

No.

³
1222 ~~11~~ 1/2

Supreme Court of Illinois

Watson

vs.

Brown

71641  7

State of Illinois
Fourteenth judicial Circuit
Stephenson County

Pleas before the Hon^{ble} Benjamin
R Sheldon presiding judge of the fourteenth judicial
Circuit of said State (in Chancery sitting) at a Term
of the Circuit Court begun and held at the Court house
in Freeport in said judicial Circuit and in the County
and State aforesaid on the 11th day of September A.D. 1854

Present the Hon^{ble} Benjamin R Sheldon Judge
George Reitzell Sheriff
Attest: Joseph B Smith Clerk

Henry L Niles
" In Chancery
John L Jenks
Caleb W Brown and
Jonathan Sells

Be it remembered that heretofore
to wit: on the 14th day September A.D. 1853 of the Sep-
tember Term of said Circuit Court. Henry L Niles the
Complainant in this suit by Burnap & Miller his
solicitors appeared and filed in the said Court his Bill
of Complaint in the said suit of Henry L Niles against
John L Jenks, Caleb W Brown and Jonathan Sells,
in the words and figures following to wit:

"In the Stephenson County Circuit Court,
To the Honorable Benjamin R Sheldon Judge
of the Circuit Court for the County of Stephenson
in the State of Illinois.

Complaining respectfully states Henry L Niles of West
Point in the said County of Stephenson that on the twenty
eighth day of March in the year of our Lord one thousand
Eight hundred and fifty three this Complainant recovered

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in the Circuit Court for the County of Jo Davies in this State against John L Jenks formerly of the said County of Stephenson, but then and still residing in the State of Wisconsin a defendant to this bill of complaint, a judgment for the sum of nine hundred and ninety dollars and fifty cents damages and three dollars and thirty cents, on promises by a warrant of attorney.

And this Complainant further states that the said John L Jenks, at the time of the recovery of the said judgment had no property in the said County of Jo Davies whereof the said damages and costs, or any part thereof could be made, and that to obtain satisfaction thereof, this Complainant on the thirty first day of March in the year of our Lord one thousand eight hundred and fifty three, sued out from the said Jo Davies Circuit Court a writ of fieri facias upon the said judgment directed to the Sheriff of the said County of Stephenson and immediately thereafter delivered the same to the said Sheriff to be executed.

And this Complainant further states that on the fifth day of April in the year of our Lord one thousand eight hundred and fifty three the said Sheriff levied the said Execution upon a tract of land lying in the said County of Stephenson consisting of two parcels one of which parcels the said John L Jenks had formerly purchased of one Charles Mc Churchill and the other one of Thomas Wilcoxson, as the property of the said John L Jenks, he having no other property in the said County out of which the said damages and costs or any part thereof could be made.

And this Complainant further states that the said John L Jenks in the year of our Lord one thousand eight hundred and forty six after the purchase by him from the said Churchill of the said parcel of land first above mentioned, erected upon the same a saw mill and during the former part of the then next year he was engaged in

fitting up the said Saw-Mill and putting it in running order, and about the first day of May in that year commenced sawing in the same; although it was not in complete running order.

And this Complainant further states that the said John L Jenks was a practicing Physician doing a large business and had sufficient means at the time he commenced the said Mill to defray the expense of building the same; but not being accustomed to business, the said Mill cost much more than it otherwise would have done, and by reason, and by reason thereof he became involved in debt, and embarrassed his pecuniary affairs, and his creditors became dissatisfied and were importuning and pressing him for payment.

And this Complainant further states that the debt for which he recovered the said judgment was contracted and due from the said Jenks previous to the time he commenced the said Mill as aforesaid, and that this Complainant requested him to settle and make some arrangement for payment, but he refused to do so, and this Complainant having become suspicious that he would put his property out of his hands and leave the State commenced an action for the said debt in the Circuit Court for the County of Stephenson against the said John L Jenks by a *capias ad respondendum*, which was served upon him and he gave bail thereto; but owing to some defect in the proceedings this Complainant afterwards was nonsuited in said action. And this Complainant further states that soon after he gave bail as aforesaid and on or about the eighth day of May in the year of our Lord one thousand Eight hundred and forty seven the said John L Jenks in order to delay, hinder and prevent this Complainant and his said other creditors from making this and their said debt & debts out of the said tract of land, and Saw-Mill Executes a Deed purporting in consideration of twenty hundred dollars, to bargain, sell and quit claim, to Caleb W Brown of the County of Stephenson

aforsaid (also a defendant to this bill) in fee all the right, title interest claim and demand of the said Jenks, of in and to the said tract of land; a copy of which deed is herunto annexed marked A to be taken as part of this bill; and the same deed was acknowledged and recorded on the tenth day of the same month of May one thousand eight hundred and forty seven.

And this complainant further states, that the said tract of land, and the parcels of which the same consisted was and were described by the said John S Jenks in the said Deed to said Brown as follows that is to say the first of the said parcels is described as being part of the South West quarter of the South East quarter of Section twenty seven in Township twenty eight North, of Range seven East of the Fourth Principal Meridian, being the same purchased by him of Charles H Churchill and wife described as follows to wit: Beginning at the North West corner of ^{said} lot - ~~aforsaid~~ thence East eighty rods to the North East corner of the lot aforsaid - thence South forty six rods and seventeen links to a stake on the North bank of Richland Creek from which a black walnut six inches thick bears South seventy four (74°) degrees West, (135) one hundred and thirty five links distant, and an Elm eight inches thick, bears N. seventy - degrees, (70°, West fifty one (51) links thence West sixty rods to a stake from which a linn ten inches thick bears N 65° W. 22 links, and an Elm five inches thick bears South 57° East 4 links thence North six rods and seventeen links to a stake from which a sugar tree twenty inches thick bears South 18° W 32 links and a sugar tree thirteen inches thick bears N. 11° W 26 links; thence West twenty rods to a stake on the west side of the lot aforsaid, from which a sugar tree sixteen inches thick bears N 47° E. 22 links, and a sugar tree ten inches thick bears S 45° E. 62 links, thence North forty rods to the place of beginning, the same containing twenty two and one half acres more or less. And the second

of the said parcels is described in the said deed by the said Jenks as being the same as purchased by him of Thomas J Wilcoxson and wife described as follows to wit. Situated and being in the County of Stephenson and State of Illinois being a part of the North West quarter of the South East quarter of section twenty seven in township twenty eight North of Range seven East of the fourth principal meridian beginning at a stone at the South West corner of said quarter section, thence East thirty nine poles to a stake in Richland Creek; thence North 50° West sixty seven poles to a stake in the West line of said quarter section from which a hickory tree twelve inches thick bears North 22° E. 19 links and a sugar tree eleven inches thick bears S 63° W 40 links thence South with said line fifty four poles and eighty links to the place of beginning containing six acres one hundred and eight poles and the said deed from the said Jenks to the said Brown also purports to convey certain privileges described by the said Jenks in the same deed as follows to wit. also the right and privilege of overflowing with water the South West quarter of section number twenty seven in township twenty eight of Range seven East of the fourth principal Meridian being the same right and privilege conveyed to him by Adrian W Lucas and wife; also all the rights and privileges of overflowing with water the South West quarter of the North East quarter of section twenty seven in township twenty eight of Range seven East being the same rights and privileges reserved by him in a deed conveying the said South West quarter of the ~~South~~^{North} East quarter to James Canfil.

And this Complainant states that the said rights and privileges of overflowing were held and reserved by the said John L Jenks as appurtenant to the said mill and not otherwise -

And this Complainant further states that during the latter part of the time the said Jenks was building the said mill the said the said Brown resided in a dwelling house near the said mill; that the said Jenks

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during all that time bordered with him, that there was no other dwelling house in the neighborhood, and said Brown was intimately acquainted with the transactions relating to the said Mill and well knew that the said Jenks at the time of the making of the said deed of conveyance to said Brown owed a large number of debts, which he could not readily pay, that this Complainant had sued him as aforesaid and that the object and purpose of the said Jenks in making the said deed of conveyance was to delay and hinder this Complainant and his said other creditors from collecting their debts of him.

And this Complainant further states that there was no adequate consideration or any consideration whatever paid by or paying from the said Brown to the said Jenks for the said deed of conveyance but that the same was without any consideration whatever; and that when the said deed was made the said Caleb W Brown solemnly promised to reconvey the said tract of land, Mill and appurtenances to the said Jenks whenever he should request him to do so.

And this Complainant further states that in or about the month of December in the year of our Lord one thousand eight hundred and forty eight the said Brown as well as the said John L Jenks had become apprehensive lest the said tract of land and property should be levied upon for debts of a large amount of the said Brown and in consequence thereof the said Jenks requested the said Brown to reconvey the same to him, and the said Brown promised to reconvey the said tract of land and property to him accordingly.

And this Complainant further states that in violation of his said promises the said Caleb W Brown on the third day of January in the year of our Lord one thousand eight hundred & forty nine made a deed of grant bargain and sale of the said tract of land and property to one Abijah B Watson for a nominal consideration of three thousand

Dollars, no part of which was ever paid, that the same deed of conveyance was made for the purpose of preventing the said property from being taken for the said Browns debts, and that at the same time, the said Brown took a bond from the said Watson for the reconveyance of the said tract of land, and premises, to the said John L Jenkins.

And this Complainant further states that the said Caleb W Brown continued in the possession and occupancy of the said Saw Mill and of the said tract of land and premises after the making the said deed to Watson, in the same manner as before and he so continued to possess and occupy the same until after the time of levying of the said Execution upon the same, and until after the said Sheriff, had filed a certificate of the said levy in the office of the Recorder of the said County of Stephenson, according to the form of the Statute in such case made and provides, which he did on the fifth day of April in the year of our Lord one thousand Eight hundred and fifty three, and still holds possession of the same -

And this Complainant further states that the said Watson and wife reconveyed said land unto said Brown by an indenture dated August fourth A.D. Eighteen hundred and fifty two, which was acknowledged by said Watson the same day & on the thirteenth day of November of the same year was Recorded in the Records office of said County of Stephenson a copy of which indenture is hereunto annexed marked B, which he prays may be taken as a part of this his bill.

And this Complainant further states that there was no consideration paid by the said Watson for the making of the said indenture -

And this Complainant further states that after the making of the said levy and the recording of the Certificate thereof as aforesaid the said Caleb W Brown on the fifth day of July A.D. Eighteen hundred and fifty three for the

purpose of frustrating and defeating said levy and preventing said land from being sold for the satisfaction of this Complainant's judgment aforesaid. Execute a deed purporting to convey to Jonathan Sells in fee the twenty two and a half acres of land herein before described as having been purchased by the said John S. Jenks from the said Charles W. Churchville together with said privilege of overflowing lands which are appurtenant to the mill aforesaid as hereinbefore stated of said County of Stephenson one of the defendants herein which said deed was acknowledged on said fifth day of July and filed for record in the office of the Recorder of said County of Stephenson on the next day succeeding being the sixth day of said month of July in said year a copy of which I do hereby annex marked "C" which this Complainant prays may be taken as a part of this bill.

And this Complainant further states that the consideration specified in said deed was five hundred dollars but that the said sum was nominal, and that no consideration was paid for said deed by said Sells to said Brown and that said Sells at the time of making of said deed knew of the said judgment and execution of this Complainant and that the said deed was made by said Brown with the intent and purpose to delay hinder and defeat defeat this Complainant in the collection of his said debt.

To the end therefore that the said John S. Jenks under oath, and the said Caleb W. Brown and Jonathan Sells may without oath full true direct and perfect answer make to all and singular the matters and things herein before alleged and contained according to the best of their knowledge, information, recollection, and belief.

And to the end also that the said deed of conveyance of said land from said John S. Jenks to said Caleb W. Brown may be declared null and void and set aside.

and that the said deed of conveyance of said land from said Caleb W Brown to said Jonathan Sills may also be declared null and void and set aside, and that the said lands, premises, and appurtenances be subjected to sale for the satisfaction of the said judgment, recovered by this Complainant against said John L Jenks as aforsaid and that upon such sales being made, proper Deeds of conveyance of said lands may be made; and that this Complainant may have such other further and other relief in the premises as he may be entitled to by the rules of Law and Equity.

May it please the said Judge of this Court that the said John L Jenks, Caleb W Brown and Jonathan Sills may be summoned to answer this bill of Complaint according to the form of the Statute in such case made and provided.

Henry L Sills
By Burnap & Miller, his Solicitors

"Know all men by these presents that I, John L Jenks of the County of Stephenson State of Illinois for and in consideration of the sum of twenty hundred dollars to me in hand paid by Caleb W Brown the receipt whereof is hereby acknowledge have bargained sold and quit Claimed and by these presents do bargain sell and quit Claim unto the said Caleb W Brown and to his heirs and assigns forever all my right, title, interest, estate, claim and demand both at Law and in Equity and as well in possession as in expectancy of in and to all that certain tract, piece or parcel of land situated and being in the County of Stephenson and State of Illinois it being a part of the South West quarter of the South East quarter of Section twenty seven, 27, in Township twenty Eight (28), North of Range seven (7), East of the fourth Principal meridian being the same as purchased by me of Charles H

Churchill and wife described as follows. to wit: Beginning at the North West corner of said lot, thence East Eighty (80) rods to the North East corner of the lot aforesaid. thence South forty six rods and seventeen links to a stake on the North bank of Richland Creek from which a Black Walnut six inches thick bears South 74° West 135 links, distant and an Elm eight inches thick bears N. 70° West 51 links, thence West Sixty (60) rods to a stake from which a Linn ten inches thick bears N. 65° W. 22 links and an Elm five inches thick bears 57° E 4 links thence North six rods and seventeen links to a stake from which a sugar tree twenty inches thick bears 18° West 32 links and a sugar tree thirteen inches thick bears N 11° W 26 links - thence West twenty rods to a stake on the West side of the said lot aforesaid from which a sugar tree sixteen inches thick bears N. 47° E 22 links and a sugar tree ten inches thick bears S 45° E 62 links - thence North forty rods to the place of beginning the same containing twenty two and one half acres more or less. Also another certain tract piece or parcel of land being the same as purchased by me of Thomas J. Wilcoxson and wife described as follows to wit: situate and being in the County of Stephenson and State of Illinois, it being a part of the North West quarter of the South East quarter of Section twenty seven (27), in township twenty eight (28), North of Range seven (7), East beginning at a stone at the South West corner of said quarter Section - thence East thirty nine poles to a stake in Richland Creek. Thence North 50° West Sixty seven poles to a stake in the West line of said quarter Section from which a hickory twelve inches bears North 22° E 19 links and a sugar tree Eleven inches thick bears S 63° W 40 links - thence South with said line fifty four poles and Eighty links containing six acres one hundred and Eight perches with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining - also the right and privileges of overflowing with water the South West quarter of Section number twenty seven (27), in Township

Rec. Case 11

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Abijah B Watson et al
To
Caleb W Brown

This Indenture made this 4 day of August A.D. 1852 between Abijah B Watson and Susan A his wife of the County of Stephenson and State of Illinois of the first part and Caleb W Brown of the same County and State of the second part. Witnesseth that the said parties of the first part for and in Consideration of the sum of three thousand dollars to them in hand paid the receipt of which is hereby acknowledged have granted bargained and sold conveyed and confirmed and by their presents do hereby grant bargain sell convey and confirm unto the said party of the second part and to his heirs and assigns forever all those tracts or parcels of land and rights and privileges of overflowing with water situate and being in said County of Stephenson and State of Illinois, and known and described as follows to wit: It being a part of the South West quarter of the South East quarter of Section Twenty Seven (27) in Township Twenty Eight (28) North of Range Seven (7) East of the fourth principal meridian - beginning at the North West corner of said lot - thence East Eighty rods to the North East corner of said lot - thence South forty six rods and seventeen links - thence West Sixty rods, thence North Six Rods and seventeen links - thence West twenty rods - thence North forty rods to the place of beginning containing twenty two and a half acres more or less - Also that certain tract of land known and described as follows to wit: It being a part of the North West quarter of the South East quarter of Section Twenty seven in Township Twenty Eight North of Range Seven East - beginning at the South West corner of said quarter Section - thence East thirty nine poles - thence North 50° West sixty seven poles, thence South fifty-

See page 12

Twenty Eight (28) of Range East of the fourth Principal Meridian, being the same rights and privileges as conveyed to me by Adrian Lucas and wife. also all the rights and privileges of overflowing with water the South West quarter of the North East quarter of Section twenty seven, 27, in Township twenty eight (28) of Range seven (7) East being the same rights and privileges reserved by me in a deed conveying said South West quarter of the North East quarter to James Canfil

In witness whereof I have hereunto set my hand and seal this Eighth day of May A.D. 1847.

Witness

P. M. Smart

Sarah E. Smart.

John L. Jenks (Seal)

State of Illinois

Stephenson County

I, Lewis G. Reed a Justice of the peace in and for said County do certify that John L. Jenks whose signature appears to the foregoing deed and who is personally known to me to be the persons described in and who executed the same did acknowledge the same to be his free and voluntary act and deed for the uses purposes therein mentioned. Given under my hand and seal this 8th day of May A.D. 1847

Lewis G. Reed J.P. (Seal)

I, hereby certify that the foregoing deed of conveyance with the Certificate of acknowledgment hereunto annexed was filed and entered for record in my office on the 10th day of May A.D. 1847 at 1/2 after 9 o'clock A.M.

John A. Clark, Recorder

Recorded in Book D. Page 41.

Endorse "John L. Jenks to Caleb W. Brown.

Copy of Deed A

four poles and eighteen links containing six acres
 and one hundred and eighty perches & Also
 that certain tract of land known and described as
 follows to wit: It being the East half of the North
 West quarter of Section twenty seven in Township
 Twenty Eight North of Range Seven East containing
 Eight acres be the same more or less with the exception of
 ten acres off of the West side of the North half and ten acres
 off of the East side of the North half of the said East half
 of the North West quarter with the privilege of overflowing
 with water, the reserved twenty acres of the said East half
 of the North West quarter or as much thereof as may be
 overflowed in consequence of a Dam in Richland Creek
 belonging to the said parties of the first part - also the
 right and privilege of overflowing as much thereof as may
 be overflowed in consequence of said Dam, the South East
 quarter of Section Twenty Seven in Township twenty Eight
 (28) East of the fourth principal meridian - also the North
 West quarter of the South East quarter and the South West
 quarter of the North East quarter of Section twenty seven
 in Township Twenty Eight of Range Seven East, together with
 all and singular the appurtenances thereunto belonging
 or in any wise appertaining. To have & to hold the above
 described premises and privileges unto the said party of the
 second part and to his heirs and assigns forever, and the
 said parties of the first part for themselves and their heirs
 Executors and Administrators, do Covenant and agree to
 and with the said party of the second part his heirs and
 assigns that they are well seized of the premises and
 privileges above conveyed as of a good and indefeasible
 inheritance in the Law in fee simple, and that said priv-
 ileges and premises are clear of all incumbrances whatever.
 And the said parties of the first part the aforesaid prem-
 ises unto the said party of the second part and to his heirs
 and assigns against the claim or claims of all and

every person whomsoever do and will warrant and defend forever by these presents -

In witness whereof the said parties of the first part have hereunto set their hands and seals on the day and year first above written.

Abijah B Watson
Susan A Watson

Seal
Seal

The interlining of the words
'and the South West quarter of the North East quarter was done before Execution'

In presence of M Montetius.

The words "and the South West quarter of the North East quarter interlined before the fifth and sixth line from top before signing
M Montetius J.P.

State of Illinois
County of Stephenson
I, J. M. Montetius a Justice of the Peace in and for said County do hereby certify that Abijah B Watson and Susan A his wife are personally known to me to be the persons whose names are subscribed to the foregoing Deed as having Executed the same appeared before me this day in person and acknowledged that they signed sealed and delivered the same as their free and voluntary act and deed for the uses and purposes therein set forth. And the said Susan A Watson is personally known to me to be the wife the said Abijah B Watson and as the person who subscribed said Deed as such having been by me made acquainted with the contents & meaning of said instrument of writing and examined separate and apart from her husband acknowledged that she had Executed the same and relinquished her dower to the Lands and tenements therein mentioned voluntarily, freely and without compulsion of her said husband, and that she does not wish to retract the same.
Given under my hand & seal at Cedar Ville this 4th day

of August A.D. 1852 - M. Montelius J P Seal

Recorded Nov. 13th 1852 at 9 O'clock A.M.

John A Clark, Clerk

Endowed.

Abijah B Watron to Caleb W Watron
Copy of Indenture

B.

"Know all men by these presents that Caleb W Brown of County of Stephenson and State of Illinois party of the first part in consideration of five hundred ~~hundred~~ Dollars to him in hand paid by Jonathan Sills of the County of Stephenson and State of Illinois party of the second part the receipt of which is hereby acknowledged have granted bargained and sold conveyed and confirmed, and does hereby grant bargain sell convey and confirm to the said party of the second part and to his heirs and assigns forever the following described tract or parcel of land situated in the County of Stephenson and State of Illinois to wit: a tract bounded as follows viz: commencing at the North West corner of the South West quarter of the South East quarter of Section Twenty seven (27) in Township Twenty Eight North of Range seven East of 4th principal meridian - thence East Eighty (80) rods - thence South forty six (46) rods & seventeen links to a stake in the North Bank of Richland Creek from which a Black walnut 6 inches thick bears South 74° West 135 Links & an Elm 8 inches thick bears N 70° W 51 links thence West sixty (60) rods to a Stake from which a cypress 10 inches thick bears N 65° W 22 Links & an Elm five inches thick bears S 57° E 4 Links - thence North 6 rods and seventeen Links to a Stake bearing tree Sugar 20 inches thick S 18° W 32 Links & Sugar 13 inches N 11° 26 Links thence West twenty (20) rods to stake on west line side of said Lot from which bearing trees are a Sugar 16 inches thick N 47° E 22 links & Sugar 10 inches S 45° E 62 Links thence North forty Rods (40) to

beginning containing 22 1/2 acres also the right of overflowing by a mill dam at or near Browns Mill to be of the same height as the mill dam now standing at said Mill the South West quarter of Section Twenty seven in Township Twenty Eight Range seven East 4th P.M. also the right of flowage by Mill Dam of the same height as the dam now standing near Browns Mill, the South West quarter of the North East quarter of Section Twenty seven in Township Twenty Eight North of Range seven East of the 4th P.M. also the right of flowing by mill dam of the same height as the dam now standing near Browns Mill the North West quarter of the South East quarter of Section Twenty seven (27) in Township Twenty Eight North of Range seven East of fourth Principal meridian with the hereditaments and appurtenances thereunto belonging or in any wise appertaining to have and to hold said premises above described to the said party of the second part his heirs and assigns forever. And the said party of the first part for him and his heirs Executors and administrators does Covenant to and with said party of the second part his heirs and assigns that he is lawfully seized in fee simple of said above described premises that the aforesaid premises are free from all incumbrances. and that said party of the first part will and his heirs Executors and administrators shall warrant and defend said ~~said~~ premises to the said party of the second part his heirs and assigns against the lawful claims and demands of all persons whomsoever. And Sarah L Brown wife of the said Caleb W Brown in consideration of the payment made as aforesaid does hereby release to said party of the second part his heirs and assigns forever all her right of dower in the above described premises.

In testimony whereof said grantors have hereunto subscribed their hands & seals at Freeport this fifth day of July A.D. 1853

Executed in presence of,

Caleb W Brown

(Seal)

Sarah L Brown

(Seal)

State of Illinois
Stephenson County } I, Charles A Clark a Notary Public
for Freeport, for the said County, do hereby certify that Caleb
W Brown, ^{and Sarah S Brown} personally known to me to be the persons whose names
are subscribed to the foregoing Deed as having executed the same
appeared before me this day in person and acknowledged
that they signed sealed and delivered the same as their free
and voluntary act and Deed for the uses and purposes therein
set forth. And the said Sarah S Brown personally known
to me to be the wife of the said Caleb W Brown and as the
person who subscribed said Deed as such, having been by me
made acquainted with the contents and meaning of said instru-
ment of writing and examined separate and apart from her
husband, acknowledged that she had executed the same
and relinquished her dower to the lands and tenements therein
mentioned voluntarily, freely and without compulsion from
her husband and that she does not wish to retract the same.
Given under my hand and my seal Notarial at Freeport
this fifth day of July A.D. 1853

Charles A Clark N.P.

State of Illinois
Stephenson County } Office of the Clerk of the Circuit Court
I certify that this Deed was filed for record
in my office on the sixth day of July A.D. 1853 at 5 o'clock
P.M. and that the same is recorded in Book (C) of Deeds
page 548 & 549, and examined

Joseph B Smith, Clerk

Endowed " Caleb W Brown to Jonathan Sills

"Copy of Deed C..

Also Endowed. " Stephenson Circuit Court

"Henry L Niles vs John L Jenks, Caleb W Brown & Jonathan
Sills, "Bill." "Filed Sept 14th 1853

Joseph B Smith, Clerk

Barnes & Miller Sales.

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And afterwards to wit: on the 26th day of September A.D. 1853 there issued out of said Circuit Court a summons in said cause in the words and figures following to wit:

State of Illinois

Stephenson County } ^{set.} The People of the State of Illinois
To the Sheriff of said County Greeting:

We command you that you summon John L Jenks Caleb W Brown and Jonathan Sills if they be found in your County, personally to be and appear before the Circuit Court of said County, on the first day of the next Term thereof, to be holden at the Court House in the town of Freeport, in the said County, on the second Monday in the month of November next to answer unto Henry L Niles in a certain Bill of Complaint filed in the Circuit Court of Stephenson County on the Chancery side thereof against them. and have you then and there this writ, with an endorsement thereon in what manner you shall have executed the same.

Seal

Witness Joseph B Smith Clerk of our said Circuit Court, and the seal of said Court at his Office in said County, this 26th day of September A.D. 1853

Joseph B Smith, Clerk

Which summons was returned endorsed as follows to wit:
"Henry L Niles vs John L Jenks et al - Ch Sums. No 35
Executed the within by reading the within to the within named Jonathan Sills and left him a true copy Nov 1st 1853
also, "Executed the within by reading the within to the within named Caleb W Brown and left him a true copy Nov 2nd 1853 — John L Jenks not found in the County

Geo. Reitzell. Shff.

Serving	1.00
Mileage	60
return	10
Copies	1.70
	1.00
	\$ 2.70

And afterwards to wit: On the 17th day of November A.D. 1853 of the November Term A.D. 1853 of said Circuit Court in the record of the proceedings thereof appears the following entry to wit:

35 "Henry L. Siles

"
"John L. Jenks, Caleb W. Brown et al } In Chancery

"On motion of the Complainant by his solicitor leave is granted him by the Court to amend his bill so as to require oath of defendant Jenks.

And on the next succeeding day to wit: On the 18th day of November A.D. 1853 yet of the November Term A.D. 1853 of said Court in the record of the proceedings thereof is the following Order to wit:

35 "Henry L. Siles

"
"John L. Jenks, Caleb W. Brown & Jonathan Sills } In Chancery

"On motion of the said Complainant by his solicitor, it is ordered by the Court that defendants Caleb W. Brown and Jonathan Sills be ruled to file their answer to Complainant's bill within sixty days.

And afterwards to wit: On the 24th day of January A.D. 1854 of the January Special Chancery Term A.D. 1854 of said Court in the records ^{of the proceedings} in thereof in said cause is the following entry to wit:

29 "Henry L. Siles

"
"John L. Jenks, Caleb W. Brown & Jonathan Sills } In Chancery

"And now at this day comes the said defendant John L. Jenks and files his answer to Complainant's bill herein -

Which said answer is in the words and figures following to wit:

"In the Stephenson County Circuit Court

In Chancery

The answer of John L. Jenches to the bill of Complaint of Henry L. Siles

"This defendant saving to him self all benefit of exception to the said bill of complaint, for answer thereto, says, that he admits that the said Complainant recovered on the day mentioned in said bill being 8 March 1853 in the Joe Davis Circuit Court, a judgment for \$958.50 damages, and \$3.30 costs on promises, by warrant of attorney; and that this defendant formerly resided in the County of Stephenson and State of Illinois, but then and still in Wisconsin.

And this defendant further answering, admits, that he had no property in the said County of Joe Davis, that on 31. March 1853, the said Complainant sued out a writ of fieri-facias upon the said judgment, directed to the Sheriff of the said County of Stephenson, and delivered the same to the said Sheriff to be executed as is stated in the said bill.

And this defendant further answering, admits, that on 5. April 1853 the said Sheriff levied the said execution upon the tract of land in that behalf mentioned in the said bill, and that this defendant had no other property in the said County of Stephenson, out of which the said damages and costs or any part thereof could be made.

And this defendant further answering, admits that the said tract of land consisted of two parcels, one of which he purchased of Charles H Churchell, and the other of Thomas J Wilcox, that this defendant in 1846 after the purchase so made by him from the said Churchell, erected upon the said parcel of land purchased of Churchell, a Saw Mill, that during the former part of the next year, he was engaged in fitting up the said Saw Mill; and that about the 1 May of that year he this defendant commenced sawing in the said Mill, although it was not in complete running order.

And this defendant further answering admits, that he was a practicing physician, doing a large business, and had

sufficient means when he commenced the said mill to defray the expense of building the same, but that from the defendants not being accustomed to business, the said mill cost him much more than it otherwise would have done, and that by reason thereof he became involved in debt, and embarrassed, and that his creditors became dissatisfied, and were importuning and pressing him for payment, as in the said bill is stated,

And this defendant further answering admits, that the debt for which the said judgment was recovered, was contracted and due, previous to his commencement of the said mill, and that the said Complainant commenced an action for the same in the Circuit Court for the said County of Stephenson by a Capias ad respondendum; which was served upon this defendant, and he gave bail thereto, but the said Complainant was afterwards non suited in the said action.

And this defendant further answering admits, that soon after he gave bail as aforesaid, and on or about 8 May 1847, to delay hinder and prevent his said creditors from making their debts out of the said tract of land and saw mill, Executed a deed purporting in consideration of twenty hundred dollars, to bargain sell and quit claim to the said defendant Caleb W. Brown, in fee all the right, title, interest, claim, and demand of this defendant, of in and to the said tract of land; that a copy of the said deed is annexed to the said bill, and that the same was acknowledged and recorded as stated in the said bill,

And this defendant further answering admits, that the said tract of Land the parcels of which it consisted was and was described in the said deed as is in the said bill in that behalf stated, and that the said Deed also purports to convey certain rights and privileges, as is in the said bill in that behalf stated, and that the said rights and privileges were held by this defendant as appurtenant to the said mill and not otherwise. And this defendant further answering says, that during the latter part of the time he was building,

the said mill, the said Brown was residing in a dwelling house near the said mill, and this defendant boarded with him; that there was no other dwelling house in the neighborhood, and that the said Brown was intimately acquainted with the transactions relating to the said mill, and well knew that at the time of making said deed of conveyance to him this defendant owed a large number of debts, which he could not readily pay. And that the said Complainant had sued him as aforesaid, and that the object and purpose of this defendant in making the said deed was to delay and hinder his said creditors from collecting their debts of him.

And this defendant further answering says that there was no consideration whatever paid or passing from the said Brown to this defendant for the said deed, but that the same was without any consideration whatever, and that when the said deed was made, the said Brown solemnly promised to re-convey the said tract of land mill and appurtenances to this defendant whenever he should request him to do so.

And this defendant further answering says, that in or about the month of December 1848, the said Brown, as well as this defendant, had become apprehensive that the said tract of land and property should be levied upon for debts of a large amount of the said Brown; and in consequence thereof, this defendant requested him to re-convey the said land to this defendant, and the said Brown promised to do so.

And this defendant further answering says, that in violation of his said promises, the said Caleb W Brown on 3 Jan. 1849, made a deed of grant bargain and sale of the said tract of land and property to Abijah B Watson in the said bill named, for a nominal consideration of three thousand dollars; but this defendant has been informed and believes it to be true, that no part of the said consideration was ever paid; and that the same deed was made for the purpose of preventing the said property from being taken for the said

Brown's debts; and that at the same time the said Brown took back a bond from the said Watson for the reconveyance of the said land and premises to this defendant.

And this defendant further answering says, that the said Caleb W Brown continued in the possession and occupancy of the said saw mill, and of the said tract of land and premises after the making of the said deed to Watson, in the same manner as before; and he so continued to possess and occupy the same, until after the time of the levying of the said Execution upon the same, and until after the said Sheriff had filed a certificate of the said levy in the office of the recorder of the said County of Stephenson on 5 April 1853, as this defendant is informed, and believes to be true.

And this defendant further answering says, he has been informed and believes it to be true that the said Watson and his wife reconveyed the said land to the said Brown by an indenture dated 4 August 1852, and that the said indenture was acknowledged and recorded as in the said bill is stated; and this defendant believes there was no consideration paid by the said Brown to the said Watson or any other person for the making the said indenture.

And this defendant further answering says, he has been informed and believes it to be true that after the making and recording of the said certificate of levy, the said Caleb W Brown on 5 July 1853, for the purpose of frustrating and defeating the said levy, Executed a deed purporting to convey to the defendant Jonathan Sills in fee, the twenty two and a half acres of land described as aforesaid as having been purchased by this defendant of the said Churchill together with the privilege of overflowing lands, which was one of the privileges hereinbefore referred to, as appurtenant to the said mill; which deed was acknowledged and recorded as stated in the said bill.

And this defendant further answering says, he has been informed and believes that the consideration specified in the said deed was five hundred dollars, but that there was

really no consideration for the same; and that the said
 sells at the time of the making the said deed knew of the said
 judgment and execution. and that the said deed was made
 by the said Brown with the intent and purpose to hinder
 and defraud the said Complainant in the Collection
 of his said judgment and execution against this defendant,
 all which matters and things this defendant submits
 to the Consideration of this honourable Court, and prays
 that what is right may be done in the premises -

John L Jenches

State of Illinois }
 Jo Daviess County }

Personally appeared the & before the undersig-
 ned a Justice of the peace in and for said County, John L
 Jenches who being duly affirmed deposes and says upon
 affirmation that the foregoing affidavit and answer is true
 to the best of his knowledge and belief. this fourteenth
 day of January A.D. 1854

Henry C Park, Secy

State of Illinois }
 Jo Daviess County }

I, Richard Seal Clerk of the County
 Court in and for said County do hereby certify that Henry
 C Park whose name appears subscribed to the foregoing
 instrument of writing is now and was at the time of
 subscribing the same an acting Justice of the peace in and
 for said County regularly commissioned and qualified, and
 that as such Justice full faith and credit is due to all
 his official acts -

Seal

In testimony whereof I have hereunto
 set my hand and affixed the seal of
 the said Court at Galena this 14th
 day of January 1854 -

attest: Richard Seal, Clerk

which said answer of defendant John L Jenks has the following endorsement to wit:

Stephenson Co Circuit Court - Henry L Niles vs
John L Jenks and others - Answer of John L Jenks
Filed Jan'y. 24th 1854

Joseph B Smith, Clerk

And on the 16th day of January A.D. 1854 the defendant Caleb W Brown by his solicitor filed in said Court his answer to the said Complainants bill, in the words and figures following to wit:

State of Illinois

Stephenson County } In the Circuit Court of said County
on the Chancery side thereof of the
January Special Chancery Term A.D. 1854

The answer of Caleb W Brown one of the defendants to the Bill of Complaint of Henry L Niles Complainant.

This Defendant now and at all times hereafter saving and reserving to himself all manner of benefit and advantage of exception to the many errors & insufficiencies in the said Complainants Bill of Complaint contained for answer thereto or unto so much or such parts thereof as this Defendant is advised is material for him to make answer unto doth answer and say that he has been informed and believes that a judgment was rendered against John L Jenks and in favor of the Complainant herein in the Circuit Court for Jo Daviess County, Illinois for the amounts stated in the Bill of Complaint herein & that said judgment was rendered March 28th A.D. 1853 upon a warrant of attorney given to said Niles by said Jenks.

This Defendant further answering saith that an Execution was as this Defendant believes and is informed issued from the Circuit Court of Jo Daviess County upon said judgment directed to the Sheriff of Stephenson County.

to execute, but this Defendant does not know whether said Execution was levied at all & if so said Defendant does not know upon what land it was levied

Said Defendant further answering admits that John L Jenkins did contract for the purchase in the year 1846 from one Lechucell & from one Wilcoxon of the Lands in the Bill ^{herein} mentioned for the purpose of erecting a Saw Mill thereon but this Defendant insists that he paid the grantor part of the purchase money therefor after the purchase from said Jenkins by this Defendant of the interest of said Jenkins in said premises.

This Defendant further answering saith that it is true that said Jenkins was in the years 1846 & 1847, a physician by trade, that he had but little business, that not, that not understanding the business of Milling or of Constructing ^{mill} or dams & not having means he became involved to some extent, that he wished to sell out his said premises & property to this Defendant and that said Defendant did finally purchase the same for an adequate and valuable consideration which was paid and said Jenkins did accordingly execute to this Defendant a Deed for said premises (which Deed is correctly set out in the Exhibit attached to the Complainants Bill herein) that said purchase by this defendant was made in good faith, and that it was not intended as an artifice to cover up Jenkins property from his creditors, and that said Jenkins assured this Defendant that he did not owe said complainant a cent.

This Defendant further answering says that it is true that said complainant did in the year 1847, commence a suit against said Jenkins in Circuit Court of Stephenson County Illinois by a Capias ad respondendum which was duly served & said Jenkins was held to bail thereon, that said suit was dismissed from said Circuit Court on the motion of the Plaintiff, that the proceedings in said suit up to the dismissal of the same were regular & this

Brown
Jenkins

12225

Defendant charges the truth to be that said suit was dismissed because it was commenced without any valid cause of action. This Defendant further answering saith that it is not true that he was aware at the time said deed was made by said Jenks to him that said Jenks was indebted to said Complainant, that said Deed was made without any reference to complainant, and without any reference to any supposed demand of complainant against said Jenks and this Defendant believes and charges the truth to be, that there has never been any considerable amount due from said Jenks to said Niles previous to the confession of the said judgment by Jenks in the Circuit Court ^{for Jo Daviess County} as aforesaid, and this defendant charges the truth to be that said judgment so confessed by said Jenks in the Jo Daviess County Circuit Court as aforesaid is not a bona fide judgment, that it was not based upon any valid demand but was a fictitious proceeding concocted by said Niles & Jenks to wrong this Defendant, that said Jenks is the real party in interest in said judgment & confessed the same upon an agreement with said Niles that the collections made upon it should be in whole or part for his benefit.

This Defendant further answering saith that it is not true that said Jenks ever requested this Defendant to reconvey said premises to him said Jenks for fear it would be levied upon for the debts of this Defendant, and that it is not true that this Defendant promised to reconvey said premises to said Jenks. This Defendant further answering admits the execution to A. B. Watson of a Deed for said premises — Dated Jan 3^d 1849, but denies that said Deed was made without a valuable consideration, and insists that it was made without any reference to any claim of said Niles against Jenks whatever.

This Defendant further answering says that while the title to said premises was held by said Watson said Jenks came to him it being about the 12th day of September 1849.

and stated to him (said Watson) that he said Jenks had still an interest in the said property and premises and that he intended to file a bill in Chancery to obtain said interest. that he would like to sell his interest in the mill property to said Watson, urging said Watson to purchase by saying that he had a Deed from Brown and by buying his (Jenks) interest he would have a good title. that Jenks asked five hundred dollars for a full release of all his interest in said mill property to Watson but finally agreed to take three hundred dollars which Watson agreed to give him and said Jenks accordingly gave said Watson a paper writing (a copy of which is given in the exhibit attached hereto marked Exhibit A.) as a release of all his interest. Claim right and title in and to said premises & said Watson did pay him therefor the three hundred dollars in manner as said Jenks and said Watson had agreed it should be paid and this Defendant charges the truth to be that said Niles Complainant herein had at the time of the confession of said judgment by said Jenks in the Joe Davis County Court & long previously & at the time of the alleged levy of the said Execution on said Land full and complete notice of the execution & existence of the said release made by said Jenks to said Watson as aforesaid. This Defendant further answering says that said A. B. Watson did convey said Land to this Defendant by deed dated August 4th 1852, that said Watson received a valuable consideration for said conveyance and conveyed to this Defendant his whole interest in said premises, as well that held by the Deed from this defendant as that held by the release from said Jenks.

This Defendant further answering admits the execution of a Deed (as set out in the exhibit to the Bill herein) for said premises to Jonathan Sills, but insists that said Deed was made in pursuance of a bona fide sale to said Sills. that said Deed was not made to delay, defeat or hinder any

Claim of the Complainant herein and was made for a consideration of two thousand dollars of which one thousand was paid in hand & security was given for the balance. And this Defendant submits to this Hon. Court that said Henry L. Niles has not exhausted his remedy at Law to enforce & collect his said judgment against John L. Jenks and is therefore not entitled to any relief from a Court of Equity and this defendant hopes he shall have the same benefit of this defence as if he had demurred to the Complainants Bill and this Defendant denies all unlawful combinations & Confederacy in the said Bill charged without that any other matter or thing material or necessary for this Defendant to make answer unto & not herein or hereby well or sufficiently answered unto, Confessed or avoided traversed or denied is true to the knowledge or belief of this defendant all which matters and things this Defendant is ready to aver maintain & prove as this Hon. Court shall direct and humbly prays to be hence dismissed with his reasonable costs and charges in that behalf most wrongfully sustained

Caleb W Brown, Deft.

C. A. Clark Solr. for Deft. Brown

Exhibit A"

I, John L. Jenches do hereby quit claim and sign over to A. B. Watson all the rights and interest I have in and to, or in anywise appertaining to the following tract of land to wit: Section twenty seven (27) Township No Twenty Eight (28) Range No. Seven (7) East of the fourth principal meridian for and in consideration of the sum of three hundred dollars the receipt of which is hereby acknowledged as payment in full of all accounts bonds obligations debts and demands of every name and every nature prior to this date.

Stephenson Co. Ill. John L. Jenches
Sept 12. 1849-

Endowed as follows to wit:

"In Stephenson Circuit Court

"Leah W Brown vs Henry L Niles - Answer

Filed January 16th 1854

Joseph B Smith, Clerk

And on the same day to wit: on the 16th day of January A.D. 1854 the said Defendant Jonathan Sills by his Solicitor filed in said Court his answer to said Complainants Bill. which said answer is in the words and figures following to wit:

'State of Illinois

Stephenson County } In the Circuit Court of said
County: On the Chancery side thereof
of the January Special Chancery
Term thereof A.D. 1854

The answer of Jonathan Sills one of the
Defendants to the Bill of Complaint
of Henry L Niles Complainant

This Defendant now and at all times hereafter saving and reserving to himself all manner of benefit and advantage of exception to the many Errors & insufficiencies in the said Complainants bill of Complaint Contained for answer thereunto or unto so much or such parts thereof as this Defendant is advised is material for him to make answer unto doth answer and say that it is true that this Defendant did purchase from Leah W Brown & receive a Deed for the premises described in the Bill herein which Deed is correctly set out in the Exhibit attached to the bill herein, that this Defendant did in fact purchase said premises in good faith, and without any intention whatever to defraud said Complainant, that said purchase & conveyance was made for a consideration of two

thousand dollars, that this Defendant paid one thousand Dollars in cash and gave security for the other thousand, that said purchase was made by this Defendant, and said conveyance was made to him without any knowledge or notice whatever of the levy of the Execution which is alleged in the bill herein to have been levied on the premises in question at the suit of Henry S. Niles against John S. Jencks, that this Defendant was shown a complete chain of title from the United States to said Brown for the premises in question valid and correct on its face, that this Defendant at the time of the said conveyance to him was entirely ignorant of the transactions alleged in the bill herein to have occurred between his vendor Brown and Jencks, Watson, & Niles, previous to the date of said conveyance to this Defendant aforesaid, that this Defendant was assured and believed the title of said Brown to said premises to have been valid at the time of said conveyance to him and still believes such title to have been good.

This Defendant further answering saith that from the best information he is able to obtain upon the subject he believes & charges the truth to be that there was no such indebtedness due from Jencks to Niles as is pretended in the Bill herein at any time that the judgment aforesaid is not bona fide, that if Jencks had any claim to an interest in the said mill property subsequent to the Execution of the Deed by him to said Brown for said mill property he released the same to Abijah B. Watson by a release dated Sept. 12th 1849, in consideration of a valuable consideration to him paid by said Watson, a copy of which release is herewith annexed marked exhibit A. that this Defendant claims under said release through the conveyance of said premises by

said Watson to said Brown, that said release was executed being previous to the confession of the judgment by J L Jencks in favor of said H L Niles as stated in the Bill herein & being previous to the alleged levy of the Execution issued upon said judgment on the premises in question, that said Niles had full notice of the execution of said release by said Jencks to said Watson at & previous to the time when it is alleged said judgment was confessed and said writ Execution levied as aforesaid and is bound by such notice.

This Defendant further answering saith that it is not true that said John L Jencks conveyed the premises in the Bill described to Caleb W Brown in order to defraud Henry L Niles & cheat him out of a debt, that it is not true that said Brown conveyed said premises to said Watson to prevent said Niles from collecting his said debt & mutual consideration, that it is not true that said Brown conveyed said premises to this defendant to prevent said Niles from collecting his debt from Jencks as aforesaid, that the conveyance of said premises from said Brown to this Defendant was a bona fide transaction & made without any reference whatever to any demand of said Niles against said Jencks and this Defendant further answering saith that at the time of his purchase of said premises & at the time of the Execution of the conveyance for the same to him he had no notice whatever that said Jencks had any claim or interest in & to said premises whatever - And this Defendant submits to this Hon. Court that said Henry L Niles has not exhausted his remedy at Law to enforce & collect his said judgment against John L Jencks and is therefore not entitled to any relief from a Court of Equity and this Defendant hopes he shall have the same benefit of this defence as if he had demurred

to said Complainants Bill and this Defendant denies all unlawful combination & confederacy in the said Bill charged; without that any other matter or thing material or necessary for this Defendant to make answer unto and not herein or hereby well or sufficiently answered unto confessed or avoided traversed 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 Hon. Court shall direct, and humbly prays to be herein dismissed with his reasonable costs and charges in that behalf most wrongfully sustained.

Jonathan Sills Deft
C. A. Clark
Sol. for Deft, Sills

Exhibit A.

I, John L. Jenches do hereby quit claim and sign over to A. B. Watson all the right and interest I have in & to or in anywise appertaining to the following tract of Land to wit: Section twenty seven (27), Township N. twenty eight (28), Range N. seven (7) East of the fourth principal meridian for and in consideration of the sum of three hundred dollars the receipt of which is hereby acknowledged as payment in full of all accounts bonds obligations debts and demands of every name and every nature prior to this date.

John L. Jenches

Stephenson Co Ills Sept 12. 1849. Endorses,
Jonathan Sills at Henry L. Sills. Answer - Filed January 16. 1854 Joseph B. Smith, Clerk
And afterwards to wit: on the 26th day of January A.D. 1854
yet of the January Special Chancery Term A.D. 1854 of said Court in the record of the proceedings thereof appears the following entries to wit:

29

Henry L Niles

John L Jenks. Caleb W Brown & Jonathan Sills } In Chancery

And now at this day come the said Defendant Caleb W Brown and files his motion and affidavit for a rule to compel the said Complainant to give security for costs herein.

Which said motion and affidavit is in the words & figures following to wit:

State of Illinois } In Circuit Court In Chancery
 Stephenson County } of January Special Chancery Term
 A.D. 1854.

Stephenson County ss.

Caleb W Brown Defendant in said
 above C. W. Brown, J Sills & J L Jenks Defts }
 vs. }
 Henry L Niles Compt }

Stephenson County ss.

Caleb W Brown Defendant in said above entitled suit being duly sworn on his oath says. that Henry L Niles Complainant in said suit is not responsible for the costs which may accrue in said suit & become owing to said Defendants or to the officers of this Court & that the same cannot be collected from him by process of law as he is utterly insolvent as this Defendant is informed & believes & further saith not &c.

Subscribed & sworn to before me } Caleb W Brown
 Joseph B Smith Clerk of said Court }
 this 26th day of Jan'y. A.D. 1854. }
 Joseph B Smith Clerk }

And now at this day comes C W Brown & J Sills two Defendants to above entitled suit & move the Court by their solicitor that

H. L. Niles complainant be ruled to give good security for costs herein

Endorsed - "Brown, Sills et al vs H. L. Niles. aff & motion. Filed Jan. 26. 1854

Joseph B Smith, Clerk

And on the same day to wit: on the 26th day of January A.D. 1854 in the records of the proceedings of said Court for said Term is the following entry to wit:

Henry L Niles

vs
John L Jenks, Caleb W Brown & Jonathan Sills } In Chancery

Now at this time came on to be heard the motion of the said Defendant Brown for a rule to require the said Complainant to give security for costs in this cause and the Court having duly considered the said motion, order that the said Complainant be ruled to give security for costs by Monday morning next or show cause to the contrary

And ^{afterwards} on the same day to wit: on the 30th day of January A.D. 1854 the Complainant filed in said Court security for costs in said cause, in the words and figures following to wit:

State of Illinois

Stephenson County } In the Circuit Court of Stephenson
County A.D. 1854 of the January
Special Term.

Henry L Niles

vs
John L Jenks, Caleb W Brown &
Jonathan Sills

We do hereby enter ourselves security for costs in this cause, and acknowledge ourselves bound to pay, or cause to be paid, all costs which has or may accrue in this cause action either to the opposite party, or

to any of the officers of this Court, in pursuance of the laws of this State.

Dated this 28th day of January
A.D. 1854

H. W. Keance
A. W. Rawson

Endorsed 'H L Niles vs John L Jenks & others
Bond for Costs —

Filed Jan'y 30. 1854

J B. Smith. Clerk.

And afterwards to wit: on the 4th day of February A.D. 1854 yet of the said January Special Chancery Term of said Court, in the records of the proceedings thereof appears the following entry to wit:

Henry L Niles

John L Jenks, Caleb W Brown & Jonathan Sills } Chancery

"On motion of the said Complainant by Burnap his Solicitor leave is granted him by the Court to amend his Bill so as to meet the matter set up in said defendants answers to said Bill. it is further ordered that said amended bill be filed instanten - which is done.

Which said amended Bill is in the words and figures following to wit:

In the Stephenson County Circuit Court
Henry L Niles

John L Jenks Caleb W Brown & Jonathan Sills } In Chancery

The above named Complainant having obtained leave to amend his original Bill of Complaint in this cause amends the same, and by way of amendment thereto, says, that the above named defendants pretend that on 12 September 1849 and

while Abijah B. Watson held the Deed of the lands in the said original bill mentioned, the above named John L. Jenks, in consideration of the sum of three hundred dollars to him in hand paid by the said Watson, released to said Watson his interest in the said lands, by a paper writing in the words and figures ^{following} that is to say:

I, John L. Jenks do hereby quit claim and sign over to A. B. Watson all the right and interest I have in and to or in anywise appertaining to the following tract of Land to wit: Section twenty seven (27) Township No. twenty eight (28) Range No. Seven (7) East of the fourth principal meridian, for and in consideration of the sum of three hundred dollars, the receipt of which is hereby acknowledged as payment in full of all accounts, bonds, obligations, debts and demands of every name and every nature prior to this date

(Signed) John L. Jenks
Stephenson Co Ill
Sept. 12. 1849.

And this Complainant further says, that the said Defendants also pretend that previous to the levy in the said original bill mentioned upon the said lands, this Complainant had notice that the said John L. Jenks had released his interest in the said lands by the said paper writing.

And this Complainant further says, that since the said levy, and since the recording of the certificate thereof, the said defendants, the said Defendants having wrongfully recorded the said paper writing; the same not being such an instrument as is authorized by Statute to be recorded. — But this Complainant charges that the said Watson induced the said John L. Jenks to sign the said paper writing by the undue use of the power

he had over him by having the title to the said lands in him so that he the said John L Jenks would not recover the same back, and by threatening him and appealing to his fears respecting the same.

And this Complainant further charges the truth to be, that he this Complainant had no notice whatever of the said alleged release, or of the said paper writing at the time of the making of the said levy and of the recording of the certificate thereof as aforesaid.

And this Complainant charges that the said alleged consideration for the said release bears no adequate or considerable proportion to the real value of the interest of the said John L Jenks in the said lands at the time of the confetion of the said paper writing, that this Complainant insists that the said inadequacy of consideration is proof that the said transaction was not in good faith, and he insists that it ought not in any respect to affect the rights of this Complainant in the premises -

And this Complainant further more insists that the said paper writing is not sufficient in law to convey any interest in the said land whatever; and this Complainant charges that the said Watson at the time of the Confetion thereof, not only had notice and well knew that the said lands were deeded to him by the said Brown to keep the same out of the reach of the said Browns creditors, but also that the said lands had been deeded by the said Jenks to the said Brown to put the same out of the reach of the creditors of the said Jenks.

And this Complainant prays that the said defendants may answer this amended bill, without oath, and that he may have the relief prayed in his said original bill.

Henry L Stiles

By his Solicitors

Which said amended Bill has the following endowments
to wit:

Stephenson Co. Circuit Court
Henry L Niles vs John L Jenks, Caleb W Brown
and Jonathan Sills - Amended Bill

Filed February 22nd 1854

Joseph B Smith, Clerk

And afterwards to wit. on the 9th day of February A.D. 1854
y^t of the said January Special Chancery Term of said Court
in the records thereof in said Court appears the following
entry to wit:

29

Henry L Niles

John L Jenks, Caleb W Brown & Jonathan Sills } In Chancery

On motion of the said Complain-
ant by Burnap his solicitor, it is ordered by the Court that
said defendants be ruled to file their answer to said Com-
plainants amended bill within twenty days.

And afterwards to wit. on the 27th day of February A.D. 1854
of the April Term of A.D. 1854 of said Circuit Court the defen-
dant Caleb W Brown by his solicitor appeared and filed in said
Court his answer to said Complainants amended Bill,
in the words and figures following to wit:

State of Illinois

Stephenson County

In the Circuit Court of said County
On the Chancery side thereof of the
April Term A.D. 1854 -

The answer of Caleb W Brown one of the defendants to the Bill
of Complaint (as amended) of Henry L Niles Complainant.

This Defendant now and at all times
hereafter saving and reserving to himself all manner of benefit
and advantage of exception to the many errors and insuffic-
iencies in said Complainants amended bill of Complaint

Contained for answer therunto or thereto unto so much or such part thereof as this Defendant is advised is material for him to make answer unto doth answer and say that he has been informed and believes that a judgment was confessed by John L Jenks in favor of Henry L Niles upon a Warrant of attorney as stated in the bill over about March 28th 1853 in for Davies Circuit Court & Execution was issued thereon as stated in the Bill but whether said Execution was levied this Defendant does not know and this defendant does not know whether said Jenks had property in for Davies County at that time. Said Defendant further answering admits that John L Jenks did contract for the purchase in 1846 from one Churchill and from one Wilson of the Land in the Bill described for the purpose of erecting a Saw Mill thereon, but this Defendant insists that he paid the greater part of the purchase money therefor after the purchase from said Jenks by this Defendant of the interest held by said Jenks in said premises.

This Defendant further answering admits that said Jenks was a physician by trade, that he became involved and this Def^t. admits he wished to sell out his said premises to the said Defendant. That said Jenks had invested but little in said Mill property at that time & had managed the same so badly that it was worth but little, not so much as said Jenks owed for the same and said Jenks could neither complete the same nor pay his said debts.

And that this Defendant did finally purchase the same for an adequate and valuable consideration which was paid and said Jenks did accordingly execute to this Defendant a Deed for the said premises which is correctly set out in the Bill herein and this Defendant insists that said purchase was made in good faith and that it was not intended as an artifice to cover up Jenks property from his creditors and without any purpose to defraud said Niles. the said

Jenks insisting to this Defendant that ^{he} did not owe said Niles a cent.

This defendant further answering admits that said Complainant did in the year 1847 Commence a suit against said Jenks in the Circuit Court of Stephenson County Illinois by a Capias ad respondendum which was duly served & said Jenks was held to bail thereon, that said suit was dismissed from said Circuit Court on the motion of Henry L Niles, Plaintiff, that the proceedings in said suit up to the dismissal of the same were regular & this Defendant charges the truth to be that said suit was dismissed because it was dismissed commenced without any valid cause of action. This Defendant further answering saith that it is not true that he was aware at the time said Decree was made by said Jenks to him, that said Jenks was indebted to said Complainant. That said Decree was made without any reference to Complainant and without reference to any supposed demand of Complainant against said Jenks and this Defendant believes and charges the truth to be that there has never been any considerable amount due from said Jenks to said Niles previous to the confession of said Judgment by Jenks as aforesaid and this Defendant insists that said Jenks & Niles had a settlement of their accounts long previous to the confession of said Judgment & the pretended levy of the Execution mentioned in the Bill herein & said Jenks paid said Niles the whole balance but a small sum due him this Defendant further charges the truth to be that said Judgment so confessed by said Jenks in the Joe Davis County Circuit Court as aforesaid is not a bona fide Judgment that it was not based upon any valid demand, but was a fictitious proceeding concocted by said Niles and Jenks to wrong this defendant that said Jenks is the real party in interest in said Judgment and confessed the same upon an agreement with said

Niles that the collections made upon it should be in whole or part for his benefit.

This Defendant further answering saith that it is not true that said Jenks ever requested this Defendant to reconvey said premises to him said Jenks for fear it would be levied upon for the debts of this Defendant and that it is not true that this Defendant promised to reconvey said premises to said Jenks.

This Defendant further answering admits the execution to A. B. Watson of a Deed for said premises dated January 3^d 1849 but denies that said deed was made without a valuable consideration and insists that it was made without any reference to any claim of said Niles against Jenks whatever.

This Defendant further answering says that while the title to said premises was held by said Watson said Jenks came to him it being about the 12th day of September 1849. and stated to him (said Watson) that he said Jenks had still an interest in the said property and premises and that he intended to file a bill in Chancery to obtain said interest that he would like to sell his interest in the Mill property to said Watson, urging said Watson to purchase by saying that he had a Deed from Brown and by bringing his (Jenks) interest he would have a good title, that Jenks asked five hundred dollars for a full release of all his interest in said Mill property to Watson but finally agreed to take three hundred dollars which Watson agreed to give him. and said Jenks accordingly gave said Watson a paper writing (a copy of which is given in the exhibit attached hereto marked Exhibit Aⁿ) as a release of all his interest claim, right and title in and to said premises and said Watson did pay him therefor the three hundred dollars in manner as said Jenks and said Watson had agreed it should be paid and this defendant charges the truth to be that said Niles complainant herein had at the time of the Confession of said

Judgment by said Jenks in the Jo Davie County Court and
being previously and at the time of the alleged levy of the
said Execution on said Land, full and complete notice
of said sale of his claim by said Jenks to said Watson, the
Execution and existence of the said release made by said
Jenks to said Watson as aforesaid and this Defendant
charges that said release was intended by said Jenks
to convey his interest in & to said Mill property to said
Watson & that said Watson paid said sum of three hundred
dollars as the consideration agreed on for a release of
all the interest held by said Jenks in said Land & Mill
property, that said Complainant had full notice of the
Execution of the release or paper writing aforesaid of the
consideration upon which it was executed and this Defen-
dant insists that in equity it does and ought to bar him
said Complainant from asserting any claim to said
premises under his said levy of Execution, and this
Defendant further answering said amended Bill says
that the agreement so made between said Watson & Jenks
was a bona fide transaction fairly made between ^{the} two parties
both competent to contract and that there was neither
fraud nor duress nor any improper means used by said
Watson to procure the execution by said Jenks of said
paper writing to said Watson.

This Defendant further answering says that said A.B.
Watson did convey said Land to this Defendant by Deed
dated August 4, 1852, that said Watson received a valuable
consideration for said conveyance and conveyed to this
Defendant his whole interest in said premises as well that
held by deed from this defendant as his rights conveyed by
said release from said Jenks or purchased by the paymen-
ent of said \$300.- to Jenks as aforesaid from said Jenks

This Defendant further answering admits the execu-
tion of a Deed (as set out in the Exhibit to the Bill)

for said premises to Jonathan Sills but insists that said Deed was made in pursuance of a bona fide sale to said Sills, that said deed was not made to delay, defeat, or hinder any claim of the Complainant herein and was made for a consideration of two thousand Dollars of which one thousand was paid in hand and security was given for the balance. And this Defendant submits to this honorable Court that said Henry L. Sills has not exhausted his remedy at law to enforce and collect his said judgment against John L. Jenckes and is therefore not entitled to any relief from a Court of Equity, and this Defendant hopes he shall have the same benefit of this defence as if he had demurred to the Complainants amended Bill, and this Defendant denies all unlawful combinations and confederacy in the said amended bill charged without that any other matter or thing material or necessary for this Defendant to make answer unto and not herein or hereby well or sufficiently answered unto confessed or avowed traversed or denied is true to the knowledge or belief of this Defendant all which matters and things this Defendant is ready to answer maintain and prove as this Hon Court shall direct and humbly prays to be hence dismissed with his reasonable costs and charges in that behalf most wrongfully sustained

Caleb W Brown Deft
C. A. Clark Solr, for Deft. Brown

"Exhibit A"

I, John L. Jenckes do hereby quit-claim and sign over to A. B. Watson all the right and interest I have in and to or in anywise appertaining to the following tract of land to wit; Section twenty seven (27), Township

No. Twenty Eight, (28) Range No. Seven (7) East of the fourth principal meridian for and in consideration of the sum of three hundred dollars the receipt of which is hereby acknowledged as payment in full of all accounts bonds obligations, debts and demands of every name and every nature prior to this date.

Stephenson Co Ill John L Jencks
Sept. 12. 1849.

Endorsed as follows to wit. "Stephenson Circuit Court
In Chancery — Caleb W Brown et al vs Henry L Niles
Answer of Caleb W Brown to amended Bill —
Filed February 27. 1854 — Joseph B Smith Clerk"

And on the same day to wit. on the 27th day of February
A.D. 1854 the said Defendant Jonathan Sills by his Solicitor
filed in said Court his answer to said Complainants am-
ended bill; in the words and figures following to wit:

"State of Illinois

Stephenson County, ss. In the Circuit Court of said County:
On the Chancery side thereof, of the
April Term A.D. 1854. —

"The answer of Jonathan Sills one of the Defendants to the
amended Bill of Complaint of Henry L Niles Complainant

"This Defendant now and at all times hereafter saving and
reserving to himself all manner of benefit and advantage
of exception to the many errors and insufficiencies in the
said Complainants amended Bill of Complaint contains
for answer therunto or unto so much or such parts thereof as
this Defendant is advised is material for him to make
answer unto doth answer and say that it is true that this
Defendant, did purchase from Caleb W Brown and receive
a Deed for the premises described in the bill herein which
Deed is correctly set out in the exhibit attached to the

Bill herein that this Defendant did in fact purchase said premises in good faith and without any intention whatever to defraud said Complainant. That said purchase and conveyance was made for a consideration of two thousand dollars, that this Defendant paid one thousand dollars in cash and gave security for the other thousand that said purchase was made by this Defendant, and said conveyance was made to him without knowledge or notice whatever of the levy of the Execution which is alleged in the Bill herein to have been levied on the premises in question, at the suit of Henry L Niles against John L Jencks, that this Defendant was shown a complete chain of title from the United States to said Brown for the premises in question valid & correct in its face that this Defendant at the time of the said Conveyance to him was entirely ignorant of the transactions alleged in the amended bill herein to have occurred between his Vendor Brown and Jencks, Watson and Niles previous to the date of said conveyance to this Defendant aforesaid that this Defendant was assured and believed the title of said Brown to said premises to have been valid at the time of said conveyance to him and still believes such title to have been good.

This Defendant further answering saith that from the best information he is able to obtain upon the subject he believes and charges the truth to be that there was never such an indebtedness due Niles from Jencks as in said amended bill is pretended that the said Jencks & Niles settled their accounts some time previous to the confession of said Judgment as alleged & said Jencks paid said Niles in full the small balance found due him, that said Judgment was not confessed upon a valid cause of action but is fictitious & was confessed by said Jencks upon an agreement with said Niles, that

all said Niles could recover them should be in whole or part for the benefit of him said Jenckes, that if said Jenckes had any claim to an interest in said mill property subsequent to the execution of the Deed by him to said Brown he did on or about Sept 12. 1849 sell the whole of his said interest to one Abijah B Watson for three hundred dollars the price agreed on for the same which said Watson paid in manner as agreed on by the said Jenckes and Watson and that upon such sale said Jenckes did execute to the said Watson a paper writing as a release of all his claims and interest in & to said mill property which writing is copied and set out in the Exhibit attached hereto marked "Exhibit A" that said Niles had at the time of the confession of said judgment by Jenks & of the levy of the said Execution full notice of said sale made by Jenks to Watson & of the existence of said paper writing and this Defendant charges and insists that said transaction had between said Jenckes and said Watson is & of right ought to be a full bar of all claims on the part of said Niles against said Land and this Defendant further charges the truth to be that said sale was made by said Jenckes freely and without fraud duress or any improper motive urged ^{by} said Watson, & this Defendant claims under said sale though the conveyance of said premises from said Watson to said Brown ^{from said Brown} to this Defendant.

This Defendant further answering saith that it is not true that the said John L Jenckes conveyed the premises in said amended bill described to Caleb W Brown in order to defraud Henry L Niles & cheat him out of a debt, that it is not true that said Brown conveyed said premises to said Watson to prevent said Niles from collecting his said debt & without consideration that it is not true that said Brown conveyed said premises to this Defendant to prevent said Niles from collecting his said debt from Jenckes, that it is true that the

conveyance of said premises from said Brown to this Defendant was a bona fide transaction and made without any reference whatever to any demand of said Kiles against said Jenckes, and this Defendant further answering saith that at the time of his purchase of said premises and at the time of the Execution of the conveyance for the same to him he had no notice whatever that said Jenckes had any claim or interest in and to said premises whatever. And this Defendant submits to this honorable Court, that Henry L Kiles has not exhausted his remedy at law to enforce and collect his said Judgment against John L Jenckes and is therefore not entitled to any relief from a Court of Equity and this Defendant hopes that he shall have the same benefit of this defence as if he had demurred to said Complainants Bill, and this Defendant denies all unlawful combination and confederacy in the said bill charged; without that any other matter or thing material or necessary for this Defendant to make answer unto and not herein or hereby well or sufficiently answered unto confessed or avoided traversed 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 Hon. Court shall direct and humbly prays to be hence dismissed with his reasonable costs and charges in that behalf most wrongfully sustained

C. A. Clark

Sol. for Deft Sills

Jonathan Sills, Deft

"Exhibit A"

I, John L Jenckes do hereby quit claim and sign over to A. B. Watson all the right & interest I have in and to or in anywise appertaining to the following

tract of land to wit: Section Twenty Seven (27)
Township No. Twenty Eight (28) Range No. Seven (7)
East of the fourth principal meridian for & in
consideration of the sum of two hundred Dollars
the receipt of which is hereby acknowledge as payment
in full of all accounts, bonds obligations debts and
demands of every name & every nature prior to this
date,

Stephenson Co. Ill.

John L Jencks

Sept. 12. 1849-

Endowed - Jonathan Sills at Henry L Niles
Answer to amended Bill

Filed February 27th 1854

Joseph B Smith Clerk

And afterwards to wit: on the 13th day of March A.D.
1854 the Complainant by his solicitors filed in said Court
his Replication to the several answers of the said defend-
ants - as follows to wit:

"In the Stephenson County Circuit Court,
In Chancery.

"The Replication of Henry L Niles, Com-
plainant to the several answers respectively of John L
Jencks, Caleb W Brown and Jonathan Sills defendants

"This complainant, saving and reserving
to himself all manner of exception to the said answers
and each of them, for replication thereto says that he
will aver, maintain and prove, that his bill of Com-
plaint in this cause is true and sufficient, and that
the said answers are untrue and insufficient

Miller & Burnap

Solicitors for Complainant

Endowed "Stephenson Co Circuit Court"

"Henry L Niles vs John L Jenks and others
Replication

Filed March 13th. 1854

Joseph B Smith Clerk

And afterwards to wit: on the 11th day of April A.D. 1854 of the April Term A.D. 1854 of said Circuit Court the said Complainant filed in said Court his motion and affidavit for a continuance of the said cause, in the words and figures following to wit:

"Stephenson Circuit Court
April Term A.D. 1854

Henry L Niles

vs

John L Jenks

Caleb W Brown & Jonathan Sills

In Chancery

State of Illinois
Stephenson County ss.

Henry L Niles the plaintiff in the above entitled cause suit being first duly sworn deposes and says that he cannot safely proceed to the trial thereof at the present Term of this Court for want of the testimony of Porter M Smart and Charles Churchill material witnesses in said suit on the part of deponent who expects to prove by said Smart that he was present at the pretended sale and conveyance of the premises & mill property described in plaintiffs bill in said suit from the said defendants Jenks to the Defendants Brown that said Smart was called by said defendants Jenks and Brown as a subscribing witness to said conveyance and that no money, note or notes or any valuable thing whatever passed from the said Brown to the said Jenks at said sale

and conveyance - That said Smart is a resident of said County of Stephenson but has been temporarily absent from this State on business ever since sometime in December or January last traveling in the Southern States his whereabouts has not been known to deponent since he left this State - the last deponent heard from he was at or near Memphis in the State of Tennessee. Deponent is informed by the friends of said Smart that he is expected to return home about the first of June next.

Deponent further says that he expects to prove by said Churchill that the aforesaid defendant Caleb W Brown informed him that the said pretended sale and conveyance of said Mill property and premises in said plaintiffs Bill described were made the defendant Jenks to the defendant Brown for the purpose of enabling said Jenks to arrange his affairs with his creditors. the property of said Jenks being covered in the hands of said Brown and that when said Jenks had made arrangements with his creditors then he the said Brown at the request of said Jenks was to reconvey the said property and premises to said Jenks he being the bona fide owner thereof.

That said Churchill for a year past. has been & still is a resident of the County of Green & State of Wisconsin, that defendant deponent knows of no other witnesses by whom he can prove the above facts, that he has not been able to procure their testimony or attendance of said witnesses at the present Term of said Court - That he expects to procure their testimony or attendance at the next Term of this Court and that this application is not made for delay but that justice may be done.

Sworn to & Subscribed before me } H L Niles

this 8th day of April A D 1854

Heiram Bright Notary Public }

Endorsed as follows to wit:

"Henry L Niles vs John L Jenks & others. Aff. for continuance. N. 22 Chancery

Filed April 11th 1854 - Joseph B Smith, Clerk"

And on the same day to wit: on the 11th day of April A.D. 1854 in the records of the proceedings of said Court appears the following entry to wit:

Henry L Niles

John L Jenks, Caleb W Brown & Jonathan Sills

In Chancery

And now at this day come the said Complainant and on his motion verified by affidavit it is ordered by the Court that this cause be continued to the next Term of this Court at the cost of the said Complainant - It is therefore ordered and adjudged by the Court that the defendants have and recover of the said Complainant their costs by them about their suit at the present term of this Court in this behalf expended and that Execution issue therefor.

And afterwards to wit: on the 22^d day of September A.D. 1854 of the September Term A.D. 1854 of said Circuit Court, in the records of the proceedings thereof in said suit appears the following entry to wit:

Henry L Niles

John L Jenks, Caleb W Brown & Jonathan Sills

In Chancery

And now at this day came the said parties and their Solicitors and thereupon came on to be heard this cause upon a final hearing, upon the bill answers and pleadings - and the proofs both written and oral - and after hearing some of the evidence adduced on the part and behalf of the Complainant. Prognus made when the hour of adjournment arrived.

And on the same day to wit: on the 22^d day of September A.D. 1854 the said complainant filed in said Court his affidavit in the words and figures following to wit:

Stephenson County Circuit Court. In Chancery
Henry L Niles

vs.
John L Jenks et al

State of Illinois
Stephenson County ss Henry L

Niles the complainant in the above entitled cause having been first duly sworn says that the original deeds of conveyance mentioned and described in the bill of complaint in this cause executed by John L Jenks to Caleb W Brown and from Caleb W Brown to Abijah B Watson, and from said Watson to said Brown, and from said Brown to Jonathan Sills, are not now and never have been in the possession or control of this affiant, or his solicitors, or within his power - and that he is unable to produce said original deeds in evidence on account that the same & each of them are not in his power to produce
Subscribed & sworn to before
me this 22^d day of September } Henry L Niles
A.D. 1854 - J. B. Smith Clerk }

Endorsed "Henry L Niles vs John L Jenks et al
Filed Sept 22^d 1854

J. B. Smith Clerk

And afterwards to wit: on the 23^d day of September A.D. 1854 upon the records of said Court for said Term is the following entry to wit:

Henry L Niles

John L Jenks, Caleb W Brown & Jonathan Sills

In Chancery

And now at this day come again the said parties and their Solicitors and thereupon the trial of this Cause is resumed, and after hearing all the evidence and arguments of counsel on the part of the said complainant and the said defendants and the Cause having been fully submitted the Court takes time to consider of the same

And afterwards to wit: on the 16. day of November A.D. 1854 of the November Term ¹⁸⁵⁴ of said Circuit Court, in the records of the proceedings, ^{there} appears the decree of said Court in said Cause in the words and figures following to wit:

In the Stephenson County Circuit Court

Henry L Niles

John L Jenks, Caleb W Brown & Jonathan Sills

In Chancery

This day came the complainant and defendants Caleb W Brown and Jonathan Sills by their Solicitors and Counsel. And this Cause having been submitted at the last Term of this Court, upon the ~~proof~~ pleadings and proofs, and mature deliberation having been thereupon had; It appears to the Court that the conveyance of the Lands in the Bill of Complaint in this Cause described from the defendant John L Jenks to the defendant Caleb W Brown, which is mentioned in the said bill, was fraudulent and void as to the creditors of the said John L Jenks; and it also appears that the conveyance of the same lands, from the said Caleb W Brown in the said Bill named, set forth, to Abijah B Watson in the said Bill named, was also fraudulent and void as to creditors of the said John L Jenks; And it also appears to the Court that at the

time of the said conveyance of the said lands from the said Caleb N Brown to the said Jonathan Sills, set forth in the said Bill, the said Jonathan Sills had notice of the judgment of the said Complainant against the said John L Jenks, and of the levy of the Execution upon the said judgment upon a part of the said lands as stated in the said Bill & of the claim of the Complainant in regard to said land, and that therefore the said last mentioned conveyance is void as against the said judgment, Execution and levy. And it appearing also that the said judgment was recovered by the said Henry L Niles, against the said John L Jenks in the Circuit Court for the County of Jo Daviess, on the twenty eighth day of March in the year of our Lord one thousand eight hundred and fifty three for the sum of Nine hundred and Ninety dollars and fifty cents damages, for the nonperforming of promises, and costs, that on the thirty first day of March in the same year a writ of fieri facias was sued out upon the said judgment directed to the Sheriff of Stephenson County and was by him levied upon the following tract of land included in all and singular the said Conveyances and being described as part of the North West quarter of the South East quarter of Section Twenty Seven, in Township Twenty Eight North of Range Seven East of the Fourth Principal meridian. Beginning at the North West corner of said lot; thence East Eighty rods to the North East corner of said lot; thence South forty Six Rods and Seventeen links; thence West sixty rods, thence North six rods and seventeen links. thence West Seventy rods, thence North forty rods to the place of beginning, containing Twenty two and a half acres, more or less.

It is therefore ordered adjudged and decreed, that the said tract of land be and hereby is declared liable to be sold upon and by virtue of the said Execution, and that the said conveyances be set a side as far as—

concerns the said Judgment and Execution. And it is further ordered that if upon sale under said Execution the said tract of land shall bring more than the amount of the said Execution and costs, and the amount of the costs of this cause if the same last mentioned costs be levied thereof as hereinafter mentioned, then the surplus arising from the said sale shall be paid over to the said Jonathan Sills. And it is further ordered that the said Complainant recover his costs and charges by him about his suit in this behalf expended, against the said Caleb W Brown and Jonathan Sills, and have Execution thereof and that the same may be levied of the said tract of land by sale thereof if not otherwise collected and satisfied. And it is further ordered that if the said tract of land shall not be redeemed from the said sale according to the form of the Statute in such case made and provided, the said Jonathan Sills and his heirs shall make a conveyance of the same tract of land to the purchase thereof at the said sale, his heirs or assigns. And in case the said Jonathan Sills or his heirs shall fail to make the conveyance required a Commissioner shall be appointed by the Court to make it for them. And it is ordered that the said Execution and levy thereon be withdrawn from the papers in this cause, upon a copy thereof with the endorsements thereon being filed herein. And the said parties have leave to apply to the Court as occasion may require.

Benz. R. Sheldon

Upon the filing of the foregoing decree by the Court the said defendants Caleb W Brown and Jonathan Sills by Turner and Meacham their Solicitors prays an Appeal to the Supreme Court. which is granted

by the Court upon condition that the said defendants enter into bond to the Complainant properly conditioned in the sum of five hundred dollars with Chauncey Stubbins and Sidney Stubbins as security, and that they file the same with the Clerk in twenty days from the rising of this Court.

The testimony introduced on the hearing of said cause both oral and documentary, and certified by said Court is in the words and figures following to wit:

In Stephenson County Circuit Court. In Chancery
Henry L. Niles } September Term AD 1854

John L Jenks
Caleb W Brown &
Jonathan Sills

Evidence on the part of the Complainant

1st Production and reading of the Fi. fa. issued from Circuit Court of Jo Daviess County, together with the endorsements thereon, and the Sheriffs Certificate of levy on fi. fa. and also the Sheriffs Certificate of levy filed for record in the recorder's office. & filing on same, Joseph B Smith, Clerk was sworn, & testified that the Certificate of sale was among the files in his office and that Glover was at the date of the same Deputy Sheriff. Which said Fi. Fa. endorsements, and Certificates of levy & filing are in the words and figures following, to wit:

State of Illinois }
Jo Daviess County } 3d Oct.

The People of the State of Illinois
to the Sheriff of Stephenson County, Greeting:

We Command you, that if the goods, Chattels

Lands and tenements of John L Jenks. You cause to be made the sum of Nine hundred & Ninety dollars and fifty cents, damages and three dollars and thirty cents, costs, which Henry L Niles lately recovered against him in the Jo Daviess County Circuit Court as appears of Record; and this you are not to omit under the penalty of what the Law directs prescribes. And have those moneys at the Clerk's Office of said County at Galena, within ninety days from the date hereof, and also this writ.

Seal

Witness William H Bradley Clerk of said Court and the seal thereof, at Galena, this 31st day of March A.D. 1853.

Attest: Wm. H. Bradley Clerk

The Sheriff will collect interest on the above from March 28th A.D. 1853

Wm. H. Bradley Clerk

Henry L Niles

John L Jenks

}

Fi. Fa. Jo Daviess County Circuit Court, Ills. by virtue

of the within Execution I have this day levied on the following described property, to wit: It being a part of the South West quarter of the South East quarter of Section twenty seven (27) in Township Twenty Eight North of Range Seven (7) East of the fourth principal meridian, beginning at the North West corner of said Lot thence East Eighty rods to the North East corner of said Lot thence South forty six rods and seventeen and seventeen links thence West sixty rods thence North six rods and seventeen links

thence West twenty rods, thence North forty rods
to the place of beginning, containing Twenty
two acres and a half acres more or less. turned
out by Plaintiff -

April 5th 1853

George Reitzell Sheriff
of Stephenson County
per Wm Glover Deputy

Enclosed No	Fi. Fa. Jo Davis County
Circuit Court Ill.	Henry L. Miles vs John L. Jencks
Fi. Fa. Execution	\$ Debt
This writ calls for \$	990. 50 Damages
	3. 30 Costs

Defendants fee bill.

Total amount 993. 80.

Judgment March 28th 1853 - This writ issued March
31st 1853 Return day 18

Sheriffs fees		Received this Execution for Collection this 5th day of April in the year of our Lord one thousand Eight hundred and fifty three, at the hour of 8 1/2 A.M. Geo. Reitzell Sheriff Stephenson County Ill per Wm Glover Deputy
Serving Execution	\$. 50	
Advertising property	25	
Miles travel		
Commission on \$		
Certificate of purchase	. 25	
Returning Execution	12	
Total amount		Sheriff J. D. Co, Ill.

Douglas & Mclelland for Plff
Miller & Miller for Df

Fee Bill accompanying said Execution to wit:
Henry L. Miles } March Term Jo Davis Co. C. C. Ill 1853

John L. Jencks } Bill of Costs
Costs vs Debt Clerk fees

Filing Warrant & Note & Docketing same	20
Entering appearance of Plff atty.	15
Entering Judgment & Satisfaction of do	40
Entering Judgment & Satisfaction	
Entering order for & Issuing of fily. H. Ga.	65
Docketing do & Entering Sheriff return	20
Making & Entering Bill Costs & Copy	50
Certificate & Seal	35
	2.45

Defts Fee Bill

Entering appearance of Deft & Atty.	15
Entering Confession	20
Making & Entry Bill Costs & Copy	50
	.85
	\$ 3.30

State of Illinois
Jo Daviess County } Sct.

I hereby Certify. That the foregoing is a correct copy from my Fee Book, of the costs and charges taxed against the plaintiff in the foregoing case, and included in an Execution of this date, and which the Sheriff of Stephenson County, is hereby directed to collect of the defendant, ^{and also of costs and charges taxed against the said defendant} which the said Sheriff is hereby directed to collect of the deft.



In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Galena, this 31st day of March in the year of our Lord one thousand eight hundred and fifty three
Attest: Wm H Badley Clerk

Certificate of Levy

State of Illinois
Stephenson County

I do hereby certify that by virtue of a certain Writ of Fi. Fa. to me directed from the Circuit Court of Jo Daviess County in said State in favor of Henry L Niles against John L Jenks dated the 31st day of March A.D. 1853 I did on this 5th day of April A.D. 1853 levy upon the following real Estate to wit. It being a part of the South West quarter of the South East quarter of Section twenty seven (27), in Township Twenty Eight (28), North of Range Seven (7), East of the fourth principal Meridian. Beginning at the North West corner of said Lot, thence East Eighty rods to the North East corner of said lot. thence South forty six rods and seventeen links, thence West sixty rods, thence North six rods and seventeen links - thence West twenty rods thence North forty rods to the place of beginning. containing Twenty two and a half acres more or less. Turned out by Plaintiff
April 5th 1853

George Ritzell Sheriff
per Wm Glover Deputy

Which said certificate of Levy has the following endowments, to wit:

"Henry L Niles vs John L Jenks

"Cert. of Levy

"Filed & Recorded Apr. 5th 1853 in
"Book B. of Sheriff's certificates page 59.

J. B. Smith, Clerk

Michael Reber being sworn says that he knows the Mill property in dispute between these parties - he don't know as he does exactly know the time of the conveyance by Jenks to Brown except by hearsay - I had a conversation with Jenks. Brown was present. I had a note

against Jenks, it called for lumber and I went there to
 get the lumber, and after they had given me the lumber
 we went back to the Saw mill where Mr. Brown was,
 and Doctor Jenks proposed to sell the property to me. He
 said you have got money to improve it, we have not money
 to carry it on as it ought to be, That's about all I know
 about it. I have forgotten the time of this conversation
 it was either in 1846 or 1847. I don't know whether it was
 before or after the sale to Brown. I know nothing about
 the sale excepting what I heard from other persons,
 not from Jenks or Brown. It was after I heard that
 there had been a transfer made that I went ^{up} there to see if I
 could get something of Jenks on my note or not. I presented
 the note to Jenks. I got some lumber on it, Got it of Jenks,
 Brown was present & knew of it, didn't say anything about
 it. ^{he made no objection to it} I went on the mill and enquired for Doct Jenks and
 Mr. Brown told me that he was down to his house or office,
 I enquired of Mr. Brown whether there was any lumber
 sawed for me on a certain note which had been given by
 Jenks to Ellwell for building the Mill, Mr. Brown said
 he did not know that there was any sawed for such a note,
 he said Doctor Jenks had given a good many notes to be paid
 in Lumber & that they could not saw fast enough to pay them,
 Doctor Jenks then came and I asked him for some lumber,
 Brown was present. He said there was some lumber acrop
 the creek that I could have, but it was ash flooring. I
 went over, he measured the lumber out to me, and I
 loaded it on the waggon. The Mill had then been running
 three or four months, perhaps longer. Brown was present
 when witness took the lumber, it was endorsed on the note,
 & Brown knew that fact. Jenks offered to sell the mill
 to me when Brown was present. I asked him what he
 asked for it & he said \$4000. Brown made no objection.
 The complainant here filed his affidavit showing the

Original deeds mentioned & described in the Bill of Complaint to be out of his power to produce; and the records of the same were read in evidence in the following order

1st A. B. Watson & wife to Jonathan Sill C. W. Brown

2nd C. W. Brown & wife to Jonathan Sill - which deeds are in the words and figures following to wit:

6221. Abijah B Watson et ux

To

Caleb W Brown

This Indenture made this fourth day of August, in the year of our Lord Eighteen hundred and fifty two, between Abijah B Watson and Susan A his wife of the County of Stephenson and State of Illinois, of the first part, and Caleb W Brown of the same County and State of the second part: Witnesseth, that the said parties of the first part, for and in consideration of the sum of, Three Thousand Dollars to them in hand paid the receipt of which is hereby acknowledged, have granted, bargained, sold, conveyed and confirmed, and by these presents do hereby grant, bargain, sell, convey, and confirm, unto the said party of the second part, and to his heirs and assigns forever, all those tracts or parcels of Land, and rights and privileges of overflowing with water, situate and being in said County of Stephenson and State of Illinois and known and described as follows, to wit: It being a part of the South West quarter of the South East quarter of Section Twenty Seven, (27), in Township Twenty-Eight, (28), North of Range Seven, (7), East of the fourth principal Meridian, beginning at the North West corner of said Lot, thence East, Eighty rods to the North East corner of said Lot, thence South forty six rods and seventeen links: thence West sixty rods: thence North six rods and seventeen links: thence West Twenty rods: thence North forty rods to the place of beginning, containing Twenty-

two and a half acres, more or less. Also that certain tract of Land known and described as follows to wit: It being a part of the North West quarter, of the South East quarter of Section Twenty Seven in Township Twenty Eight North of Range Seven East: beginning at the South West corner of said quarter Section: thence East Thirty nine poles: thence North 50° West Sixty seven poles, thence South fifty four poles and Eight Links containing Six acres and one hundred and Eight perches. Also that certain tract of Land known and described as follows, to wit: It being the East half of the North West quarter of Section twenty seven in Township Twenty-Eight North of Range Seven East containing Eighty acres be the same more or less - with the exception of Ten acres off of the West side of the North half, and Ten acres off of the East side of the North half of the said East half of the North West quarter; with the privilege of overflowing with water the reserved Twenty acres of the said East half of the North West quarter, or as much thereof as may be overflowed in consequence of a Dam in Richland Creek belonging to the said parties of the first part. Also the rights and privileges of overflowing as much thereof as may be overflowed in consequence of said Dam. The South East quarter of Section Twenty Seven in Township Twenty-Eight, (28) East of fourth principal meridian. Also the North West quarter of the South East quarter and the South West quarter of the North East quarter of Section Twenty-Seven in Township Twenty-Eight of Range Seven East. Together with all and singular the appurtenances thereunto belonging or in any wise appertaining. To have and to hold the above described premises and privileges unto the said party of the the second part and to his heirs and assigns forever; and the said party of the first part for themselves and their heirs, Executors, and admin-

-istrators, do covenant and agree to and with the said party of the second part, his heirs and assigns, that they are well seized of the premises and privileges above conveyed, as of a good and indefeasible inheritance in the Law, in fee simple, and that the said privileges and premises are clear of all incumbrances, whatever. And the said parties of the first, the aforesaid premises unto the said party of the second part and to his heirs and assigns, against the claim or claims of all and every person whomsoever, do and will warrant and Defend forever by their presents.

In witness whereof the said parties of the first part have hereunto set their hands and seals on the day and year first above written.

The interlining of the words, and the South West quarter of the North East quarter was done before

Execution - In presence of
M. Montelius

The words "and the South West quarter of the North East quarter" interlined before the fifth & six lines from top before signing

M. Montelius J.P.

Abijah B Watson 
Susan A Watson 

State of Illinois }
Stephenson County of } Sh. J. M. Montelius a Justice of the
Peace in and for said County, do hereby
Certify that Abijah B Watson and Susan A his wife are personally known to me to be the persons whose names are subscribed to the foregoing Deed, as having executed the same appeared before me this day in person, and acknowledge that they signed, sealed, and delivered the same as their free and voluntary act and deed, for the uses and purposes therein set forth. And the said Susan A Watson is personally

known to me to be the wife of the said Abijah B Watson
and as the person who subscribed said deed as such, having
been by me made acquainted with the contents and meaning
of said Instrument of writing, and examined separately
and apart from her husband, acknowledged that she
had Executed the same, and relinquished her Dower to
the Lands and tenements therein mentioned, voluntarily,
freely and without compulsion of her said husband,
and that she does not wish to retract the same,
Given under my hand and seal at Cedarville this 14th
day of August A.D 1852.

M Montelius J.P. Seal

Recorded Nov. 13th 1852. at 9 O'Clock A.M.

John A. Clark, Clerk

7367 Caleb W Brown et ux
To

Jonathan Sills

} Know all men by these presents
that Caleb W Brown of the
County of Stephenson and State of Illinois party of the first
part in consideration of Fifteen Hundred Dollars, to him
in hand paid by Jonathan Sills of the same County and
State party of the second part, the receipt of which is hereby
acknowledged, has granted, bargained, sold, conveyed
and confirmed, and does hereby grant, bargain, sell,
convey and confirm, to the said party of the second part,
and to his heirs and assigns, forever, the following des-
cribed Tract or parcel of Land, situated in the County
of Stephenson and State of Illinois to wit: - Commen-
cing at a stone at the South West corner of the North
West quarter of the South East quarter of Section Twenty seven
(27), in Township Twenty Eight (28), North of Range Seven (7),
East of the fourth principal meridian, Thence East -

thirty nine (39) poles to a stake in Richland Creek.
Thence North 50° West Sixty seven poles to a stake in the
West line of said quarter quarter Section from which a
Sickory 12 inches in diameter bears N 22 E 19 Links & a
Sugar tree 11 inches bears S 60° W. 40 links - thence South with
said line fifty four (54) poles & Eight links to beginning
Containing Six acres & 108 perches - Also the right of flowing
with water from a Mill dam at Browns Mill. the dam
not exceed the height of the dam now standing at said
Mill - The East half the North West quarter of Section
Twenty seven in Township Twenty Eight North of Range seven
East of the fourth principal meridian - With the hereditaments
and appurtenances thereunto belonging or in any wise apper-
taining. To have and to hold said premises above descri-
bed to the said party of the second part, his heirs and assigns
forever. And the said party of the first part for him and
his heirs, Executors and Administrators, does Covenant to,
and with said party of the second part, his heirs and assigns,
that he is lawfully seized, in fee simple, of said above -
described premises, that the aforesaid premises are free from
all incumbrances and that said party of the first part,
will, and his heirs, Executors and Administrators, shall war-
rant and defend said premises to the said party of the second
part his heirs and assigns, against the lawful claims
and demands of all persons whomsoever - And Sarah
S Brown wife of the said Caleb W Brown in Consid-
eration of the payment made as aforesaid, does hereby
release to said party of the second part his heirs and
assigns, Forever all her right of Dower in the above described
premises. -

In Testimony whereof, said Grantors have hereunto subsc-
ribed their hands and seals at Freeport this fifth day of July
A.D. 1853.

Caleb W Brown 
Sarah S Brown 

Executed in Presence of,

The words "the dam" interlined & the words "under a head of water" erased before execution - Chas. A. Clark

State of Illinois
Stephenson County } I Charles A. Clark a Notary Public
for Freeport in the said County, do hereby certify that
Caleb W. Brown & Sarah S. Brown personally known
to me to be the ~~same~~ persons whose names are subscribed
to the foregoing Deed, as having executed the same, appe-
ared before me this day in person, and acknowledged
that they signed sealed and delivered the same, as their
free and voluntary act and Deed, for the uses and purposes
therein set forth - And the said Sarah S. Brown
personally known to me to be the wife of the said Caleb
W. Brown and as the person who subscribed said Deed
as such, having been by me made acquainted with
the contents and meaning of said instrument of
writing, and examined separate and apart from her
husband, acknowledged that she had executed the
same, and relinquished her Dower to the lands and
Tenements therein mentioned, voluntarily, freely and
without compulsion from her husband, and that she
does not wish to retract the same -

Given under my hand, and my seal
Notarial at Freeport this fifth day of
July A.D. 1853

Seal

Charles A. Clark N.P.

Recorded the 6th day of July 1853 at 5 o'clock P.M.
Joseph B. Smith Clerk

Caleb W Brown & ux

To

Jonathan Sills

Know all men by these presents that Caleb W Brown of County of Stephenson and State of Illinois party of the first part in consideration of Five hundred dollars to him in hand paid by Jonathan Sills of the County of Stephenson and State of Illinois party of the second part, the receipt of which is hereby acknowledged, has granted, bargained, sold, conveyed and confirmed, and does hereby Grant bargain, sell, convey and confirm to the said party of the second part, and to his heirs and assigns, forever. The following describes Tract or parcel of Land, situated in the County of Stephenson and State of Illinois to wit:— A Tract bounded as follows— Commencing, at the North West corner of the South West quarter of the South East quarter of Section Twenty-seven, 27, in Township Twenty Eight North of Range Seven East of 4th Principal Meridian— thence East Eighty (80) rods— thence South Forty six (46) rods and Seventeen (17) links to a stake on the North bank of Richland Creek from which a Black Walnut six inches thick bears South 74° West 135 links & an Elm 8 inches thick, bears N 70° W 51 Links, thence West Sixty (60) Rods to a stake from which a Lymn 10 inches thick bears N. 65° W 22 links & an Elm five inches thick bears S 57° E 4 Links, thence North 6 Rods and Seventeen Links to Stake bearing trees sugar 20 inches thick S 80° W 32 Links & sugar 13 inches N 11° 26 Links, thence West Twenty 20 Rods to Stake on West side of said lot, from which bearing trees are a Sugar 16 inches thick N 47° E 22 Links & sugar 10 inches S 45° E 62 Links. Thence North Forty (40) rods to beginning containing $22\frac{1}{2}$ acres. Also the right of flowing by a mill Dam at or near Browns Mill to be of the same height as the Mill Dam now standing at said Mill, The South West quarter of Section Twenty seven in Township Twenty Eight Range Seven East 4th P.M. — Also the right

of flowing by a Mill Dam of the same height as the Dam now standing near Browns Mill, the South West quarter of the North East quarter of Section Twenty seven in Township Twenty Eight North of Range Seven East of 4th P.M. Also the right of flowing by a Mill Dam of the same height as the Dam now standing near Browns Mill, The North West quarter of the South East quarter of Section Twenty seven (27) in Township Twenty Eight North of Range Seven East of Fourth Principal Meridian. — With the hereditaments and appurtenances thereunto belonging or in anywise appertaining, To have and to hold, said premises above described to the said party of the second part, his heirs and assigns for ever, And the said party of the first part, for him and his heirs, Executors and Administrators, does covenant to, and with said party of the second part, his heirs and assigns, That he is lawfully seized in Fee Simple, of said above described premises; that the aforesaid premises are free from all incumbrances and that said party of the first part, will and his heirs, Executors, and Administrators, shall warrant and defend said premises to the said party of the second part, his heirs and assigns, against the lawful claims and demands of all persons whomsoever. — And Sarah S Brown wife of the said Caleb W Brown in consideration of the payment made as aforesaid, does hereby release to said party of the second part, his heirs and assigns, However all her right of Dower in the above described premises.

In Testimony Whereof, said Grantors have hereunto subscribed, their hands and seals at Newport this fifth day of July A.D. 1853

Executed in presence of

}

Caleb W Brown

Sarah S Brown

(Seal)

(Seal)

State of Illinois

Stephenson County

I, Charles A Clark a Notary Public
for Freeport in the said County do hereby
Certify that, Caleb W Brown and Sarah S Brown personally
known to me to be the persons whose names are subscribed
to the foregoing Deed, as having Executed the same appeared
before me this day in person, and acknowledged that they
signed, sealed and delivered the same as their free and Volun-
tary act and Deed, for the use and purposes therein set forth.
And the said Sarah S Brown personally known to me
to be the wife of the said Caleb W Brown and as the person
who subscribed said Deed as such, having been by me made
acquainted with the contents and meaning of said instru-
ment of writing, and examined Separate and apart from
her husband, acknowledged that she had Executed the
same, and relinquished her Dower to the lands and Ten-
ements therein mentioned, Voluntarily, freely and without
compulsion from her husband, and that she does not
wish to retract the same.

Given under my hand, and my seal Notarial
at Freeport this fifth day of July A.D. 1853
Charles A Clark N.P.

Recorded the 6th day of July 1853 at 5 o'clock P.M.
Joseph B Smith Clerk

Charles H Churchill was then sworn as a witness, who
testified - That he is somewhat acquainted with the
mill property which is said to be in dispute. I am not
a mill wright. I got out part of the timber for the mill.
I was doing it for myself. I had not then conveyed
the property to Mr. Jenks. I sold the timber which I
got out to Doctor Jenks. He paid me some accounts
against People & some watches & a stove; he did not pay
me all at the time. I know about the time Mr.

Brown told me the conveyance was made from Jenks to Brown. This piece of property was not all paid for at the time that Brown told me that he had a Deed from Jenks for the property. The timber and the Land was all sold by me to Jenks together.

Question - Did you have any conversation with deft. Brown about the debt? If yea, state what that conversation was.

Ans. - I asked Mr. Brown if he had got a Deed from John L Jenks of the Mill property - he answered me that he had. I asked him if he had paid him for it. He said there was nothing due on it - I told him that I wanted to know particularly about it - He told me that the property belonged to Jenks just the same as it ever did. He also stated that the property was to be deeded back to Mr. Jenks when he had paid Mr. Townsend and some others. Mr. Brown told me that Mr. Townsend had got a judgment against Mr. Jenks and for fear that he would lay on to that piece of land and sell it before they could turn themselves and pay the indebtedness. To the best of my recollection the conversation ended there -

(Ques. and because of that fear, what did Brown say they did with ^{the} land? waived) I asked Mr. Brown if he had a deed from John L Jenks for that Mill property, he told me he had - I asked him if he had paid him for it - He said there was nothing due Mr. Jenks from him for it - I told him that I was particularly concerned - I said, if you have paid him he has got the means wherewith to pay me - He then said that the property belonged to J. L. Jenks as much as it ever did. He then said that the property was to be deeded back to J. L. Jenks when he had cancelled some indebtedness belonging to Townsend & some others. He said that he was afraid that the property would be taken from Jenks

on this indebtedness before they could make arrangements to pay that debt of Townsend & some others. He said Mr. Townsend had got a judgment against Mr Jenks and he was afraid that he would take an advantage of it and lay on to that piece of land, or property, and sell it. If there was anything more of that conversation it has passed my mind at the present. Do you recollect whether in that conversation Brown said anything about his own Circumstances or at any other time (Objected to-) Ans. To the best of my recollection I have heard him say that his circumstances were such that he could not square all his indebtedness at that time.

What time was this conversation? (Objt.) I cant recollect just how long it was after he told me that he had a deed of that piece of property from Jenks, Here Mr. Burnap, Counsel for Complainant asked the witness to state about how long it was after the defendant Brown told him he had the deed from Jenks, that this last conversation occurred. Mr. Turner Counsel for Defts, insisted that it should be put as an independant question, and that all the questions as well as the answers should be written down in the minutes of testimony the same as in an ordinary deposition - the Complainants Counsel objected to this on account of the unnecessary waste of time, and the Court decided that it was not necessary to incorporate the questions in the minutes of testimony, unless the party objected to the question, objected on account of its being improper, and that it was necessary to save the question, that the Supreme Court might judge of its propriety. (To which Defts Excepted)

(Examination Contd.)

Witness answering says - To the best of my recollection

it might be from one to three or four weeks,

Crop Examined.

The first conversation occurred some time in according to wit's best recollection in May 1847. Mr. Brown was present - no body else - I was talking about the indebtedness due me - That indebtedness has been paid, It was paid to me by Mr. Jenks. at the time he paid me after this conversation he paid all but a note I had against him of \$35. I sold that note, Mr. Brown paid not part of it.

Henry Reitzell sworn - testifies that he is acquainted with the Mill property in question - Don't know that he ever had any conversation with Brown relative to the ownership of the Mill - Witness Father once sued Brown, or Brown & Jenks for a debt. Brown paid the debt, He said it should be paid - said he & Jenks were not partners and that he Brown had no interest in the Mill. It must have been 4.5 or 6 years since - Can't remember the time, Brown was then in possession of the Mill. The suit was before Esq. Wilcox. It was before the date of the receipt that this conversation was heard, the receipt ~~was~~ dated Jan'y. 20th 1847.

J. J. Wilcox sworn says he knows the property in controversy - has had conversation with Brown - cannot relate it all - at the time of the Reitzell trial had before me Mr. Brown denied his interest in the Mill, but I can't say whether he denied having any interest then, or whether it was at the time the debt occurred, He denied that he & Jenks were partners. Thinks the trial was in summer of 1848. I recollect that prior to 1st May 1847 I had had dealings with Mr. Jenks & he owed me I wished to get Mr Brown to agree to go security for the debt, and he refused, and they both refused to settle with me.

Then Mr. Brown denied having anything to do with the Mill - any ownership of it. On the first day of May Mr. Jenks and I settled, and we entered into writings, & he gave me his notes - the settlement was made on the day before May 1st. After that Mr. Jenks had sawing done for me at that Mill & I credited him on his note for it. I saw Jenks several times on the Mill - the last I think of his delivering me lumber was in July or Augt. 1847. and both Jenks & Brown were present sawing in the Mill. I fixed the saw for them - the most conversation I had was with Jenks, but both were present and I explained how I thought it ought to be fixed. Brown was present when the lumber was delivered - made no objection, seemed anxious that I should take the lumber. I once refused to take some lumber because it was badly sawed. Jenks prevailed on me to take it. Brown was present we all three held conversation about it. I can describe the land - It is a little more than the N¹/₂ of the S¹/₂ of the W¹/₂ the S. E¹/₄ of Sec. 27. T. 28 N. R. 7. E. in the County of Stephenson. I helped survey it. Doctor Jenks built the Mill. He was a practising Physician, a good one from general report. He was embarrassed in the winter of 1847. and in May of that year. He then resided or made it his home, about Waddams Grove, but spent a good deal of his time at the Mill. don't know of my own knowledge where he now resides - but have heard in Wisconsin. I don't know of his having any property in this County - The last I know of his living in this County State was in 1847.

In May 1847 the property including the whole Mill privilege was worth \$1000. about. The Mill had been put in operation shortly before.

Crop Examined -

Mr. Brown paid me the balance of the notes given to me by Jenks on settlement - The notes were given for sawing for one hundred dollars & there was an other of \$32.50 In

all \$132.50. [This evidence Excepted to by Compt.]

Porter M Smart. Surgeon, says. That he, as a witness, signed a deed from Jenks to Brown. Witness understood it to be a deed for the Mill property - dont recollect what the parties said. Thinks Brown was not present. He Jenks brot it to witness house, and when witnessed took it away with him - There was no Justice of the Peace present.

James H Addams - Sworn - says that he has had conversation with Jonathan Sills about this Mill property more or less since July 1853. and had some shortly before that - Previous to July, in June Sills had a notion to buy the Mill and asked me to go in as partner - I told him had I known that the Mill was for sale I would have tried & bought it myself. He said then that I should hold on two weeks that he was trying to buy it, and if he bought and I wanted to go in partner I should have the privilege of doing so. A week or so afterwards Sills came to me and said that he had not money enough to buy the Mill, and that if I would assist to get the money and didnt want part of it he would give me the Mill for security - I told him then if I found the money I would go in with him as partner - I told him then to buy the mill and I would go in as partner. He bought it we came to town to draw the writings - when I came here I told him that I saw it stuck up by the Sheriff, and I'd have nothing to do with it. If he wanted to buy it he might - But I was off. He said then that he was not much afraid of ^{it} but he would talk to Mr. Brown about the matter. He said then Mr Brown offered him any security he wanted to secure him against the claim of the Execution on

the Mill. Thinks it was this Miles Execution. Mr Sills then said that if I ~~would~~ advanced the money he would give me half of the profits of the Mill, & I pay half the expenses, and then if I choose to come in partner after this thing was settled I might - he would secure me for the money. I told him then that he should get himself secured well in writing and I would do so. They had the writings drawn up a few days afterwards - and security was given in writing from Brown to Sills. I never saw the writing - Mr Sills told me that he received the security in writing from Brown. The Sheriff who posted the notice of sale of this property on the Execution, was Reitzell of this County.

Crop Examined

Mr. Brown was in possession of the Mill at the time Sills bought it.

George Reitzell sworn - Is Sheriff of this County - was in the Spring & Summer of 1853. as such Sheriff he advertised the Mill property in controversy for sale on the Execution given in evidence in this case. The notices were up on the 30th of June A.D. 1853. Has know knowledge of ever having had an other Execution against that property. Had a conversation with Mr. Adams Mr. Sills presence about this Mill property. I told Adams that I had the Execution - and he was afraid to go into it - said he didn't want to buy a law suit. They were frequently in Town talking about it. they were together and talked the matter over with me.

Witness knows of no other property of Jenks in this County and don't know of his having had any at the time ^{this} Ex. came to witness hands,

Crop Ex^d.

Jenks might have had other property without witness

knowing it.

Abejah B Watson Sworn, Says - He heard Mr Brown say that Jenks had given him a deed for the Mill property, and it was a good one. Mr Brown made a deed to me of the Mill property in dispute. Mr Brown said that Mr ^{Wiley} Jenks had been trying to buy some claims against him in New York - he said he was owing some there - and he could not pay all, didn't want his property sacrificed and wanted to make me a deed to keep him off, or something to that effect. I observed to him I didn't want to get into any trouble about the matter. He said he guessed there would not be any. So he wrote a deed and left it here for Record, I did not see it for a month or so after. It was a deed of the Mill property. Witness can't say for certain whether he ever had the deed in his possession, but thinks he has it at home, does not know - Thinks if it was ever taken from the Records Office he took it but don't know. Witness paid no consideration for the said conveyance either at the time of making the same or at any other time. I signed a Bond I think it was to Jenks. It was at the time of the making of the deed from Brown to me. There was a water wheel put into the mill after this conveyance to me. Mr Brown put it in and paid the money for the same. I furnished the money myself. It was between \$50. & \$60. I borrowed \$50. of the money from Mr Royer, and handed it to Mr Brown to get the iron. Mr Brown afterwards paid the \$50. back to me. Brown occupied the property while I had a deed of it. I never rec'd any rent for it.

Mr Brown did not pay any consideration to me when I redeeded the property to him. Witness never interfered at all about the mill or its business.

Defendants Testimony

A. B. Watson - Called on the part of the defendant -

The defendants offered to prove execution of release, mentioned in amended bill by this witness. Compt. objected - objection overruled by Court & Compt. excepted - The depts then offered release in evidence - Compt. objected to its introduction overruled by Court, and Compt. Excepted, which release is in the words & figures following to wit:

"I John L. Genches do hereby quit claim and sign over to A. B. Watson all the right and interest I have in and to or in anywise appertaining to the following tract of land to wit: Section twenty seven, 27, Township No. Twenty No. Twenty Eight (28), Range No. Seven (7), East of the fourth principal meridian, for and in consideration of the sum of three hundred dollars the receipt of which is hereby acknowledged as payment in full of all accounts Bonds, obligations, Depts and demands of every name and every nature prior to this date
Stephenson Co. Ill. John L. Genches

Sept 12. 1849.

Which said release has the following endorsements to wit.

"7078 - John L. Genches To A. B. Watson - Quit Claim State of Illinois

Stephenson County Jo Office of Clerk of Circuit Court,

Recorded the 15th day of May 1853
at 8³/₄ O'clock A.M. in Book (C) of Deeds page 310.

Joseph B. Smith Clerk

What Consideration did you pay for this release?
Objected to by Compt. overruled & Excepted to.

Ans, Three hundred dollars.

Why he came down there

Crop Exp?

Witness took care of the release paper after he got it, put it into his desk, and kept it there until this suit was commenced. after the commencement of the suit I sent it down here to see if it could be recorded. I gave it to Mr. Brown to carry down here and get it recorded. I guess it was never taken out of the desk after it was put in until after the commencement of this suit. I did not show it to Mr. Brown until after the filing of the Bill in this suit. - not prior to the suits being commenced. I did not mention it to him prior to the commencement of this suit I think I mentioned to some person that I had the release before the commencement of this suit. I think I told my brother of it. I never mentioned it to Mr. Sills. I remember of telling my brother at his house 16 miles from here, three years ago, I guess. I did not tell my wife about the release paper until 2 or 3 years after it was made.

Re ex?

I did not tell Sills that I had the release paper

Parker Eldridge sworn, says Mr. Sills and I had some conversation - he told me that Mr. Jenks had confessed a judgment in the Circuit Court of Jo Davies County in his favor. I observed to Mr. Sills that his judgment was not good for any thing - Jenks was unable to pay it, he said he had levied upon this land & mill property - we had some talk about the title I said that there had been a good deal of smuggling going on there and I thought it would be a bad chance to get his money out of it. something was said about some persons cutting timber on a piece of land and Sills said he had to labor with Jenks to convince him that that land had not been conveyed.