge or lien on said east half of lot 6, in block 38, in the original town of Chicago aforesaid, and avers, that the pretended claims alleged in said bill to be owned by the complainant Rees, but not specifically mentioned in said deed of assignment of January 9, 1838, were not, at the time of said decree, nor have they since become, liens upon said half lot.

And this defendant says, that after said rights, under said relief law of 1841, were so granted thereby to said King as aforesaid, and after the same had become vested in said assignee in bankruptcy as aforesaid, as this defendant avers they did become vested, unless, as this defendant avers, they became vested in said Eldridge in his own right and for his own benefit as aforesaid, to wit, on the 9th day of June, A. D. 1843, the said Edward Eldridge in his own name obtained and received a patent for said half lot from the Governor of Illinois as aforesaid.

And this defendant says, that said patent was obtained and received by said Eldridge as aforesaid, entirely independent of said assignment of January 9, 1838, and this defendant denies that all or any of the right, title and interest which said King acquired in said half lot by virtue of said relief law, became vested in said Eldridge, subject to the trusts named in said assignment of January 9, 1838, as in said complainant's bill alleged, but avers, that by reason of the premises, the said Eldridge, who had so acquired the title to said half lot as aforesaid, unless, as this defendant avers, he received and held the same absolutely in his own right, free from any equitable claims of any person, held the said title in trust for the use and benefit of the creditors of said Henry King, who should come in under the said proceedings in bankruptcy, and prove their claims agreeably to the provisions of said bankrupt law, and subject to the right of the said assignee in bankruptcy to sell and dispose of the same, in pursuance of said bankrupt Act.

And this defendant says, that by the 8th section of said bankrupt Act, it is amongst other things provided, that "no suit in law or equity shall in any case be maintainable by or against such assignee," (meaning any assignee in bankruptcy who should be appointed under the provisions of said Act,) "or by or against any person claiming an adverse interest touching the property and rights of property afore-

said," (meaning any property which might be transferred to the assignee in bankruptcy, under the provisions of said Act,) "in any court whatsoever, unless the same shall be brought within two years after the declaration and decree of bankruptcy, or after the cause of suit shall first have accrued." And this defendant says, that said King was declared and decreed to be a bankrupt as aforesaid, on March 4, 1843, and that more than two years had elapsed after said decree and declaration of bankruptcy, and since the cause of this suit first accrued, prior to the filing of the complainant's said bill of complaint.

And this defendant avers, that the right and interest in and to the said parcels of land so claimed by said Rees, as in and by his said bill set forth, is an interest touching the property and rights of property in and to the premises aforesaid, adverse to the interest therein so vested as aforesaid in said assignee in bankruptcy as aforesaid, if any such interest became vested in said assignee in bankruptcy, which this defendant denies.

And this defendant doth and will insist, that if said assignee in bankruptcy took or acquired any interest in said premises as aforesaid, said 8th section of said bankrupt Act is and should be held to be a bar to the maintenance of the complainant's bill of complaint in favor of said complainant, or any other persons, and prays the same benefit of this defence as though he had pleaded the same in bar to the maintenance of said suit, and to the relief in said bill prayed, and to the enforcement, as against said premises, of the said pretended claims of said complainant.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by said bill of complaint charged, without this, that any other matter or thing in the said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, con-

fessed, traversed and avoided or denied, is true to the knowledge or belief of this defendant; all of which matters and things this defendant is ready to aver, maintain and prove as this honorable court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

J. MASON PARKER.

F. B. PEABODY,

Def'ts Solicitor.

A. W. ARRINGTON,

Of Counsel.

Afterwards, on the 16th day of November, 1863, the following order was entered:

DAVID GIBSON,

vs.

EDWARD ELDRIDGE, HANNAH
ELDRIDGE, HELEN ELDRIDGE,
HENRY ELDRIDGE, CONSTANCE
ELDRIDGE, HARRIET ELDRIDGE,
ANN G. KING, JULIA KING,
SUSAN M. KING, HENRY KING,
HARRIET A. KING, EDWARD P.
KING, and THOMAS G. KING.

Interlocutory Order.

And now, on this 16th day of November, A. D. 1863, on motion of H. G. Spafford and John Borden, solicitors for Henry Young and of the creditors of Henry King, named in the bill of complaint in the above entitled cause, it is ordered by the court, that this cause be referred to Ira Scott, one of the masters in chancery of this court, L. C. P. Freer, to whom the same was heretofore referred, having ceased to be a master in chancery of this court.

And it is further ordered, that all persons to whom the said Henry King was in any wise indebted on the ninth day

of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and to file their claims and prove the same, together with their right and title thereto, before Ira Scott, the said master, at any time before January first, A. D. 1864, and that said master report the said proofs so taken to this court; and that all persons filing their claims as aforesaid, as well as such persons as have heretofore filed claims under previous orders of this court in this cause, as well as the respective parties thereto, be at liberty to take such proofs by commissions to be issued in pursuance of the statute as they may be advised.

Afterwards, on the 14th day of July, 1864, the following order was entered :

DAVID GIBSON,

vs.

EDWARD ELDRIDGE,
HANNAH ELDRIDGE,
ANN KING, and others.

JAMES H. REES

vs.

DAVID GIBSON.

} *Original Bill.*

} *Interlocutory Order.*

} *Supplemental Bill.*

And now, on this fourteenth day of July, 1864, on motion of John Borden, solicitor for Isaac L. Hunt, one of the creditors of Henry King named in the bill of complaint in the above entitled cause, it is ordered by the court, that all persons to whom the said Henry King was in any wise indebted on the ninth day of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and file their claims and prove the same, together with right and title thereto, before Ira Scott, master

in chancery of this court, at any time before September first, A. D. 1864; and that all such persons who have already made themselves parties to this cause under former orders heretofore entered, have until said September first to take further proofs of their claims.

And that all such persons, as well as the respective parties to this cause, be at liberty to take such proofs by commissions, to be issued in pursuance of the statute, as well as before the said master, as they may be advised.

Afterwards, on the 5th day of March, 1866, the following order was entered:

DAVID GIBSON,	}		
<i>vs.</i>			
EDWARD ELDRIDGE,		HANNAH) <i>Order.</i>
ELDRIDGE, HELEN		ELDRIDGE,	
HENRY ELDRIDGE,		CONSTANCE	
ELDRIDGE, and HARRIET ELDRIDGE.)			

Whereas, it appears to the court that by a decretal order made in this cause on the ninth day of April, A. D. 1856, it was ordered, adjudged and decreed, in substance, that all persons to whom Henry King named in the bill of complaint in said cause was in any wise indebted, or their assigns, or the present holders of such indebtedness, be at liberty to prove the same, together with their right and title thereto, before L. C. P. Freer, Esquire, the master in chancery of Cook county, within three months from that date.

And whereas, by a subsequent order made in this cause on the 24th day of May, A. D. 1859, it was further ordered, that the time for persons to appear and establish their claims before said master, be extended ninety days from the 24th day of May, A. D. 1859.

And whereas, by a subsequent order made in this cause

on the 16th day of November, A. D. 1863, it was ordered that this cause be referred to Ira Scott, one of the masters in chancery of this court, L. C. P. Freer, to whom the same was theretofore referred, having ceased to be a master in chancery of said court; and it was further ordered that all persons to whom the said Henry King was in any wise indebted on the 9th day of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and to file their claims and prove the same, together with their right and title thereto, before Ira Scott, the said master, at any time before the first day of January, A. D. 1864.

And whereas, by a subsequent order, made in this cause, it was ordered, that all persons to whom the said Henry King was in any wise indebted on the 9th day of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and to file their claims and prove the same, together with their right and title thereto, before Ira Scott, the said master, at any time before the 1st day of September, A. D. 1864.

Now, therefore, on motion of F. H. Kales, Esq., solicitor for complainant Gibson, it is ordered, that all persons to whom the said Henry King was in any wise indebted on the 9th day of January, A. D. 1838, or their representatives or assigns, who claim any rights in this suit under or by virtue of the orders entered therein, and who have not become parties of record therein, do, on or before the fifteenth day of March, A. D. 1866, appear here in open court, in person, or by their solicitors, and cause their appearance to be entered in said cause, and apply to the court to be admitted as parties of record therein, upon such equitable terms as shall be meet and just. And it is also, on like motion, further ordered, that all and every the said persons

to whom the said Henry King was so indebted, or their representatives or assigns, who shall fail to comply with the foregoing order within the time aforesaid, shall from thenceforth be barred and prohibited of and from the benefit of said cause, and of all orders and proceedings therein, and of all right or privilege to appear and set up or insist upon any claim therein.

And afterwards, on the 7th day of March, A. D. 1867, the following order was entered of record herein :

DAVID GIBSON,	}	<i>Original Bill.</i>
<i>vs.</i>		
EDWARD ELDRIDGE, and others.		

JAMES H. REES,	}	<i>Bill of Supplement.</i>
<i>vs.</i>		
DAVID GIBSON, and others.		

And now come the several parties, complainant and defendants in the said causes, by their several solicitors, as follows : Mr. F. H. Kales for David Gibson, Mr. J. L. Stark for James H. Rees, and Messrs. Borden & Spafford for certain claimants who have taken testimony on their part ; and thereupon, on motion of F. H. Kales, as solicitor for said Gibson, it is ordered, that the said David Gibson have leave and leave is hereby given him to file his certain supplemental bill, as drafted and prepared, wherein Catherine R. Blackwell, Orville B. Blackwell, and Kate Blackwell, and also Thomas B. Bryan, James H. Rees, Isaac L. Hunt, Louise Compton, Henry H. Casey, and Henry Young, are named as parties defendants, which said bill is filed herein by the clerk accordingly. And it is also hereby, upon consent, further ordered, that all orders heretofore made in this cause which might affect the right of the said several parties to become parties to the record in this cause, or to have

any relief to which they may show themselves entitled, in respect to their several claims touching the premises, are hereby rescinded as to the said several parties; and that said order of March 5, 1867, is so modified as not to affect either of said parties,—the foregoing order, however, not applying to said order of 9th April, 1856.

And thereupon come Louise Compton, Isaac L. Hunt, and Henry Young, three of the defendants, in said supplemental bill named, by Messrs. Borden and Spafford, their solicitors, and enter their appearance herein, and waive service of process of summons, and, on motion of their said solicitors, it is further ordered, that they have leave to file their answer to the said supplemental bill herein, within thirty days from this date.

Afterwards, on the said 7th day of March, A. D. 1867, the said David Gibson, in pursuance of the order last aforesaid, filed his certain supplemental bill herein, which is in the words following :

To the Honorable the Judges of the Superior Court of Chicago.

Your orator, David Gibson, brings this his supplemental bill, against the defendants hereinafter named, leave of the court having been first had and obtained, and thereupon your orator, humbly complaining, showeth unto your Honors :

That on the 13th day of August, A. D. 1855, in the Cook County Court of Common Pleas, but now the said Superior Court, your orator filed his bill of complaint against Ann G. King, Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, as to whom the said bill of complaint was afterwards dismissed, and Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constantine Eldridge, and Harriet Eldridge, on behalf of himself and all other persons, or their legal

representatives, who were, on the 9th day of January, A. D. 1838, creditors of Henry King, in and by which said bill of complaint it was alleged that said Henry King in his lifetime, to wit, on the day of A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot six, in block thirty-four, in the original town of Chicago, at and for the sum of six thousand dollars upon the terms mentioned in an Act of the General Assembly of the State of Illinois, entitled, "An Act for the construction of the Illinois and Michigan Canal," approved January 9th, 1836, and that said Henry King on the same day paid to the treasurer of the said Board of Commissioners the sum of fifteen hundred dollars, being one-fourth part of said purchase money, and the further sum of two hundred and seventy dollars, being the interest for one year in advance on the residue of said purchase money, and executed his three several promissory notes for the sum of fifteen hundred dollars each, payable in one, two and three years, respectively, with interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money, and received from the said treasurer a certificate in the usual form, numbered 51, bearing date the day and year last aforesaid, signed by said treasurer, therein stating and reciting the receipt of said money and promissory notes, for the purchase of said premises, and that upon the payment of said notes, the said Henry King would receive such a certificate from said treasurer as would entitle the holder to a patent for said premises as provided for by law.

And in and by said bill it was further alleged, that said Henry King, in his lifetime, to wit, on the day of A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot six, in block thirty-eight, in the original town of Chicago, at and for the sum of four thousand dollars, upon the terms and conditions mentioned

in the Act aforesaid, and paid to the said treasurer the sum of one thousand dollars, being one-fourth of said purchase money, and the further sum of one hundred and eighty dollars, being the interest for one year in advance on the residue of said purchase money, and executed his three several promissory notes, for the sum of one thousand dollars each, payable in one, two, and three years, respectively, with interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money, and received from said treasurer a certificate in the usual form numbered 73, bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided for by law.

And in and by said bill it was further alleged, that said Henry King, in his lifetime, to wit, on the day of A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot seven, in block twenty-eight, in the original town of Chicago, at and for the sum of sixteen hundred and ten dollars, upon the terms and conditions mentioned in the Act aforesaid, and paid to the said treasurer the sum of four hundred and two dollars and fifty cents, being one-fourth of said purchase money, and the further sum of seventy-two dollars and forty-five cents, being the interest for one year in advance, on the residue of said purchase money, and executed his three several promissory notes, for the sum of four hundred and two dollars and fifty cents each, payable in one, two, and three years, respectively, with interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money,

and received from the said treasurer a certificate in the usual form, numbered 171, bearing date the day and year last aforesaid, signed by said treasurer, therein stating and reciting the receipt of said money and promissory notes for the purchase of said premises, and that upon payment of said notes with the interest thereon, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided by law.

And in and by said bill it was further alleged, that said Henry King, in his lifetime, to wit, on the day of

A. D. 1836, purchased of the Board of Commissioners of the Illinois and Michigan Canal, lot four, in block forty-six, in the original town of Chicago, at and for the sum of sixteen hundred dollars, upon the terms and conditions mentioned in the Act aforesaid, and paid to the said treasurer the sum of four hundred dollars, being one-fourth of said purchase money, and the further sum of seventy-two dollars, being the interest for one year in advance on the residue of said purchase money, and executed his three several promissory notes, for the sum of four hundred dollars each, payable in one, two, and three years, respectively, with interest at the rate of six per cent. per annum, payable annually in advance, for the residue of said purchase money, and received from said treasurer a certificate in the usual form, signed by him, and numbered 208, bearing date the day and year last aforesaid, therein stating and reciting the receipt of said money and promissory notes, for the purchase money of said premises, and that upon the payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of said lot, the said Henry King would receive such a certificate from the said treasurer as would entitle the holder to a patent for said lot as provided by law.

And in and by said bill it was further alleged, that said

Henry King, in his lifetime, to wit, on the day of
 A. D. 1836, purchased of the Board of Commissioners of
 the Illinois and Michigan Canal, lot four, in block thirteen,
 in the original town of Chicago, at and for the sum of forty-
 eight hundred and twenty dollars, upon the terms and con-
 ditions mentioned in the Act aforesaid, and paid to said
 treasurer the sum of twelve hundred and five dollars, being
 one-fourth of said purchase money, and the further sum of
 two hundred and sixteen dollars and ninety cents, being one
 year's interest in advance on the residue of said purchase
 money, and executed his three several promissory notes, for
 the sum of twelve hundred and five dollars each, payable
 in one, two, and three years, respectively, bearing interest at
 the rate of six per cent. per annum, payable annually in
 advance, for the residue of said purchase money, and
 received from the said treasurer a certificate in the usual
 form, signed by him, numbered 160, and bearing date the
 day and year last aforesaid, therein stating and reciting the
 receipt of said money and promissory notes, for the pur-
 chase money of said premises, and that upon the payment
 of said notes, together with the interest thereon, agreeably
 to the provisions of the law authorizing the sale of said lot,
 the said Henry King would receive such a certificate from
 said treasurer as would entitle the holder to a patent for
 said lot as provided for by law.

And in and by the said bill it was further alleged, that
 said Henry King, in his lifetime, to wit, on the 9th day of
 January, A. D. 1838, was indebted to certain persons and
 firms, and being so indebted, he, the said Henry King, on
 said 9th day of January, A. D. 1838, jointly with Ann G.
 King his wife, did make, execute and deliver to one Ed-
 ward Eldridge their deed of assignment, bearing date on
 the day and year last aforesaid, which said deed was duly
 acknowledged on the 10th day of January, A. D. 1838,
 and recorded in the recorder's office of Cook county, on

the 16th day of February, A. D. 1838, in book "T," of Deeds, at page 287, by which said deed said Henry King, and Ann G. King his wife, therein named as party of the first part, did, for and in consideration of the execution of the trusts thereafter mentioned and set forth, and the sum of one dollar to them in hand paid by the said Edward Eldridge therein named as the party of the second part, grant, bargain and sell unto the said party of the second part, together with other property therein described, all the right, title and interest which the said Henry King, and Ann G. his wife, at that time had in and to said lot six in block thirty-four, said lot six in block thirty-eight, said lot seven in block twenty-eight, said lot four in block forty-six, and said lot four in block thirteen, all in the original town of Chicago, in trust to sell the same, or any part thereof, in such manner, at such time and for such prices as the said party of the second part should see fit, and to apply the proceeds thereof, or so much of the same as should be necessary, to the payment of the debts of said Henry King, in the manner and order therein prescribed: and the said Henry King did therein and thereby make, constitute and appoint the said Edward Eldridge his true and lawful attorney, in the name of said Henry King, or in the name of said Edward Eldridge, to execute the trusts therein appointed, and more especially to sell and convey, alien, mortgage, release, or in any wise dispose of and incumber said property, in order to carry into effect the trusts in said deed created, a copy of which said deed of assignment was annexed to and made a part of said bill of complaint, and a copy of which is also hereunto annexed and made a part of this your orator's bill, and marked Exhibit No. 1.

And in and by said bill it was further alleged, that the said Henry King, in order the more fully to perfect the title of him the said King in the said Eldridge in the lots therebefore mentioned, for the uses and purposes in said deed

mentioned, did, on or about said 9th day of January, A. D. 1838, assign and transfer to the said Edward Eldridge the said five certificates of the treasurer of the Illinois and Michigan Canal, numbered 51, 73, 160, 171, and 208, in manner and form as required by the laws of the State of Illinois.

And in and by said bill it was further alleged, that on the 27th day of February, A. D. 1841, the said lots had become forfeited by reason of said King's non-payment of the residue of said purchase money and the interest thereon, and that on said 27th day of February, 1841, the General Assembly of the State of Illinois passed an Act, entitled "An Act for the relief of purchasers of canal lots in Chicago and Ottawa in 1836," and the same was on that day duly approved, wherein and whereby it was enacted, among other things, that all persons who had theretofore purchased any of the canal lands or lots, and who had made advances to the State by way of payment of the same, and also had by any means forfeited the same, should be entitled to the relief thereafter granted, upon the conditions thereafter mentioned, that is to say, every person who had paid any money upon such purchase, should first ascertain the amount from the proper authority, and, next, he should have or procure to be described the particular lot or land upon which payment should have been made, and should be allowed the right to select so much of his original purchase at his option, as the said payments would cover, deducting from the original price stipulated for, thirty-three and one-third per centum.

By Section 2 of said Act, it was provided said purchaser should relinquish all claim to the lot or land which he did not choose to purchase, and in writing make his selection known to the Board of Commissioners, who were thereby authorized and required to procure and deliver to such purchaser a deed or patent for the same.

By Section 3, if any balance should be due to the canal fund, the same should be promptly paid at the rate aforesaid; but it should in no case be allowed that the said board should issue script of forfeited lands, that might in any event become currency for the payment of any other lots or lands belonging to the canal, or any other than the amount of purchase; but that the same balance, if any, should be liquidated by the conveyance of lands or lots originally sold, and at the original amount or price given at the time of purchase, with the deduction before mentioned.

By Section 4, that it should be lawful for any purchaser to relinquish a part of a lot by fourths or halves, in proportion to the depreciated value theretofore fixed by said Act.

By Section 5, that it might be lawful for any purchaser as aforesaid, to place his payment which had been forfeited, on one piece of land, not a town lot, or on one or more town lots, or such particular lot or piece of land as he might deem proper, at the original purchase price, with the deduction aforesaid, but in no case should it be allowed to any such purchaser to place the payment on any other lands or lots at any other price or valuation than as before mentioned.

By Section 7, that the rights of the purchaser under the provisions of said Act might be the subject of transfer in writing, signed by the purchaser or his legal representative, which should be filed and recorded by the board.

And in and by said bill it was further alleged, that afterwards, to wit, on the 17th day of May, A. D. 1843, the said Edward Eldridge, by his attorney, James H. Collins, duly authorized, relinquished to the State, lot seven in block twenty-eight, lot four in block forty-six, and lot four in block thirteen aforesaid, and made choice of and selected said lot six in block thirty-four, and the east half of lot

six in block thirty-eight. That the purchase price of said lot six in block thirty-four, and the east half of lot six in block thirty-eight, was, after making the deduction aforesaid, five thousand three hundred and thirty-three dollars and 34 cents (\$5,333.34), and that the payments made by the said Henry King on the said lots so purchased from the State, amounted to the sum of four thousand seven hundred and twenty-eight dollars and 85 cents, leaving a balance due to the State of six hundred and four dollars and 49 cents; that on the 19th day of May, 1843, said Eldridge sold to Benjamin Jones the west half of said lot six, in block thirty-eight, for the sum of six hundred and four dollars and 49 cents, and out of the money so arising, paid the balance due to the State as aforesaid; and thereby the said Eldridge became entitled to and did receive from the Governor of the State, patents for said lot six in block thirty-four, and the east half of lot six in block thirty-eight, in the usual form, signed by said Governor, and countersigned by the Secretary of State, with the seal of the State thereto affixed.

And in and by said bill it was further alleged, that the liability of Thomas M. Grosvenor and Henry Eldridge, as bail for said Henry King in said deed of assignment mentioned, was, soon after the execution thereof, discharged by the surrender of the body of the said Henry King by said Thomas M. Grosvenor and Henry Eldridge; that the liability of the said D. Elston, as security for said Henry King, in a suit brought by Phelps, Dodge & Co. against said King, in said deed of assignment mentioned, was discharged by a sale of property upon execution issued on the judgment rendered in said suit, and that the liability of the said Thomas S. Hyde, as security for the said King, in the suit of Hubbard & Casey against said King, in said assignment mentioned, was discharged by a sale of property upon the execution issued in said suit on the judgment recovered

therein; that Nancy A. King, on the 15th day of October, 1845, by her deed of release under her hand and seal, did release, acquit and discharge the said Edward Eldridge of and from all claims and demands which she had or might have under and by virtue of said deed of assignment.

And in and by said bill it was further alleged, that on the 15th day of October, 1845, the said Edward Eldridge and Henry King entered into an agreement of that date, by which said Eldridge agreed to sell and convey to the said King the said lot and half lot aforesaid, upon certain terms and conditions therein mentioned, a copy of which said agreement was attached to said bill, and is also hereto attached and made a part of this your orator's bill.

And in and by said bill it was further alleged, that said Henry King had not, nor had his heirs nor representatives, complied with the terms and conditions of said agreement, and that the same ought to be cancelled and discharged.

And in and by said bill it was further alleged, that afterwards said Henry King died intestate, leaving him surviving, Ann G. King, his widow, and Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, his children and heirs-at-law. And in and by said bill it was further alleged, that on or about the

day of _____, A. D. 1848, the said Edward Eldridge died intestate, leaving him surviving, Hannah Eldridge, his widow, and Edward Eldridge, Jr., Helen Eldridge, Henry Eldridge, Constantine Eldridge, and Harriet Eldridge, his children and heirs-at-law.

And in and by said bill it was further alleged, that all of the several debts mentioned in Schedule B to said deed of assignment, had been assigned to your orator; that the said heirs of Edward Eldridge held the legal title to said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in trust for the uses and purposes in said

deed of assignment mentioned ; and that the sum of money due the estate of said Edward Eldridge, with the interest thereon, was over the sum of five thousand dollars.

And your orator further shows unto your honors, that on the 9th day of April, A. D. 1856, the said bill was dismissed without prejudice as to the east half of lot six, in block thirty-eight, and as to the said widow and heirs of Henry King, and taken *pro confesso* as to the other defendants therein, and thereupon it was ordered by the court, that the said defendants, the widow and children of said Edward Eldridge therein named, should release and convey unto Robert S. Blackwell, then and thereby appointed trustee in place of said Eldridge, said lot six in block thirty-four, on demand, or in default thereof that such conveyance be executed by L. C. P. Freer, then a master of said court and special commissioner for that purpose ; and it was further ordered, that all persons to whom the said Henry King had been in any wise indebted, or their assigns, should be at liberty to prove the same before L. C. P. Freer, Esq., master as aforesaid, within a time limited by said court, and on notice to be published as in said order directed.

And your orator further shows unto your honors, that afterwards, from time to time, on the application of divers persons who had presented themselves as claimants before the master, orders were entered in the said suit extending the period for taking testimony therein.

And your orator further shows unto your honors, that afterwards, and on the day of A. D. 1859, an order was entered in said suit defining what should constitute a demand upon the heirs of Eldridge for a deed, and that upon non-compliance with such demand, a deed should be executed by the master to said Blackwell ; and afterwards, to wit, on the 29th day of November, 1859, said master made, executed and delivered to said Robert S. Blackwell, as trustee as aforesaid, an instrument purporting to

be a release and conveyance of all the right, title and interest of the said Edward Eldridge, deceased, and of his widow and heirs in and to said lot six, in block thirty-four, which said conveyance was recorded in the office of the recorder of deeds of said Cook county, in Book No. 81 of Deeds, at page 586.

And your orator further shows unto your honor, that on the 31st day of August, A. D. 1860, in the Superior Court of Chicago, James H. Rees, having, by an order of said court, been made a party complainant in said suit, by leave filed a bill against your orator and other parties therein named, in and by which said bill it was alleged, that, as stated in said original bill of your orator, Henry King purchased of the Board of Commissioners of the Illinois and Michigan Canal, the lands and lots mentioned in said certificates numbered 51, 73, 160, 171, and 208; that on the 9th day of January, 1838, he, with Ann G. King, his wife, executed and delivered to Edward Eldridge their deed of assignment of that date, and assigned said certificates to said Eldridge; that the Legislature of the State of Illinois passed the relief Act of the 27th day of February, A. D. 1841, and that Eldridge received a patent for lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, as stated in the original bill; that Henry King and Edward Eldridge executed the agreement of October 15th, A. D. 1845, and that the same had become forfeited; that the liability to the creditors in class "A" of the deed of assignment of January 9th, 1838, was discharged and released as stated in the original bill. The said bill also stated the conveyance to Blackwell, as hereinbefore set forth, from the master in chancery, and prayed that the said premises might be sold and the proceeds of sale be distributed among the creditors of said King found to be entitled thereto under the terms of said deed of assignment. The said bill further stated, that the said Rees was the owner

and holder of certain claims of indebtedness against the estate of said Henry King. To the said bill of Rees, Thomas B. Bryan and J. Mason Parker, who were in possession under claim of title to the east half of lot six, in block thirty-eight, were made defendants.

And your orator further shows unto your honors, that on the 19th day of October, A. D. 1860, your orator filed his answer under oath to the said bill of Rees, stating that at the time of said deed of assignment of January 9th, 1838, the said premises described in said canal certificate had become forfeited to the State on account of non-compliance with the conditions of purchase, and the title to said premises was then in the State, subject to re-sale, divested of any claim of said King or said Eldridge. That King, by said deed of assignment could convey no greater interest than he then had, which interest then amounted to nothing. That afterwards, on the 27th day of February, 1841, the relief Act was passed; that by the terms of said Act, Henry King, who alone had made advances for the purchase of the premises described in said canal certificates, was entitled to the benefits thereof; that on the 4th day of March, 1843, King was, by the District Court of the United States for the Southern District of New York, decreed a bankrupt, and all right of said King in said property became by operation of law vested in the assignee in bankruptcy by the said court then duly appointed. That on the 17th day of May, 1843, Edward Eldridge selected under the relief Act of 1841, lot 6, in block 34, and the east half of lot 6, in block 38; and that on the 7th day of June, 1843, a patent for said lot 6, in block 34, was issued to Edward Eldridge, who acquired the title for the benefit of the creditors of King, under the bankruptcy proceedings, and subject to the right of the assignee in bankruptcy to sell and dispose of the same, subject also to the right of Edward Eldridge to reimbursement for any advances he

may have made on account of said property. That on the 15th day of July, 1845, said assignee sold said premises, lot 6, block 34, and King's interest therein, to one Gurdon L. Ford, who, on the 2nd day of March, A. D. 1860, conveyed to your orator.

And in and by your orator's said answer it was further stated, that upon the assumption that Edward Eldridge acquired the title to said lot 6, in block 34, for the benefit of creditors, under said deed of assignment of the 9th day of January, A. D. 1838, by virtue of the power conferred by said deed, said Eldridge had the right to sell the same, and pay the debts mentioned in said deed in the order therein prescribed. That said King at the time of said assignment was indebted to said Eldridge in the sum of five thousand dollars and upwards, and that said indebtedness remaining wholly unpaid, the said Eldridge, on the 15th day of October, 1845, entered into an agreement with said King, who had theretofore, to wit, on the 3rd day of February, A. D. 1845, been discharged in bankruptcy, as set forth in your orator's original bill, and in the bill of said Rees. That said agreement was fair and just, and was afterwards carried out in the manner following, that is to say: the said Edward Eldridge died in the year 1847, and not in 1848, as stated in the original bill, before the time within which said agreement was to be performed had expired, leaving infant heirs, the youngest of whom did not arrive at maturity until the year 1857. That King died in 1850. That in 1854, the widow and heirs of Henry King conveyed to your orator said lot 6, in block 34, in consideration of the sum of eleven thousand dollars (\$11,000) to them paid by your orator. That afterwards, upon the maturity of the youngest of the heirs of said Eldridge, on the 19th day of September, A. D. 1857, and more than two years before the conveyance by the master

to Robert S. Blackwell, Gibson being then in possession of said lot 6, in block 34, the widow and heirs of said Edward Eldridge, in consideration of the sum of ten thousand dollars to them paid by your orator, conveyed to your orator said lot six, in block 34.

And in and by said answer it was further stated, that the claims set up by said Rees were not a charge upon said premises, and that your orator was the owner by purchase of the claims mentioned in schedule "B" of said deed of assignment of the 9th day of January, 1838. That the original bill was filed for the purpose of quieting the title to the said lot 6, in block 34, and that at the time of filing said bill your orator did not know that any title had become vested in the assignee in bankruptcy, nor that said Eldridge and King had, with the intent and purpose in said answer stated, entered into said agreement of the 15th day of October, A. D. 1845. That by and under the 8th section of the bankrupt Act of the 19th day of August, A. D. 1841, the claims of Rees and others, if any such there were, were barred, and also that such claims were stale.

And your orator further shows unto your honors, that the said Thomas B. Bryan and J. Mason Parker filed their answers to the said bill of Rees, claiming title to the east half of lot 6, in block 38, free and divested of any claims of said Rees, or others. And your orator prays, that the said several pleadings and orders hereinbefore referred to, and on file and of record in this court, may be taken and considered a part of this bill, as fully as if the same were hereinbefore set forth at large.

Your orator further shows unto your honors, that after the making of said assignment by the said Henry King, to wit, on or about the 15th day of July, 1845, all of the residuary right, title and interest of the said Henry King in and to the said east half of said lot six, in said block thirty-eight, and in and to the whole of said lot 6, in block 34, in

the original town of Chicago, became and was vested in one Gurdon L. Ford through and under the said Henry King, and that at the time of the filing of said original bill herein, the said Ford was possessed thereof, but that he, the said Ford, was not made a party to said bill of complaint.

Your orator further shows unto your honors, that after the entry of said decree of the 9th day of April, 1856, to wit, on or about the 9th day of October, 1865, the said interest and right in said lot 6, in said block 34, theretofore vested in said Ford, became and was, and a part thereof now is, vested in the said Thomas B. Bryan, and another part thereof is vested in one Maurice H. Merriman, and that said Bryan and Merriman now claim to be entitled to said premises and to hold and own the same, subject to whatever rights the creditors of said Henry King by and under said assignment may legally establish against the same, and that said Bryan and Merriman at times give out that they are willing and ready, in order to avoid a sale of said premises of which they are in possession, to pay all just claims that may be legally established against said premises, and to take a proper release of the legal title thereto free and clear therefrom; and that by reason of the premises the said Thomas B. Bryan and said Merriman are necessary and proper parties to this suit touching the lands and premises aforesaid.

Your orator further shows unto your honors, that after the appointment of said Blackwell as trustee as aforesaid, and after the said conveyance to him by the said master in chancery, to wit, on or about the 10th day of May, 1863, he, the said Robert S. Blackwell, departed this life, and died intestate, leaving him surviving, Catherine R. Blackwell, his widow, and Orville B. Blackwell, and Kate Blackwell, his children and heirs-at-law; both of whom are

minors, to whom descended the legal title to said lot 6, in said block 34, but that neither the widow nor heirs aforesaid of said Robert S. Blackwell have any interest in said premises, except to hold and convey the same according to the order of this court; and that they are by reason of the premises necessary parties hereto.

And that one Maurice H. Merriman claims some interest in said premises, or in some part thereof.

Your orator further showeth unto your honors, that since the entry of the order of this court of the 9th day of April, A. D. 1856, hereinbefore referred to, certain other persons, to wit, Isaac L. Hunt, Louise Compton, Henry H. Casey, and Henry Young, have severally claimed and do now severally claim to have some interest in or charge against the said premises, by reason of the said assignment of the said Henry King made to said Eldridge on the 9th day of January, A. D. 1838; and that said several persons claim to be, or to be the representatives or assigns of, the creditors of said King, thereunder.

To the end, therefore, that the said Catherine R. Blackwell, Orville B. Blackwell, Kate Blackwell, and Thomas B. Bryan, James H. Rees, Isaac L. Hunt, Louise Compton, Henry H. Casey, and Henry Young, and Maurice H. Merriman, may be made parties to the matters in controversy in this cause; and that such decrees and orders may be made against them touching the matters in controversy in this cause as may be agreeable to equity; and that they and every of them may full, true, direct and perfect answer make to all and singular the premises, but without oath, their respective oaths being hereby waived.

May it please your honors to grant unto your orator the people's writ of summons directed to said Catherine R. Blackwell, Orville B. Blackwell, and Kate Blackwell, and the said Thomas B. Bryan, James H. Rees, Isaac L. Hunt,

Louise Compton, Henry H. Casey, and Henry Young, and Maurice H. Merriman, commanding them to appear and make answer, etc., agreeably to the practice of this court.

DAVID GIBSON,

By F. H. KALES, *his Att'y in fact.*

F. H. KALES,

Sol'r, etc., for Compl't Gibson.

Afterwards, to wit, on the 16th day of March, A. D. 1867, the said James H. Rees filed his answer to the said supplemental bill of the said David Gibson, in the words and figures following :

The answer of James H. Rees, one of the defendants to the supplemental bill of David Gibson, complainant.

This defendant, now and at all times hereafter saving and reserving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said supplemental bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant, answering, admits,

That on the 13th day of August, A. D. 1855, in the Cook County Court of Common Pleas, but now the Superior Court of Chicago, the said David Gibson filed his bill of complaint against Aaron G. King, Julia King, Susan W. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, as to whom the said bill of complaint was afterwards dismissed, and Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constantine Eldridge and Harriet Eldridge, on behalf of said David Gibson, and all other persons, or their legal representatives, who were, on the 9th

day of January, A. D. 1838, creditors of said Henry King, to the tenor and effect as the same is fully set forth in the complainant's said supplemental bill of complaint.

And this defendant, further answering, admits, that on the 9th day of April, A. D. 1856, the said bill was dismissed without prejudice as to the east half of lot six, in block thirty-eight, and as to the said widow and heirs of Henry King, and taken *pro confesso* as to the other defendants, and that thereupon it was ordered by the court, that said defendants, the widow and children of said Edward Eldridge therein named, should release and convey unto Robert S. Blackwell, then and thereby appointed trustee in place of the said Eldridge, said lot six, in block thirty-four, in the original town of Chicago, on demand, or, in default thereof, that such conveyance be executed by L. C. P. Freer, then a master of said court, and special commissioner for that purpose, and that it was further ordered, that all persons to whom said Henry King had been in any wise indebted, or their assigns, should be at liberty to prove the same before L. C. P. Freer, Esq., master as aforesaid, within a time limited by said court, and on notice to be published as in said order directed.

And this defendant, further answering, admits, that it was further ordered that said Robert S. Blackwell, so appointed as trustee as aforesaid, should proceed to sell lot six, in block thirty-four, in the original town of Chicago, having first given notice of time and place of such sale, at least thirty days before the time appointed, and that the said complainant, David Gibson, be at liberty to bid at such sale, and become purchaser if he should think fit.

And this defendant, further answering, admits, that it was further ordered that said Robert S. Blackwell, upon such sale being made as aforesaid, should make, execute and deliver to the purchaser a deed of said premises, receiving therefor one-third of said purchase money, and a

bond and mortgage for the residue, and make report of his doings to the said court.

And this defendant, further answering, admits, that on the 28th day of March, A. D. 1857, it was ordered by the said court that the time of proving claims against said Henry King before the said master, and also the time of making sale of aforesaid premises, be extended from three months to thirteen months.

And this defendant, further answering, admits, that on the 24th day of May, A. D. 1859, it was ordered further by the said court that the time of presenting claims against said Henry King, before the master aforesaid, should be extended ninety days from the date last aforesaid, and that on default or refusal of the said heirs of Edward Eldridge to make a deed of the premises aforesaid, as provided in a former order of said court, a deed should be executed by the said master to said Blackwell as trustee aforesaid.

And this defendant, further answering, admits, that afterwards, to wit, on the 29th day of November, 1859, the said master made, executed, and delivered to said Robert S. Blackwell, as trustee as aforesaid, an instrument releasing and conveying all the right, title and interest of said Edward Eldridge deceased, and of his widow and heirs, in and to lot six, in block thirty-four, which said conveyance has been recorded in the office of the recorder of deeds of said Cook county, in book No. 81 of Deeds, at page 586, and that then and thereby the said Robert S. Blackwell became seized of the legal estate and the interest of all parties to the said chancery suit, to which this bill is supplemental.

And this defendant, further answering, admits, that on the 31st day of August, A. D. 1860, in the Superior Court of Chicago, the said defendant having, by an order of said court, been made a party complainant in said suit, by leave filed a bill against the said David Gibson and other parties therein named, in and by which bill it was alleged that, as

stated in the original bill of the said David Gibson, the said Henry King purchased of the board of commissioners of the Illinois and Michigan canal, the lands and lots mentioned in said certificates, numbered 51, 73, 160, 171, and 208; that on the 9th day of January, 1838, he, with Ann G. King, his wife, executed and delivered to Edward Eldridge their deed of assignment of that date, and assigned said certificates to said Eldridge; that the Legislature of the State of Illinois passed the relief Act of the 27th of February, 1841, and that Eldridge received a patent for lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, as stated in the original bill; that Henry King and Edward Eldridge executed the agreement of October 15th, A. D. 1845, and that the same had become forfeited; that the liability to the creditors in class "A" of the deed of assignment of January the 9th, 1838, was discharged and released as stated in the original bill; that a conveyance had been made to Robert S. Blackwell as trustee, by the master in chancery, of all the right, title and interest of the said Edward Eldridge deceased, and of his widow and heirs, in and to said lot six, in block thirty-four; and praying that the said premises might be sold, and the proceeds of the sale distributed among the creditors of said King found to be entitled thereto under the terms of said deed of assignment; that said Rees was the owner and holder of certain claims of indebtedness against the estate of the said Henry King, and which were particularly specified and described; and making defendants to the said bill, T. B. Bryan, and J. Mason Parker, who were in possession under claim of title to the east half of lot six, in block thirty-eight.

And this defendant, further answering, admits, that on the 19th of October, A. D. 1860, the said David Gibson filed his answer, the oath being waived, to the said bill of this defendant, for which reason it became unnecessary to

set the same out at length in said supplemental bill or in this answer, and this defendant claims and insists that a recital of such facts in said supplemental bill, if claimed to be a statement of issuable matter in the same, is unequal and improper, and the facts so stated are not facts which said complainant had the right to state in the same, and in such event this defendant insists upon the same defence to the same that he might have had if this objection had been made by motion, plea or demurrer.

And this defendant, further answering, says, that he has no knowledge and cannot set forth his belief or otherwise, whether on or about the 15th day of July, 1845, the residuary right, title and interest of the said Henry King in the premises in said bill described, became vested in one Gordon L. Ford, and leaves the complainant to make such proof thereof as he may be able; and this defendant avers, that such fact, if it existed, was well known to the complainant at the time he filed his original bill, and is not supplemental matter, and for this reason is improperly and wrongfully stated in said supplemental bill, and this defendant claims the same benefit to this objection that he would have had if he had interposed it by motion, plea or demurrer.

And this defendant, further answering, denies, that he has any knowledge that on or about the 9th day of October, 1845, any interest or right in the premises in said bill described, was, or had been at any time, in said Gordon L. Ford, or that the interest of said Ford became vested in Thomas B. Bryan, but this defendant admits, that he has been informed and believes that the complainant Gibson has made a pretended sale of said premises to said Bryan, and that said Gibson, if any one, has transferred all residuary interest to him, and this defendant claims and insists, that such sale from the complainant to said Bryan, was in violation of the injunction of this honorable court; and this

defendant claims and insists, that whatever legal estate the said complainant or said Bryan has in said lots and real estate, they hold the same subject to the original trust estate created by said King to said Edward Eldridge, on the 9th day of January, A. D. 1838, and the decree taken in this case on the 9th day of April, A. D. 1856, and that by said decree all parties thereto and to this case are estopped from asserting any claim or title to said premises, in conflict with the *cestui que trusts* or beneficiaries in said deed, and this defendant denies that said Thomas B. Bryan is rightfully in possession of said lot six, in block thirty-four, but that the same is in a receiver appointed by this honorable court.

And this defendant, further answering, admits, that since the appointment of said Blackwell, trustee, he has deceased intestate, and has left surviving him Catharine B. Blackwell, his widow, and Orville B. Blackwell and Kate Blackwell, his minor children and heirs-at-law, who now hold the legal estate in said lot six, in block thirty-four, and that they are necessary parties to this supplemental bill.

And this defendant, further answering, says, that he has no knowledge that Isaac L. Hunt, Louisa Compton, Henry L. Casey, or either of them, have ever made themselves parties to this suit, and claims and insists that under the orders of this court, they should have done so if they had just claims secured by said trust.

And this defendant denies all and all manner of unlawful combination and confederacy, wherewith he is by the said bill charged, without this, that there is any other matter, cause or thing in the said complainant's said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and

willing to aver, maintain and prove, as this honorable court shall direct, and humbly prays to be hence dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

JAMES H. REES.

Afterwards, on the 3d day of April, 1867, the said Henry Young filed his answer to the supplemental bill of said David Gibson, in the words and figures following :

STATE OF ILLINOIS, }
COUNTY OF COOK, }

In the Superior Court of Chicago—In Chancery.

The answer of Henry Young, one of the defendants, to the supplemental bill filed by David Gibson, complainant, in the cause now pending in this honorable court, wherein said David Gibson, on behalf of himself and others as creditors of Henry King, is complainant, and Edward Eldridge, Jr., and others, are defendants.

This defendant says, that on or about December 24, A. D. 1836, one Simeon Hyde, by his deed of that date, assigned and set over to one James N. Hyde, his brother, all and every sum or sums of money which might be found due and owing unto him, said Simeon, from said Henry King, on a settlement and balancing of accounts between said Simeon and said King, and as in said deed recited, "amounting, as far as can be now ascertained, to about \$24,893," together with all and every claim and demand at law or in equity, of him, the said Simeon, against the said King, which, with other deeds of like character executed about the same time, was made by the said Simeon to the said Jas. N., to secure said Jas. N. against liabilities and payments made and incurred by the said Jas. N. on behalf or for said Simeon alone, or for him with others, as in said

deeds is fully set forth. And this defendant further says, that afterwards the said James N. Hyde having become insolvent, he, by his deed of assignment dated July 8, 1837, made for the benefit of his creditors, set over, conveyed and assigned to this defendant, and one Henry Thomas, now deceased, all his property in trust for the payment of his debts, and including the said claim of the said Simeon against said Henry King. And this defendant further says, that afterwards, and about the year 1843, the said Simeon Hyde, then residing in the Southern District of New York, was, upon his petition, duly declared and decreed a bankrupt, under the laws of the United States, by the District Court of the United States for the said Southern District of New York sitting in bankruptcy, and that afterwards, Wm. Coventry H. Waddell, the assignee in bankruptcy of the said Simeon, under the order and direction of said court, sold and conveyed to this defendant all his, the said Simeon's, interest in all balances of account due or owing by said Henry King to said Simeon Hyde, as will appear by the deed of the said assignee, and a certified copy of the order requiring and directing the sale thereof, when produced. This defendant says, that the said James N. Hyde incurred heavy liabilities, and became largely indebted, and made large payments for and on account of the said Simeon, and to secure him in reference to them, the said Simeon transferred to said James N. Hyde his claims as aforesaid against said Henry King, and this defendant says, that the said claims of the said Simeon against the said Henry King, by the assignment of the said James N. Hyde, came to this defendant and his co-assignee, Henry Thomas, in trust, to be converted and used towards the satisfaction of the said indebtedness of the said Simeon to the said James N., and to the discharge of the liabilities incurred by said Jas. N. for and on behalf of said Simeon as aforesaid. And this defendant says, that before the filing of the original bill in

this cause, the said Henry Thomas died, leaving this defendant sole trustee. This defendant further says, that the said Henry King well knew that he was indebted to the said Simeon Hyde at the time he made and executed his said deed of assignment to said Edward Eldridge, and among the debts mentioned in Schedule "B," of his said assignment, he set down the same under the denomination of "Any balance which may be due to Simeon Hyde on settlement of accounts with him," as will appear by reference to said schedule. This defendant says, that the said indebtedness on the part of the said Henry King to the said Simeon Hyde, arose by moneys advanced by said Simeon Hyde to said King, or on his account, inland transactions in Chicago and its neighborhood, for several years prior to the year 1838, and which proved extremely unfortunate, and in moneys paid and advanced by said Simeon Hyde to said Henry King, or on his account and behalf, in his, said Henry King's, business as a merchant, or otherwise than in said land speculations and investments. And this defendant says that the balance due, as he fully believes, from said Henry King to said Simeon Hyde, at the date of the said assignment by said King to said Eldridge, was not less than the amount stated by said Simeon Hyde in the before-mentioned deed made by him to the said James N. Hyde. And this defendant further says, that he has heretofore, under the orders of this court made in this suit, made himself a party to the said suit, as one of the creditors for whose benefit and on whose behalf the said original bill was filed by the said Gibson, and he further says, that he has heretofore taken and filed proof to substantiate the claim set up by him as assignee of the said James N. Hyde, and he further says, on information and belief, that the claim set up by him is a just and meritorious one.

This defendant further says, that James H. Rees, as the assignee of one Edward G. Hyde, has claimed and is now

claiming an allowance in his favor under the trusts of the said deed of assignment from King to Eldridge, by reason of certain indorsements made by said King upon certain notes executed by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, which notes, or copies of them, are on file in this cause. This defendant further says, that he is satisfied and so alleges that the said notes justly belong to him as the surviving assignee of the said James N. Hyde. This defendant says, that the said Rees and Edward G. Hyde pretend that they were given to the said Edward G. Hyde in the summer or fall of 1837, as collateral security for two notes executed by said Edward G. to said Jas. N. Hyde, his father, for \$2,500 each, and a bond executed by said Edward G. to two sisters of the wife of said Jas. N. for the benefit of the said wife and minor children of said Jas. N., dated November 14, 1837, and to be for their benefit in case of the death of the said James N. at New Orleans, where he was about to go at the request of said Edward G., and where he did in fact go at said request and caught the yellow fever and died of it. This defendant says, that he does not know how the said Edward G. Hyde became possessed of said notes nor at what time, but he says, that even if it were true that he received the notes as claimed by him and said Rees, he paid no money on account of the same at any time, or if he did do so, he did it long after he knew that his said father, James N. Hyde, had made an assignment of all his effects, including said notes, to this defendant and said Henry Thomas for the benefit of his creditors, and long after he well knew that the person or persons to whom he made any payments had no right or authority to receive the same from him. This defendant says, that from the time the said Edward G. Hyde gave his notes, alleged by him and said Rees to have been given to his father, said James N., the said notes remained in the possession of said James N. or his wife until they were re-delivered to him, said Edward G.

Hyde. And this defendant further says, that the said bond given by said Edward G. Hyde for the benefit of the said wife of James N. and the minor children of his father, said James N., and which was to be paid in case said James N. should die at New Orleans, and which was made and bears date in November, 1837, after the said assignment made by said Jas. N. Hyde, was in fact given in consideration that the said James N. would go to New Orleans and take the place of the said Edward G. Hyde in the large mercantile house of Hyde & Goodrich, of which said James N. Hyde was originally one of the founders, and for which, after his insolvency, he had been, and was up to the time of the making of said bond, the purchasing agent of said house, located at the city of New York at a large salary, and permit the said Edward G. to remain at New York, and occupy the place of the said James N. in the purchasing of goods for said house, and upon no other consideration whatever, and in no way were said Jenkins & Reynolds' notes security therefor. But this defendant says, that even if the said Jenkins, Reynolds & Lovell notes were held by the said Edward G. Hyde as collateral security to said bond in any manner, they were taken and received and so held by him when he, said Edward G. Hyde, well knew that his father, said James N. Hyde, had failed and was unable to pay his debts, and had made an assignment of all his effects, including said notes, to this defendant and said Henry Thomas, for the benefit of his creditors. And this defendant says, that the said Edward G. Hyde paid nothing on said bond until long afterwards, and then only paid a comparatively small amount to the widow of the said James N. upon said bond, and nothing to any other person. And this defendant says, that the said Edward G. Hyde always concealed from this defendant and said Henry Thomas his co-assignee, that he, said Edward G., had the said Jenkins, Reynolds & Lovell notes in his possession, and this defend-

ant was not aware of it until after the bringing of the original bill in this cause, and they had been produced by the said Edward G. therein, and a claim made therein by him. This defendant says, that the said two notes of the said Edward G. Hyde as collateral security to which it is pretended by him and said Rees he, said Edward G., held said Jenkins & Reynolds notes, were returned to him by the widow of said James N. Hyde, and without the payment by said Edward G. Hyde of anything thereon. And this defendant says, that even if the said Jenkins & Reynolds' notes were delivered to said Edward G. Hyde as security for said notes and bond before the assignment of the same by the said deed of assignment of said James N. to this defendant and said Henry Thomas, which this defendant alleges is not the fact, but on the contrary alleges that he, said Edward G., obtained possession of the same after said assignment, and without any right to hold the same as collateral security, or in anywise as having a personal interest therein, yet that his said notes having been re-delivered to him without his paying anything thereon, he at most had no claim upon the same except for the small amount by him paid to the widow of said James N. years afterwards upon the said bond. This defendant further says, that the said Edward G. Hyde had no power to sell said notes to the said James H. Rees, and that his equitable assignment thereof made or attempted to be made by him to said Rees, vested in said Rees no greater interest in said notes than said Edward G. Hyde then had, the said notes long previously having run past their dates of maturity, and they only being held by him, according to his own statements, by way of collateral security. And this defendant says, that the said Rees has no just claim to said notes, nor any just right to claim an allowance in his favor in this suit on account of the liability of said Henry King upon said notes by reason of his indorsement of the same, and that on the

other hand this defendant, as the surviving assignee of the said James N. Hyde, whose debts provided for in his assignment remain unpaid to a very large amount, is entitled to be allowed in his favor all that may be justly found to be due in this cause, by reason of said King's indorsements on said Jenkins and Reynolds notes.

This defendant further says, that the said notes were given by the said Jenkins, Reynolds and Lovell, the makers of the same, to said King for deferred payments for land purchased by them from said King, the title of which was to be made good and the property conveyed to them free and unincumbered, by a day agreed upon, at which time a mortgage was to be given back by said Jenkins, Reynolds and Lovell upon said property to secure the same. And this defendant says, that the said notes, shortly after the making of the same, were, by the said Henry King, indorsed and delivered over to the said Simeon Hyde, and by said Simeon Hyde, shortly thereafter, and long before their maturity, indorsed and delivered over to the said James N. Hyde in the usual course of business, and for a good and valuable consideration. And this defendant says, that afterwards the said King having failed to clear the title of said property by him sold to Jenkins, Reynolds and Lovell, and to fulfil his contract with them, the same was in some way, as this defendant is informed and believes, rescinded and ended, whereby, although the said King stood upon said notes as indorser, yet that the consideration of said notes having failed by his default, and entirely destroyed by his failure to perform his part of the contract by conveying the said property to the makers of said notes as by him agreed, and by his rescission and termination of said contract, this defendant says, that said King at once became liable to pay the amount of said notes and interest; and defendant further says, that the matters aforesaid occurred, and his liability became fixed upon said notes, long

before he executed his said deed of assignment to said Henry Eldridge. And this defendant further says, that the said Henry King became liable to pay said notes, and his liability thereon became certain and fixed, long before the date of said assignment to said Eldridge, by reason of the fact that the makers of said notes, before the maturity of the same, became insolvent, and suit against them would have been unavailing.

This defendant prays that he may be permitted to establish, by proof already taken, and by such other proof to be taken as he may be advised may be requisite, his said claims at the hearing of this cause or otherwise as this court may direct, and that his reasonable costs may be allowed to him.

HENRY YOUNG,

By BOYDEN & SPAFFORD, *his Sol'rs.*

Afterwards, on the same 3rd day of April, 1867, the said Henry H. Casey filed his answer to the supplemental bill of said David Gibson, in the words and figures following :

STATE OF ILLINOIS, }
COUNTY OF COOK. } ss.

In the Superior Court of Chicago—In Chancery.

The answer of Henry H. Casey, one of the defendants to the supplemental bill filed by David Gibson, complainant in the cause now pending in said court, wherein said Gibson, on behalf of himself and others, as creditors of Henry King, is complainant, and Edward Eldridge, Jr., and others, are defendants.

This defendant says, that it is true that Henry King, on January 9th, A. D. 1838, executed and delivered to Edward Eldridge the deed of assignment mentioned in the original bill in this cause, a copy of which is annexed to said bill, and a copy of which is also annexed to the supplemental

bill filed by James H. Rees in said cause. And this defendant says, that in "schedule A" of said assignment, the said King provided for "the amount which Thomas M. Grosvenor and Henry Eldridge, of Pomfret, Connecticut, may become liable for or have to pay as bail for the said Henry King in a suit brought against him by Hubbard & Casey, of New York, being between four thousand five hundred and five thousand dollars (\$4,500—\$5,000)" as a preferred liability under said assignment. This defendant says, that the Hubbard & Casey mentioned as aforesaid in said deed, were Christopher S. Hubbard and this defendant, then merchants and partners in business in the city of New York.

This defendant further says, that the said Henry King, about September 1, 1836, at Chicago, Ill., made his certain promissory note in writing of that date, wherein he promised to pay to Kinzie, Davis & Hyde, six months after the date thereof, at the bank of New York, in the city and State of New York, the sum of forty-four hundred and eighty-four dollars and ninety-two cents, which said note was afterwards and before the maturity thereof, indorsed by the said firm of Kinzie, Davis & Hyde in blank, and also afterwards and before the maturity of said note, the same was delivered over and received by the said firm of Hubbard & Casey in the usual course of business. And this defendant says, that at the time of the making of and the maturity of said note, and ever since, the rate of interest upon money due on promissory notes, from and after the maturity thereof, according to the laws of the State of New York, was, and hath been and now is, seven per cent. per annum. And defendant further says, that the said King having failed to pay said note, and then being in the State of Connecticut, the said Hubbard & Casey brought suit thereon against him in the County Court of Windham county, in said State of Connecticut, about October 18th, A. D. 1837, to a term of said court to

be holden at Brooklyn, in said county, on the 2nd Tuesday of December then next, upon the writ issued, in which cause the body of the said Henry King was attached. And afterwards, at a term of said court held in August, 1838, the said King having demurred therein, judgment was rendered against him and in favor of said Hubbard & Casey, in the sum of five thousand dollars damages and costs of suit, in which it is mentioned and recited, that the said Thomas M. Grosvenor and Henry Eldridge, of Pomfret, Connecticut, had become bail that said King would abide judgment in said action, upon the rendition of which judgment the said Henry King appealed to the Supreme Court of said State, to be thereafter holden at said Brooklyn. And afterwards, at a Supreme Court holden at said Brooklyn, in said county of Windham, at the January term thereof, A. D. 1839, the said King appeared and filed his plea of the general issue; and afterwards, at a term of said court holden on the first Tuesday of October, A. D. 1839, a judgment was rendered in said cause in favor of the said Hubbard & Casey and against the said Henry King for the sum of \$5,180.08 damages, and costs taxed at \$23.58, upon which judgment an execution was issued thereon in October, 1839, upon which, for want of property to satisfy the same, the body of said King was taken, and he committed to the jail of said county of Windham. And afterwards, and on or about October 18th, 1839, the said King was discharged out of said imprisonment, and from the liability of his body to be held in custody under and by virtue of said writ to satisfy the same, under the laws of the said State of Connecticut providing for the discharge of poor debtors and insolvents from imprisonment on like process, by said King taking the poor debtor's oath under said law, and in other respects complying with the provisions thereof. And this defendant says, that the liability of the said King to pay the said judgment in favor of said Hubbard &

Casey, was not otherwise affected than that the body of said King could not be retaken in execution thereon in said State of Connecticut; and defendant says that the said King never paid any portion of said indebtedness, either of principal or interest, and that the full amount thereof is still justly due and owing. And he further says, that the said note upon which said action was brought was afterwards withdrawn from the files of said court, by the attorney of said Hubbard & Casey, for some reason which this defendant cannot state, although he supposes and believes the same may have been done with a view to thereafter bring suit against said King elsewhere, but which was never done, nor was the said note ever sold, disposed of, compromised, or settled in any way, either in whole or in part, by the said Hubbard & Casey, or either of them, or by any one for them, and that he does not know where the same now is. Defendant further says, that his said partner, Christopher S. Hubbard, died about the year 1845, leaving this defendant the sole surviving partner of said firm, and solely entitled to receive and claim the amount due to said firm on account of said indebtedness.

This defendant says, that said Gibson, claiming to be a creditor of said King, and the benefit of the trusts expressed in said King's deed to Eldridge, filed the original bill in this cause on behalf of himself, said Gibson, and all others or their legal representatives who were, on the 9th of January, A. D. 1838, creditors of said King, in which category was included this defendant as the surviving partner of said Hubbard & Casey, the said bill being filed August 13th, A. D. 1855. And afterwards, on the 9th day of April, 1856, the said Gibson still having the conduct of said cause, a decree was entered at his instance, charging lot 6, in block 34, in the original town of Chicago, with the trusts expressed in said assignment, and that the title of the

said lot at the date of said decree was held in trust to pay the debts provided for in said assignment; and Robert S. Blackwell, Esq., was appointed trustee thereof in lieu of said Edward Eldridge, who was dead, and decreeing that the heirs of said Eldridge convey said lot to Blackwell, to be held by him upon the trusts of said assignment, and in case of default therein, that Freer, master, convey the same.

This defendant further says, that about the time of the filing of said bill, the widow and heirs of King conveyed to said Gibson all their interest in said lot for a consideration, as stated by said Gibson in his answer to the supplemental bill of James H. Rees, filed in this cause, of about \$11,000. And defendant says, that the said Gibson was the owner of all or any interest in said lot which the said Henry King died seized or possessed of, long before he, for himself and others, obtained the aforesaid decree charging the said lot with the payment of the debts provided for in said assignment of said King. But this defendant says, that the said Henry King, at the time of his death, and his heirs after his death, had no interest, right or title whatever in and to said lot.

This defendant further says, that said lot 6, in block 34, was originally purchased of the canal commissioners by one William Young, and a certificate of purchase thereof issued to him, who afterwards, by his deed, dated October 26, 1836, conveyed all his interest therein to said Henry King, and also delivered and assigned to him his certificate of purchase therefor. And afterwards, the said King, by his said deed to Eldridge, conveyed to him said lot, and others which King had himself bought as original purchaser, and assigned over to said Eldridge all the certificates therefor, and Eldridge, under the Act for the relief of canal purchasers, acquired the title to said lot six, in 34, through and by means of the cash payment made by

Young, and the surrender of certificates on other lots which King had himself bought, and the patent title issued to Eldridge for said lot 6, in 34, as well as the east half of lot 6, in block thirty-eight, original town of Chicago, was acquired by said Eldridge under and by virtue of money paid out by King, and to which his creditors were entitled to the benefits of, and Eldridge could not thus acquire title to either of said lots except subject to the trusts upon which he held the certificates, through the means of which he was enabled to acquire and did acquire the patent title.

Defendant further says, that the said Gibson hath set forth in his answer to the supplemental bill of Rees, filed in this cause, that in the year 1857, the heirs of Edward Eldridge, for the consideration of about \$10,000, conveyed to him, said Gibson, the legal title of said lot 6, in block 34, (being professedly a conveyance in execution of the void and fraudulent contract of sale, or proposition to sell, made by Eldridge to King in the year 1845), so that all the legal title of said lot and the interest of the said heirs of Eldridge in any manner, became vested in the said Gibson. And defendant further says, that afterwards, and in execution of the said decree, L. C. P. Freer, on or about Nov. 29, 1859, conveyed the patent title which had been acquired by said Edward Eldridge from the State of Illinois, in and to said lot 6, in block 34, to said Robert Blackwell, who thereafter held said patent title thereto upon the trusts expressed in said deed of assignment from King to Eldridge. And defendant further states, that sometime in the fore part of the year A. D. 1843, the said Henry King then being a resident of the Southern District of New York, on his petition, was, by the District Court of the United States for said Southern District, sitting in bankruptcy, duly declared and decreed a bankrupt; and afterwards, Wm. Coventry H. Waddell, his assignee in bankruptcy, by deed dated July 15, 1845, conveyed to one Gordon L. Ford all of said

King's residuary interest in said lot six, in block thirty-four, and also in said east half of said lot six, in block thirty-eight; and that said Ford afterwards, by deed dated March 2, 1860, conveyed all of said residuary interest of said King in said lots to said David Gibson, who thereby, as this defendant is informed and believes, became vested with all the residuary or remaining interest in said property after the satisfaction of the trusts expressed in the said deed of assignment made by said King to said Eldridge. This defendant further states that the said Robert Blackwell never entered any appearance in this cause, nor after the filing of the supplemental bill by said James H. Rees, although he was made a party defendant thereto, nor was any default or order entered in regard to the same.

This defendant further states, that upon leave granted, the said James H. Rees, about August, A. D. 1860, filed his supplemental bill in said cause, making the said David Gibson a party defendant thereto, and therein praying for an injunction against him, upon which, on August 31st, A. D. 1860, an order was entered, that said Gibson and one Zenas Cobb show cause, by a day therein named, or as soon thereafter as counsel might be heard, why they and each of them should not be enjoined from receiving the rents of said lot 6, in block 34, and afterwards, pursuant thereto, an order was entered on Dec. 20, 1860, that the said Gibson be restrained and enjoined from interfering or intermeddling with said lot, and that he be restrained and enjoined from continuing and remaining in possession thereof, and from collecting and receiving the rents of the same, and from making any lease of the same, and from making any conveyance of said lot, or any part thereof, and from selling or assigning the certificate of purchase of said lot for the city taxes, at the sale thereof made March 17th, 1859, and from receiving any deed thereon, until further order of this honorable court, and therein appointing said Zenas Cobb receiver of the rents

of said lot upon giving bond as in said order specified, and that out of the same he pay all taxes and assessments, and pay the balance into court, and that said receiver make a report in writing once in six months, giving a full account of his receipts and disbursements in the premises; subsequent to which order said Cobb qualified and accepted said office as receiver. But this defendant says, that although said order was made, yet the said Gibson has wholly disregarded the same, and has ever since been in the possession of said premises and in the receipt of the rents and profits thereof, and that said Cobb has, in violation of his duty as said receiver, permitted him so to be and do, and has wholly neglected his duty as receiver, and has never to this day made any report as such receiver, as by said order he was required. This defendant further states, that said Eldridge in his lifetime claimed to be a large creditor of said King, and as such, entitled under the said deed of assignment made to him by said King, and that Gibson claims that about the time he filed the original bill in this cause, or shortly afterwards, he became the owner of any and all such indebtedness, and said Gibson further claims that he is the owner of a large number of the claims mentioned in the schedules annexed to the said deed of assignment made by said King to said Eldridge, and this defendant insists, that in case any sum is allowed to said Gibson on account of any debts owing by said King and chargeable upon said property under said assignment, that the rents received as aforesaid should be duly accounted for, and that in any case the said Gibson should be held to answer for his acts and doings in the premises, and be required to render a full account of all moneys received by him as aforesaid. And this defendant further says, that although the rents of said premises were very large, and amounting to at least the sum of four thousand dollars per

year, the said Gibson and said Cobb permitted said lot 6, in block 34, to be sold for the city taxes of 1863, and to be purchased by one E. Aikin for the sum of \$462.10. And defendant further says, that although said injunction still remained and now remains in full force, the said Gibson has executed and delivered to one Thomas B. Bryan, his warranty deed of said lot, dated October 6th, 1865, and on or about the date thereof, delivered the possession thereof to said Bryan, who as a consideration therefor paid said Gibson a large sum of money therefor, whereby all the interest and claim whatsoever of the said Gibson in and upon said premises passed to and became vested in said Bryan. And defendant further states, that said Bryan executed and delivered his warranty deed of said lot 6, in block 34, bearing date October 9, 1865, to one Maurice H. Merriman. Defendant states, that although the said Merriman or the said Bryan may be in possession of said lot and in the receipt of the rents and profits thereof, yet that neither of them have any right or interest therein, and never had, except to the extent of anything which may remain after full satisfaction of the trusts expressed in said deed from said King to Eldridge.

This defendant further states, that on October 12th, A. D. 1863, he filed an affidavit in this cause, setting forth the particulars of his claim and became a party to said cause, the said Gibson having filed the said original bill on behalf of himself and all others, creditors of said King; and this defendant says, that he has heretofore made proof of his said claim, which proof is now on file, and he prays that he may be permitted to read the same at the hearing, and that he may be permitted to make such further proof thereof as he may be advised to make manifest to this court; that he is one of the original creditors for whose benefit the said King, in the year 1838, executed the said deed of assignment

to the said Eldridge, and that the same is now still justly due and owing, and that the same ought to be allowed to him; and that he may be allowed his reasonable costs, etc.

HENRY H. CASEY,

By BORDEN & SPAFFORD, *his Sol^{rs}.*

Afterwards, on the 10th day of June, 1867, the said Isaac L. Hunt and Louise C. Ellis, (formerly Louise Compton) filed their answer to the supplemental bill of said David Gibson, in the words and figures following :

IN THE SUPERIOR COURT OF CHICAGO,

IN CHANCERY.

The joint and several answer of Isaac L. Hunt and Louise C. Ellis, formerly Louise Compton, to the supplemental bill of complaint, exhibited by David Gibson against these respondents by the names of Isaac L. Hunt and Louise Compton, impleaded with Catherine R. Blackwell and others.

These respondents, waiving all just exceptions, etc., say, for answer to so much and such parts of said supplemental bill as they are advised it is necessary or material for them to answer, that it is true that the said complainant exhibited in this honorable court, his certain original bill of complaint, in manner and form as is alleged in said supplemental bill, and that certain proceedings have been had and taken thereon, and for a fuller account of said bill and of such proceedings, these respondents crave leave to refer to said bill, and to the records and files in this cause.

And these respondents further say, that said original bill was filed by said complainant in behalf of himself and all other persons, or their legal representatives, who were, on

the 9th day of January, A. D. 1838, creditors of Henry King, and that the supplemental bill filed in this cause by James H. Rees, was so filed in behalf of said Rees and all other persons, and their representatives or assigns, who were on said 9th day of January, 1838, creditors of said Henry King, as by said bill and supplemental bill will more fully and at large appear, by reason of which said premises, these respondents, as legal representatives or assigns of such creditors, claim an interest in the prayer of said bills, and ask that they be allowed right and justice as co-complainants in the said bill and supplemental bill.

And these respondents further say, that among the debts which were due from the said Henry King, on the said 9th day of January, 1838, and which with legal interest thereon, are yet due and unpaid, and ought to be paid according to the provisions of the assignment of said date, are the following, to wit :

Said King's indebtedness

	to Witherell, Ames & Co., principal,	\$1,153 60
do	to Sydam, Jackson & Co., "	1,838 99
do	to John Bartlett, principal,	631 86
do	to F. A. Huntington, "	457 11
do	to J. H. Ransom, "	200 00
do	to H. & D. Tarbox & Co., principal,	157 75
do	to McNulty & Chapman, "	168 00
do	to Pomeroy & Bull,	1,800 00
do	to S. P. Church & Co., in judgm't,	224 20
do	to Jos. D. Beers <i>et al.</i> ,	745 11
do	to White & Richards,	155 27
do	on note of J. W. C. Coffin, indorsed	
	by said Henry King, principal,	752 85
do	another note of said Coffin, indorsed	
	by said Henry King,	728 21

do	three drafts of said King, on McNulty	
	& Chapman, two dated May 15,	
	1837, one for	75 00
	the other for	20 00
	and one dated May 18, 1837,	100 00
Indebtedness to Dissossway & Bro., principal,		2,240 00

And these respondents further say, that the said Henry King was, on said 9th day of January, A. D. 1838, indebted to said persons and firms, respectively, in said sums, or greater amounts, and accordingly in his deed of assignment to Edward Eldridge, of that date, provided for the payment of the same in case the estate assigned should be sufficient, etc., as by said deed will more fully and at large appear.

And these respondents therefore insist, that the creditors of said King, or of the estate so assigned, and who held or owned said claims or debts at said date, together with their respective representatives and assigns, are now entitled, according to the tenor and effect, and ostensible purpose of said original bill, and the supplemental bill of said Rees, to be paid the amount of said claims, with interest, from the estate so assigned, in case it be adequate for that purpose, or if the estate be only adequate in part, their said claims, with interest thereon, should be paid *pro rata*.

And these respondents further say, that the said claims and demands, severally and respectively, are now held and owned by the said Louise C. Ellis, as the assignee of the same, and legal representative of the said creditors of said King, respectively, and that she, the said Louise C. Ellis, by virtue of the various assignments which have been made of such claims by said creditors, and their respective legal representatives and assigns, and by right of purchase of said claims and demands, respectively, for a full and adequate pecuniary consideration, is entitled to have and demand the amount of said claims and demands respectively.

And the said Louise C. Ellis expressly claims, as assignee of the said claims and demands respectively, and alleges that the same respectively have been duly assigned and transferred to her, and that she is now, as such assignee, the legal representative of said creditors respectively. And these respondents, without further detail concerning the same, crave leave to refer to the various assignments of said claims and demands, vesting the same in said Louise C. Ellis, formerly Louise Compton, as aforesaid.

And these respondents further say, that said Henry King was, on said 9th day of January, A. D. 1838, also indebted to Hasbuck & Burk in a large sum, to wit, \$609.35, and to Eunice Chapman in the sum of \$167.81, or thereabouts, and that these demands, with interest, should be paid out of the estate embraced in the deed of that date, and that said claims and demands have been duly assigned and transferred by the several and successive legal holders of the same, and for a full and valuable consideration, to the said Louise C. Ellis, who is now the legal representative of said creditors (in her right as assignee of said claims), and is entitled to receive, and should be paid from said estate, and especially from the premises involved in this suit, the amount of said claims respectively, with interest thereon.

And these respondents submit and insist that the aforesaid claims and demands respectively, are entitled to preference over the claims of said Gibson, Bryan, and Parker, and others, if any, claiming adversely to said deed of assignment of January 9, 1838.

Also, that the claims aforesaid are expressly mentioned in said deed of assignment, of the date last mentioned, or where any of the same are not so expressly mentioned, they are yet provided for by said deed as being debts of said King, then unpaid.

And the said Isaac L. Hunt, as former assignee of the aforesaid claims, and as an assignor thereof under whom the

said Louise C. Ellis holds the same, asserts that the same should be paid to her. And if any of the claims or demands in favor of the individuals aforesaid, be found to vary from the sums aforesaid, respondents ask that the true amounts with interest be allowed.

Wherefore, and for other causes apparent from said original bill, and the several orders of the court, and other proceedings in the premises, these respondents, so answering said supplemental bill, pray that payment and satisfaction of the aforesaid claims and demands, with interest, may be enforced under the direction of this honorable court, and that these respondents may have their costs adjudged to them, etc.

ISAAC L. HUNT.

LOUISE C. ELLIS.

By T. DENT, *their Solicitor*.

Afterwards, on the 7th day of January, 1868, the said Thomas B. Bryan filed his answer to the supplemental bill of the said David Gibson, in the words and figures following:

STATE OF ILLINOIS.

IN THE SUPERIOR COURT OF CHICAGO.

IN CHANCERY.

The answer of Thomas B. Bryan, one of the defendants to the supplemental bill of complaint of David Gibson, complainant, against Catherine R. Blackwell, Orville B. Blackwell, Kate Blackwell, James H. Rees, Isaac L. Hunt, Louise C. Ellis, (late Louise Compton), Henry H. Casey, Henry Young, Maurice H. Merriman, and Thomas B. Bryan, this aforesaid defendant.

This defendant, now and at all times reserving and saving unto himself all benefit and advantage of exception which can or may be had or taken to the many errors, uncertain-

ties and other imperfections in said complainant's said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant, answering, saith :

That it is true, as alleged in the said supplemental bill of complaint, that said David Gibson did, on or about the 13th day of August, A. D. 1855, file his original bill of complaint in this court against the heirs of one Edward Eldridge, deceased, against whom the said bill of complaint hath since been continued, and also against the heirs of one Henry King, then deceased, as to whom afterwards, to wit, on the day of April, 1856, said bill of complaint was dismissed.

This defendant, further answering, says, that he cannot admit it to be true, as alleged in said original bill of complaint, that on or about the 9th day of January, 1838, one Henry King made and delivered unto one Edward Eldridge a certain deed of assignment of all his, the said King's, property, for the benefit of the creditors of him, the said Henry King; nor that there was, by said deed of assignment, conveyed to the said Edward Eldridge certain pieces and parcels of real estate within the State of Illinois, and amongst others, the interest of said King in and to the said lot six, in block thirty-four, in the original town of Chicago; but that notwithstanding the said assignment, had the same been executed, there would then and there have been left an equity in the said Henry King to have what might remain of said assigned property after the payment of his debts to such of his creditors then existing as should then, or within a reasonable time thereafter, claim the benefit of said assignment; and this defendant alleges that the said Henry King, afterwards, to wit, on or about the 24th day of February, 1838, caused said pretended assignment to be recorded in the recorder's office of Cook county, aforesaid,

as this defendant is informed and believes, without the knowledge or consent of the said Edward Eldridge, and that said Eldridge never executed the same, although named as assignee therein.

And this defendant further says, that he believes it to be true that under and by virtue of said assignment no interest, right or title, in and to the said lot six, was, by said assignment, conveyed to said Edward Eldridge, because he says that he believes it be true, as alleged and shown in said original bill of complaint filed herein, that all of the interest and right of said Henry King in and to said lot six, had, prior to and at the time of said alleged assignment, become forfeited to said State of Illinois, in manner and form as alleged and shown in said original bill of complaint herein; and that afterwards, to wit, on or about the 27th day of February, A. D. 1841, as alleged and shown in said original bill of complaint, by an Act of the General Assembly of the State of Illinois, entitled "An Act for the relief of the purchasers of canal lots in Chicago and Ottawa in 1836," duly approved, etc., the right and interest theretofore vested in said King in said lot six, and so forfeited as aforesaid, was, by the Act of the General Assembly aforesaid, conditionally revived, and, subject to the rights of the said Eldridge as hereinafter stated, the same afterwards, to wit, on the 4th day of March, 1843, passed to and became vested in one William Coventry H. Waddell, as assignee in bankruptcy for the Southern District of New York, as hereinafter more fully stated; and that afterwards the said Edward Eldridge, by patent from the Governor of the State of Illinois, under the seal of the said State, dated the 9th day of June, 1843, acquired the legal title to said lot six; and that he, the said Eldridge, so then and there acquired said title, with the knowledge and consent of said Henry King; that in order to acquire said title, said Eldridge advanced and paid to said State of Illinois divers large sums of money due and

owing on said lot, and that in addition thereto, the said Henry King then and there owed him, the said Eldridge, divers other large sums of money, amounting in all to about the sum of \$5,000.

That by reason of the situation and condition of the title and interest of said King in and to said lot six, at the time of said assignment, much care and expense to obtain said patent title was incurred by said Edward Eldridge; that at that time said lot was of small value and not worth sufficient to pay said Eldridge the amount then owed to him by said King, for which said amount, (except the expenses incurred by said Eldridge in perfecting said title), he, the said Edward Eldridge, was named as a preferred creditor, in and by said assignment of the 9th day of January, 1838.

And this defendant further says, upon his information and belief, that said Edward Eldridge, upon acquiring said title from the State of Illinois, then and there claimed to hold and afterwards claimed to hold said lot and the title thereto, as security for the indebtedness aforesaid, outside and independent of the said assignment, and that under the circumstances, it was in fact equitable and just for said Eldridge so to hold the same.

And this defendant further says, that said alleged assignment was voluntary and without consideration, and that said Edward Eldridge had not, up to the time last aforesaid, taken upon himself, nor did he afterwards take upon himself, the execution of the trusts contained in said assignment, or claim any right or interest in said premises, or in any of the property described in said assignment under or by virtue thereof; and that from the time of the date of said assignment up to and including the time said King was declared bankrupt, as hereinafter stated, to wit, the 3rd day of March, 1843, and from thence to the 15th day of October, 1845, and for a long time thereafter, to wit, until the

filing of the original bill of complaint herein, none of the supposed creditors of said Henry King, who were such at the time of the making of said assignment, claimed any right or interest by virtue thereof, in and to said lot six, or in any other of said assigned property, and that by said proceedings in bankruptcy said alleged assignment as to all of said claimants herein, thereby became revoked and annulled; and that afterwards, to wit, on or about the said 15th day of October, 1845, the said Henry King then and there, to wit, at the county of Cook, aforesaid, and before any of said supposed creditors had assented to said assignment and the trusts thereof, and before they or either of them had given any notice of assent thereto, he, the said Henry King, with the knowledge and assent of said Edward Eldridge, did then and there, or at some time theretofore, revoke and annul the said assignment, and the trusts thereof, (as he then and there might lawfully do), so far, at least, as the said assignment related to said lot six, in block thirty-four, as will more fully and at large appear by reference to a certain instrument executed by said King and Eldridge, bearing date the said 15th day of October, 1845, and more fully and at large set forth in the original bill of complaint filed herein on behalf of the creditors of said King; which said agreement or instrument was afterwards, to wit, on the 28th day of October, 1847, duly recorded in the recorder's office of Cook county, whereof said creditors of said Henry King then and there and from thence hitherto have had due notice, and which said instrument, or a copy thereof, this defendant prays may be taken as a part of this his answer.

And this defendant further says, that the fact that said pretended assignment of the 9th of January, 1838, and the trusts thereof, were never acted upon or accepted by said Edward Eldridge, so far as said lot six was concerned—or if in any way acted upon prior to the 15th day of October,

1845, that the same was and were, at about the time last aforesaid, revoked and annulled as aforesaid—is still further evidenced and made to appear by this, to wit, that after the making of the said instrument dated the 15th day of October, 1845, by and between said King and Eldridge, said Henry King, by and through the said revocation, claimed to have some interest in and to another parcel of land included in and purporting to be conveyed by said judgment to the said Eldridge, that is to say, to the east half of lot number six, in block number thirty-eight, in said original town of Chicago, the legal title to which had been acquired by said Eldridge under and by virtue of said "relief law," (so called), passed by the Legislature of this State, and patent therefor obtained by him from said State at the same time and as part and parcel of the same apportionment and adjustment, by which he acquired the patent title to said lot six in said block thirty-four, in manner shown in said original bill of complaint herein. That in point of fact both said lot six in block 34, and the east half of lot six, in block 38, and the interest of said Henry King therein, as well as the claims of his said creditors, under color of said assignment, from the time of the making thereof, stood upon the same footing as respected the said creditors, and were each affected in the same manner, both by the said supposed assignment and the revocation thereof made as aforesaid. That after said revocation, and from thence until about the 5th day of April, 1849, the said Henry King claimed to have an interest in said east half of lot six, block 38, and to own the same by reason thereof as against said Eldridge and all other persons, subject to the payment of \$500 and interest; and that afterwards, on said 5th day of April, 1849, said King conveyed his said interest in the east half of said lot six, block 38, to one Amory Gamage; and afterwards, to wit, on the 14th day of April, 1852, said Gamage filed his certain bill of complaint against the said

heirs (parties herein) of said Edward Eldridge, in the Circuit Court of Cook county, to establish his said interest in said premises so acquired of said King, and afterwards, such proceedings were had in said suit that his said interest was established and decreed to him therein, as by reference to said proceedings will more fully and at large appear; and that said premises have been since held and owned, or claimed so to be, through and under said title so then and there established.

And this defendant further says, that afterwards, and after the filing of said original bill, the heirs of said Henry King, and also the heirs of said Edward Eldridge, released to said David Gibson all their interest, right and claim in, to or upon said premises, viz., lot six, in block 34 aforesaid, at and for a large sum of money; and that such interest afterwards, to wit, on the 9th day of October, 1865, became and was conveyed by said Gibson to this defendant, and then and there became vested in him, in and to the said lot six. That previously, to wit, on or about the 15th day of July, 1845, and before the filing of said original bill herein, all of the right, title and interest, legal or equitable, which said Henry King had in and to said lot six, in block thirty-four, at the time of said assignment, remaining in him, or afterwards revived in him, which became vested in said assignee in bankruptcy, if anything, became and was vested in one Gurdon L. Ford, through and under said King; that at the time of the filing of said original bill, said Ford was possessed thereof, but was not, nor hath he since been made, party thereto.

This defendant, further answering, says, that afterwards, to wit, on the 9th day of October, 1865, all of the right, title and interest which said Ford possessed in said premises at the time of the filing of said original bill, as well as all the interest which said King acquired by virtue of said

agreement with said Eldridge, dated the 15th day of October, 1845, became and was vested in this defendant; that parcel thereof now remains and is vested in this defendant, and that another parcel thereof is now vested in one Maurice H. Merriman from and under this defendant; and that since the day and year last aforesaid, this defendant hath held and possessed, and doth now hold and possess, all of said lot six, except that part of said lot commencing at the south-west corner of said lot, and thence running eastwardly along the south line thereof, forty feet; thence turning at a right angle and running northwardly sixty feet; thence turning at a right angle and running westwardly forty feet; thence turning a right angle and running southwardly sixty feet to the place of beginning, which said part of said lot has been sold to said Merriman.

This defendant, further answering, says, he does not know, nor can he state, whether the pretended claims exhibited to this court herein, for allowance, or whether any of them, were in fact debts due or owing by said King at the time of the making of the said assignment; or whether the said several parties so exhibiting said claims have any interest therein; and he therefore denies the same, and leaves said several parties to make such proof of said claims and of their respective interests therein as they may severally be advised.

And this defendant, further answering, says, that true it is, that said James H. Rees, Isaac L. Hunt, Louise C. Ellis, (formerly Louise Compton), Henry H. Casey, Henry Young, all and every of them pretend and give out that they have some claim upon or against the said premises, by virtue of the said assignment of the said Henry King, alleged to have been made on the 9th day of January, 1838, and that they and every of them make such claim as the creditors, or legal representatives of creditors, of said King, under said assignment; and that they and each of them have,

under color of said original bill, come here into court, and exhibited their several pretended claims as such creditors, or representatives of creditors, as aforesaid; yet this defendant in fact saith, that he alleges and believes it to be true, that each and every of the said claims and demands presented herein (if the same ever existed against said Henry King), were, and each was, long since and before the filing of the said original bill of complaint herein, fully paid, satisfied and discharged.

And this defendant, further answering, says, that at the time of the filing of the said original bill the said pretended claims were not, nor were any of them, legally or equitably, chargeable or a charge upon said lot six, by reason or on account of the said assignment.

This defendant, further answering, says, that after the making of said assignment and before the supposed creditors of said Henry King, or either of them, whom the said Rees, Hunt, Ellis, Casey, and Young, claim now here to represent, had in any way or manner assented to said assignment or the trusts thereof, and before they or either of them had given notice of such assent, to the said Edward Eldridge as assignee as aforesaid, that is to say, on the 15th day of October, 1845, the said Henry King did revoke the said assignment, and the supposed trusts thereof or therein contained, as hereinbefore stated, and that said Eldridge then assented thereto; and that from thenceforth the said assignment and the trusts therein contained, became terminated and ended, so far at least as the same could in any way or manner relate to the said claims or demands, or either of them, exhibited to the court herein, for allowance as aforesaid, of which said revocation the then pretended owners of said claims, then, to wit, on the day and year last aforesaid, had notice.

This defendant, further answering, says, that each and every of the said pretended claims or demands against the

said Henry King accrued long since (if at all), and prior to the 9th day of January, 1838, when said assignment is alleged to have been executed; and that for a long space of time, to wit, for more than sixteen years, the holders and owners of all and every of said pretended claims, wholly failed and neglected to assert the same against said Henry King, or to establish the same as claims against said lot six, or against said King personally; that at the time when said original bill was filed herein, both said Henry King and said Edward Eldridge had departed this life, and most of the persons who could know anything concerning the justice of said claims were then also deceased; that the transactions out of which said pretended claims arose, had then for a long time last past, become greatly obscured by reason of the lapse of time; and this defendant further says, that some of said pretended claims—and he charges that each and every of said pretended claims—had, long previous to the filing of said original bill herein, been disputed, and the justness thereof been denied; and this defendant further says, and he will insist, that at the time of the filing of said original bill herein, each and every of the said pretended claims was and were wholly stale and antiquated; and that this court should not take cognizance thereof, nor make the same, nor any of them, to be a charge upon said lot six.

And this defendant, further answering, says, in respect of the said several claims or demands by the said several parties exhibited to the court herein, that said claims did not, nor did any or either of them, accrue against the said Henry King at any time within sixteen years next before the filing and exhibiting of the said original bill of complaint herein; and this defendant doth and will insist upon the benefit of the statute in that behalf in such case provided, and prays the same benefit thereof as if he had specially pleaded the same in bar of each and every of said pretended claims or demands.

This defendant, further answering, says, in respect of the said several claims and demands by the said several parties exhibited to the court herein, that said claims did not, nor did any or either of them, accrue against the said Henry King at any time within five years next before the filing and exhibiting of said original bill of complaint herein; and this defendant doth and will insist upon the benefit of the statute in that behalf in such case provided, and prays the same benefit thereof as if he had specially pleaded the same in bar of each and every of said pretended claims or demands.

This defendant, further answering, says, that at the time of the filing of said original bill herein by the said David Gibson, he, the said Gibson, therein and thereby claimed to be the owner and holder of all and every of the debts owed by the said Henry King at the time of making said assignment, and particularly of all and every of the scheduled debts particularly named and specified in the said assignment; and although this defendant doth and will insist that none of the said supposed debts were, at the time last aforesaid, a charge upon said lot six, yet this defendant in fact says, that afterwards, to wit, on the 9th day of October, 1865, to wit, at the time this defendant acquired his said interest in said lot, and entered into and upon the same, he, the said Gibson, then and there released and discharged the said premises of and from all of said claims and demands or pretence thereof, so then and there represented and claimed to be held by him as aforesaid.

This defendant, further answering, says, in reference to three certain promissory notes made by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, dated the 3rd day of November, 1836, payable to the order of said Henry King, and indorsed over by him to the order of one Simeon Hyde, and indorsed in blank by the said Simeon Hyde,

which said notes were first presented herein as claims by one Edward G. Hyde, (who afterwards sold them to James H. Rees), and are now exhibited herein by said James H. Rees, for allowance against said lot under said assignment, and in which said notes said Henry Young also claims some interest; that said promissory notes were not, nor were any or either of them, mentioned by said King in his assignment; and this defendant says, that by reason of the matters hereinbefore stated in this his answer, said notes ought not, nor ought any part thereof, to be made a charge upon said lot six; and he further says, as an additional reason why the same should not be allowed against said lot, that he is informed and believes that heretofore, to wit, on the 3rd day of November, 1836, said Henry King and one Simeon Hyde were jointly interested in certain lots in the city of Chicago, to wit, water lots 15, 16 and 17, in Kinzie's Addition to Chicago, and other real estate; that said King and Hyde then and there sold all of said lot seventeen (17), and the east half of said lot sixteen (16), to said Reynolds, Jenkins and Lovell, under an agreement to make good title thereto, free and clear of all incumbrances, and then and there took and received the said promissory notes in part payment for said lots; that at that time the interest of said King and Hyde in the lots in question stood in the name of King, who resided in Chicago, said Hyde then residing in the city of New York; that the interest of said Hyde and King was so placed in said King for the sake of convenience in making sales of the joint property of himself and said Hyde, and that said King transacted the business of said sale to Reynolds, Jenkins and Lovell in his own name, and took for part of the purchase money thereof the notes aforesaid, payable to his own order, together with a certain other note of like description as the above, except as to amount, said notes being upon nine, fifteen, twenty-one and twenty-seven months, and amounting in all, with interest

This defendant, further answering, says, in respect of the said several claims and demands by the said several parties exhibited to the court herein, that said claims did not, nor did any or either of them, accrue against the said Henry King at any time within five years next before the filing and exhibiting of said original bill of complaint herein; and this defendant doth and will insist upon the benefit of the statute in that behalf in such case provided, and prays the same benefit thereof as if he had specially pleaded the same in bar of each and every of said pretended claims or demands.

This defendant, further answering, says, that at the time of the filing of said original bill herein by the said David Gibson, he, the said Gibson, therein and thereby claimed to be the owner and holder of all and every of the debts owed by the said Henry King at the time of making said assignment, and particularly of all and every of the scheduled debts particularly named and specified in the said assignment; and although this defendant doth and will insist that none of the said supposed debts were, at the time last aforesaid, a charge upon said lot six, yet this defendant in fact says, that afterwards, to wit, on the 9th day of October, 1865, to wit, at the time this defendant acquired his said interest in said lot, and entered into and upon the same, he, the said Gibson, then and there released and discharged the said premises of and from all of said claims and demands or pretence thereof, so then and there represented and claimed to be held by him as aforesaid.

This defendant, further answering, says, in reference to three certain promissory notes made by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, dated the 3rd day of November, 1836, payable to the order of said Henry King, and indorsed over by him to the order of one Simeon Hyde, and indorsed in blank by the said Simeon Hyde,

which said notes were first presented herein as claims by one Edward G. Hyde, (who afterwards sold them to James H. Rees), and are now exhibited herein by said James H. Rees, for allowance against said lot under said assignment, and in which said notes said Henry Young also claims some interest; that said promissory notes were not, nor were any or either of them, mentioned by said King in his assignment; and this defendant says, that by reason of the matters hereinbefore stated in this his answer, said notes ought not, nor ought any part thereof, to be made a charge upon said lot six; and he further says, as an additional reason why the same should not be allowed against said lot, that he is informed and believes that heretofore, to wit, on the 3rd day of November, 1836, said Henry King and one Simeon Hyde were jointly interested in certain lots in the city of Chicago, to wit, water lots 15, 16 and 17, in Kinzie's Addition to Chicago, and other real estate; that said King and Hyde then and there sold all of said lot seventeen (17), and the east half of said lot sixteen (16), to said Reynolds, Jenkins and Lovell, under an agreement to make good title thereto, free and clear of all incumbrances, and then and there took and received the said promissory notes in part payment for said lots; that at that time the interest of said King and Hyde in the lots in question stood in the name of King, who resided in Chicago, said Hyde then residing in the city of New York; that the interest of said Hyde and King was so placed in said King for the sake of convenience in making sales of the joint property of himself and said Hyde, and that said King transacted the business of said sale to Reynolds, Jenkins and Lovell in his own name, and took for part of the purchase money thereof the notes aforesaid, payable to his own order, together with a certain other note of like description as the above, except as to amount, said notes being upon nine, fifteen, twenty-one and twenty-seven months, and amounting in all, with interest

added, to the sum of \$15,478.16, the interest being added into the face of each of said notes, and the principal sum secured by said notes, without interest, being about \$14,000; that said King also then and there received of said Reynolds, Jenkins and Lovell, the further sum of three thousand dollars in cash; that upon the receipt of said notes by said King at Chicago, as aforesaid, he indorsed and remitted the same to said Simeon Hyde, at the city of New York, for the joint benefit of himself and said Hyde; that at the time of said sale to Reynolds, Jenkins and Lovell, the interest of said King and Hyde in the lands so sold existed only under and by virtue of a contract made by King for his and Hyde's benefit, with Wright and Goodrich, and made on or about the 3rd day of February, 1836, by which contract it was agreed that Wright and Goodrich should receive as cash on said sale the sum of \$5,500; also that their bond to Arthur Bronson for \$5,500, due the 9th of June, 1836, with interest, should be paid by the purchasers, viz., King and Hyde; and also that there should be paid to Wright and Goodrich the further sum of \$4,142.50, on the 3rd day of February, 1837; but that at the time of the sale by King to Reynolds, Jenkins and Lovell, both Hyde and King had failed and neglected to pay the amount of said bond to said Arthur Bronson; and that afterwards, to wit, on the 3rd day of February, 1837, both said Hyde and King made default in the payment of said sum of \$4,142.50, the last payment due on their contract, by means whereof and of the default to pay said Bronson bond, the interest and right of said Hyde and King in and to the lands for which they received said notes of Reynolds, Jenkins and Lovell, afterwards wholly failed and terminated; that said promissory notes were in fact remitted to said Simeon Hyde by said King at about the time of their date, and that said Hyde at that time well knew that unless said Bronson bond, then overdue, should at once be paid, as well as the further payment

at maturity, to become due to said Wright and Goodrich, that the right and interest of both said Hyde and King, in and to the lands so sold to Reynolds, Jenkins and Lovell, would terminate and fail; and that it would become the duty of both said King and Hyde in such case, not only to return said sum of \$3,000 of cash received by said King of Reynolds, Jenkins and Lovell, but also to return to them their said notes, which had been remitted to said Hyde, as hereinbefore stated. That said Henry King fully recognized his obligations in the premises, and after the interest of said Hyde and King in and to said water lots had failed by reason of the non-payment of the purchase money as aforesaid, Henry King, at the solicitation and upon the request of said Reynolds, Jenkins and Lovell, paid back to them the said sum of \$3,000 of cash so received by him, and also endeavored to procure of and from the said Simeon Hyde, the said several promissory notes so indorsed over and remitted to him as aforesaid, to the end that he, the said King, might also return the same to said Reynolds, Jenkins and Lovell; but this defendant in fact says, upon his information and belief, that about the time of such application, to wit, prior to the month of May, 1837, said Simeon Hyde, without any consideration to him or to any of the parties to said notes, passed over and delivered the same to one James N. Hyde, and that at that time said James N. Hyde was wholly worthless and insolvent; and this defendant doth and will insist that such transfer was, under such circumstances, in fraud of the rights of said Henry King, as well as of the makers of said notes.

And this defendant further says, on his information and belief, that afterwards, to wit, in or about the month of September, 1837, the said James N. Hyde, without any consideration transferred and delivered over said notes to one Edward G. Hyde, and that said Edward G. Hyde then and there took and received the same and paid nothing therefor, or on

account thereof; that afterwards, and late in the year 1837, said James N. Hyde went to the city of New Orleans, and there died wholly insolvent, in or about the year 1839. This defendant further says, that at the January term, 1838, of the Municipal Court of Chicago, one George F. Allen, in his own name, but really for the use and benefit of said Edward G. Hyde, brought a suit at law against said Reynolds, Jenkins and Lovell, upon the first of said above described notes, to collect the amount thereof, and that afterwards, to wit, at the June term, 1838, of said court, and before any judgment was recovered in said suit, said Reynolds, Jenkins and Lovell filed their certain bill of complaint, in equity, against said Allen, to enjoin the collection of said note, and therein and thereby set forth that said note, as well as the other notes now exhibited for allowance herein, was and were given and made by them upon the considerations hereinbefore stated, and that said Allen was not a *bona fide* holder thereof for value without notice, and they prayed that said note might be delivered up and cancelled; of all of which premises the said Edward G. Hyde, then and there, to wit, on the day of June, 1838, had notice; and this defendant says, that afterwards, to wit, on the day of 1838, both of said suits were dismissed out of said court without day, at the instance of the attorneys of the respective parties thereto. This defendant further, on his information and belief, says, that soon after the dismissal of said two suits, said Allen returned said promissory note to said Edward G. Hyde, and that said Edward G. Hyde from thence continued to hold said note, together with the other of said notes exhibited for allowance herein, up to and until after the filing of the original bill herein by said David Gibson; and that after the filing of said original bill, to wit, on or about the day of 1857, said Edward G. Hyde, claiming to hold and own said promissory

notes (now represented herein and claimed by said Rees), exhibited and presented the same here in this court for allowance against said lot six, and about the time last aforesaid, in his own behalf, caused some testimony to be taken of and concerning the same. And this defendant further says, that afterwards, to wit, on or about the day of 185 , said Edward G. Hyde, for a nominal consideration, transferred and set over to the said James H. Rees, all of his pretended interest in said notes, and said Rees now claims to hold and own the same, and to have the amount thereof made a charge upon said lot six; but this defendant doth and will insist, that said notes ought not, nor any part thereof, to be allowed or made a charge against said lot six.

This defendant, further answering, says, that said Henry Young, as assignee of said James N. Hyde, also claims some interest in the said notes so exhibited as aforesaid, and in this behalf said Young claims and pretends, that in or about the month of January, 1837, said James N. Hyde transferred said notes to said Edward G. Hyde as collateral security for certain accommodation notes then and there furnished, as is alleged, by said Edward G. to said James N., and amounting to about the sum of \$5,000; and that afterwards, to wit, in the month of July, 1837, and while the said Edward G. so held said notes so exhibited herein as collateral security as aforesaid, with a reversionary interest therein as is alleged in favor of said James N. Hyde, he, the said James N. Hyde made a general assignment of all of his property for the benefit of his creditors, to the said Henry Young, and one Thomas, the latter of whom hath since died, by reason of which, said Henry Young claims and pretends, as assignee of said James N. Hyde, to have some interest in said notes so held and exhibited by said Rees as aforesaid, and to have the same allowed to him as a claim herein against said lot six; but this defendant doth and will insist, that

said pretended claim of said Young ought not, under the circumstances of this case, to be allowed against said lot, or made a charge thereon.

This defendant, further answering, says, that the said Henry Casey is the only person here in this court who was, or claims to have been, one of the original creditors of said Henry King at the time the said assignment to said Eldridge was made and executed; and he is informed and believes that the other claimants purchased the respective claims represented by them, at a merely nominal consideration, and obtained the same upon such nominal consideration because the pretended original creditors in that behalf of said King regarded and deemed the same as stale, antiquated, and unjust claims which were wholly worthless.

And this defendant doth and will insist, that neither the said Casey nor any other of the pretended original creditors of said Henry King (being such on said 9th day of January, 1838,) did, within a reasonable time after the making and execution of said assignment, assent thereto, or in any way or manner proceed to avail themselves of the benefit thereof. And this defendant further says, that the said creditors did not, nor did any or either of them, for a long time do any act or thing indicating their or either of their assent to the provisions of the said assignment, but, on the contrary thereof, they and every of them, their representatives and assigns, from the time of the making of the said assignment, and from thence until in or about the year 1855 or later, wholly refused and neglected to assent to said assignment or make any claim against the property therein mentioned, or against any part thereof by virtue of said assignment.

This defendant, further answering, says, that afterwards, to wit, at a term of the District Court of the United States

for the Southern District of New York, sitting in bankruptcy, to wit, on the day of A. D. 1843, the said Henry King filed his petition in due form of law, praying to be decreed a bankrupt pursuant to the laws of the United States then in force, and for his discharge from his debts and liabilities as provided by law in that behalf; that afterwards, to wit, on the day of March, 1843, such proceedings were had therein, that said King, by decree of said court, was then and there decreed to be a bankrupt, pursuant to the laws of the United States; that all and every of the debts of said King owed by him on said 9th day of January, 1838, including the claims of the said claimants herein, if said debts were then just and valid debts against said King, were, and each and every of them was then and there provable therein; and that at that time none of said pretended creditors, from or under whom the said claimants herein pretend to have acquired their said claims, had elected to take or receive any benefit of said pretended assignment of the 9th day of January, 1838, or notified said King or said Eldridge of their or either of their acceptance of the provisions thereof; and that afterwards, to wit, on the day of 1843, on one of the days of said District Court, such proceedings were had therein that said Henry King, pursuant to the statute of the United States in such case provided, was released of and from all and every the said supposed debts, claims and demands, and the same then and there became thereby wholly discharged and extinguished; and furthermore, that as to the same, and every of them, said supposed, assignment then and thereby became and was revoked and annulled.

And this defendant, further answering, says, that he acquired his said interest in said premises, through and under the said Henry King, and also through and under certain proceedings in bankruptcy, had and taken in the

District Court of the United States for the Southern District of New York sitting in bankruptcy, under and by virtue of an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," passed the 9th day of August, 1841, wherein said Henry King, to wit, on or about the 4th day of March, 1843, by the order and decree of said court, was then and there duly declared and decreed to be a bankrupt, pursuant to the Act of Congress in such case made and provided; that at the time last aforesaid, one William Coventry H. Waddell was the official or general assignee in bankruptcy, then and there acting, and theretofore duly appointed as such for said Southern District of New York, pursuant to the laws of the United States; and that by reason and force of said decree in bankruptcy, all rights, legal and equitable, of said Henry King in and to said lot six, in block thirty-four, then and there became, by operation of law, vested in said Waddell as such assignee as aforesaid; and further, that said Henry King had not, between the 9th day of January, 1838 (when said assignment was made to said Eldridge), and said 4th day of March, 1843, (when said decree in bankruptcy was so rendered) made any sale, conveyance or disposition of his interest, legal or equitable, in said lot six. That afterwards, to wit, on the 15th day of July, 1845, the said assignee in bankruptcy having duly sold all the right, title and interest of said King which came to him as such assignee as aforesaid, he, the said assignee, by deed bearing date the year last aforesaid, in pursuance of said sale, conveyed said interest to one Gurdon L. Ford; that afterwards, and subsequent to the filing of the original bill in this cause, to wit, on or about the 2nd day of March, 1860, said Ford conveyed said interest to said David Gibson for a good and valuable consideration; and that afterwards, to wit, on or about the day and year last aforesaid, said Gibson entered

into and upon said premises, as he lawfully might, under the deed thereof last aforesaid; and that afterwards, to wit, on the 19th day of October, 1860, he, said David Gibson, appeared herein in this court, and claimed to hold and own said lot six, under and virtue of said deed from said Ford, and to hold the same free and clear, and discharged of all and every the debts and demands existing against said Henry King on said 9th day of January, 1838; and that afterwards, to wit, on the 9th day of October, 1865, said David Gibson, by his deed of that date, for a valuable consideration, then and there secured to be paid to him, the said Gibson, to wit, for the sum of one hundred thousand dollars, then and there conveyed said lot to this defendant, and this defendant then and there entered into possession thereof, and still holds the same, except the part thereof conveyed by this defendant to said Merriman as aforesaid.

This defendant, further answering, says, that after the revocation of the said assignment said Eldridge held or claimed said premises adversely to the said assignment, and especially claimed that he was interested therein to the extent and for the purpose of securing certain indebtedness of said Henry King to him, then and there remaining unpaid, and that he, the said Eldridge, with said King's assent, continued so to claim an interest in the said premises, in opposition to said assignment, for a long time, to wit, until the time of his decease, late in the year 1847; and that said premises have been so held from thence hitherto, and until about the year 1857, when the said claims and demands of the said E. Eldridge upon said premises were fully paid and discharged. And thereupon the heirs of said Edward Eldridge deceased, in fact and law held said premises as naked trustees for the use and benefit of the said Gurdon L. Ford, in whom, by virtue of the bankruptcy proceedings aforesaid, all of the reversionary interest of the said King

in and to the said premises had become vested as aforesaid, or for the benefit of the heirs of said King (he then being dead) or their assigns.

This defendant, further answering, says, that at the time the said original bill was filed herein, to wit, on the 13th day of August, 1855, the said Ford was possessed of certain reversionary interests or rights of said King in the premises aforesaid, after the payment to said Edward Eldridge of the debts due to him from said Henry King, or from the estate of said King, and which, in or about the year 1845, amounted to about the sum of \$5,000, but that said Ford was not then or thereafter made a party to the said original bill of complaint, nor hath the interest of said Ford in and to the said premises (so then being in him) been brought here into court, or proceeded against, by all or either of said persons who have appeared and presented claims for allowance herein, prior to the time of the appearance here now of this defendant, and of the filing of this his answer herein as the representative herein, in part, of said interest.

And this defendant further says, that said several parties presenting claims herein for allowance as aforesaid, did not, nor did any or either of them proceed by suit or other legal proceeding in that behalf against the said premises, or against the rights of property therein, claimed by this defendant as aforesaid, in any court whatsoever, within two years after the declaration and decree of bankruptcy of said King, or after their or either of their cause of suit in that behalf did accrue.

And this defendant further says, that by the 8th section of the Act of Congress of the United States, entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved August 19, 1841, it was and is amongst other things provided and enacted, that "no suit at law or in equity shall in any case be maintainable by

or against any assignee of the bankrupt, or by or against any person claiming an adverse interest touching the property and rights of property of said bankrupt, in any court whatsoever, unless the same shall be brought within two years after the declaration and decree of bankruptcy, or after the cause of suit shall first have accrued ;" to which said section, for more certainty in this behalf, this defendant craves leave to refer, and he prays the same benefit of the said section and the provisions thereof, as if he had specially pleaded the same in bar of each and every of the said pretended claims exhibited, or which may be exhibited herein, for allowance against the said lot.

This defendant, further answering, says, that certain of the supposed claims and demands presented herein by said David Gibson, and released to this defendant as aforesaid, are also claimed by Isaac Hunt, Louise C. Ellis, and the said James H. Rees, who claim the same by certain pretended assignments ; but this defendant doth and will insist that want of diligence on the part of the said parties, should preclude them from having any relief herein, touching said claims so heretofore presented by and allowed to said Gibson herein, and by him afterwards released to this defendant as aforesaid.

This defendant further says, that at the time said interlocutory order of the day of April, 1856, was entered herein, that the interest, whatever it was, which accrued to said King under and by virtue of his agreement with said Eldridge on the 15th day of October, 1845, was in no way or manner before this court, and that the same was in no way affected or bound by said order.

This defendant, further answering, says, that he doth and will insist (inasmuch as his right and interest in said lot was not before the court, nor in any way represented by any party in and to the said original bill at the time of the making of the said order of the 9th of April, 1856,) that

the said interest and right of this defendant in said premises was and is in no way or manner bound by said order entered in the said original cause on said 9th day of April, 1856; that it appears by said order that the same was entered upon default; that the said original bill and the allegations thereof, were taken *pro confesso*, and that the said order was had and taken thereupon solely against the heirs of said Edward Eldridge, who at that time had no interest in said premises; and that in and by the allegations and statements in said original bill of complaint contained, it thereby fully appeared as a fact, that said original assignment had long previously been fully revoked by the said Henry King, as hath hereinbefore been stated and set forth, and the said facts constituting the said revocation were, by said court, in and by the terms of its said order, taken as confessed and admitted by the heirs of the said Edward Eldridge, and were so taken as confessed equally with the other matters and things in said original bill alleged against said heirs.

And this defendant doth and will insist, that while he is in no manner bound by said order, that it is inequitable and unjust, under all the circumstances of this case, to now subject said lot six to the payment of all or any of the debts owed by said Henry King on the 9th day of January, 1838, either in behalf of said original creditors, or their assigns or legal representatives.

This defendant, further answering, says, that both the legal and equitable title to said parcel of said lot six, is vested in him, and that he doth and will insist herein, that he is entitled to hold his said parcel of said lot six, and every part thereof, free and discharged of all and every the said pretended claims exhibited herein for allowance; and he denies that there is, in any event, any just cause or necessity for the sale of said premises, as prayed for by the respective claimants herein.

This defendant, further answering, says it is true, as alleged in supplemental bill of complaint, that the said Robert S. Blackwell departed this life on or about the 10th day of May, 1863; but this defendant denies that the legal title to said premises was in the said Robert S. Blackwell at the time of his death, or that the same descended to his children or heirs-at-law, as stated in the said supplemental bill of complaint in that behalf.

This defendant, further answering, says, in relation to said several promissory notes presented herein by said Edward G. Hyde, and which were made by said Lovell, Jenkins and Reynolds as aforesaid, payable to the order of said Henry King, and by him indorsed to said Simeon Hyde as aforesaid, ought not, by reason of said indorsement of said Henry King, to be allowed to the claimant or claimants thereof, nor to be made a charge upon the premises in question, by reason of said supposed assignment to said Edward Eldridge, because this defendant says, that the liability of said Henry King upon said several notes, and his contract, if any, in that behalf, was only that of an assignor under the laws of this State, and that none of the several holders of said several notes used due diligence to collect the same out of the makers thereof, before and up to the time of the presentation and exhibiting of the same for allowance herein against the said property so supposed to have been assigned as aforesaid; and this defendant further alleges and says, that prior to the time of the commencement of this suit, and before the said notes were exhibited herein for allowance as aforesaid, that had due diligence been used by the holders thereof, the same, or the larger part thereof, might have been collected out of the makers of said notes, or out of some one or more of said makers, and especially out of said Eri Reynolds; that at the time of the making of said notes, the several makers thereof resided in the State of Illinois, and that afterwards,

This defendant, now and at all times reserving and saving unto himself all benefit and advantage of exception, which can or may be had or taken to the many errors and uncertainties and other imperfections in said complainant's said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant, answering, saith :

That it is true, as alleged in the said supplemental bill of complaint, that said David Gibson did, on or about the 13th day of August, 1855, file his original bill of complaint in this court, against the heirs of one Edward Eldridge, deceased, against whom the said bill of complaint hath since been continued; and also against the heirs of one Henry King, then deceased, as to whom afterwards, to wit, on the day of April, 1856, said bill of complaint was dismissed.

This defendant, further answering, says, that he cannot admit it to be true, as alleged in said original bill of complaint, that on or about the 9th day of January, 1838, one Henry King made and delivered unto one Edward Eldridge a certain deed of assignment of all his, the said King's, property, for the benefit of the creditors of him the said Henry King; nor that there was by said deed of assignment, conveyed to said Edward Eldridge, certain pieces and parcels of real estate, within the State of Illinois, and amongst others the interest of said King in and to said lot six (6), in block thirty-four (34), in the original town of Chicago; but that notwithstanding the said assignment, had the same been executed, there would then and there have been left an equity in said Henry King, to have what might remain of said assigned property, after the payment of his debts to such of his creditors then existing as should then, or within a reasonable time thereafter, claim the benefit of said assignment; and this defendant alleges that the said Henry King, afterwards, to wit, on or about the 24th day of February, 1838,

caused said pretended assignment to be recorded in the recorder's office of Cook county aforesaid, as this defendant is informed and believes, without the knowledge or consent of the said Edward Eldridge, and that said Eldridge never executed the same, although named as assignee therein. And this defendant further says, he believes it to be true that under and by virtue of said assignment, no interest, right or title in and to said lot six was, by said assignment, conveyed to said Edward Eldridge, because he says, that he believes it to be true—as alleged and shown in said original bill of complaint filed herein—that all of the interest and right of said Henry King, in and to said lot six, had, prior to and at the time of said assignment become forfeited to said State of Illinois, in manner and form as alleged and shown in said original bill of complaint herein; and that afterwards, to wit, on or about the 27th day of February, 1841, as alleged and sworn in said original bill of complaint, by an Act of the General Assembly of the State of Illinois, entitled "An Act for the relief of the purchasers of canal lots in Chicago and Ottawa, in 1836," duly approved, etc., the right and interest theretofore vested in said King, in said lot six, and so forfeited as aforesaid, was, by the Act of the General Assembly aforesaid, conditionally revived, and subject to the rights of said Eldridge, as hereinafter stated, the same afterwards, to wit, on the 4th day of March, 1843, passed to and became vested in one William Coventry H. Waddell, as assignee in bankruptcy for the Southern District of New York, as hereinafter more fully stated, and that afterwards said Edward Eldridge, by patent from the Governor of the State of Illinois, under the seal of the said State, dated the 9th day of June, 1843, acquired the title to said lot six; and that he, the said Eldridge, so then and there acquired said title with the knowledge and consent of said Henry King; that in order to acquire said title, said

Eldridge advanced and paid to said State of Illinois, divers large sums of money, due and owing on said lot; and that in addition thereto said Henry King then and there owed him, the said Eldridge, divers other large sums of money, amounting in all to about the sum of \$5,000. That by reason of the situation and condition of the title and interest of said King in and to said lot six, at the time of said assignment, much care and expense to obtain said patent title was incurred by said Edward Eldridge; that at that time said lot was of small value, and not worth sufficient to pay said Eldridge the amount then owed to him by said King, for which said amount (except the expenses incurred by said Eldridge in perfecting said title) he, the said Edward Eldridge, was a preferred creditor, in and by virtue of said assignment of the 9th day of January, 1838.

And this defendant further says, upon his information and belief, that said Edward Eldridge then and there claimed to hold said lot and the title thereto, as security for the indebtedness aforesaid, outside and independent of the said assignment; and that under the circumstances it was in fact equitable and just for said Eldridge so to hold the same.

And this defendant further says, that said alleged assignment was voluntary and without consideration, and that said Edward Eldridge had not, up to the time last aforesaid, taken upon himself, nor did he afterwards take upon himself, the execution of the trusts contained in said assignment, or claim any right or interest in said premises by virtue thereof; and that from the time of the date of said assignment up to and including the 15th day of October, 1845, and for a long time thereafter, to wit, until the filing of the original bill of complaint herein, none of the supposed creditors of said Henry King, who were such at the time of the making of said assignment, claimed any right or interest by virtue thereof in and to said lot six, or in any other of

said assigned property; and that afterwards, to wit, on or about the said 15th day of October, 1845, the said Henry King then and there, to wit, at the county of Cook aforesaid, and before any of said supposed creditors had assented to said assignment and the trusts thereof, and before they or either of them had given any notice of assent thereto, he, the said Henry King, with the knowledge and assent of said Edward Eldridge, did then and there, or at some time theretofore, revoke and annul the said assignment and the supposed trusts thereof, (as he then and there might lawfully do) so far, at least, as said assignment related to said lot six, in block thirty-four, as will more fully and at large appear by reference to a certain instrument executed by said King and Eldridge, bearing date the said 15th day of October, 1845, and more fully and at large set forth in the original bill of complaint filed herein, on behalf of the creditors of said King, which said agreement or instrument was afterwards, to wit, on the 28th day of October, 1847, duly recorded in the recorder's office of Cook county, whereof the said creditors of said Henry King then and there had, and from thence hitherto have had, due notice.

And this defendant further says, that the fact that the said pretended assignment of the 9th of January, 1838, and the trusts thereof, were never acted upon or accepted by the said Edward Eldridge, so far as said lot six was concerned, or if in any way acted upon prior to the 15th day of October, 1845, that the same was and were, at about the time last aforesaid, revoked and annulled as aforesaid, is still further evidenced and made to appear by this, to wit, that after the making of said instrument, dated the 15th day of October, 1845, by and between said King and Eldridge, said Henry King, by and through said revocation, claimed to have some interest in and to another parcel of land included in and purporting to be conveyed by said assignment to said Eldridge, that is to say, to the east half of lot number six,

in block number thirty-eight, in said original town of Chicago, the legal title to which had been acquired by said Eldridge under and by virtue of said "relief law" (so called), passed by the Legislature of this State, and patent therefor obtained by him from said State, at the same time and as part and parcel of the same apportionment and adjustment, by which he acquired the patent title to said lot 6, in said block 34, as shown by said original bill herein. That in point of fact, both said lot 6, in block 34, and the east half of said lot 6, in block 38, and the interest of said Henry King therein, as well as the claims of his said creditors under color of said assignment from the time of the making thereof, stood upon the same footing as respected the said creditors, and were affected in the same manner, both by the said supposed assignment and the revocation thereof, made as aforesaid. That after said revocation, and from thence until about the 5th day of April, 1849, said Henry King claimed to have an interest in said east half of lot 6, block 38, and to own the same by reason thereof, as against said Eldridge and all other persons, subject to the payment of \$500 and interest; and that afterwards, on said 5th day of April, 1849, said King conveyed his said interest in the east half of said lot 6, block 38, to one Emory Gamage; and afterwards, to wit, on the 14th day of April, 1852, said Gamage filed his certain bill of complaint against the said heirs (parties herein) of said Edward Eldridge, in the Circuit Court of Cook county, to establish his said interest in said premises, so acquired of said King; and afterwards in said suit such proceedings were had, that his said interest was established and decreed to him therein, as by reference to said proceedings will more fully and at large appear; and that said premises have been since held and owned, or claimed so to be, through and under said title so then and there established. That on or about the 15th day of July, 1845, and before the filing of the said original bill herein,

all of the right, title and interest, legal or equitable, which said Henry King had, in and to said lot 6, in block 34, remaining in him after the making of said assignment, or afterwards revived in him by the laws of Illinois, became and was vested in one Gurdon L. Ford, through and under said King; that at the time of the filing of said original bill, said Ford was possessed thereof, but was not, nor hath he since been, made party thereto.

This defendant, further answering, says, that afterwards, to wit, on the 9th day of October, A. D. 1865, all of the right, title and interest which said Ford possessed in parcel of said premises, at the time of the filing of said original bill, became and was vested in this defendant; that parcel thereof now remains, and is vested in this defendant, and that another parcel thereof is now vested in one Thomas B. Bryan; and that since the day and year last aforesaid this defendant hath held and possessed, and doth now hold and possess, all that part of said lot described as follows, to wit: commencing at the south-west corner of said lot, and thence running eastwardly, along the south line thereof, forty feet; thence turning at a right angle and running northwardly sixty feet; thence turning a right angle and running westwardly forty feet; thence turning a right angle and running southwardly sixty feet, to the place of beginning; which said deed is duly recorded in the recorder's office of Cook county, in Book 325, of Deeds, page 4, and was made to this defendant in consideration of a large sum of money, to wit, \$40,000, then paid.

This defendant, further answering, says, he does not know, nor can he state whether the pretended claims exhibited to this court herein for allowance, or whether any of them were in fact, debts due or owing by said King at the time of the making of said assignment, or whether the said several parties so exhibiting said claims have any interest therein, and he therefore denies the same, and leaves said

several parties to make such proof of said claims and of their respective interests therein, as they may severally be advised.

And this defendant, further answering, says, that true it is, that said James H. Rees, Isaac L. Hunt, Louise C. Ellis, (formerly Louise Compton), Henry H. Casey, Henry Young, all and every of them, pretend and give out that they have some claim upon or against said premises, by virtue of said assignment of said Henry King, made on the 9th day of January, 1838, and that they and every of them make such claim as the creditors, or legal representatives of creditors, of said King under said assignment, and that they and each of them have, under color of said original bill, come here into court and exhibited their several pretended claims as such creditors, or representatives of creditors, as aforesaid, yet this defendant in fact saith, that he alleges and believes it to be true, that each and every of said presented claims and demands (if the same ever existed against said Henry King) were, and each was, long since, and before the filing of said original bill of complaint herein, fully paid, satisfied and discharged.

And this defendant, further answering, says, that at the time of the filing of said original bill, the said pretended claims were not, nor were any of them, legally or equitably, chargeable or a charge upon said lot six, by reason or on account of the said assignment.

This defendant, further answering, says, that after the making of said assignment, and before the supposed creditors of said Henry King, or either of them, whom the said Rees, Hunt, Ellis, Casey, and Young, claim now here to represent, had in any way or manner assented to said assignment, or the trusts thereof, and before they, or either of them, had given notice of such assent to said Edward Eldridge as assignee as aforesaid, that is to say, on the 15th day of October, 1845, the said Henry King did revoke said assignment

and the supposed trusts thereof, or therein contained, and that said Eldridge then assented thereto; and that, from thenceforth, said assignment and the trusts therein contained became terminated and ended, so far, at least, as the same could, in any way or manner, relate to said claims or demands, or either of them; exhibited to the court herein, for allowance as aforesaid; of which said revocation the then pretended owners of said claims then, to wit, on the day and year last aforesaid, had notice.

This defendant, further answering, says, that each and every of said pretended claims or demands against said Henry King accrued long since (if at all), and prior to the 9th day of January, 1838, when said assignment was executed; and that for a long space of time, to wit, for more than sixteen years, the holders and owners of all and every of said pretended claims, wholly failed and neglected to assert the same against said Henry King, or to establish the same as claims against said lot six, or against said King personally; that at the time when said original bill was filed herein, both said Henry King and said Edward Eldridge had departed this life, and most of the persons who could know anything concerning the justice of said claims were then also deceased; that the transactions out of which said pretended claims arose had then for a long time last past become greatly obscured, by reason of the lapse of time; and this defendant further says, that some of said pretended claims—and he charges that each and every of said pretended claims—had, long previous to the filing of said original bill herein, been disputed, and the justness thereof been denied; and this defendant further says, and he will insist that at the time of the filing of said original bill herein, each and every of the said pretended claims was and were wholly stale and antiquated, and that this court should not take cognizance thereof, nor make the same, nor any of them to be a charge upon the said lot.

And this defendant, further answering, says, in respect of said several claims or demands by said several parties exhibited to the court herein, that said claims did not, nor did any or either of them, accrue against the said Henry King at any time within sixteen years next before the filing and exhibiting of said original bill of complaint herein; and this defendant doth and will insist upon the benefit of the statute in that behalf in such case provided, and prays the same benefit thereof as if he had specially pleaded the same in bar of each and every of said pretended claims or demands.

This defendant, further answering, says, in respect of said several claims and demands by said several parties exhibited to the court herein, that said claims did not, nor did any or either of them, accrue against said Henry King at any time within five years next before the filing and exhibiting of said original bill of complaint herein; and this defendant doth and will insist upon the benefit of the statute in that behalf in such case provided, and prays the same benefit thereof as if he had specially pleaded the same in bar of each and every of said pretended claims or demands.

This defendant, further answering, says, that at the time of the filing of said original bill herein by said David Gibson, he, said Gibson, therein and thereby claimed to be the owner and holder of all and every of the debts owed by the said Henry King at the time of making said assignment, and particularly of all and every of the scheduled debts particularly named and specified in said assignment; and although this defendant doth and will insist that none of the said supposed debts were at the time last aforesaid a charge upon said lot six, yet this defendant in fact says that afterwards, to wit, on the 9th day of October, 1865, to wit, at the time this defendant acquired his said interest in said lot, and entered into and upon the same, he, the said Gibson, then and there released and discharged said

premises of and from all said claims and demands, or pretense thereof, so then and there represented and claimed to be held by him as aforesaid.

This defendant, further answering, says, in reference to three certain promissory notes made by Eri Reynolds, Thomas Jenkins, and Vincent S. Lovell, dated the 3rd day of November, 1836, payable to the order of said Henry King, and indorsed over by him to the order of one Simeon Hyde, and indorsed in blank by said Simeon Hyde, which said notes are exhibited herein by said James H. Rees for allowance against said lot under said assignment, and in which said notes said Henry Young also claims some interest, that said promissory notes were not, nor were any or either of them, mentioned by said King in his said assignment; and this defendant says, that by reason of the matters hereinbefore stated in this his answer, said notes ought not, nor ought any part thereof, to be made a charge upon said lot six; and he further says, as an additional reason why the same should not be allowed against said lot, that he is informed and believes, that heretofore, to wit, on the third day of November, 1836, said Henry King and one Simeon Hyde were jointly interested in certain lots in the city of Chicago, to wit, water lots 15, 16, and 17, in Kinzie's Addition, amongst others; that said King and Hyde then and there sold said lot 17, and the east half of lot 16, to said Reynolds, Jenkins and Lovell, under an agreement to make good title thereto, free and clear of all incumbrances, and then and there took and received the said promissory notes in part payment for said lots; that at that time the interest of said King and Hyde in the lots in question stood in the name of King, who resided in Chicago—said Hyde then residing in the city of New York; that the interest of said Hyde and King was so placed in said King for the sake of convenience

in making sales of the joint property of himself and said Hyde, and that said King transacted the business of said sale to Reynolds, Jenkins and Lovell in his own name, and took for part of the purchase money thereof the notes aforesaid payable to his own order, together with a certain other note of like description as the above except as to amount, said notes being upon nine, fifteen, twenty-one, and twenty-seven months, and amounting in all, with interest added, to the sum of \$15,478.16—the interest being added into the face of each of said notes, and the principal sum secured by said notes, without interest, being \$14,000; that said King also then and there received of said Reynolds, Jenkins and Lovell, the further sum of three thousand dollars cash. That upon the receipt of said notes by said King at Chicago aforesaid, he indorsed and remitted the same to said Simeon Hyde at the city of New-York, for the joint benefit of himself and said Hyde; that at the time of said sale to Reynolds, Jenkins and Lovell, the interest of said King and Hyde in the lands so sold existed only under and by virtue of a contract made by King for his and Hyde's benefit, with Wright and Goodrich, and made on or about the 3rd day of February, 1836, by which contract it was agreed that Wright and Goodrich should receive as cash on said sale the sum of \$5,500; also, that their bond to Arthur Bronson for \$5,500, due the 9th of June, 1836, with interest, should be paid, and also, that there should be paid to Wright and Goodrich, the further sum of \$4,142.50, on the 3rd day of February, 1837; but that at the time of the sale by King to Reynolds, Jenkins and Lovell, both Hyde and King had failed and neglected to pay the amount of said bond to said Arthur Bronson; and that afterwards, to wit, on the 3rd day of February, 1837, both said Hyde and King made default in the payment of said sum of \$4,142.50, by means whereof, and of the default to pay said Bronson bond, the interest and

right of said Hyde and King in and to the lands for which they received said notes of Reynolds, Jenkins and Lovell, afterwards wholly failed and terminated; that said promissory notes were in fact remitted to said Simeon Hyde by said King, at about the time of their date, and that said Hyde at that time well knew that unless said Bronson bond, then overdue, should at once be paid, as well as the further payment at maturity, to become due to said Wright and Goodrich, that the right and interest of both said Hyde and King in and to the lands so sold to Reynolds, Jenkins and Lovell, would terminate and fail; and that it would become the duty of both King and Hyde, in such case, not only to return the said sum of \$3,000 of cash received by said King, of Reynolds, Jenkins and Lovell, but also to return to them their said notes which had been remitted to said Hyde as hereinbefore stated.

That said Henry King fully recognized his obligations in the premises, and after the interest of said Hyde and King in and to said water lots had failed, by reason of the non-payment of the purchase money as aforesaid, said Henry King, at the solicitation and upon the request of said Reynolds, Jenkins and Lovell, paid back to them the said sum of \$3,000 of cash so received by him, and also endeavored to procure of and from said Simeon Hyde the said several promissory notes so indorsed over and remitted to him as aforesaid, to the end that said King might also return the same to said Reynolds, Jenkins and Lovell; but this defendant in fact says, upon his information and belief, that about the time of such application, to wit, in or about the month of May, 1837, said Simeon Hyde, without any consideration to him or to any of the parties to said notes, passed over and delivered the same to one James N. Hyde, and that at that time said James N. Hyde was wholly worthless and insolvent; and this defendant doth and will insist, that such transfer was, under such circumstances, in

fraud of the rights of said Henry King, as well as of the makers of said notes.

And this defendant further says, on his information and belief, that afterwards, to wit, in or about the month of September, 1837, said James N. Hyde, without any consideration, transferred and delivered over said notes to one Edward G. Hyde, and that said Edward G. Hyde then and there took and received the same and paid nothing therefor or on account thereof; that afterwards, and late in the year 1837, said James N. Hyde went to the city of New Orleans and there died wholly insolvent, in or about the year 1839.

This defendant further says, that at the January term, 1838, of the Municipal Court of Chicago, one George F. Allen, in his own name, but really for the use and benefit of the said Edward G. Hyde, brought a suit at law against said Reynolds, Jenkins and Lovell upon the first of said described notes to collect the amount thereof; and that afterwards, to wit, at the June term, 1838, of said court, and before any judgment was recovered in said suit, said Reynolds, Jenkins and Lovell filed their certain bill of complaint in equity against said Allen, to enjoin the collection of said note, and therein and thereby set forth that said note, as well as the other notes now exhibited for allowance herein, was and were given and made by them upon the considerations hereinbefore stated, and that said Allen was not a *bona fide* holder thereof for value, without notice, and they prayed that said note might be delivered up and cancelled; of all of which premises said Edward G. Hyde then and there, to wit, on the day of June, 1838, had notice; and this defendant says, that afterwards, to wit, on the day of 1838, both of said suits were dismissed out of said court without day, at the instance of the attorneys of the respective parties thereto.

This defendant further, on his information and belief, says, that soon after the dismissal of said two suits, said

Allen returned said promissory note to said Edward G. Hyde, and that said Edward G. Hyde from thence continued to hold said note, together with the other of said notes exhibited for allowance herein, up to and until after the filing of the original bill herein by said David. Gibson; and that after the filing of said original bill, to wit, on or about the day of 1857, said Edward G. Hyde, claiming to hold and own said promissory notes, (now represented herein and claimed by said Rees,) exhibited and presented the same here in this court for allowance against said lot six, and about the time last aforesaid, in his own behalf, caused some testimony to be taken of and concerning the same. And this defendant further says, that afterwards, to wit, on or about the day of 185 , said Edward G. Hyde, for a nominal consideration, transferred and set over to said James H. Rees all of his pretended interest in said notes, and said Rees now claims to hold and own the same, and to have the amount thereof made a charge upon said lot six; but this defendant doth and will insist that said notes ought not, nor any part thereof, to be allowed or made a charge against said lot.

This defendant, further answering, says, that said Henry Young, as assignee of said James N. Hyde, also claims some interest in the said notes so exhibited as aforesaid, and in this behalf said Young claims and pretends, that in or about the month of January, 1837, said James N. Hyde transferred said notes to said Edward G. Hyde as collateral security for certain accommodation notes then and there furnished, as is alleged, by said Edward G. to said James N., and amounting to about the sum of \$5,000; and that afterwards, to wit, in the month of July, 1837, and while the said Edward G. so held said notes so exhibited herein, as collateral security as aforesaid, with a reversionary interest therein as is alleged, in favor of said James N. Hyde, he, the said James N. Hyde, made a

general assignment of all of his property for the benefit of his creditors, to the said Henry Young and one

Thomas, the latter of whom hath since died, by reason of which, said Henry Young claims and pretends, as assignee of said James N. Hyde, to have some interest in said notes so held and exhibited by said Rees as aforesaid, and to have the same allowed to him as a claim herein against said lot six; but this defendant doth and will insist, that said pretended claim of said Young ought not, under the circumstances of this case, to be allowed against said lot, or made a charge thereon.

This defendant, further answering, says, that the said Henry Casey is the only person here in this court who was, or claims to have been, one of the original creditors of said Henry King at the time said assignment to said Eldridge was made and executed; and he is informed and believes, that the other claimants purchased the respective claims represented by them, at a merely nominal consideration, and obtained the same upon such nominal consideration, because the pretended original creditors in that behalf of said King regarded and deemed the same as stale, antiquated and unjust claims, which were wholly worthless. And this defendant doth and will insist, that neither the said Casey, nor any other of the pretended original creditors of said Henry King (being such on said 9th day of January, 1838,) did, within a reasonable time after the making and execution of said assignment, assent thereto, or in any way or manner proceed to avail themselves of the benefit thereof.

And this defendant further says, that the said creditors did not, nor did any or either of them, for a long time do any act or thing indicating their or either of their assent to the provisions of said assignment, but, on the contrary thereof, they and every of them, their representatives and assigns, from the time of the making of the said assignment,

and from thence until in or about the year 1855, or later, wholly refused and neglected to assent to said assignment, or make any claim against the property therein mentioned, or against any part thereof, by virtue of said assignment.

And this defendant, further answering, says, that he acquired his said interest in said premises through and under the said Henry King, and also through and under certain proceedings in bankruptcy, had and taken in the District Court of the United States for the Southern District of New York, sitting in bankruptcy, under and by virtue of an Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States," passed the 19th day of August, 1841, wherein said Henry King, to wit, on or about the 4th day of March, 1843, by the order and decree of said court, was then and there duly declared and decreed to be a bankrupt, pursuant to the Act of Congress in such case made and provided; that at the time last aforesaid, one William Coventry H. Waddell was the official or general assignee in bankruptcy then and there acting, and theretofore duly appointed as such for said Southern District of New York, pursuant to the laws of the United States, and that by reason and force of said decree in bankruptcy, all rights, legal and equitable, of said Henry King in and to said lot six, in block thirty-four, then and there became, by operation of law, vested in said Waddell as such assignee as aforesaid; and further, that said Henry King had not, between the 9th day of January, 1838, (when said assignment was made to said Eldridge,) and said 4th day of March, 1843, (when said decree in bankruptcy was so rendered,) made any sale, conveyance or disposition of his interest, legal or equitable, in said lot six.

That afterwards, to wit, on the 15th day of July, 1845, said assignee in bankruptcy having duly sold all the right, title and interest of said King which came to him as such assignee as aforesaid, he, the said assignee, by deed

bearing date the year last aforesaid, in pursuance of said sale, conveyed said interest to one Gurdon L. Ford; that afterwards, and subsequent to the filing of the original bill in this cause, to wit, on or about the second day of March, 1860, said Ford conveyed said interest to said David Gibson for a good and valuable consideration; and that afterwards, to wit, on or about the day and year last aforesaid, said Gibson entered into and upon said premises, as he lawfully might under the deed thereof last aforesaid; and that afterwards, to wit, on the 19th day of October, 1860, he, the said David Gibson, appeared herein in this court and claimed to hold and own said lot six, under and by virtue of said deed from said Ford, and to hold the same free and clear and discharged of all and every the debts and demands existing against said Henry King on said 9th day of January, 1838; and that afterwards, to wit, on the 9th day of October, 1865, said David Gibson, by his deed of that date, for a valuable consideration, to wit, for the sum of
then and there conveyed said lot to Thomas B. Bryan, who then and there conveyed parcel thereof to this defendant, and this defendant then and there entered into possession thereof and still holds the same, and that he hath good right thereto.

This defendant, further answering, says, that upon the revocation of the said assignment by the said King, with the consent of said Eldridge, on or about the day of 1845, said Eldridge held a claim against said premises adversely to the said assignment, and especially claimed that he was interested therein to the extent and for the purpose of securing certain indebtedness of said Henry King to him then and there remaining unpaid, and that he, the said Eldridge, with said King's assent, continued so to claim an interest in said premises in opposition to said assignment, for a long time, to wit, until the time of his decease, late in the year 1847, and that said premises have

been so held from thence hitherto and until about the year 1857, when the said claims and demands of the said E. Eldridge upon said premises were fully paid and discharged. And thereupon the heirs of said Edward Eldridge, deceased, in fact and in law held said premises as naked trustees for the use and benefit of said Gurdon L. Ford, in whom, by virtue of the bankruptcy proceedings aforesaid, all of the reversionary interest of said King in and to said premises had become vested as aforesaid.

This defendant, further answering, says, that at the time the said original bill was filed herein, to wit, on the 13th day of August, 1855, said Ford was possessed of all the reversionary interest of said King in the premises aforesaid, after the payment to said Edward Eldridge of the debts due to him from the said Henry King, or from the estate of said King, and which, in or about the year 1845, amounted to about the sum of \$5,000; but that said Ford was not then or thereafter made a party to said original bill of complaint, nor hath the interest of said Ford in and to the said premises (so then being in him) been brought here into court or proceeded against by all or either of said persons who have appeared and presented claims for allowance herein, prior to the time of the appearance here now of this defendant, and of the filing of this his answer herein, as the representative in part of said interest.

And this defendant further says, that said several parties presenting claims herein for allowance as aforesaid, did not, nor did any or either of them, proceed by suit or other legal proceeding in that behalf against the said premises, or against the rights of property therein claimed by this defendant as aforesaid, in any court whatsoever, within two years after the declaration and decree of bankruptcy of said King, or after their or either of their cause of suit in that behalf did accrue.

And this defendant further says, that by the 8th section of an Act of the Congress of the United States, entitled "An Act to establish a uniform system of bankruptcy throughout the United States," approved August 19th, 1841, it was and is, amongst other things, provided and enacted that "no suit at law or in equity shall in any case be maintainable by or against any assignee of the bankrupt, or by or against any persons claiming an adverse interest touching the property and rights of property of said bankrupt, in any court whatsoever, unless the same shall be brought within two years after the declaration and decree of bankruptcy, or after the cause of suit shall first have accrued;" to which said section, for more certainty in this behalf, this defendant craves leave to refer, and he prays the same benefit of the said section and the provisions thereof as if he had specially pleaded the same in bar of each and every of the said pretended claims exhibited, or which may be exhibited, herein for allowance against the said lot.

This defendant, further answering, says, that certain of the supposed claims and demands presented herein by said David Gibson and released to this defendant as aforesaid, are also claimed by Isaac Hunt, Louise C. Ellis, and the said James H. Rees, who claim the same by certain pretended assignments; but this defendant doth and will insist that want of diligence on the part of said parties should preclude them from having any relief herein, touching said claims so heretofore presented by and allowed to said Gibson herein, and by him afterwards released to this defendant as aforesaid.

This defendant, further answering, says, that he doth and will insist (inasmuch as his right and interest in said lot was not before this court, nor in any way represented by any party in and to the said original bill at the time of the making of the said order of the 9th day of April, 1856),

that the said interest and right of this defendant in said premises was and is in no way or manner bound by said order entered in said original cause on said 9th day of April, 1856; that it appears by said order that the same was entered upon default; that said original bill and the allegations thereof were taken *pro confesso*, and that said order was had and taken thereupon solely against the heirs of the said Edward Eldridge, who at that time had no interest in said premises; and that in and by the allegations and statements in said original bill of complaint contained, it thereby fully appeared as a fact that said original assignment had long previously been fully revoked by said Henry King as hath hereinbefore been stated and set forth, and the said facts constituting the said revocation were, by said court, in and by the terms of its said order, taken as confessed and admitted by the heirs of said Edward Eldridge, and were so taken as confessed equally with the other matters and things in said original bill alleged against said heirs.

And this defendant doth and will insist that while he is in no manner bound by said order, that it is inequitable and unjust, under all the circumstances of this case, to now subject said lot six to the payment of all or any of the debts owed by said Henry King on the 9th day of January, 1838, either in behalf of said original creditors or their assigns or legal representatives.

This defendant, further answering, says, that both the legal and equitable title to said parcel of said lot six is vested in him, and that he doth and will insist herein that he is entitled to hold his said parcel of said lot six, and every part thereof, free and discharged of all and every the said pretended claims exhibited herein for allowance; and he denies that there is, in any event, any just cause or necessity for the sale of said premises, as prayed for by the respective claimants herein.

This defendant, further answering, says, it is true, as

alleged in said supplemental bill of complaint, that said Robert S. Blackwell departed this life on or about the 10th day of May, 1868; but this defendant denies that the legal title to said premises was in said Robert S. Blackwell at the time of his death, or that the same descended to his children or heirs-at-law, as stated in said supplemental bill of complaint in that behalf.

This defendant, further answering, says, in relation to said several promissory notes presented herein by said Edward G. Hyde, and which were made by said Lovell, Jenkins and Reynolds, as aforesaid, payable to the order of said Henry King, and by him indorsed to said Simeon Hyde, as aforesaid, ought not, by reason of said indorsement of said Henry King, to be allowed to the claimant or claimants thereof, nor to be made a charge upon the premises in question by reason of said supposed assignment to said Edward Eldridge, because this defendant says that the liability of said Henry King upon said several notes and his contract, if any, in that behalf, was only that of an assignor under the laws of this State, and that none of the several holders of said several notes used due diligence to collect the same out of the makers thereof before and up to the time of the presentation and exhibiting of the same for allowance herein against said property so supposed to have been assigned as aforesaid; and this defendant further alleges and says, that prior to the time of the commencement of this suit, and before said notes were exhibited herein for allowance as aforesaid, that had due diligence been used by the holders thereof, the same or the larger part thereof might have been collected out of the makers of said notes, or out of some one or more of said makers, and especially out of said Eri Reynolds; that at the time of the making of said notes the several makers thereof resided in the State of Illinois, and that afterwards, to wit, on or about the _____ day of _____ the said Eri Reynolds lived and resided

within the county of Cook and State of Illinois, and that he was then possessed of a large amount of property, both real and personal, and that he afterwards and at about the time last aforesaid, then and there died possessed thereof; but that neither said Edward G. Hyde, nor any other of the pretended holder or holders of said notes, then and there, or at any time afterwards, caused suit to be instituted against said Reynolds or his estate for the moneys claimed to be due to them by reason or on account of said notes.

Without this, that any other matter or thing or things in said original bill of complaint contained, or in said several supplemental bills of complaint contained, is or are true in manner and form as the same are therein or in either of them alleged and set forth; and this defendant prays to be hence dismissed with his reasonable costs in this behalf sustained.

M. H. MERRIMAN,
By G. W. SMITH, *his Att'y.*

Afterwards, to wit, on the 3rd day of December, A. D. 1867, the following order was entered of record:

DAVID GIBSON <i>et al.</i>	} <i>Bill and Supplemental Bills.</i>
<i>vs.</i>	
EDWARD ELDRIDGE <i>et al.</i>	

This day comes the said David Gibson, by Messrs. Beckwith, Ayer and Kales, his solicitors, and it appearing to the court that Orville B. Blackwell and Kate Blackwell, two of the defendants to the supplemental bill of said David Gibson in this cause, are infants, under the respective ages of twenty-one and eighteen years, and it further appearing that due personal service of process of summons issued herein was had upon the said two defendants more than ten days before the first day of the present term of

this court, on motion of the said solicitors, it is ordered, that U. R. Hawley, Esq., one of the clerks of this court, be and he is hereby appointed guardian *ad litem* of the said infant defendants.

Afterwards, to wit, on the 7th day of January, 1868, the following order was entered of record, to wit:

DAVID GIBSON <i>et al.</i>	}	<i>Bill.</i>
<i>vs.</i>		
EDWARD ELDRIDGE <i>et al.</i>		
JAMES H. REES,	}	<i>Supplemental Bill.</i>
<i>vs.</i>		
DAVID GIBSON <i>et al.</i>		
DAVID GIBSON,	}	<i>Supplemental Bill.</i>
<i>vs.</i>		
CATHERINE R. BLACKWELL <i>et al.</i>		

This day come Thomas B. Bryan and J. Mason Parker, two of the defendants to the supplemental bill of James H. Rees, herein, by Francis B. Peabody, Esq., their solicitor, and, on his motion, it is ordered by the court, that the said two defendants have leave to amend their answers to said supplemental bill.

Afterwards, to wit, on the same 7th day of January, 1868, the following replication to the answers of said Bryan and Merriman, to the supplemental bill of said David Gibson, was filed on the part of said James H. Rees in the words following:

SUPERIOR COURT, CHICAGO,
January Term, 1868.

DAVID GIBSON,	}	<i>Sup. Bill.</i>
<i>vs.</i>		
CATHERINE R. BLACKWELL, and others.		

The replication of James H. Rees to the several answers of Thomas B. Bryan and Wm. H. Merriman to the supple-

mental bill of complaint of David Gibson, which answers were filed the 7th day of January, A. D. 1868.

This repliant, saving and reserving to himself all and all manner of exception which may be had or taken to the manifold errors, uncertainties and insufficiencies of the answer of said defendants, for replication thereunto, saith, that he does and will aver, maintain and prove his said bill to be true, certain and sufficient in law to be answered unto by the said defendants, and that the answer of said defendants is very uncertain, evasive and insufficient in the law to be replied unto, without this, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto; and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

JAS. L. STARK, JR.,

Sol'r for JAS. H. REES.

By leave of the court granted, the defendants below named also make like replication, each for themselves, as above.

BORDEN & SPAFFORD,

Sol'rs for Henry Young, Henry H. Casey, Isaac
L. Hunt, and Louise Compton, now Mrs. Ellis.

Afterwards, on the same 7th day of January, 1868, the said David Gibson filed his several replications to the several answers of the said Henry Young, Henry H. Casey, Louise Compton Ellis, and Isaac L. Hunt, and of the said James H. Rees, to his, the said Gibson's, supplemental bill, in the words following:

IN CHANCERY.

*In the Superior Court of Chicago,
August Term, A. D. 1867.*

The replication of David Gibson, complainant, to the several answer of Henry Young to the supplemental bill of complaint of said complainant.

This repliant, saving and reserving to himself all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the said defendant, for replication thereunto, saith, that he does and will aver, maintain and prove his said bill to be true, certain and sufficient in the law to be answered unto by the said defendant, and that the answer of said defendant is very uncertain, evasive and insufficient in the law to be replied unto by this repliant; without this, that any other matter or thing in the said answer contained material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

F. H. KALES,
Sol'r for GIBSON.

IN CHANCERY.

*In the Superior Court of Chicago,
August Term, A. D. 1867.*

The replication of David Gibson, complainant, to the several answer of Henry H. Casey to the supplemental bill of complaint of said complainant.

This repliant, saving and reserving to himself all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties and insufficiencies

of the answer of the said defendant, for replication thereunto, saith, that he does and will aver, maintain and prove his said bill to be true, certain and sufficient in the law to be answered unto by the said defendant, and that the answer of said defendant is very uncertain, evasive and insufficient in the law to be replied unto by this repliant; without this, that any other matter or thing in the said answer contained material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

F. H. KALES,
Sol'r for Gibson.

IN CHANCERY.

*In the Superior Court of Chicago,
August Term, A. D. 1867.*

The replication of David Gibson, complainant, to the joint and several answer of Louise C. Ellis, (formerly Louise Compton) and Isaac L. Hunt, to the supplemental bill of complaint of said complainant.

This repliant, saving and reserving to himself all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the said defendants, for replication thereunto, saith, that he does and will aver, maintain and prove his said bill to be true, certain and sufficient in the law to be answered unto by the said defendants, and that the answer of said defendants is very uncertain, evasive and insufficient in the law to be replied unto by this repliant; without this, that any other matter or thing in the said answer contained material or effectual in

the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

F. H. KALES,
Sol'r for Gibson.

IN CHANCERY.

*In the Superior Court of Chicago,
August Term, A. D. 1867.*

The replication of David Gibson, complainant, to the several answer of James H. Rees to the supplemental bill of complaint of said complainant.

This repliant, saving and reserving to himself all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the said defendant, for replication thereunto, saith, that he does and will aver, maintain and prove his said bill to be true, certain and sufficient in the law to be answered unto by the said defendant, and that the answer of said defendant is very uncertain, evasive and insufficient in the law to be replied unto by this repliant; without this, that any other matter or thing in the said answer contained material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this repliant is ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

F. H. KALES,
Sol'r for Gibson.

Afterwards, to wit, on the 13th day of January, 1868, the following order was entered of record:

DAVID GIBSON <i>et al.</i>	}	<i>Bill.</i>
<i>vs.</i>		
EDWARD ELDRIDGE <i>et al.</i>		

JAMES H. REES,	}	<i>Supplemental Bill.</i>
<i>vs.</i>		
DAVID GIBSON <i>et al.</i>		

DAVID GIBSON,	}	<i>Supplemental Bill.</i>
<i>vs.</i>		
CATHERINE R. BLACKWELL.		

And now come the several parties, complainants and defendants in this suit, by their several solicitors, who are now here present in court; and now, on this day, during the hearing of said cause, the said David Gibson, the original complainant in this cause, declines further to prosecute this suit either in his own behalf as complainant or in behalf of other claimants, who have come in and presented claims, and thereupon, on motion of Mr. James L. Stark, Jr., solicitor for the said James H. Rees, one of said claimants, it is ordered, that the conduct of this suit be, and the same is hereby given over to the said Rees for himself and the other of said complainants, and that the others of said claimants who are non-residents, viz., Henry Young, Henry H. Casey, and Louise C. Ellis, and William R. Ellis, her husband, give security to the satisfaction of the court, within twenty days, for all costs to accrue or which may have accrued herein, which they severally may be ordered by this court or by any court on appeal or writ of error, to pay to the defendants or any of them named in this cause, in this or the Supreme Court of this State.

Afterwards, to wit, January 28, 1868, the following order was entered of record :

DAVID GIBSON *et al.* }
vs. } *Bill.*
 EDWARD ELDRIDGE *et al.* }

JAMES H. REES, }
vs. } *Supplemental Bill.*
 DAVID GIBSON *et al.* }

DAVID GIBSON, }
vs. } *Supplemental Bill.*
 CATHERINE R. BLACKWELL *et al.* }

This day come the said non-resident complainants herein, to wit, Henry Young, Henry H. Casey, Louise C. Ellis and William R. Ellis, by their solicitors aforesaid, and on motion it is ordered by the court, that they have twenty days additional time, in which to file security for costs, in this cause, as required by the rule or order of court made and entered of record herein, on the thirteenth day of January, instant.

Afterwards, to wit, on the day of A. D.
 1868, security was given accordingly.

Before the day aforesaid, to wit, on the 21st day of January, 1861, the following replications were also entered of record, to wit, being replications to the answers filed to the supplemental bill of said Rees :

THE SUPERIOR COURT OF CHICAGO.

IN CHANCERY.

The replication of James H. Rees to the separate answer of Thomas B. Bryan, one of the defendants herein.

This repliant, saving and reserving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereto, says, that he will aver, maintain and prove his bill of complaint to be true, certain and sufficient in the law to be answered unto, and that the said answer of said Bryan is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

GOODWIN, LARNED & GOODWIN,
Comp'ts Sol'rs.

THE SUPERIOR COURT OF CHICAGO.

IN CHANCERY.

The replication of James H. Rees to the separate answer of J. Mason Parker, one of the defendants herein.

This repliant, saving and reserving to himself now and at all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereto, says, that he will aver, maintain and prove his bill of complaint to be true, certain and sufficient in the law to be answered unto, and that the said answer of said Parker is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and

avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

GOODWIN, LARNED & GOODWIN,
Comp'ts Sol'rs.

THE SUPERIOR COURT OF CHICAGO.

IN CHANCERY.

The replication of James H. Rees to the separate answer of David Gibson, one of the defendants herein.

This repliant, saving and reserving to himself now and all times hereafter, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereto, says, that he will aver, maintain and prove his bill of complaint to be true, certain and sufficient in the law to be answered unto, and that the said answer of said Gibson is uncertain, untrue and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, and not herein or hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver, maintain and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he has already prayed.

GOODWIN, LARNED & GOODWIN,
Comp'ts Sol'rs.

Afterwards, to wit, on the day of July, A. D. 1868,
being one of the days of the July Term of said court, the
court made its decree herein, in the words and figures
following :

(FINAL DECREE.)

DAVID GIBSON,

vs.

ANN G. KING, JULIA KING, SUSAN
M. KING, HENRY KING, EDWARD
P. KING, THOMAS G. KING,
EDWARD ELDRIDGE, HANNAH
ELDRIDGE, HENRY ELDRIDGE,
HELEN ELDRIDGE, CONSTANCE
ELDRIDGE, and HARRIET EL-
DRIDGE,

} *Bill.*

and

JAMES H. REES,

*vs.*DAVID GIBSON *et al.*} *Supplemental Bill.*

and

DAVID GIBSON,

vs.

CATHERINE R. BLACKWELL, OR-
VILLE B. BLACKWELL, KATE
BLACKWELL, THOMAS B. BRYAN,
MAURICE H. MERRIMAN, JAMES
H. REES, ISAAC HUNT, LOUISE
COMPTON, HENRY H. CASEY, and
HENRY YOUNG.

} *Supplemental Bill.*

This day came the complainants in the original and
supplemental bills, and the defendants thereto, by their
solicitors and counsel, and this cause came to be heard
upon the pleadings, exhibits, and the testimony taken by

the respective parties, and was argued by counsel, and the court being advised in the premises, and makes a *pro forma* decree herein, and on consideration thereof, and it appearing that a trust deed, of the purport, tenor and effect set forth in the bill, was executed on the ninth day of January, A. D. 1838, by Henry King to Edward Eldridge for the purpose therein set forth, and it further appearing that Edward Eldridge accepted the trusts contained in said deed, and that lot (6) six, in block thirty-four (34), is chargeable with the debts owing by said King at the date of the deed, and that the other real estate is not chargeable by thereto; and it further appearing, that the original bill in this case was filed on the thirteenth day of August, A. D. 1855, and that a decretal order was, on the ninth day of April, 1856, entered in this case in the following words:

In Chancery.

DAVID GIBSON,

vs.

EDWARD ELDRIDGE,	HANNAH	}	<i>Bill.</i>
ELDRIDGE,	HELEN ELDRIDGE,		
HENRY ELDRIDGE,	CONSTANCE		
ELDRIDGE,	HARRIET ELDRIDGE,		
ANN G. KING,	JULIA KING,		
SUSAN M. KING,	HENRY KING,		
HARRIET A. KING,	EDWARD P.		
KING, and THOMAS P. KING.			

And now, on this ninth day of April, comes the said complainant, by his solicitor, C. Beckwith; and it appearing to the court here that said defendants, Edward Eldridge, Hannah Eldridge, Helen Eldridge, Henry Eldridge, Constance Eldridge, Harriet Eldridge, and Ann G. King, have entered their appearance herein; and the said defendants above named also coming this day by their

solicitor, James P. Root: on motion of the solicitor of the complainant, it is ordered, that the said Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, Harriet Eldridge, and Ann G. King, do plead, answer, or demur to the said complainant's bill of complaint instanter. And on like motion of the said complainant's solicitor, it is ordered that said complainant's bill of complaint be dismissed without prejudice as to the said Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas P. King. And the said Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, Harriet Eldridge, and Ann G. King, having failed and neglected to plead, answer or demur to said complainant's bill of complaint, agreeably to the foregoing order of the court herein: on motion of the said complainant's solicitor, it is ordered and decreed as to so much of said complainant's bill as seeks relief with respect to the east half of lot six, in block thirty-eight, in the original town of Chicago, that the same be dismissed without prejudice, and as to the residue of the said complainant's bill, it is ordered and decreed, that the same be taken *pro confesso*. And the substance of the said complainant's bill appearing to be, that one Henry King, in his lifetime, to wit, in the year eighteen hundred and thirty-six, purchased of the Board of Commissioners of the Illinois and Michigan Canal, the lots hereinafter next mentioned, for the sums or prices hereinafter next mentioned, that is to say, lot six, in block thirty-four, for six thousand dollars; lot six, in block thirty-eight, for four thousand dollars; lot seven, in block twenty-eight, for sixteen hundred and ten dollars; lot four, in block forty-six, for sixteen hundred dollars; and lot four, in block thirteen, for forty-eight hundred and twenty dollars; all in the original town of Chicago, county of Cook, and State of Illinois: And that said Henry

King paid to the treasurer of the said Board of Commissioners, in the whole, the sum of forty-five hundred and seven dollars and fifty cents, being one-fourth part of the whole of said purchase money, and the further sum of eight hundred and eleven dollars and thirty-five cents, being the interest for one year, in advance, on the residue of said purchase money; and executed his several promissory notes, payable in one, two and three years respectively, with interest at six per cent. per annum, payable in advance, for the residue of the purchase money of each of said lots, and received from said treasurer his several certificates of sale of each of said lots, in the usual form, therein reciting the receipt of one-fourth part of the purchase money of each lot, and one year's interest in advance on the residue thereof, together with said promissory notes; and stating that upon payment of said notes, together with the interest thereon, agreeably to the provisions of the law authorizing the sale of such lots, the said Henry King would receive such certificates from said treasurer as would entitle the holder thereof to patents for said lots as provided for by law.

And that said Henry King, in his lifetime, to wit, on the ninth day of January, A. D. eighteen hundred and thirty-eight, was indebted and otherwise liable to the several persons, and to certain persons doing business under the several copartnership names and styles hereinafter more particularly mentioned in a certain deed from the said Henry King, and Ann G. King, his wife, to one Edward Eldridge, hereinafter set forth and described, and was also indebted to divers other persons; and being so liable, he, the said Henry King, on the same ninth day of January, A. D. eighteen hundred and thirty-eight, conjointly with Ann G. King, his wife, made, executed and delivered to one Edward Eldridge their certain deed, bearing date the day and year last aforesaid, which said deed was duly ac-

knowned on the tenth day of January, A. D. eighteen hundred and thirty-eight, and recorded in the Recorder's office of said Cook county on the sixteenth day of February, A. D. eighteen hundred and thirty-eight, and by which said deed the said Henry King and Ann G. King, his wife, therein named as the party of the first part, did, for and in consideration of the execution of the trust thereafter mentioned and set forth, and the sum of one dollar, to them in hand paid by the said Edward Eldridge therein named as the party of the second part, grant, bargain, sell, alien, remise, release, convey and confirm unto the said party of the second part and to his heirs, among other property therein described, said lot six, in block thirty-four; lot six, in block thirty-eight; lot seven, in block twenty-eight; lot four, in block forty-six; and lot four, in block thirteen, in the original town of Chicago, aforesaid; to have and to hold all and singular the therein above mentioned and described premises, and to the said party of the second part, his heirs and assigns forever. In trust to sell the same, or any part thereof, in such manner, and at such time, and for such prices as the said party of the second part should see fit; and to apply the proceeds thereof, or so much of the same as should be necessary, to the payment of the debts of the said Henry King, in the manner and in the order thereafter prescribed and set forth, and no other, to wit:

First, to pay and discharge, in the order in which they are therein mentioned, all the debts of the said Henry King set forth and referred to in the schedule thereunto annexed, and making a part of said deed, marked "A."

And secondly, when the said debts and each of them should be wholly satisfied and discharged in said order, then to pay and satisfy in rateable proportions, according to the various sums due to the several creditors of the

said Henry King, and without preference to any of them, over the others or any of them, all the debts, dues and demands specified, mentioned and set forth in the schedule thereto also annexed, and making a part of said deed, marked "B."

And that the said Henry King did thereby make, constitute and appoint the said Edward Eldridge his true and lawful attorney, in the name of the said Henry King, or in the name of the said Edward Eldridge, to execute the several trusts therein above appointed and recited; and more especially to sell and convey, alien, mortgage, release, or in any wise dispose of or incumber the said property, and to satisfy and pay off all and any mortgages upon the same, or any part thereof; to make and execute all deeds, instruments and papers whatsoever necessary for the said purposes; to discharge, pay off and satisfy all the debts due by the said Henry King, mentioned in the schedule thereunto annexed; with full power of substitution and revocation. To which said deed was annexed the said schedules A and B, therein mentioned, as follows:

SCHEDULE A.

The amount which Thomas M. Grosvenor and Henry Eldridge, of Pomfret, Conn., might be liable for or be obliged to pay as bail for the said Henry King in a suit brought against him by Hubbard & Casey, of New York, being between four thousand five hundred and five thousand dollars.

The amount which Mr. D. Elston, of Chicago, Illinois, might become liable for, or have to pay for said Henry King, as security for him in suit brought by Phelps, Dodge & Co., of New York, which suit was appealed, \$900 to \$1,000.

The amount for which Thomas S. Hyde has become liable as security for said King in a suit of Hubbard & Casey, appealed, \$1,100 to \$1,200.

The balance due from said Henry King to Edward Eldridge, of Boston.

The balance due from said Henry King to Nancy A. King, of Norwich, Connecticut.

SCHEDULE B.

Balance due to Edward Field & Co.,	\$ 553 12
“ James Latourette,	600 00
“ Atwater & Pomeroy,	448 53
“ Pomeroy & Bull,	1,800 00
“ Wetherel, Ames & Co.,	1,153 60
“ J. H. Ransom,	200 00
“ E. & H. Hull,	122 23
“ H. & D. Tarbox & Co.,	157 75
“ George H. Clark,	71 23
“ J. P. Rosevelt & Son,	646 83
“ Suydam & Boyd,	350 00
“ E. P. & H. Heyer,	1,742 87
“ Butler & Barker,	316 73
“ Collins, Keese & Co.,	80 00
“ Daniel Colt,	606 00
“ John Bartlett,	631 86
“ F. A. Huntington,	457 11
“ J. P. Church & Co.,	1,224 20
“ F. B. Rhodes & Co.,	332 37

Any balance which might be due to Simeon Hyde on settlement of accounts with him.

Any other lawful and just demands against said Henry King not now stated in his indebtedness; as appears by a copy of said indenture annexed to said bill.

And that said Henry King, in order more fully to perfect

the title of him, the said King, in said Edward Eldridge, in said lots mentioned, afterwards, to wit, on the day of A. D. 18 , by his deed of assignment of that date, assigned and transferred to the said Edward Eldridge, the said five certificates of the treasurer of the Illinois and Michigan Canal, numbered fifty-one (51), seventy-six (76), one hundred and sixty (160), one hundred and seventy-one (171), and two hundred and eight (208), before mentioned, which said assignment was duly proven before one Henry Sherman, a notary public, as required by the laws of this State.

And that on the 27th day of February, A. D. 1841, at the time of the passage of the Act of the General Assembly of the State of Illinois, passed on the day and year aforesaid, and entitled "An Act for the relief of the purchasers of canal lots in Chicago and Ottawa, in 1836," approved February 27th, 1841, the said lots had become forfeited, by reason of the said King's non-payment of the residue of the purchase money thereof, and the interest thereon, according to the terms of said contract.

And that said Edward Eldridge, afterwards, to wit, on the day of A. D. 18 , made, executed and delivered to one James H. Collins, a certain power of attorney, therein and thereby authorizing him, the said James H. Collins, to perfect the title to any one or more of the said lots by surrendering, assigning, or transferring the same or any part thereof, as appears from said power of attorney.

And that said Edward Eldridge, afterwards, to wit, on the 17th day of May, A. D. 1843, in pursuance of the aforesaid Act, by his attorney, said James H. Collins, relinquished to the State, lot seven, in block twenty-eight; lot four, in block forty-six; and lot four, in block thirteen, aforesaid, and made choice of and selected said lot six, in block thirty-four, and the east half of lot six, in block

thirty-eight, in pursuance of the aforesaid Act ; that the original purchase price of said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, was, after making the deduction aforesaid, five thousand three hundred and thirty-three dollars and thirty-four cents, and that the payment made by the said Henry King, on the said lots so relinquished to the State as aforesaid, and upon the said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, so selected and chosen as aforesaid, amounted to the sum of four thousand seven hundred and twenty-eight dollars and eighty-five cents, leaving a balance due to the State on account of said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, so selected and chosen as aforesaid, of six hundred and four dollars and forty-nine cents, which sum last mentioned was paid, as shown in said bill, out of trust funds arising as hereinafter mentioned, by the said Edward Eldridge, to the treasurer of the Board of Commissioners of the Illinois and Michigan Canal ; whereby the said Edward Eldridge became entitled to, and did receive from the Governor of the State, patents for said lot six, in block thirty-four, and the east half of lot six, in block thirty-eight, in the usual form, and severally signed by the said Governor, and countersigned by the Secretary of State, with the seal of the State thereto severally affixed ; as by said patents doth fully appear.

And that said Edward Eldridge, on the 19th day of May, A. D. 1843, by his said attorney, James H. Collins, sold, assigned, and transferred unto one Benjamin Jones, the west half of said lot six, in block thirty-eight aforesaid, for a large sum of money, to wit, the sum of six hundred and four dollars and forty-nine cents, and from the moneys so arising from said sale that said payment to the State as aforesaid was made by said Eldridge, and

that nothing more [than a trifling sum, if anything, was advanced by said Eldridge, in perfecting in him the title to said lot as aforesaid.

And that all the right, title, interest, and estate of said Henry King, in and to said lot six, in block thirty-four, and of the east half of lot six, in block thirty-eight, aforesaid, resulting by operation of law from the said deed of the said Henry King, and Ann G. King, his wife, to said Edward Eldridge, came to, and by sale, transfer, and assignment became vested in, one Edward Eldridge, a resident of the State of Connecticut, and named as a party in said bill.

And that the liability of said Thomas M. Grosvenor and Henry Eldridge, as bail for the said Henry King, at the suit of Hubbard & Casey, in said deed of assignment mentioned, was, soon after the execution thereof, discharged by the surrender of the body of said Henry King, by said Henry Eldridge, in discharge of said liability as bail, as aforesaid.

And that the liability of said D. Elston, as security for said Henry King, in said deed of assignment mentioned, in the suit brought by Phelps, Dodge & Co., was discharged by a sale of property upon the execution issued on the judgment rendered in said suit, whereby said liability became extinguished.

And that the liability of Thomas S. Hyde, as security for said Henry King, in the suit of Hubbard & Casey against said King, in said assignment mentioned, was discharged by a sale of property upon the execution issued on the judgment rendered in said suit, whereby the liability of said Hyde became extinguished.

And that said Nancy A. King, in said bill named, on the 15th day of October, A. D. 1845, by her deed of release under her hand and seal of that date, did release, acquit, and discharge him, the said Edward Eldridge, his heirs,

executors and administrators, of and from all claim and demand which she had or might have, under and by virtue of said deed of assignment; as by the said deed of release fully appears.

And that on said 15th day of October, A. D. 1845, the said Edward Eldridge, and Henry King, entered into an agreement of that date, by which the said Edward Eldridge agreed to sell and convey to the said Henry King the said lot and half lot aforesaid, upon certain terms and conditions therein mentioned; as by a copy of said agreement fully appears.

And that said Henry King, in his lifetime, nor his heirs, executors, or administrators since his decease, never did or have complied with the terms and conditions of said agreement on his part to be kept, done and performed, and the same ought to be canceled and discharged.

And that on or about the day of A. D. eighteen hundred and forty-eight, the said Edward Eldridge mentioned in said deed of assignment, died intestate, leaving Hannah Eldridge, his widow, and Edward Eldridge, Jr., Helen Eldridge, Henry Eldridge, Constance Eldridge, and Harriet Eldridge, children and only heirs at law, of said Edward Eldridge. That said Edward Eldridge, Jr., and Hannah Eldridge, have taken out letters of administration upon the estate of the said Edward Eldridge, and are now the qualified acting administrators upon said estate.

And that said Henry King, on or about the day of A. D. 18 , died intestate, leaving said Ann G. King, his widow, and Julia King, Susan M. King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, his children and heirs-at-law; and that the said Ann G. King, and Julia King, Henry King, Harriet A. King, Edward P. King, and Thomas G. King, now claim some right, title, or interest, in and to said premises, under and by virtue of said contract last above mentioned,

and the said Ann G. King as the widow of her said husband.

And that all of the several debts mentioned in schedule "B," to said deed of assignment, have been assigned unto David Gibson, the said complainant, and that the same are now due to said complainant, and wholly; as by the several assignments of the same in possession of said complainant ready here in court to be produced and shown.

And that said Edward Eldridge, Jr., Helen Eldridge, Henry Eldridge, Constance Eldridge, and Harriet Eldridge, now hold the legal title of said lot six, in block thirty-four, and the east half of lot six in block thirty-eight, in trust, for the uses and purposes mentioned in said deed of assignment, and that by reason of the death of said Edward Eldridge, the trust so created cannot be executed without the aid and assistance of this honorable court in the premises.

And that the sum of money due the estate of the said Edward Eldridge, with interest on the same, is over the sum of five thousand dollars, and that the said Edward Eldridge and Hannah Eldridge, as such administrators, are ready and willing to receive the same and execute all necessary receipts therefor.

Whereupon, it is considered, ordered, adjudged and decreed by the court, that Robert S. Blackwell, Esquire, be, and he is hereby appointed trustee in the place and stead of the said Edward Eldridge, deceased; and that the said defendants, Edward Eldridge, Hannah Eldridge, Henry Eldridge, Helen Eldridge, Constance Eldridge, and Harriet Eldridge, do severally, on demand being made upon them severally, by their deeds of conveyance under their respective hands and seals, to be acknowledged in accordance with the laws of this State, convey, assign and transfer unto the said Robert S. Blackwell, Esquire, and his heirs, the said lot six in block thirty-four, in the original town of Chicago, being part of the trust estate vested in the said Edward

Eldridge, deceased, by said indenture bearing date the ninth day of January, A. D. eighteen hundred and thirty-eight, and which came to the said defendants by descent upon the same trusts mentioned in said indenture, and for the uses and purposes therein mentioned; and in default thereof, that such conveyance or conveyances be executed by L. C. P. Freer, the master in chancery of Cook county, in the manner above mentioned, who is hereby specially appointed a commissioner for that purpose; such default to be shown to the master by the affidavit of some credible person.

And it is further ordered and decreed by said court, that said Robert S. Blackwell, so appointed as trustee as aforesaid, do proceed to sell said lot six, in block thirty-four, in the original town of Chicago, together with all the right, title and interest of the said defendants, or either of them, therein or thereto, at public auction, at the north door of the court house in the city of Chicago, in the county of Cook, aforesaid, to the highest bidder, upon the terms of one-third cash down, and the balance in six and twelve months from the day of sale, having first given notice of the time and place of such sale by advertisement, published in one of the daily newspapers published in the city of Chicago aforesaid, the first of which publications to be at least thirty days before the time appointed for such sale; and that the said complainant be at liberty to bid at such sale, and become the purchaser of said premises if he shall think fit.

And it is further ordered and decreed, that said Robert S. Blackwell, upon such sale being made as aforesaid, do make, execute and deliver to the purchaser a deed of said premises, under his hand and seal, to be acknowledged in accordance with the laws of this State, receiving therefor one-third of the said purchase money, and the bond and mortgage upon said premises of the purchaser for the other two-thirds thereof, and that he do make report to this court

of his doings under this order and decree with all convenient speed.

And it is further ordered, adjudged and decreed, that all persons to whom the said Henry King was in any wise indebted, or their assigns, or the present holders of such indebtedness, be at liberty to prove the same, together with their right and title thereto, before L. C. P. Freer, the master in chancery of Cook county, within three months from this date, and that said master give notice, in some daily newspaper published in Chicago aforesaid, and in the New York Daily Herald and the New York Daily Times, to all persons having claims against said Henry King, on account of indebtedness by him on said ninth day of January, A. D. eighteen hundred and thirty-eight, requiring all such persons to present and establish their said claims before him the said master, within the time required by this order, such notice to be published at least four weeks successively, and the first publication to be at least four weeks before the expiration of said three months, and that said master report his doings to this court with all convenient speed; and the court doth reserve for future consideration all further directions in the cause, with liberty to any of the parties to apply for further order herein.

And it appearing that a further decretal order was, on the twenty-eighth day of March, A. D. 1857, entered in this cause in the following words:

“The said complainant, by F. H. Kales, his counsel, being present, and it appearing satisfactorily to the court that the order or decree of this court, entered in the above cause on the ninth day of April, 1856, should, in respect to the time of proving up claims against Henry King before the master, and also in respect to the time of making sale of the premises thereby directed to be sold, be so reformed as to read thirteen months instead of three months: It is therefore ordered and adjudged, that said decree be so re-

formed as to read thirteen months instead of three months, both in respect to the proving up of said claims, and also in respect to the making of the sale of the premises mentioned in said decree."

And it appearing that a further decretal order was, on the fourteenth day of July, A. D. 1858, entered in this cause, in the following words:

"On the pleadings and proceedings in this cause, and on reading the affidavit filed therein on the thirteenth day of July, instant, and on motion of Spafford and Jones, solicitors on behalf of Henry Young, surviving assignee of James N. Hyde, who was, on the ninth day of January, in the year 1838, a creditor of Henry King,

"Ordered, that Robert S. Blackwell, Esq., heretofore appointed a trustee in this cause, do desist and altogether refrain from taking any action as such trustee in and about the matters connected with said cause, and that he do especially refrain from taking any step or proceeding whatever with reference to the sale or other disposition of, or in any manner interfering with the lots, or either of them, described in the bill of complaint in this cause, and now involved therein, until the further order of this court."

And it appearing that a further decretal order was, on the twenty-fourth day of May, A. D. 1859, entered in this case in the following words:

"Whereas, it appears to the court, that, by a decretal order made in this cause on the ninth day of April, 1856, it was ordered, adjudged and decreed, in substance, that all persons to whom the said Henry King was indebted, or their assigns, or the present holders of such indebtedness, be at liberty to prove the same and their title thereto before L. C. P. Freer, master in chancery, within three months from said date, and that said master give notice in some daily newspaper published in Chicago, and in the New York Daily Herald, and the New York Daily Times, to all per-

office, in the city of Chicago, in said county, on or before the 9th day of April, A. D. 1857.

“ L. C. P. FREER,

“ *Master in Chancery, Cook county, Illinois.*”

“ Now, therefore, on motion of Waller and Caulfield, attorneys for Edward G. Hyde, one of the claimants: It is ordered, for the purpose of curing the error in said publications, that the time for said claimants to appear and establish their claims before said master, be extended ninety days from this 24th day of May, A. D. 1859, and that said master give notice in a daily newspaper published in Chicago, requiring said claimants to present and establish their said claims before him within the time required by this order, said notice to be published at least four weeks successively in said papers, the first publication to be at least four weeks before the expiration of said ninety days, and that the certificate of the publisher or editor of said papers shall be sufficient proof of said publication. And whereas, also, it was ordered by the said order, entered on the 9th day of April, 1856, that said heirs of Edward Eldridge should make deeds of the property in question to Robert S. Blackwell, as trustee, on demand being made of them therefor, and in default by the said heirs, said Freer should make said deed, and whereas it is not designated by said order, what shall constitute a demand on such heirs, or how said Blackwell shall proceed in meeting said demand: It is therefore adjudged and ordered, that said demand may be made by any party in interest, or Robert S. Blackwell, as trustee, or his successor, as trustee, by filing in the office of the clerk of this court, a demand in writing, addressed to the said parties for said deed, and serving a copy of such written demand on James P. Root, the attorney who has appeared for said parties in this cause; and if within thirty days after the filing of such

written demand, and service of the same as aforesaid, the said parties neglect or refuse to make said deed as provided by said former order, that in such case the said L. C. P. Freer, master in chancery, shall be authorized to make said deed in the same manner as if the said demand had been made personally, and an affidavit of any credible person, of the service of a copy of such demand upon the said James P. Root, together with the affidavit of said Robert S. Blackwell, or his successor, of the non-execution of said deed to him, shall be evidence of default, to authorize said Freer to make, execute and deliver said deed to said Robert S. Blackwell as trustee aforesaid."

And it appearing that a further decretal order was, on the thirteenth day of January, A. D. 1860, entered in this case, in the following words :

"On reading and filing the petition of James H. Rees, and on motion of his solicitor, it is ordered, that said Rees be, and he hereby is made a party complainant to the bill of complaint in this cause, and leave given to file a supplemental bill."

And it appearing that a further decretal order was, on the thirty-first day of August, A. D. 1860, entered in this case, in the following words :

"On reading the complainant's bill of complaint in this cause, exhibited pursuant to leave granted, together with affidavit annexed, and on motion of Messrs. Goodwin, Larned & Goodwin, complainant's solicitors: It is ordered that said bill of complaint and affidavit be filed, and that the said defendants, David Gibson, and Zenas Cobb, show cause before the court, on the second Monday of September, 1860, at 10 o'clock, A. M., or as soon as counsel can be heard, why a preliminary injunction should not issue, and a receiver be appointed according to the prayer of said bill; and it is further ordered, that all acts and proceedings by the defendants in this cause ought to be restrained by said bill,

and particularly the receiving or paying the rents of lot six, block thirty-four, on Randolph street, be stayed and enjoined until the decision of the court on such order to show cause."

And it appearing that a further decretal order was, on the 31st day of August, 1860, entered in this case, in the following words :

"On reading the said complainant's bill in the nature of a supplemental bill heretofore filed, and the affidavits therewith filed, and upon the order heretofore entered in said cause, that the defendants show cause why a preliminary injunction should issue and a receiver be appointed according to the prayer of said bill, and on hearing Messrs. Goodwin, Larned & Goodwin for the complainant, and Messrs. Stuart & Kales for the defendants: It is ordered by the court, that the defendants, David Gibson and Zenas Cobb (except as receiver), be restrained and enjoined from interfering or meddling with the possession by Robert S. Blackwell, Esq., trustee of the premises known as lot six, in block thirty-four, in the original town of Chicago, situated on the north side of Randolph street, in said city of Chicago, or any part thereof; and that said Gibson be restrained from continuing and remaining in possession thereof, and from collecting or receiving from the said George W. Colby, Peter Dunn, Jacob Rouse, Joseph Gastreich, and Patrick R. Morgan, tenants on said premises, or from any other person, any rents for said premises or any part thereof, and that the said last named persons be enjoined and restrained from paying to the said David Gibson, or to any other person than the receiver of this court, any rent due or to become due for the use of said premises; and that the said Gibson be further enjoined and restrained from making any lease of the said premises, and from selling, assigning, or disposing of any existing lease of the same; and that the said Gibson and Cobb be enjoined from making any

conveyance of the said property, or any part thereof, and from selling, transferring, or assigning the certificate of purchase of said lot 6, in block 34, sold for city taxes on the 17th March, 1859, issued to said Cobb, and from receiving any deed on such certificate and purchase, until the further order of this court in the premises.

"And that Zenas Cobb be, and he is hereby appointed receiver of the rents and profits of the said premises, viz. : the said lot six, in block thirty-four, original town of Chicago, with the usual powers, on his filing with the clerk of this court, a bond in the usual form, in the penalty of five thousand dollars, with John S. Newhouse as security, within twenty days after the date of this order.

"And it is further ordered, that the said Colby, Dunn, Rouse, Gastreich, and Morgan, the tenants of said premises, or portions thereof, do respectively attorn to the said receiver, and that the said tenants respectively pay over to the said receiver the rents due and to become due by them, and each of them, as such tenant.

"And it is further ordered, that the said receiver shall forthwith, upon the collection of said rents or any part thereof, bring the same into court and deposit the same with the clerk of this court, except such portion thereof as shall be expended for state, city and county taxes, or assessments now levied, or which may hereafter be levied on said premises, for which vouchers shall at the same time be filed; and that said receiver, or other parties in interest, have leave to apply to this court for modifications of this order, or for further directions in the premises, as he or they may be advised; and that the said receiver shall make a report in writing once in six months, and oftener as the court shall so direct, giving a full account of his receipts and disbursements in the premises."

And it appearing that a further decretal order was, on

the 16th day of November, A. D. 1863, entered in this case, in the following words :

“ And now on this 16th day of November, A. D. 1863, on motion of H. G. Spafford and John Borden, solicitors for Henry Young, and of the creditors of Henry King, named in the bill of complaint in the above entitled cause : It is ordered by the court, that this case be referred to Ira Scott, one of the masters in chancery of this court, L. C. P. Freer, to whom the same was heretofore referred, having ceased to be a master in chancery of this court.

“ And it is further ordered, that all persons to whom the said Henry King was in any wise indebted on the ninth day of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and to file their claims and prove the same, together with their right and title thereto, before Ira Scott, the said master, at any time before January first, A. D. 1864 ; and that said master report the proofs so taken to this court, and that all persons filing their claims as aforesaid, as well as such persons as have heretofore filed claims under previous orders of this court in this cause, as well as the respective parties thereto, be at liberty to take such proofs by commissions, to be issued in pursuance of the statute as they may be advised.”

And it appearing that a further decretal order was, on the 14th day of July, A. D. 1864, entered in this case, in the following words :

“ And now, on this fourteenth day of July, A. D. 1864, on motion of John Borden, solicitor for Isaac L. Hunt, one of the creditors of Henry King, named in the bill of complaint in the above entitled cause : It is ordered by the court, that all persons to whom the said Henry King was in any wise indebted on the ninth day of January, A. D.

1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and file their claims and prove the same, together with their right and title thereto, before Ira Scott, master in chancery of this court, at any time before September first, A. D. 1864, and that all such persons who have already made themselves parties to this cause under former orders heretofore entered, have until said September first to take further proofs of their claims; and that all such persons, as well as the respective parties to this cause, be at liberty to take such proofs by commissions to be issued in pursuance of the statute as well as before the said master as they may be advised."

And it appearing that a further decretal order was, on the 5th day of March, A. D. 1866, entered in this case, in the following words:

"Whereas it appears to the court, that by a decretal order made in this cause on the ninth day of April, A. D. 1856, it was ordered, adjudged and decreed, in substance, that all persons to whom Henry King, named in the bill of complaint in said cause, was in any wise indebted, or their assigns, or the present holders of such indebtedness, be at liberty to prove the same, together with their right and title thereto, before L. C. P. Freer, Esquire, the master in chancery of Cook county, within three months from this date. And whereas, by a subsequent order made in this cause on the 24th day of May, A. D. 1859, it was further ordered, that the time for persons to appear and establish their claims before said master be extended ninety days from the 24th day of May A. D. 1859.

"And whereas, by a subsequent order made in this cause on the 16th day of November, A. D. 1863, it was ordered that this cause be referred to Ira Scott, one of the masters in chancery of this court, L. C. P. Freer to whom the same

was theretofore referred, having ceased to be a master in chancery of said court.

“ And it was further ordered, that all persons to whom the said Henry King was in any wise indebted on the 9th day of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and to file their claims and prove the same, together with their right and title thereto, before Ira Scott, the said master, at any time before the first day of January, A. D. 1864.

“ And whereas, by a subsequent order made in this cause, it was ordered, that all persons to whom the said Henry King was in any wise indebted on the ninth day of January, A. D. 1838, or their personal representatives or assigns, or the present holders of such indebtedness, be at liberty to make themselves parties to this suit, and to file their claims and prove the same, together with their right and title thereto, before Ira Scott, the said master, at any time before the first day of September, A. D. 1864.

“ Now, therefore, on motion of F. H. Kales, Esq., solicitor for complainant Gibson, it is ordered, that all persons to whom the said Henry King was in any wise indebted on the 9th day of January, A. D. 1838, or their representatives or assigns, who claim any rights in this suit, under or by virtue of the orders entered therein, and who have not become parties of record therein, do, on or before the fifteenth day of March, A. D. 1866, appear here in open court in person, or by their solicitors, and cause their appearance to be entered in said cause, and apply to the court to be admitted as parties of record therein, upon such equitable terms as shall be meet and just.

“ And it is also, on like motion, further ordered, that all and every the said persons to whom the said Henry King

was so indebted, or their representatives or assigns, who shall fail to comply with the foregoing order within the time aforesaid, shall from thenceforth be barred and prohibited of and from the benefit of said cause, and of all orders and proceedings therein, and of all right or privilege to appear and set up or insist upon any claim therein."

And it appearing that a further decretal order was, on the 7th day of March, A. D. 1867, entered in this case, in the following words :

"And now come the several parties, complainants and defendants in the said causes, by their several solicitors, as follows: Mr. F. H. Kales, for David Gibson; Mr. J. L. Stark, for James H. Rees; and Messrs. Borden & Spafford, for certain claimants who have taken testimony on their part. And thereupon, on motion of F. H. Kales, as solicitor for said Gibson, it is ordered, that the said David Gibson have leave, and leave is hereby given him to file his certain supplemental bill as drafted and prepared, wherein Catherine R. Blackwell, Orville B. Blackwell, and Kate Blackwell, and also Thomas B. Bryan, James H. Rees, Isaac L. Hunt, Louise Compton, Henry H. Casey, and Henry Young, are named as parties defendants, which said bill is filed herein by the clerk accordingly. And it is also hereby, upon consent, further ordered, that all orders heretofore made in this cause which might affect the right of the said several parties to become parties to the record in this cause, or to have any relief to which they may show themselves entitled in respect to their several claims touching the premises, are hereby rescinded as to the said several parties, and that said order of March 5th, 1867, is so modified as not to affect either of said parties, the foregoing order, however, not applying to said order of 9th of April, 1856.

“ And, thereupon, come Louise Compton, Isaac L. Hunt, and Henry Young, three of the defendants in said supplemental bill named, by Messrs. Borden & Spafford, their solicitors, and enter their appearance herein and waive service of process of summons, and on motion of their said solicitors, it is further ordered, that they have leave to file their answer to the said supplemental bill herein within thirty days from this date.”

And it further appearing that the said lot (6) six, in block (34) thirty-four, in the original town of Chicago, was, by the order and direction of the court, deeded to Robert S. Blackwell, by L. C. P. Freer, master and commissioner, to hold in trust under the order of this court, and to sell the same to pay such debts as should be found to be due from the said Henry King on the 9th day of January, A. D. 1838; and it further appearing that the said Robert S. Blackwell deceased on or about the 15th day of May, A. D. 1863, intestate, leaving surviving him his widow, Catherine R. Blackwell, and his minor children, and only heirs, Orville B. Blackwell, and Kate Blackwell; and it further appearing that said widow and children have no equitable interest or lien on said premises, and have appeared in court and answered the supplemental bill filed by David Gibson; and it further appearing that F. H. Kales, the solicitor of David Gibson, in court, on the 13th day of January, A. D. 1868, declined to further prosecute this suit as complainant, either in his own behalf or in behalf of any other of the complainants who have presented claims here, and withdrew all claims by him before presented. Whereupon it was ordered, that James H. Rees, a claimant who had presented claims, thereafter take conduct of the case.

And it further appearing that James H. Rees is the equitable owner of three notes signed by Eri Reynolds, Thomas Jenkins, and Vincent Lovell, to the order of Henry

King, and by him indorsed to Simeon Hyde, and by the said Simeon Hyde indorsed in blank, and which came to the hands of James N. Hyde, and which are described in the supplemental bill, and upon which said Henry King was liable as indorsee, and which were secured by said trust deed, and upon which there is due at the date of this decree, the sum of thirty-two thousand three hundred and eleven dollars and thirty-three cents; and it further appearing that said James H. Rees is the equitable owner of a debt originally payable to the Illinois College, by virtue of an agreement in writing made by the said Henry King, to pay said Illinois College the sum of five hundred dollars, with the interest thereon from the first day of January, A. D. 1837, and upon which there is due at this date, including interest, the sum of fourteen hundred twenty-seven dollars and twenty-five cents, which was also secured by said trust deed.

And it further appearing that the said James H. Rees is the equitable owner of a judgment rendered in favor of Sheldon P. Church and John B. Church, against the said Henry King, on the 17th day of May, A. D. 1839, upon a debt secured by said trust deed for the sum of \$1,480.65, and which, with the interest thereon, now amounts to \$4,055.65, which several sums the court adjudged to be due said James H. Rees.

And it further appearing that there is due Henry H. Casey, survivor of Hubbard & Casey, the sum of fourteen thousand one hundred twenty-eight dollars and sixty-six cents, including interest, on a debt which was secured by said trust and evidenced by a judgment obtained in the year 1839, in the State of Connecticut, upon a note executed by the said Henry King prior to said assignment, which sum the court adjudges to be due him.

1,784.74
 6,139.33
 2,319.15
 462.31
 5119.89
 4094.84
 558.09
 1678.11
 200.00
 3008.56

 23,831.75
 32,311.33
 x 2,154.25
 4,055.65
 14,128.66

 76.85464
 41.14500

 \$117,999.64

And it further appearing to the court, that Louise Compton is the owner of certain claims which the court finds to be of the character and amounts following, to wit:

A claim originally due Hasbuck and Buck, based on a draft drawn in their favor by Henry King, deceased, on Simeon Hyde, on or about December first, 1836, for	\$609 35
Payable six months after said date, on which said claim interest is allowed for and to the amount of	1,175 39
	<hr/> \$1,784 74

A claim originally due J. D. Dissosway & Bros., on three notes of said King to them, for	\$2,142 00
Whereon interest is allowed to the amount of	3,997 33
	<hr/> \$6,139 33

A claim originally due J. D. Beers & Co., for principal,	\$745 11
On which interest is computed and allowed to the amount of	1,574 04
	<hr/> \$2,319 15

A judgment in favor of White & Richards, against said King, recovered in the Municipal Court of Chicago, on or about November 10th, A. D. 1837, for damages,	\$155 27
And for costs,	6 56
On which judgment interest is computed and allowed to the amount of	300 48
	<hr/> \$462 31

A claim originally due Suydam, Jackson & Co., on the two notes of said King to them, viz., one of Aug. 15th, 1837, at 6 months, for the sum of	\$1,050 75
And the other of Aug. 15, 1837, at 12 months, for	1,088 35
On which notes interest is allowed to the date of a payment thereon, that is, up to May 1st, 1841, such interest amounting to	250 86
Making the amount of the notes at that time,	\$2,389 96
From which is deducted said payment,	446 82
Leaving then due on the principal,	\$1,943 14
Upon which interest is allowed, to the amount of	3,176 75
	<u>\$5,119 89</u>
Two notes of J. W. C. Coffin, indorsed by said Henry King; one of the same dated August 25th, 1837, payable eighteen months after date, for	728 21
On which interest is allowed to the amount of	1,285 99
And the other of which notes was of the same date, and was payable two years after its date, for	752 85
And interest on the same is allowed to the amount of	1,307 82
	<u>\$4,074 87</u>
A claim originally due McNulty & Chapman, on three drafts drawn on them by said King, and paid by them for his accommodation, for, in all, the principal sum of	\$195 25
On which interest is allowed to the amount of	359 84
	<u>\$555 09</u>

An account originally due McNulty & Chapman from said King, for	\$167 81
An account originally due J. H. Ransom from said King, for	\$200 00
A note of said King to Pomeroy & Bull, which became due on or about September 17th, 1836, for	\$ 787 64
On which interest is allowed to the amount of	1,516 21
Also, an account originally due from said King to said Pomeroy & Bull, for	704 71
	<hr/>
	\$3,008 56

2973.85

All of which aforesaid claims so held by said Louise Compton, are by the court fixed and estimated as amounting to \$23,831.75, which the court finds, *pro forma*, should be charged upon said lot 6, in block 34, in the original town of Chicago, in favor of the said Louise Compton, under and by virtue of the assignment of January 9th, 1838, from said Henry King to Edward Eldridge, and under and by virtue of the decree of April 9th, 1856, in the original cause herein, and also under and by virtue of the proceedings and proof taken in said cause, and upon the supplemental and cross bills, in which said proceedings, Isaac L. Hunt, under whom, derivatively, the said Louise Compton holds all of said claims except that originally due to Pomeroy & Bull, appeared before the master on or about the 23rd day of July, 1859, since which appearance the said claims have been duly prosecuted herein by the said Hunt, and the respective assignees succeeding him, including the said Louise Compton, who, on motion of David Gibson, heretofore gave a bond for costs as required by the court.

And it further appearing to the court, from the proofs in the case, that said Henry King, at the date of his said deed of assignment to said Eldridge, was indebted to Simeon

Hyde for a balance due and owing to him, amounting to the sum of thirteen thousand dollars, and that the same, with interest at the rate of seven per cent. per annum, is now justly due and owing under said deed of assignment as a debt secured and provided for thereby, and that Henry Young, assignee, is entitled to an allowance in his favor for the same, it is further ordered, adjudged, and decreed, that the said Henry Young, assignee, is entitled to and is hereby allowed, as a debt chargeable under the trusts of said deed of assignment made by said Henry King, the sum of thirteen thousand dollars, together with interest at the rate of seven per cent. per annum from said date, making, in all, the sum of forty-one thousand one hundred and forty-five dollars (\$41,145), and that the same shall be paid to said Young *pro rata* with the other claims mentioned in said schedule "B" of said assignment, and herein by this decree allowed.

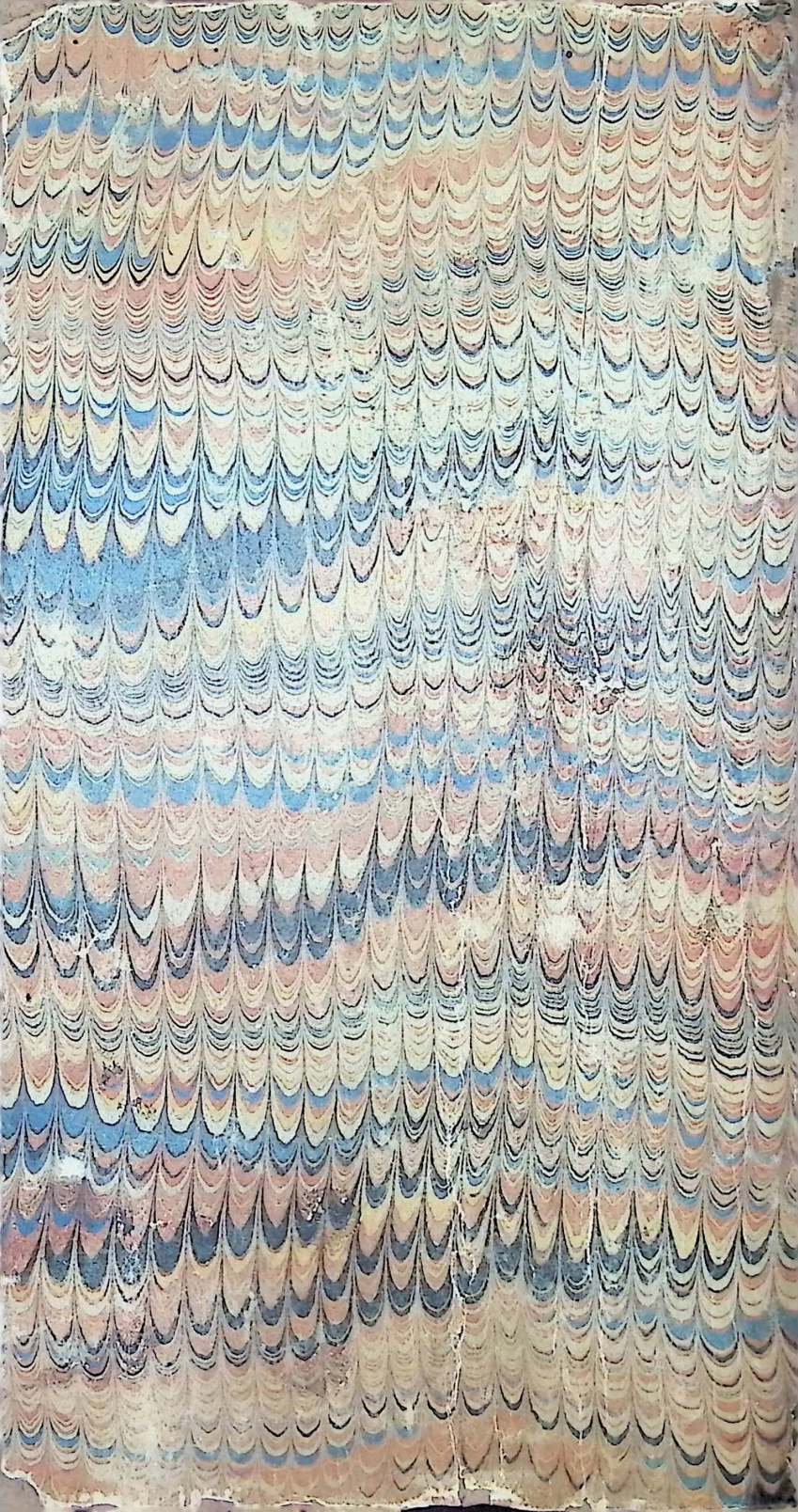
It is thereupon ordered, adjudged and decreed, that Ira Scott, a master in chancery of this court, who is hereby appointed a special commissioner and trustee in the place of the said Robert S. Blackwell, deceased, proceed to sell said lot six (6), in block thirty-four (34), in the original town of Chicago, in parcels, or the whole, as he shall deem most beneficial to the estate, together with all the right, title and interest of the parties to this suit, or of either of them, at the north door of the court house in the city of Chicago, in the county of Cook, to the highest and best bidder for cash, he having first given thirty days notice of the time and place of sale in the Chicago Evening Journal, a daily newspaper published in the city of Chicago, aforesaid, the first of which publications shall be at least thirty days before the day of sale; and it is further ordered and decreed, that said Ira Scott, master, upon such sale being made as aforesaid, make, execute and deliver to the purchaser or purchasers of said premises, under his hand and seal, and

acknowledged in accordance with the laws of this State, receiving therefor the purchase money, and that he make report to this court of his doings immediately thereafter, and that out of the same the said master retain his own fees and disbursements made in and about the sale, and also the costs of this suit, which he is directed to pay to the clerk of this court, and that out of the same he pay to the respective claimants the amount due them respectively, and take their receipts therefor, and if there is any balance left in his hands, he is directed to bring the same into court and deposit the same in the hands of the clerk of this court, to be disposed of by the order of this court; and if it shall be found that there is not sufficient to pay all of said debts so found to be due, then to pay each party *pro rata*.

And it is further ordered, that the east half of lot six (6), in block thirty eight, has been heretofore discharged of the lien created by the trust deed of January 9th, 1838, and the same is dismissed in respect to said east half of lot six, in block thirty-eight, in the original town of Chicago aforesaid. And it is further ordered, that said receiver be discharged; and it is further ordered and decreed, that the said trust be discharged and released from the payment of any and all claims not herein found to be due.

And it is further ordered, adjudged and decreed, that the deed or deeds which shall be made by the said Ira Scott, master in chancery as aforesaid, absolutely transfer all right, title and interest of Catherine R. Blackwell, Orville B. Blackwell and Kate Blackwell, the widow and heirs of Robert S. Blackwell, deceased, to the same extent and effect as if said heirs were of full age and under no disability, and with the said widow joined in such deed or deeds, and said widow and heirs shall join, and after the making of such deed or deeds, be barred, enjoined and precluded from asserting any claim to or interest in said lot six, in block thirty-four, aforesaid.

And thereupon, the said David Gibson, and the said Thomas B. Bryan, and the said Maurice H. Merriman, severally pray an appeal herein from said decree, which is now here by the court allowed to them, on condition that said Bryan, or other parties satisfactory to the clerk of this court, file bond, in the sum of ten thousand dollars, to the clerk of this court and his successors in office, for the use of such of the parties in this cause as may be entitled to the benefit thereof, by the 15th day of August, 1868.



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IN THE SUPREME COURT OF ILLINOIS.

CENTRAL GRAND DIVISION.

JANUARY TERM, A. D. 1871.

DAVID GIBSON, THOMAS B. BRYAN
and MAURICE H. MERRIMAN

vs.

JAMES H. REES, HENRY YOUNG,
HENRY H. CASEY and LOUISE C. ELLIS.

} APPEAL FROM THE SUPERIOR COURT
OF CHICAGO.

PETITION AND POINTS FOR REHEARING.

Filed Jan 9/71
W. H. Turney
clerk

IN THE SUPREME COURT OF ILLINOIS.

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PETITION AND POINTS FOR REHEARING.

To THE SAID COURT:

Your petitioners, the appellees aforesaid, respectfully apply for a rehearing in the above entitled cause, and in support of this application assign causes appearing from the Record.

First. The opinion of the court rightfully finds that Eldridge, in obtaining the title to the lots in controversy, "was but carrying out, in good faith, the intention of King and himself," evidenced by the assignment of January 9th, 1838, made for the benefit of the creditors of King, and that when Eldridge obtained the fee under the act of the legislature, which enabled him so to do as assignee of King, a trust resulted to those creditors; and, also, that it would be inequitable to permit the trustee to appropriate the trust fund to himself to the exclusion of the other creditors, or to hold the land

as his own, when he did not pay for it with his own money, but merely applied, under the relief act, the money which King had, prior to the assignment, paid toward the purchase. The opinion further finds, that the deed of assignment, while in force, estopped King from consenting to such a misappropriation of the trust fund as there would have been in the exclusion by Eldridge of the other creditors of King from having any share in the property, after Eldridge was enabled, by the assignment, to get the title from the State.

Now, how has such a misappropriation come about, and how is it to be justified? Is the assignment powerless, since it enabled Eldridge to get the patent title from the State? If it had vitality for that purpose, should it not hold for other purposes? If, through it, Eldridge secured and collected a debt to himself, standing among those preferred in the assignment, must not any one who stands in his shoes, answer as to other debts, placed by the same instrument on a like footing? Shall it be permitted to one now claiming under King and Eldridge, to disregard the assignment? Were King and Eldridge at liberty to treat it as being at an end when the patents issued to Eldridge, or did they so treat it?

We are here met by the question, whether the agreement of October 15th, 1845, between King and Eldridge, (p. 83 of printed record,) was a revocation of said assignment? A presumption in the affirmative is indulged by the opinion, because of delay on the part of creditors of King in attacking that agreement. This is on the supposition that a revocation was then *necessary*, and was not only *attempted*, but *carried out*, so far as was in King and Eldridge's power. But before noticing the agreement thus set up as a revocation of the assignment, let us see whether King and Eldridge were at liberty to do just as they pleased with the property. The unanswerable argument of the opinion is, that they were not, provided the assignment was in force and binding. What would make it binding? In the first place, the assent of the creditors to it was

not necessary to be given by writing upon it, for the assignee, Eldridge, accepted it in their behalf, and took it as their trustee, and placed it on record, so that it took effect, and was treated by him as being in force. The law did not call upon the creditors to put on record or otherwise express any declaration of assent.

Burrill on Assignments, chap. 24; title, "Acceptance by Assignee;" 281, 309.

Tompkins vs. Wheeler, 16 Pet., 118.

But we have abundant evidence of repeated acts of assent by King and Eldridge, and other creditors of King. The assent, as has been already suggested, so continued that Eldridge perfected the title by getting the patents running to himself, which he did by virtue of being assignee of King. The assent of King, if we must inquire as to it, too, was so irrevocable, in his mind at least, that in making his schedules in bankruptcy, in 1843, he did not embrace therein any of this property, (p. 23 of abstract in roll form,) but in one of such schedules expressly referred to said assignment, and recognized it as legally binding. (*Ibid.*) Both King and Eldridge, also, by said agreement of October 15th, 1845, recognized the assignment as having governed their actions up to that time, for they recited it, and proceeded to show how certain claims under it, mentioned in schedule A, were discharged, and how certain property had passed out of the assignee, and been removed from the operation of the assignment, and they then, in express terms, recognized a right on the part of King to be paid for certain services and expenditures by him, while he was acting as the attorney in fact of Eldridge, the assignee, "in relation to the property described in the assignment." (P. 86 of printed Record.) This same property, it will be observed, as must have been well understood by King and Eldridge, was subject to the assignment while King was so acting, and the court had actually found that it ought to have been treated by them as being thus subject to the assignment, provided creditors of King, for whose benefit the assignment was ostensibly made, assented thereto.

Would it not be enough, then, to find such an assent on their behalf as is above indicated? Eldridge was *himself* a creditor, as well as assignee, and his assent is unquestionable.

But we need not stop here, as the evidence shows that other creditors besides Eldridge knew of the assignment, and relied upon it to some extent, after it was made, and while King and Eldridge were so acting under it, that is to say, while King was acting as attorney in fact for Eldridge, the assignee, and while Eldridge was aiming, by virtue of the assignment, as appears from the agreement of October 15th, 1845, to secure his claim against King. For example: There can be no doubt, from the evidence, that King, at the time of making the assignment, was indebted to Hasluck & Buck.

The deposition of William J. Buck, given at pp. 1388—1394 of the Record, fully proves the fact of such indebtedness, which was for merchandise sold by said Hasluck & Buck to said King during the year 1836, to the amount of \$609.35, for which King drew a draft on Simeon Hyde, dated December 1, 1836, which draft was protested for non-acceptance, whereof King was duly notified. The same draft is mentioned in the schedule in bankruptcy of King. (See pp. 23 and 53 of Ab. in Roll, the petition and schedule being at pp. 594 to 606, and 1799 to 1812 of Record.) This debt was, therefore, due when King applied for the benefit of the Bankrupt Act, and the right to collect it was assigned July 25, 1858, by said Hasluck & Buck to Isaac H. Corey, (pp. 1442-3 of Record,) and was assigned by Corey to Isaac L. Hunt, (p. 1444 of Record,) and by Hunt to Jennings, and by Jennings to Louise Compton, now Mrs. Ellis, one of the appellees. (Pp. 1386-8 of Record.) This particular claim is thus traced to show the connection between it and a letter of King to Eldridge, dated June 3, 1839, given at pp. 1995-96 of Record, as an exhibit to the deposition of Eldridge's widow. What does that letter show? It shows that the rights of the creditors, under the assignment, had been fully recognized by

communications from both King and Eldridge to such creditors, and that the creditors, including Hasluck by name, had notice of the assignment, and treated it as subsisting for their benefit. We quote from the letter: "I," says King to Eldridge, "have two letters from you, one advising me of the application, by some of my creditors, for a copy of my assignment to you, &c. Respecting the assignment, I informed Mr. Hasluck that it was sent to Chicago to be recorded, &c. I do not see that you can be released from acting as assignee," &c.

What stronger proof of the assent of the creditors to the assignment is needed? The decision of this court in the case of *Beach vs. Bestor*, 45. Ill., 342, 347, conclusively determines that where an assignment is made by one person to another for the benefit of a third party, to secure a debt of the assignor to such third party, and the fact of the assignment is communicated to the creditor, the assignment becomes irrevocable, except with the consent of that creditor. That case is therefore an authority for the position that after the communication to the creditors of King, of the fact of the assignment, as shown by the foregoing quotations from King's letter, it was out of the power of King & Eldridge to revoke the assignment by their own act or acts, unsanctioned by the creditors. The case just mentioned related to a chose in action, and yet the principle now contended for was held, although Bestor's assent to or affirmance of an assignment, in which he was referred to as one of the creditors to be benefitted, was more equivocal, under the proof, than is the assent or affirmance of King's creditors in the case now before the court. The question is, then, whether the case of *Beach vs. Bestor*, *supra*, is to stand as authority. King and Eldridge certainly did not understand that the law authorized them to revoke the assignment. All the correspondence shows the contrary opinion to have been entertained by them.

The letter of King to Eldridge, dated October 27th or 29th, 1843, (pp. 2009 to 2012 of Record,) fully recognizes the assignment

as being in full force, and says of it that after making provision for the bail of King, it secured Eldridge & King's sister, &c.

This letter does not seem to be fully abstracted. It is to be noted of it that it was written while King's Petition in Bankruptcy was pending, and shows why he did not schedule the property in question, the reason being that the assignment, intended to secure debts beyond the value of the property, covered it. Further correspondence, to a like effect, followed.

Nothing, in the whole correspondence, casts a shade of doubt upon the question as to whether the assignment was in force, but the letters reflect the minds of King & Eldridge, as realizing that the creditors had rights not to be ignored. Eldridge's letter to King, of September 2d, 1845, of which a very brief mention is made in the abstract, recognized the assignment as being then in force, and speaks of a duty which Eldridge felt as to himself and others whose interests he represented under the assignment. (See pp. 2013, 2014, of Record for said letter.) King's letter to Eldridge dated September 30th, 1845, also shows that they recognized the assignment as being in force, and as having controlled the property.

The assignment having been accepted was not subject to revocation.

Burrill on Assignments, 283-4.

An assignment for creditors, once accepted by the assignee, is vested for the benefit of creditors, and a subsequent renunciation does not affect the validity of the conveyance.

Seal vs. Duffy, 4 *Barr*, 274.

Second. But it will be said, what of the agreement of October 15, 1845, as a revocation of the assignment? Stress is laid upon it as a revocation. But is to be so treated?

1. The foregoing authorities show that it was not, in that stage of the matter, within the power of King & Eldridge to revoke the assignment. A renunciation of it by Eldridge would still have left it operative for other creditors. In the absence of any special power, in the deed itself, for his retirement, there were only two ways in which he could divest himself of the character of trustee. One of these would have required the universal consent of all parties interested, and the other mode would have required an application to a Court of Equity.

*Lewin on Trusts, * 464, et seq.*

And it is not pretended that any step toward divesting the trust relation by any direct proceeding, has been taken.

2. If the agreement of October 15th, 1845, could be construed into a revocation of the assignment, two parties to it were wanting. Both the creditors, other than Eldridge, interested under the assignment, and the owner of the possible residuary or reversionary interest in the property, were necessary parties to the agreement; but they did not join in it. King had no interest in the property at the date named, nor did he pretend to have, save, that as above suggested, he claimed to be entitled to compensation and reimbursement in having acted as *attorney in fact for Eldridge, under the assignment*. His assignment in bankruptcy had divested him of any residuary or reversionary interest. Take this fact into view, and we see that it is as if the assignee bargained with himself alone, or with an entire stranger to the trusts, to terminate the trusts, or (and this is even worse,) the agreement shows that the assignee was, in making the agreement, bargaining with his own agent, or attorney in fact. *The two parties to the agreement of revocation were, then, the assignee, as principal, and his agent.*

3. But how is it possible to look upon the agreement of October 15th, 1845, as a revocation of the assignment? In the first place, it was a mere executory agreement, and it is not pretended

that it was carried out. The bill of Gibson expressly alleged that the agreement had not been complied with by King, and that it ought to be cancelled. (Page 14 of printed record.) Moreover, the agreement itself treated the assignment as having been operative, and continued until certain of the preferred debts were paid, and as having given Eldridge the right to compensate King for acting as attorney in fact under it, and then, as to the property in question, asserted that Eldridge procured the title from the State—for the protection of himself alone, and independent of the trusts expressed in the assignment. This last mentioned statement, however, this court holds he was not authorized to make, and it is in direct antagonism to the letters which passed between King and Eldridge, from some of which quotations are above given. Yet, again, however, the great injustice of permitting Eldridge, or Gibson as his grantee, to assume that he got the title for himself exclusively, to save a debt from King to himself, must be manifest without argument. It is, indeed, demonstrated by the opinion of the court in this case. But one point in connection with this claim on the part of Eldridge, now urged in support of the appeal in this case to sustain an agreement which, in the pleadings, Gibson, the appellant, asked to have cancelled, may not have attracted sufficient attention. Eldridge, while assignee, was himself one of the creditors preferred by the assignment, and the *selfish* agreement which he made with King, and which is now in question, was to make himself the sole beneficiary under the assignment, after providing for some compensation to King for services in taking care of the property. One creditor, himself the assignee, obtained the legal title while holding himself out as assignee for the benefit of *all* the creditors, and some time thereafter, and after he had dealt with the other creditors and with the assignor as if he intended to protect the interests of all the creditors, he assumed, in a concerted arrangement with the assignor, to take the property to himself exclusively. An arrangement *so* selfish certainly would not be sanc-

tioned by a court of equity in any direct investigation instituted by persons authorized to object.

4. This case is a proceeding in which Gibson's appeal for a reversal of the decree of the court below depends upon the enforcement of that agreement of October 15th, 1845. But into what inconsistency is Gibson thrown in now claiming that that is a valid agreement! If such had been his position from the beginning, how weak would be the appeal to a Chancellor to enforce an agreement so calculated to outrage the rights of other creditors under the assignment! But where in the pleadings has Gibson alleged a fact or hinted at any reason why the agreement in question should be sustained? His original bill, as before stated, averred that the agreement was unexecuted, and ought to be cancelled; his supplemental bill, which ought, of course, to be taken as an adjunct to the original bill, gave no other reason for treating the agreement as being good, than that Eldridge was a creditor of King under the assignment. But why should he be permitted to ignore the rights of the other creditors? Were not their rights as sacred as his own? The primary object of this suit was to enforce the trusts under the assignment, and the prime mover towards enforcing them was Mr. Gibson himself, and shall he be permitted to disown his own case, disregard his own averments, and procure to be decreed the very opposite of what he originally asked? He took hold of the plow, but now looks back. Is this to be permitted?

5. The legal title was in Eldridge. He procured it by and through the instrumentality of the assignment of January 9, 1838. He, therefore, held subject to that assignment. His letters to King show that, in his judgment, and mark it, too, many months after the patents were procured from the State, he owed duties to the other creditors under the assignment. (See the letter of September 2, 1845, to which reference has already been made.) Now what interest did King have in the property after he had made that assignment and had also gone into bankruptcy? The answer must

be, No interest whatever, unless under the agreement of October 15, 1845, and that certainly could not be enforced. It would be contrary to public policy to enforce it. It provided for a breach of trust by the assignee, and stipulated for advantages to accrue to the assignor, to which he was not entitled. Therefore, if Gibson, or any one in his behalf, paid anything to the heirs of King, he did so in his own wrong, and ought not to claim any benefit. Nor does the claim under Gordon L. Ford, the nominal purchaser from King's assignee in bankruptcy, constitute any objection to the enforcement of the assignment of January 9, 1838, for the assignee in bankruptcy had no valuable interest to convey. The only possible claim which he could have was subject to the assignment from King to Eldridge. The assignee's deed to Ford does not appear to have been acknowledged until December 16, 1858. (See pp. 23 and 24 of Ab.) It is not at all likely that this pretended interest would have been asserted at all, or could have had any possible standing in a court of equity, until the objects of the assignment of King to Eldridge were fully accomplished. What credit, then, should be given to Gibson for buying up the claim under the assignment in bankruptcy, or for procuring a release from the heirs of King? Certainly while he was proceeding to have the assignment executed, and when he had, through a decree of the court, caused the title of Eldridge's heirs to be vested in Blackwell, it would be inequitable to permit him to cut off, by sharp legal turns, the rights of creditors who had been invited by his own bill, and the proceedings thereunder, to come in and prove their claims under the assignment.

A consideration of the whole case must demonstrate that Gibson is the only contestant as to lot six in block thirty-four; that Cobb was merely acting as his agent; that on just legal principles Eldridge held the title in fee to that lot subject to the assignment just mentioned, and that, in equity, the title of Eldridge is not only the superior one, but should be subject to the rights of the creditors under that assignment.

6. This brings us to the theory on which Gibson filed his bill on the 13th of August, 1855, to enforce the trusts under the assignment. Why should there have been a departure from that theory? and why should it now happen to suit a change of circumstances on the part of Gibson, particularly when it appears that the value of the property is amply sufficient to reimburse his outlays and pay the other creditors? We do not argue that he is estopped from bringing the whole case before the court, and having the advantage of any facts which bear upon his interests, but we submit that the theory on which he framed his bill, and upon which the whole case now rests, was the true one, and he has not disproved it. We observe, however, that the creditors of King are supposed, by the opinion of the court, to have acquiesced in the agreement of October 15, 1845.

No direct evidence of any acquiescence by any of them is, however, presented, and where is the proof that any of them knew of any such agreement until it was incorporated in the bill of Gibson? It seems to be embodied in the Record without mention of any record of the same in the Recorder's office, and as is alleged in the supplemental bill of Rees, it "was a fraud upon the creditors under the Deed of January 9th, 1838, and a violation of the trust." (P. 63 of printed Record.) The probability, it may be safe to say, is that King & Eldridge withheld the agreement from record. At any rate, it was an unexecuted agreement, and they may even have become ashamed of it themselves. What occasion was there for the other creditors to attack it, or call it in question, when the parties to it did not choose to carry it out? We submit that there was no unreasonable delay in objecting to that agreement when the creditors had notice or heard of it.

THIRD.—The theory of the appellant, Gibson, in the original bill, was correct, and the appellee's rights as creditors were entitled to regard. Their claims ought not to be considered as barred by lapse of time. The pretence that that the assignment was wholly

abandoned and considered worthless is overborne by Gibson's own conduct. When he bought up claims under the assignment does not appear, but in his bill filed August 13th, 1855, he claimed to be the holder of such claims, and he made proof of some of them. Shall he now be permitted to say that there were no such claims, or that those belonging to him and all others were stale, and thus defeat the purpose of the suit brought by himself, the appearance in which of other claimants has involved them in large expense? It will appear from a careful examination of the record, that many of the claims are very well proved, some of them, as in the case of Hasluck & Buck, already mentioned, by living witnesses to the original transactions; by express mention in the schedules of King in bankruptcy in 1843; by original drafts, notes, etc., so that it is impossible to doubt that the money is actually due. Then again, it appears that King was hopelessly insolvent after his bankruptcy, as well as before; that the debts mentioned in Schedule A of the assignment of January 9th, 1838, were considerable, and perhaps larger for some years than the value of the property in question; that a number of the original claimants died, while some went into bankruptcy, and that most, if not all of them, lived at a distance from the property, and that from these and other circumstances, there is reasonable excuse ~~from~~ inaction on the part of these creditors and their representatives; an excuse as strong as that of Bestor in the case of *Beach vs. Bestor*, to which attention has already been called. Nor is there left any room for presumption of payment.

The claims ought to be considered as if they had been presented August 13, 1855, for that was the time at which claimants were invited to present themselves, and all of them came in within the time sanctioned by the Court. Hence, we say the claims ought to be treated as if they had been presented at the same time that Gibson manifested his desire to call the claimants into court. This was within thirteen years after the filing of King's petition and schedules in bankruptcy, in which he expressly admitted many of

these debts, including the debt to Hasluck & Buck above singled out as a matter of convenience, (p. 23 of Ab.) The exhibition of the claims ought therefore to be considered as having happened within the time fixed by the general limitation laws, because within sixteen years after a clear admission of the indebtedness.

The case is narrowed down to the question whether a court of equity should make a shorter rule as to limitations than has been established by the Legislature, and make such a rule to favor persons cognizant of the trust (*Oliver vs. Piatt*, 3 Howard, 333), and whether a trust may be regarded or not as happens to suit the convenience of the trustee or some one standing in his place.

The supplemental bill of Rees was on the same theory as the original bill of Gibson, and not intended to displace the latter, nor did it join, as defendants or otherwise, all the claimants who were then before the court, and we submit that it did not relieve Gibson from the effect of the admissions in his original bill. Mrs. Ellis is the holder and has made proof of some of the claims specified in *Schedule B*, to-wit, those originally due Pomeroy and Bull, J. H. Ransom, S. P. Church, and Suydam, Jackson & Co. (See pp. 3, 20, 52, 53 and 54 of abstract.) These claims the record of the assignment notified Gibson were entitled to regard under the assignment, and when he bought up claims, and filed his bill to enforce them, the record advised him of these as well as of those bought.

We submit that the proceedings taken on the bill of Gibson ought not lightly to be overturned, and that this is a clear case for the enforcement of the trust. We have not argued as to particular claims, saving that we have presented one as an example.

We shall have no objection to the closest scrutiny of each of the claims, and of the rights of each of the respective claimants thereto, but presuming it to be sufficient at this time to indicate general reasons for the Rehearing, we have not attempted to bring forward all the evidence supporting our propositions, although we fear that the

meagreness of the abstract, in respect to some important features of the testimony, may have caused the court to reverse the decree as to lot six in block thirty-four. We trust now that it will be seen that the enforcement of the trust under the assignment of January 9, 1838, was proper; that the agreement of October 15, 1845, was not a revocation of that assignment, nor such an agreement as should be sanctioned by a Court of Equity; that the claims which we represent were presented in apt time, and entitled to equal consideration in that regard with the claims of Gibson on which his original bill was based, and that the enforcement of the trust is called for in equity as well by his actions as from the circumstances connected with the several claims presented; and that therefore a Rehearing will be granted.

The title of the appellants is traced through the agreement of Oct. 15, 1845, from two sources—first from Ford, under King's assignment in bankruptcy, and secondly from the heirs of King. But clearly these sources of title should not be considered superior to the assignment of Jan. 9th, 1838; for, as to the first of them, coming from King's assignment in bankruptcy, it should not be forgotten that his sworn schedules in bankruptcy expressly recognized the assignment of Jan. 9th, 1838, and the deed of Waddell, the assignee in bankruptcy, to Gordon L. Ford, was of King's interest under that Assignment, so that Ford, or any one holding under him, could not hold otherwise than subject to the assignment; and, as to the conveyance from the heirs of King, there was no need of it, for King's title had already passed by his bankruptcy; and after making the agreement of Oct. 15, 1845, and failing to comply with it for so long a time, his heirs could have done nothing to entitle them to a

conveyance from Eldridge, even if the agreement had been such (and surely it was not such,) as a Court of Equity would ever have enforced. Yet if it was permissible for Gibson, as one of the creditors under the assignment of Jan. 9th, 1838, to buy up the dormant cloud in favor of King's heirs under the agreement of Oct. 15th, 1815, or the almost equally dormant claim of Ford under King's assignment in bankruptcy, which claim was subject, as before stated, to the Assignment of January 9th, 1838, from King to Eldridge, yet justice would require that, while the fee simple title was vested in Blackwell as successor of Eldridge in the trust under the assignment of January 9th, 1838, at Gibson's own instance, Gibson should have no other benefit from buying up that cloud and claim of title respectively, than merely to have his outlays therefor refunded to him, as could readily be done, he bearing his proper share of the cost, that is, such share as should fall to him as a creditor under King's assignment to Eldridge. We are advised that after the filing of the Supplemental Bill of Rees, Gibson proved up claims under said assignment to a large amount, and therefore such outlays should be shared by him with the creditors in whose behalf this petition is presented. Such proof was made by Gibson as to claims which were purchased by him before he filed his original bill.

He may have been engaged for years, for aught we know, in purchasing the claims. The probability seems to be that he was occupied some time in buying them, or for some time held a part of them, before he filed his bill; and when he supposed he had the most of them, he filed his bill. Now, the holders of those claims were asserting them, of course, when Gibson bought them, or tried to buy them, and this conclusively shows that the creditors had not abandoned their rights under King's assignment to Eldridge, although they did not individually commence proceedings to carry it out. The time during which the matter was agitated in this way, and during which, also, Eldridge does not seem to have been de-

nying the trust, ought not to be counted against us ; nor should the time which has elapsed since Gibson has filed his bill be so counted.

As to lot 6 in block 34, the position of Gibson would seem to be that he looked at the records, or otherwise learned of King's assignment to Eldridge, after he became holder of some claims, or possibly before he commenced buying up such claims under it, and, at his own chosen time, filed his bill to enforce it, and actually had it enforced by the deed to Blackwell. He, himself, proves that the creditors were not sleeping—not willing to give up their claims entirely, and had not abandoned the assignment nor considered it revoked, nor acquiesced in any step to revoke it ; and, as to this lot, there is no *bona fide* purchaser holding under the agreement of October 15, 1845.

We, therefore, submit, that the most that Gibson could possibly claim would be to stand on an equal footing with other creditors of King, as all his rights are subject to the assignment of January 9, 1838. And it should not escape attention, that there were claims specified in the Schedules A and B, to the assignment of King to Eldridge, which Gibson did not buy, and that some of those claims belong to the appellees.

The reversal of the decree of the Superior Court has the direct effect of sanctioning the agreement of October 15th, 1845, by which Eldridge sought to hold the assignment of January 9th, 1838, for *himself as a creditor under it*, while he at the same time would disregard it as to the other creditors. The decision in reality upholds that agreement, although the court conclusively resolve that the property was then subject to the assignment. The agreement

is thus upheld when not demanded by Eldridge, as to whom the title was divested by the decree made before Gibson changed his tactics. The legal title was vested in Eldridge, and he apparently recognized the assignment, *and by the action of the court his title was put in Blackwell, as successor in trust under the assignment,* and the claims of King's heirs and Ford were all subject thereto until the purposes of the assignment should be accomplished; *and any possibility of Eldridge's heirs taking advantage of the agreement of October 15th, 1845, was removed on the making of the conveyance to Blackwell.* Now, if Eldridge's heirs get pay, why should not the other creditors get their money?

We see no reason why Gibson should receive advantage from the agreement of October 15th, 1845, nor from claims of others asserting rights subsidiary to the assignment. The hue and cry which he sets up comes from him with a bad grace.

In conclusion, the doctrine of laches, so applied as to argue acquiescence in a writing of which the creditors may not have had notice until it was brought forward for condemnation by Eldridge himself, ought not to be asserted by the appellants. While it may be true, as on further examination we find stated in Gibson's bill, that the agreement was recorded October 28th, 1847, yet we submit that notice of it on the part of the creditors should not be assumed, nor should so short a period as seven years after such record be held to bar the creditors. Their claims were not barred by limitation when this, Gibson's, suit was commenced; considering the admissions of them in King's sworn schedules in bankruptcy, as before suggested, and leaving out of view other circumstances highly favorable to us. Yet this is not a case in which the limitation bar ought to be set up, even if it were complete; inasmuch as the only persons who seek to have any such bar applied, are those who were conversant with the trusts, and they, as is shown by *Oliver vs. Piatt, supra*, as well as by the universal current of authority, are not entitled to set up such a bar.

Gibson

But we especially call the attention of the Court to the fact that the creditors under the assignment, are by the Opinion of the court supposed to have had notice of the agreement of October 15, 1845, when we find no reason to suppose that there was such notice. We also respectfully urge that that agreement, unexecuted by the original parties to it, and abandoned by them, not good in favor of Gibson, in view of the allegations of his original bill, and manifestly fraudulent as to the creditors other than Eldridge, and also violative of his sense of right, as his letters to King show, should not have the effect of overturning the assignment and destroying the rights of creditors entitled to protection equally with Eldridge or Gibson.

Respectfully submitted.

DENT & BLACK,

Solicitors for Appellees.

It is well known that for many years after King's assignment to Eldridge in 1838, Lots at Chicago could not be sold for cash at any adequate price.

Supreme Court of Illinois
Central Grand Division.
January Term A.D. 1871.

David Gibson,
Thomas B. Bryan +
Maurice H. Meriman
v.
James H. Rees
et al. } Appeal from
Superior Court
of Chicago.

To the said appellants
or mesrs. Beckwith, Ayer & Stales,
& J. A. Gram, Esq, their solicitors.

Please take notice
that on Tuesday the 9th day
of January A.D. 1871, at the
opening of said Court on the
morning of that day, or as
soon thereafter as the matter
can be heard, a Petition
for a Rehearing in said
Cause will be presented to
said Court.

Dent & Black
Sols. for Louisa C.
Ellis.

Chicago, Dec. 22, 1870

see about due service of
the foregoing notice, Decr 22. 1870

Richard Ayr & Kales for
David Gibson

We hereby accept service of the
within notice by receiving a
copy of the same.

State of Illinois }
Cook County. } ss.

James C. Latham
being duly sworn deposes
and says on oath that he
further served the attached
Notice, ^{on the 29th day of December A.D. 1870,} by leaving a copy thereof
at the office of J. A. Gram, Esq.,
of Counsel for appellants
Bryan and Meriman, which
copy deponent so left with
a clerk in said office in the
presence of N. C. Perkins, Esq.,
partner of said Gram, the said
Gram not being in the office
at the time; and deponent
also further served said notice
by leaving a copy thereof the
same day with Maurice H.
Meriman, one of the appellants,
and also by leaving for Thorn^r
as B. Bryan, another of
said appellants another copy
of said notice on said day
at the office of said Bryan
with Bryan Lathrop Sen and
there in charge of said office,
the said J. B. Bryan, being,

as deponent understood, for
out of the State.

Sworn and subscribed } James G. Latham.
before me this 6th day }
of January A.D. 1871 }
Wm. Mitchell
Notary Public



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Gibson et al. vs. Lass et al.

Notice, and
Affidavit of
Service - on
motion for re-
hearing.

This Jan 9-71
Wm. Turner
Dent & Black
Ordn. for
Partitions.