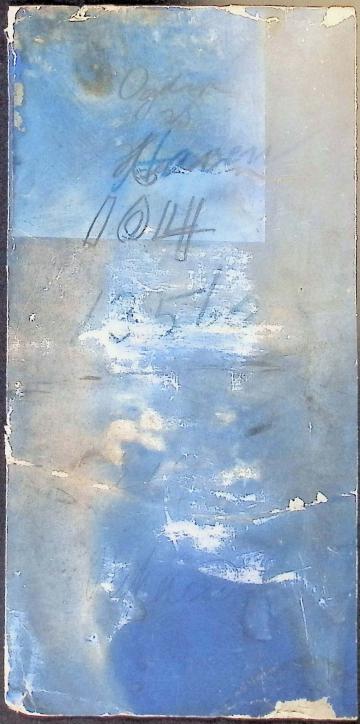
No. 13560

Supreme Court of Illinois

Ogden.

VS.

Haven.



SCOTT & Co., PRINTERS, corner Clark and South Water Sts.

IN SUPREME COURT.

APRIL TERM, 1860.

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WILLIAM B. OGDEN and CHARLES BUTLER,

ns.

CARLOS HAVEN and ISAAC M. GROVER.

Appeal from Superior Court of Chicago.

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The Bill in this case was filed on the 23rd day of January, 1856.

It sets forth that on or about the 6th day of May, 1836, one Simon Z. Haven purchased of the United States, for the consideration of one dollar and twenty-five cents per acre, Section 10, of Township 39 north, Range 12 east of the third principal meridian, and the south half of Section 3, of the same Township and Range, in Cook county, Illinois, and received from the United States a proper certificate of purchase: and that afterwards, on or about the 16th day of December, 1836, said Simon Z. Haven, in consideration of the sum of \$2,880, sold to one Jeremiah Tooley, one undivided half of said lands, and then conveyed the same in fee to said Tooley by deed of general warrantee, duly executed and delivered by said Haven to said Tooley, which said deed was lost, and after the most diligent search could not be found, and that a copy of the same could not be given. And that afterwards, on the first day of February, 1838, said Tooley made his certain indenture of mortgage, of that date, to said Simon Z. Haven, to secure to him the payment of two hundred and ninety dollars, in three equal annual payments, to be him, caused a suit in attachment to be instituted in the Circuit Court of said Cook county, in favor of said Butler as plaintiff, and against said Simon Z. Haven, as defendant, and professing to act as the attorney in fact of said Charles Butler, on the said 11th of October, filed his (said

Ogden's) affidavit in the office of the clerk of said court, therein setting forth that said Simon Z. Haven was indebted to said Charles Butler in the sum of \$4.540, being the amount then claimed to be due from said Haven to said Butler on certain articles of agreement, dated April 28, 1836, by which said articles of agreement said Butler covenanted to sell to said Haven, Lots No. 5 and 6, in Block No. 17, Kinzie's Addition to Chicago, and wherein, as is set forth in said affidavit, said Haven agreed to pay said Butler therefor, the sum of \$1,700 on the 28th day of April, 1837, and the further sum of \$1,700 on the 28th day of April, 1838, with interest on the whole from the date of said agreement, at ten per cent., and in which affidavit it was alleged that said two payments had not been made by said Haven, and that, together with the interest, there was due thereon the sum of \$4,540; and thereupon, said Ogden filed a certain attachment bond in said office, and caused a writ of attachment to be issued in favor of said Butler and against the estate of said Simon Z. Haven, who was the defendant therein, which said writ bore date the 18th day of October, 1839, and was then and there, by said Ogden, delivered to the sheriff of said Cook county, to execute, and was afterwards returned by said sheriff, to said clerk's office, with the following endorsement made thereon by said sheriff: "Executed by attaching the following described property of Simon Z. Haven, Oct. 30th, 1839, 262 feet of the west & of west side of Lot 1, Block 24, School Section Addition to Chicago: also the 19-24 parts undivided of Section 10, and the south half of Section 3, Township 39 north, Range 12 east of the third principal meridian;" which said levy was made by said sheriff at the instance of said Ogden and by his direction, and afterwards, by the procurement of said Ogden, there having been publication in said cause, on the 31st day of March, 1840, a declaration was filed therein, counting upon said articles of agreement mentioned in the affidavit of said Ogden hereinbefore referred to, as the sole and only cause of action in said attachment suit, and that afterwards, on the 7th day of May, 1841, judgment was rendered against said defendant who had never been served

bill and made a part thereof, marked Exhibit D.

That afterwards, on the 28th day of June, 1841, said Ogden fraudulently caused execution to be issued upon the said judgment, directed to

with process nor entered his appearance in the same, in favor of said Butler, for the sum of \$5,109.45 and costs of suit, and for a special execution against the lands attached in said suit, embracing therein the whole of the land now claimed by said complainants, as aforesaid. Copies of which proceedings and those subsequent thereto, are filed with said

the sheriff of Cook county to execute, and delivered the same to said sheriff, with directions to execute the same on the said lands claimed by the orators, and the other lands attached as aforesaid; and afterwards the said Ogden procured himself to be appointed one of the appraisers, required by law to appraise and value a part of said lands attached, to wit, the said undivided 19-24, before sale thereof should be made by the sheriff, and did act as one of the appraisers in making said appraisement, as will more fully appear by the sheriff's return on said execution, and the certificate of said appraisement, under the hand of said Ogden, attached thereto; and afterwards, to wit, on the 22nd day of July, A. D. 1841, said Ogden procured the sheriff, without advertisement, to make sale, under said execution, of the lands last aforesaid, and at the sale thereof procured one Henry Smith, a man then without means and in the said Ogden's employment, and who also had notice of said deed from said Haven to said Tooley, to bid off said lands in the name of said Smith, but in reality for the use and benefit of said Ogden, to whom, immediately thereafter, the certificate to said Smith, by the sheriff, was assigned by said Smith, without any consideration whatever; and that afterwards, to wit, on the 17th day of February, 1843, said Ogden procured the sheriff to execute and deliver to him, the said Ogden, a sheriff's deed for the premises last aforesaid; and afterwards, to wit, on the 17th day of June, 1845, caused said deed to be recorded in the Recorder's office of said Cook county; a copy of which said deed, together with the certificates of acknowledgment and record thereon, is filed with and made a part of said bill, marked Exhibit E.

That said Tooley, being entirely ignorant of said attachment suit, and said Ogden, wishing to prevent any redemption from being made from the sheriff's sale aforesaid, and fraudulently to acquire a pretended title to said lands in himself, without the knowledge of the said Butler, in a concealed and secret manner, and undiscovered by the real owners of the same until consummated, after the sale thereof by the sheriff, as aforesaid, and before one year had expired from the time of said sale, and whilst said Ogden held the certificate of purchase thereof, given by said sheriff as aforesaid, to wit, on the 22nd of September, 1841, in consideration of the assignment of said mortgage from said Tooley to said Haven to him, the said Ogden, and of a deed of three lots in the School Section of Chicago, then made by Haven to said Ogden, at his request, and that the lots aforesaid, purchased by said Haven of said Butler, should be retained by said Butler, and forfeited to him as in said agreement sued on in said attachment suit had been provided, agreed with said Haven that said agreement sued on, and all matters growing out of it, should be discharged, considered as paid and at an end, which said agreement was signed by said Ogden, written at the foot of the duplicate of said articles of agreement sued on, and delivered to said Haven, and is in the words and figures following, to wit:

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"In consideration of an assignment of a mortgage of Tooley, and of a deed of 3 lots in School Section, Chicago, made to me this day, it is agreed that this agreement above written, between Chas. Butler and S. Z. Haven, is declared paid and at an end, the lots being retained by said Butler.

Sept. 22d, 1841.

W. B. OGDEN, for C. Butler."

A copy of which articles of agreement and the last aforesaid agreement is attached to the bill and made a part thereof, and marked Exhibit Q.

That said settlement was, by said Haven, intended to be, and really was, as by the statements of said Ogden said Haven had been induced to believe, a full payment and discharge of said judgment sale, and all proceedings in said attachment suit, and of all liability of said Haven on said articles of agreement, and that if said Ogden, or any one else, did acquire any right or interest in said lands, by virtue of said attachment suit and proceedings therein, the settlement aforesaid was a com-

plete redemption of said lands therefrom.

The bill further states, that said Tooley was, up to the time of said settlement, and long thereafter, entirely ignorant of said attachment suit, and that said Haven, relying on said agreement so made by said Ogden, and his verbal promise at the same time made to dismiss said suit, paid no further attention to the matter. Yet the said Ogden, notwithstanding said agreement in writing and said verbal promise, for the purpose of acquiring a fraudulent title to said lands, including the lands aforesaid claimed by the complainants, procured said sheriff of Cook county, in total disregard and violation of said agreement, to execute and deliver to him the said sheriff's deed above mentioned and referred to, and when the said Haven, years thereafter, on learning of said Ogden's conduct in the premises, reproached him therefor, he deeded back to said Haven, without consideration, all the lands which the said Haven owned in the said 19-24 of the same at the time of the levy of said attachment, that is to say: 6-24 undivided of said Section 10, and of the south half of said Section 3, in order to keep said Haven quiet, and from exposing him, the said Ogden, for his fraudulent conduct in the premises.

The bill further states, that after said Ogden had received from said Haven the assignment aforesaid of said mortgage to said Haven from said Tooley, said Ogden still holding said mortgage, and after the sale by said sheriff, the said Ogden still holding said certificate of purchase for the purpose of acquiring a pretended title to said lands of complainants, and to hinder and prevent the said Tooley and his legal representatives from redeeming the same from said mortgage, by said Tooley to said Haven, suffered the taxes on the same for the year 1841 to remain unpaid, and said lands claimed by the complainants, with other lands, to be sold for taxes, which sale was made

on the 28th November, 1842, and afterwards, in pursuance of said sale, on the 15th January, 1845, procured the sheriff of said county to execute and deliver to him, the said Ogden, two instruments in writing, commonly called tax deeds, the one pretending to be a conveyance from said sheriff to said Ogden, of 19-24 undivided of said Section 10, and the other pretending to be a conveyance from said sheriff to said Ogden, of 19-24 undivided of the south half of said Section 3, and afterwards, to wit, on the 21st January, 1845, caused said deeds to be recorded in the Recorder's office of Cook county; copies of which deeds and certificates of acknowledgment, in substance, are filed with said bill, and make a part thereof, marked Exhibits F. and G.

The bill further states, that said Ogden then claimed to hold said land of complainants, (which has never yet been in the occupation or possession of any one) as his own, by virtue of said two deeds, as well

as by said sheriff's deed.

The bill further states, that on the day of January, A. D. 1856, the complainants were ready and willing, and offered to pay said Ogden the full amount of principal and interest due on said mortgage, from said Tooley to said Haven, treating the same as if nothing had been paid thereon, to wit, the sum of dollars, and requiring only of the said Ogden that he should, at the cost of the complainants, release and quit-claim to them all the right, title and interest acquired by him in said lands, by virtue of said mortgage and assignment, and said sheriff's deed in said attachment suit; which offer said Ogden refused to accept.

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The bill further states, that the complainants were then ready and willing to pay said money on said conditions, or as the court should direct.

The bill further states, that the complainants on the same day were ready and willing, and offered to pay said Ogden the sum so due on said mortgage aforesaid, together with all taxes that had ever been assessed on said land, and paid by said Ogden, with lawful interest on said taxes, from the respective times of payment of the same until the time last aforesaid, requiring only of him that he should release and quit-claim to the complainants, at their cost, all the right, title and interest which he had acquired to said lands, by said mortgage and assignment, and said sheriff's deed, and said tax-deeds; which offer said Ogden then and there refused to accept.

The bill avers that the complainants were ready and willing to make such payment on such conditions as the court should direct, according to the equity of the case.

An answer, under oath, was waived, and the bill prays that an account may be taken, and that said Ogden release and quit-claim to the complainants, all his title to said premises, or that said sheriff's deed, and said tax deeds, be set aside, cancelled and for nothing held; and for other and further relief.

EXHIBIT A.

A mortgage from Jeremiah Tooley and wife, to Simon Z. Haven, to secure the payment of \$290, conveys an equal, undivided half of Section 10, Township 39 north, Range 12 east of 3rd P. M., and an equal undivided half of the south half of Section 3, Township 39 north, Range 12 east of 3rd P. M., dated Feb. 10, 1838, acknowledged same day, and recorded Sept. 8, 1838, in the Recorder's office of Cook county.

Ехнівіт В.

A Patent from the United States, to Simon Z. Haven, of Section 10, in Township 39 north, Range 12 east, dated Oct. 1, 1839, and filed for record June 17, 1843.

EXHIBIT C.

A Patent from the United States, to Simon Z. Haven, for the south half of Section 3, Township 39 north, Range 12 east, dated Oct. 1, 1839, and filed for record June 17, 1843.

EXHIBIT D.

A quit-claim deed from Jeremiah Tooley to Carlos Haven and Isaac M. Grover, of the undivided half of Section 10, and the undivided half of south half Section 3, Township 39 north, Range 12 east of 3rd P. M., dated Sept. 29, 1855, and acknowledged same day.

EXHIBIT E.

A deed from Samuel J. Lowe, sheriff of Cook county, to William B. Ogden, of 19-24 undivided of Section 10, and the south half of Section 3, Township 39 north, Range 12 east, upon a sale of said property under an execution, the attachment suit of Charles Butler v. Simon Z. Haven, dated Feb. 17, 1843, acknowledged April 11, 1843, and filed for record June 17, 1845.

EXHIBITS F AND G.

A deed from Samuel J. Lowe, sheriff of Cook county, to William B. Ogden, of 19-24 undivided of Section 10, Township 39 north, Range 12 east of 3rd P. M., under a sale of said property for the taxes on the same for the year 1841, dated Jan. 15, 1845, acknowledged same day, and filed for record Jan. 21, 1845.

A deed from Samuel J. Lowe, sheriff of Cook county, to William B. Ogden, of the south half of Section 3, Township 39 north, Range 12 east of 3rd P. M., under a sale of said property for the taxes on the same for the year 1841, dated Jan. 15, 1845, acknowledged on the same day, and filed for record, Jan. 21, 1845.

EXHIBIT Q.

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Articles of Agreement, between Charles Butler and Simon Z. Haven, for the sale of Lots 5 and 6, in Block 17, in Kinzie's Addition to Chicago, for the sum of five thousand dollars, as follows:

Sixteen hundred dollars at the date of said agreement; seventeen hundred dollars one year from date; and seventeen hundred dollars two years from date, with interest at ten per cent. per annum, dated April 28, 1836.

On the back of which contract, is this receipt:

"Rec'd April 28, 1836, the first payment of sixteen hundred dollars on this contract in land.

WM. B. Ogden."

Also the following:

"In consideration of an assignment of a mortgage by J. Tooley, and of a deed of 3 lots in School Section, Chicago, made to me this day, it is agreed that this agreement above written, between Chas. Butler and S. Z. Haven, is declared paid and at an end.

Sept. 22, 1841.

The lots being retained by said Butler.

W. B. OGDEN, for C. Butler."

33 34 The answer of the defendant, Charles Butler, was filed Sept. 7, 1856. It admits upon information and belief the purchase of the lands by Haven from the United States, and that Haven received a proper certificate therefor, as set forth in the bill.

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It denies any knowledge or information, except what is derived from the bill, of the sale from Haven to Jeremiah Tooley, and of the alleged loss of the deed from Haven to Tooley, as set forth in the bill.

It admits, upon information and belief, the execution and delivery of the mortgage from Tooley to Haven, and the recording of the same as alleged in the bill.

It denies any knowledge or information, (except that derived from the statements of the bill) of the patents from the United States to said Haven, as alleged in the bill.

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It denies that said Tooley became seized in fee simple of the undivided one-half of the whole of said lands so purchased by Haven, and the absolute owner thereof, or any part thereof, subject only to the mortgage particularly described in the bill of complaint, but avers that certain attachments were laid upon said Haven's rights and interests in said

lands, (in the bill more particularly described) long prior to the registration of said pretended deed from said Haven to said Tooley, and without any notice whatever that said lands had been sold by Haven to Tooley, as is pretended in said bill, and that the same were sold under and by virtue of certain executions issued upon said attachments, and purchased by Henry Smith, and the certificates of the purchase thereof assigned to the defendant, William B. Ogden, and that said lands were subsequently conveyed to said Ogden by the proper officer; and said defendant avers that said conveyance to said Ogden was received by him, and that he holds the same subject to the equitable rights of said defendant. It also admits, upon information and belief, that said Tooley, on the 29th day of September, A. D. 1855, executed and delivered a deed for said lands to the complainants, but denies that said Tooley, by said deed, conveyed said lands, or any part thereof, to the complainants; and denies that Tooley had any right or title, either in law or equity, to said lands, or any part thereof, and could therefore convey none by said deed.

It admits the assignment by said Haven to Ogden, of the mortgage given by Tooley, as set forth in the bill, subject, however, to the equitable interest of said defendant, as hereinafter set forth.

It admits that on or about the 11th day of October, 1839, (but whether before or after said patents were delivered to said Haven, or received or accepted by him, said defendant does not know, and is not informed save by the bill of complaint,) said defendant, by his attorney in fact, William B. Ogden, did cause a suit in attachment to be instituted, and proceedings to be had therein, as alleged in the bill, and said defendant alleges that said Ogden, as the attorney of said defendant, had full power and right to take the proceedings aforesaid, and said defendant adopts, confirms, and ratifies the same in all things.

It denies that at the time of the institution of said proceedings in attachment, either said defendant, or said *Ogden, his attorney, had any knowledge, information, or notice, that said Haven had sold the undivided one-half of said lands to said Tooley, or any part thereof, or that said Haven had received from said Tooley the mortgage aforesaid of \$290, on said lands.

The answer denies each and every allegation in said bill contained, of fraud, misrepresentation, or improper or unfair conduct, on the part of said defendant Ogden, in relation to said attachment proceedings, and avers, upon information and belief, that said proceedings were in all respects regular, and that said Ogden, in all that he did therein, acted in good faith and justice towards said Haven and all other persons.

The answer admits the issuing of execution on the judgment in said attachment suit, and the sale of said property thereunder; that it was bid off by said Henry Smith, who took a certificate thereof, which he afterwards assigned to said defendant Ogden, who afterwards procured

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a deed from said sheriff, which he caused to be recorded in the Recorder's office of Cook county, on the 17th of June, 1845, but said defendant denies that when said Smith bid off said property, he had any notice whatever of said pretended deed from said Haven to said Tooley.

The answer admits the cancellation of said agreement between said Butler and said Haven, as alleged in the bill, but said defendant insists that it was well and distinctly understood and agreed, by and between said Ogden and said Haven, that said agreement was only to discharge said Haven from his liability to make the further and future payments for which he was bound under said articles of agreement, and that the same was not in any manner to affect, prejudice or impair the proceedings aforesaid, in relation to said land, nor the judgment, execution and sale thereof, all of which were to stand, except that said Ogden agreed to convey one hundred and sixty acres of said land to said Haven, or to such person as said Haven might appoint, which has since been done.

The answer admits the sale of said lands for the taxes of the year 1841, and the giving and receiving of the sheriff's deed therefor, and that said deeds were recorded as in said bill alleged.

Said defendant further admits, that said sale took place after said defendant Ogden had received said assignment of said mortgage from Tooley to Haven as aforesaid, and while he still held the same, and after said sale by said sheriff in said attachment proceedings, and while said defendant Ogden still held said certificates of purchase. defendant denies all fraud or improper concealment or motives in said defendant Ogden in so doing, and avers, upon information and belief, that at the time said defendant Ogden obtained said certificate of purchase from said Henry Smith, and at the time of said settlement with said Haven, he, said Ogden, supposed the taxes assessed on said land for the year 1841 had been paid by said Haven, but discovered afterwards by the advertisement that they were unpaid, and did bid off and purchase said lands at said tax sale, said Ogden being advised that said taxes were a subsisting lien upon said lands, and that the same had accrued before the said defendant Ogden had obtained his title thereto, and that it was necessary to extinguish the same.

The answer avers that said mortgage from Tooley to Haven was assigned by Haven to defendant Ogden for no other purpose than to quiet said defendant Ogden's title to said lands purchased by said Smith and afterwards conveyed to defendant Ogden by said sheriff.

The answer alleges, avers and claims that the defendant Butler is the actual, beneficial and equitable owner, in his own right, of one-third part of said mortgage from said Tooley to said Haven, and of all the right, title, interest and property of said Ogden therein, acquired by said assignment thereof or otherwise. It also alleges, avers and claims that he is the actual, beneficial and equitable owner, in his own right, of all the lands taken under said attachment, or levied on under said attachment.

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ment, or sold under said executions or tax sales, or the title whereof was conveyed to Ogden by virtue of all or any of the proceedings set forth or referred to in the bill, and also claims that Ogden holds the said mortgage and the lands referred to in the bill, and not already conveyed by him, in trust for said defendant Butler, to the extent of one-third thereof, which one-third of said mortgage and said land, said defendant Butler claims against the plaintiff, the said defendant Ogden and all other persons.

The answer of the defendant William B. Ogden was filed on the 5th day of April, 1856.

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He admits the purchase of the land in controversy by Simon Z. Haven from the United States, and that said Haven received a proper certificate therefor, as set forth in the bill.

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He says that as to all that part of the bill alleging the sale and conveyance by said Haven to said Tooley, of an undivided half of said lands, and the loss of the deed from Haven to Tooley, he is not advised and has no knowledge or information in regard to the same, save as derived from said bill, and cannot therefore admit or deny the same.

He admits the execution, delivery and record of the mortgage from said Tooley to said Haven for \$290, as is alleged in the bill.

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He says that he has no knowledge and is not advised in relation to the allegations in the bill concerning the Patents from the United States to said Haven, and cannot, therefore, admit or deny the same.

He denies that said Tooley became seized in fee simple of the undivided one-half of the whole of said lands, so purchased by said Haven, and the absolute owner of the same or of any part thereof, subject only to the mortgages particularly described in said Bill of Complaint, but avers that certain attachments were laid upon the said Haven's rights and interests in said lands long prior to any registration of the said pretended deed from said Haven to said Tooley, without any notice whatever that said lands had been sold by said Haven to said Tooley, as is pretended in the bill, and that the same were sold under and by virtue of certain executions issued upon said attachments and purchased by Henry Smith, and the certificate of the purchase thereof assigned to said defendant, and said lands subsequently conveyed to said defendant by the proper officer.

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The answer admits the execution and delivery of the deed from Tooley to complainants, as set forth in the bill, but denies that Tooley had any title to said land.

It admits the assignment, by said Haven, to said defendant, of the mortgage given by Tooley to Haven, and that he still held the same.

The answer states, that on or about Oct. 11, 1839, (but whether before or after said Patents were delivered to said Haven, or received or accepted by him, defendant did not know and was not informed save by

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said bill of complaint,) said defendant, as agent and attorney in fact for Charles Butler, caused a suit in attachment to be instituted in the Circuit Court of Cook county, and that proceedings were had therein, as in said bill alleged. But it denies that at the time of the institution of such proceedings, said defendant had any knowledge, information or notice that said Haven had sold the undivided one-half of said lands to said Tooley, or any part thereof, or that said Haven had received from said Tooley the aforesaid mortgage for \$290, and also denies that for the purpose of concealing his operations, or for any purpose, he did inform the said Haven that he should be put to no trouble about paying said claim, and expressly denies and repels all allegations of fraud or improper concealment, as stated in said bill of complaint, in regard to the manner

of instituting said attachment suit or of prosecuting the same.

The answer admits the issuing of the execution upon the judgment in said attachment suit, and the sale of said lands thereunder; that said Henry Smith purchased the same and took a certificate therefor, which certificate was afterwards assigned to said defendant, and that said defendant procured from the sheriff a deed of said lands, which was recorded at the time and in the manner specified in the bill, all of which proceedings relating to said attachments, said defendant avers were conducted by the attorneys of said Charles Butler, without any special direction or interference on the part of said defendant, and it may be that said defendant did act as appraiser, as is alleged in said bill, but whether he did or not he does not now remember; but if he did so act, said defendant denies all fraud in so acting, and avers that he was competent to act as such, and was wholly disinterested in the matter. The answer also denies that Ogden procured said sheriff to make said sale without advertisement, as is alleged in the bill, and avers that if it was so made, (which is expressly denied) that it was unknown to said defendant, or to said Henry Smith, both of whom supposed and believed the whole proceedings in respect thereto, to be regular and legal, as they had all been under the especial care of the attorneys of the plaintiff in said cause.

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The answer admits that he procured said Smith to bid off said lands in his own name, at the sale thereof, aforesaid, and he denies that said Smith had any notice whatever, of said pretended deed from said Haven to said Tooley, and expressly denies and repels the imputation of fraud contained in said bill, in respect to said appraisement and sale, and purchase of said lands; and avers that he acted throughout with fairness and honesty.

The answer admits the cancellation of the agreement between Haven and Butler, at the time and in the manner alleged in the bill, but denies that said settlement was by said Haven intended to be, or really was, or that said defendant made any statements to induce said Haven to believe the same was a full payment and satisfaction of said judgment and sale,

and all proceedings in said attachment suit. But the answer admits that said arrangement was intended to discharge said Haven from all liability on said articles of agreement, for the balance due on the same from said Haven, after deducting from the amount due thereon at the time of said sheriff's sale, the sum bid for said lands by said Smith ... And avers that said arrangement was formally proposed to said Haven, by letter from said defendant, and was formally accepted by him, and was entirely understood by him as herein represented, and in no other manner, and that said Haven fully understood at the time that he was to forfeit and abandon all right to said lots mentioned in said articles of agreement, and to convey said three lots in School Section, Chicago, in order to discharge the balance due on said articles of agreement, and that said sheriff's sale of the lands aforesaid was to stand, and this deponent to be entitled to all of the lands so attached and sold aforesaid by said sheriff, except 160 acres thereof, which said Haven represented he had sold to one Brown, and which said defendant gave his bond to said Haven to convey to him or to whoever he should direct, and which said defendant did afterwards convey to said Haven, as will appear by the bond of said defendant, and the receipt of said Haven endorsed thereon, a copy of which is annexed to said answer, marked "Exhibit A," and made a part thereof. The answer denies that if Ogden, or any one else, acquired any right or interest in said lands by virtue of said attachment suit, and the proceedings therein, the settlement aforesaid was a complete redemption and discharge of said lands therefrom, and avers that said settlement was never designed or understood by said Haven to effect any such result.

The answer states that Ogden did not know whether said Tooley was, up to the time of said settlement, and long thereafter, ignorant of said attachment suit or not, and was not informed, save by the bill.

The answer admits that Ogden did afterwards procure the said sheriff of Cook county to execute and deliver to him the deed referred to, but denies that the same was done in violation of any written or verbal agreement or promise made by him, or that in doing so he abused the confidence of said Haven or any other person, or that he was actuated by any fraudulent purpose against said Haven or Tooley, or any other person, but acted in strict conformity with the understanding and settlement aforesaid, between Ogden and said Haven, as will fully appear by reference to the Exhibit A, attached to said answer, and the written correspondence between said defendant and said Haven in relation thereto.

The answer further admits that Ogden did afterwards, as before stated, convey back to said Haven 160 acres of said land so as aforesaid sold by said sheriff in said attachment suit, but denies that the same was done in consequence of the reproaches of said Haven, or that he was ever reproached therefor by said Haven, or that it was done to keep said Haven

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quiet, or to keep him from reproving the conduct of said defendant, and avers that said conveyance was made to said Haven in conformity with a written agreement entered into by this defendant with said Haven at the time of said settlement, for the reasons hereinbefore stated.

The answer admits that the taxes for the year 1841 on said lands remained unpaid, that the same were sold for said taxes and costs, and purchased by Ogden, and that tax deeds were executed and delivered by the sheriff of Cook county to him, and that he caused said deeds to be recorded at the times and in the manner alleged in the bill, and that said sale took place after Ogden had received said assignment of said mortgage from Tooley to Haven as aforesaid, and whilst he still held the same, and after said sale by said sheriff in said attachment proceeding, and while said Ogden still held said certificate of purchase, but denies all fraud, or improper concealment or motives in so doing, and avers that at the time Ogden obtained said certificate of purchase from said Henry Smith, and at the time of said settlement and arrangement with said Simon Z. Haven, he supposed the taxes assessed on said land for the year 1841, had been paid by said Haven, but discovered afterwards by the advertisement that they were unpaid, and purchased said lands at said tax sale, having been advised that said taxes were a subsisting lien on said lands, and that the same had accrued before said Ogden had obtained his title thereto, and that it was necessary to extinguish the same.

The answer avers that said mortgage from said Tooley to said Haven, was assigned by said Haven to Ogden for no other purpose than to quiet said defendant's title to said lands, purchased by said Smith, and afterwards conveyed to Ogden by said sheriff.

The answer admits that he then claimed to hold the said lands, (which have never yet been in the actual occupation or possession of any one,) as as his own, by virtue of said two tax deeds, as also by said sheriff's deed, and avers that he also claimed it by claim and color of title made in good faith, and the payment of all taxes and assessments for seven consecutive years prior to the filing of said bill.

The answer admits the offer of said complainants to pay to Ogden the full amount of the principal and interest of said mortgage, and that said complainants demanded of him a quit claim deed of said property, and that he refused so to do, at the time and in the manner alleged in the bill, for the reason that he could not recognize any legitimate claim which said complainants had or have to said lands, and also for the reason that Ogden conceived he had a good and valid title to said lands made in good faith, and never pretended to hold said mortgage as a debt against said lands, or for any other purpose than to quiet his title thereto.

The answer admits that the complainants were ready and willing, and offered to pay to said Ogden, the sum aforesaid named in said mortgage, together with all taxes that had been assessed on said land and paid by Ogden, with lawful interest on said taxes from the respective times of payment till the time last aforesaid, requiring Ogden to release and quit

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claim to said complainants, at their cost, all his right, title and interest as aforesaid, and that Ogden did refuse to accept said offer.

EXHIBIT "A." referred to in answer of defendant Ogden.

A bond from Wm. B. Ogden to Simon Z. Haven, for the conveyance to said Haven, or whom he should direct, of an undivided 160 acres of land in the tract composed of the south half of Section 3, and all of Section 10, Town 39 north, of Range 13 east, in Cook county, Illinois, said tract together containing 960 acres, more or less, and said Haven's interest in the same to be an undivided $\frac{1}{6}$, or 160 acres.

Deed to be quit claim, with covenants against grantor, and to be executed and forwarded to said Haven at Utica, New York, by mail, or otherwise, within 40 days from this date.

Witness: (Signed)

W. B. OGDEN. [L. S.]

D. B. Goodwin.

"I hereby agree that the 160 acres, sold Brown by Doct. Haven, shall be released from the sale under the attachment suit brought against said Haven. (Signed) W. B. Ogden."

"Sept. 22nd, 1841."

"Utica, Oct. 31st, 1845.

"I hereby certify that all the stipulations of the within bond have been fulfilled according to the conditions of said bond, viz:

"The quit claim deed of an undivided 160 acres of land in the State of Illinois, Cook county, etc., has been given with warranty, etc., and within the time specified, etc. etc.

(Signed)

SIMON Z. HAVEN."

Affidavit of William B. Ogden, to amend answer.

"WILLIAM B. OGDEN et al.,
als.
CARLOS HAVEN et al.

Affidavit of William B. Ogden, to amend answer.

Cook County Court of Common Pleas.

In Chancery.

On this seventeenth day of October, A. D. 1857, William B. Ogden, one of the defendants in the above entitled case, being duly sworn, deposes and says: That at the time he was required to file an answer in said cause, he was very much occupied in many business affairs, which required his frequent absence from the city of Chicago, and State of Illinois; that the circumstances and transactions upon which said bill of complaint is founded, are circumstances and transactions which transpired many years since, in reference to which, at the time of filing his said answer, this affiant's recollection was very indistinct, and that this affiant requested E. B. McCagg, Esq., a solicitor of this court, to examine and ascertain the facts as to which this affiant was required to answer, and to prepare for this affiant an answer, setting forth such facts

as he was required to state by said bill of complaint. That this affiant is informed, and believes, that said McCagg employed E. R. Hooper, Esq., also a solicitor of this court, to prepare said answer, and that the answer of this affiant was prepared by said Hooper. That this affiant, presuming that said McCagg had, from the records and otherwise, obtained full and accurate information in relation to the matters which this affiant was required to set forth in his said answer, this affiant, without any examination of said answer, and without reading the same in full, signed the same when handed to him for his signature. After reflecting over the matters to which said bill and answer refer, which, as this affiant has stated, transpired many years since, that is to say, from seventeen to twenty years prior to the date of this affidavit, and which nothing had, for many years, brought to this affiant's mind until the filing of said bill in this cause, and after a careful examination of said answer, filed by this affiant's solicitors in said cause, this affiant has. discovered that there are certain erroneous statements in said answer, which may materially prejudice this affiant's cause, and endanger or prevent the administration of an impartial equity and justice in the premises.

This affiant has discovered that whilst the said answer, when it speaks of the purchase of the premises in question by Henry Smith, represents said Smith as the purchaser at the sale in said answer set forth, except in which said answer is somewhat obscure, and appears to be inconsistent with itself, as it is certainly at variance with the fact, in which it sets forth as follows:

"This defendant admits that he procured said Smith to bid off said land in his own name, at the sale thereof aforesaid," etc.

This affiant further states, that the said Smith has frequently and at various times, during the last twenty years, acted as this affiant's agent, frequently purchasing for this affiant with and without instructions, and frequently purchasing for himself, and on his own account, and subsequently selling to this affiant and to others, and that this affiant, at the time of filing said answer as hereinbefore set forth, presumed that his said solicitor had ascertained the facts in the premises, as they truly existed; but this affiant, upon careful investigation, since the filing of said answer, has ascertained from said Smith, and investigations by him made, that in the particular sale, said Smith was himself the bona fide purchaser of the premises in question, and purchased the same, not as this affiant's agent, or for this affiant, but on his own account, and for himself; and this affiant further says, that he holds the said premises set forth in said bill of complaint in trust: One-sixth interest, for the heirs of William E. Jones, deceased, one-sixth interest for Mahlon D. Ogden, one-third interest for Charles Butler, of New York, the remaining onethird interest belonging to this affiant; which said several interests of said several parties, are not, as he is informed, and believes true, set forth

18 RECORD PAGE. 82 That on the 31st day of March, 1840, another declaration was filed in said cause; that on the 18th day of December, 1840, there was issued 92 an alias writ of attachment, directed to the sheriff of Cook county, which was afterwards returned by said sheriff, with the following indorsement, viz: "Executed by attaching Lots one, two and three, in Block 84, in 94 the School Section Addition to the city of Chicago, this 18th day of December, A. D. 1840." That judgment was rendered in said cause, on the 7th day of May, 1841, in favor of said plaintiff and against said defendant, for the sum of \$5,109.45 and costs, with an order for special executions against the property attached. That an execution was issued on the 28th day of 97 June, 1841, directed to the sheriff of Cook county, which was afterwards returned by said sheriff, satisfied, for the sum of \$1,117.684, by sale of said lands attached in Cook county, on the 22nd day of July, . 99 1841, with the appraisers' certificate attached. That an execution was 102 issued on the 29th day of June, 1841, directed to the sheriff of Will county, which was afterwards returned by said sheriff, satisfied, to the 104 amount of \$660.35, by sale of part of the lands attached in said county, with the appraisers' certificate attached.

A deed from Samuel J. Lowe, sheriff of Cook county, to William B. Ogden, of 19-24 parts undivided from Section 10, and the south half of Section 3, Township 39 north, Range 12 east, dated February 17, 1843, acknowledged April 11, 1843, filed for record June 17, 1843, and recorded in Book 16, p. 206, in the Recorder's office of Cook county.

- The deposition of Jeremiah Tooley, on behalf of complainants, taken on the 6th day of August, 1856.
- Answer to 1st Interrogatory. Age 59; reside in Sangerfield, Oneida county, New York; farmer.

Ans. to 2nd Int. Never resided in Illinois.

Ans. to 8rd Int. I know plaintiffs, and Wm. B. Ogden. Became acquainted with Carlos Haven, in Sept. 1855, in Chicago, and had some slight acquaintance with him previously at his father's residence in Illinois. I became acquainted with Isaac M. Grover, four years ago this month, at Marshall, Oneida county, New York; he was at my house on business. I first knew William B. Ogden in 1837, at Chicago, having called upon him on business with reference to some purchases I had previously made.

Ans. to 4th Int. I know Section 10 of Township 38 north, of Range 12 east, and the south half of Section 3, of the same Township and Range.

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I once owned an undivided half of said real estate, which is situated in Cook county, Illinois.

Ans. to 5th Int. I purchased an undivided half of said property, of Simon Z. Haven, then of Oneida county, New York, in 1836, in December, at \$6 per acre. Said Haven gave me a common warranty deed, signed by himself and wife. The deed was acknowledged before one Husbands, who then resided at Waterville, Oneida county, New York, and who was a Supreme Court Commissioner.

The deed was delivered to me at Waterville at the time it was acknowledged, and it was executed at or about the same time, and at the time of the purchase in December aforesaid.

I do not know what has become of the deed. It has been missing some five or six years, or longer. When delivered, it was filed away with my other papers, and remained there, as I supposed, until when wanted upon some occasion within ten years, it was not to be found. At this time I made a most thorough and diligent search for it among my own papers without success, and subsequently searched the office of Mr. Husbands and Mr. Carpenter, both of whom, as lawyers, had done some business for me, and was not able to find it among their papers. I have searched and examined every place where it was possible to have been found, and cannot find it. I never, to my recollection, have passed it from my possession, and have no doubt it was lost and destroyed, with some other valuable papers which I missed at or about the same time, by some of my small children in my absence from home.

Ans. to 6th Int. I gave, in July, 1837, to William B. Ogden, information of the purchase mentioned in the fourth and fifth foregoing answers. At this time, at his office in Chicago, I stated to said Ogden that I had purchased said undivided half of said property of said Haven, at the recommendation of said Haven, and that I wished to inquire of him the value of said property, and said Ogden gave me information of the value, and stated to me his opinion that the purchase was a safe one. I had other conversations with said Ogden at or about the same time about said property and the purchase thereof. I purchased said property without having seen the same, and went to Chicago, in the summer of 1837, to see about it. I was recommended to Mr. Ogden by an old acquaintance, Mr. Clarke, who then resided in Chicago.

Ans. to 1st Cross-Int. I gave such information to said Ogden in the month of July, 1837, at his office in Chicago. The information was oral, and communicated in conversation with said Ogden. I had purchased the property without personal knowledge of the same, and was at Chicago with a view particularly to make inquiries concerning the same, as to value and situation. Haven, at this time, held my obligation for a part

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of the purchase money. Mr. Clarke, before referred to, said Ogden professed also to be well acquainted with the property; and these were the reasons of my communicating said information to said Ogden. Such communication was not made by accident, and was not the result of any business arrangements other than those specified above, and in answer to the sixth direct Interrogatory. Such communication was not made pending any negotiations between myself and said Ogden other than those I have heretofore specified. I called upon him with a view to information, advice, and counsel relative to the value of said property.

The deposition of Samuel Allen, on behalf of defendants, taken on the 8th day of April, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. I reside in the town of Augusta, Oneida Co., N. Y.

119 Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have known him about 30 years. He resides in Oneida county, and has so resided for about 30 years.

Ans. to 4th Int. I am acquainted with the general reputation for truth and veracity of said Jeremiah Tooley. It is bad; and from that reputation, I would not believe him on his oath.

120 The deposition of JEDEDIAH CHESBROUGH, on behalf of defendants, taken on the 8th day of April, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. I reside in Augusta, Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have known him about 20 years. He resides in Oneida county, and has resided there about 30 years.

121 Ans. to 4th Int. I am acquainted with the general reputation for truth and veracity of said Tooley among his neighbors. It is bad; and from that reputation I would not believe him on his oath.

The deposition of Andrew Sargent, on behalf of defendants, taken on the 8th day of April, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

122 Ans. to 2nd Int. I reside in Augusta, Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for about seventeen years. He resides in Oneida county, and has so resided for about seventeen years.

Ans. to 4th Int. I am acquainted with the general reputation for truth and veracity of said Tooley among his neighbors. It is bad; and from that reputation I would not believe him on his oath.

The deposition of John Hazard, on behalf of defendants, taken on the 8th day of April, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. I reside in Augusta, Oneida county, N. Y.

124 Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for about eighteen years. He resides in Oneida county, and has so resided for about eighteen years.

Ans. to 4th Int. I am acquainted with the general reputation for truth and veracity of said Tooley among his neighbors. It is bad; and from that reputation I would not believe him under oath.

The deposition of Charles C. Bacon, on the part of complainants, taken on the 13th day of July, 1857.

Answer to 1st Interrogatory. My name is Charles C. Bacon; age, 44; am a manufacturer.

Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last thirty years or more. Since a year ago last April, I have lived within two miles of him; for fifteen years previously thereto, I lived within four miles of him, and the most of the remaining portion of the time I have lived not to exceed six miles from him.

Ans. to 4th Int. I do know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of Erastus A. Walter, on the part of complainants, taken on the 13th of July, 1857.

Answer to 1st Interrogatory. My age is 62; my occupation a farmer.

Ans. to 2nd Int. I reside in Oneida county, New York.

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Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for twenty years or more. Since a year ago last April I have lived within two miles of him; for seven years previously thereto, I lived within six miles of him, and the most of the remaining portion of the time I have lived not to exceed eight miles from him.

Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on his oath.

The deposition of JULIUS CANDEE, taken on part of complainants, on the 13th of July, 1857.

Answer to 1st Interrogatory. My age is 57. I am a merchant.

Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last twenty years. For four years I lived within one and a half miles from him. The balance of the twenty years I have lived within five miles of him.

Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on his oath.

The deposition of Seth Bass, on the part of complainants, taken on the 13th day of July, 1857.

Ans. to 1st Interrogatory. My age is 60 years; my occupation a farmer.

Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley and have been for more than thirty years. For ten or fifteen years of the time I have lived within one and a half miles of him; the balance of the time I have lived within three miles of him.

Ans. to 3rd Int. I know his general reputation among his neighbors for truth and veracity; it is good, and from that reputation I would believe him in oath.

The deposition of Lucius Spencer, on part of complainants, taken on the 16th day of July, 1857.

Ans. to 1st Interrogatory. My age is fifty years; my occupation a farmer.

Ans. to 2nd Int. I reside in the town of Madison, county of Madison, State of New York, immediately adjoining Oneida county, and within half a mile of the line of Oneida county, New York.

Ans. to 3rd 1nt. I am acquainted with Jeremiah Tooley, and have known him for the last ten or fifteen years. I have lived within three miles of him during such acquaintance.

135 Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on oath.

> The deposition of Horace Tucker, on part of complainants, taken on the 16th day of July, 1857.

> Ans. to 1st Interrogatory. My age is 48; my occupation a carpenter and joiner.

136 Ans. to 2nd Int. I reside in Oneida county, New York.

> Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last nine and a half years. For eight years I lived within one mile of him; the remainder of the time, within six miles.

> Ans. to 4th Int. I know his general reputation among his neighbors, for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of Zerah A. Todd, on part of complainants, taken on 137 the 16th day of July, 1857.

> Ans. to 1st Interrogatory. My age is 38; my occupation a manufacturer.

Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for eight years. For seven years I have lived about half a mile from him, and for the last year and a quarter I have lived about five or six miles from him.

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Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on eath.

The deposition of Amos Allen, on part of complainants, taken on the 16th day of July, 1857.

Answer to 1st Interrogatory. My age is 52 years; my occupation a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last twenty-five years. Fifteen years I lived within two miles of him; the remainder of the time, within six miles.

Ans. to 4th Int. I know the general reputation of said Tooley among his neighbors, for truth and veracity. It is good; and from such reputation, I would believe him on his oath.

The deposition of ROBERT YOUNG, on part of complainants, taken on the 16th day of July, 1857.

Answer to 1st Interrogatory. My age is 61 years; my occupation a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last fourteen years. For twelve years I lived within one and a half miles of him; for the last year and a half, within six miles.

Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of James Allen, on part of complainants, taken on the 16th day of July, 1857.

Answer to 1st Interrogatory. My age is fifty years; my occupation a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last fourteen years. For twelve and a half years I lived within one and a half miles of him, and for the remainder of the time within six miles.

The deposition of Leonard Holmes, on part of complainants, taken on the 16th day of July, 1857.

Answer to 1st Interrogatory. My age is fifty-six. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last sixteen years. I lived for fourteen years within one mile of him; for the remainder of the time, within six miles.

Ans. to 4th Int. I know his general reputation among his neighbors, for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of John Von Swoll, on part of complainants, taken on the 16th day of July, 1857.

Answer to 1st Interrogatory. My age is 55 years. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last twenty years. For eighteen years I lived within two miles of him; for the balance of the time I have lived not to exceed seven miles from him.

Ans. to 4th Int. I know his general reputation among his neighbors, for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of ELIPHAZ B. BARTON, on part of complainants, taken on the 16th day of July, 1857.

Answer to 1st Interrogatory. My age is 62. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for fifty years. For twenty years I lived not to exceed two and a half miles from him, for twenty-three years within four miles of him, and for the balance of the time within six miles.

147 The deposition of HORACE H. EASTMAN, on part of complainants, taken on the 21st day of July, 1857.

Answer to 1st Interrogatory. My age is fifty years. I am a farmer.

148 Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for forty years. For twenty years I lived within one and a half miles of him; the balance of the time, within six miles.

Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of Amasa S. Newberry, on part of complainants, taken on the 21st day of July, 1857.

Ans. to 1st Interrogatory. My age is fifty-four. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, New York.

150 Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for twenty-seven years. For the past three years I lived within half a mile of him; for the balance of the time, within three miles of him.

Ans. to 4th Int. I know his general reputation for truth and veracity among his neighbors. It is good; and from that reputation I would believe him on oath.

The deposition of CHAUNCEY BUELL, on part of complainants, taken on the 21st day of July, 1857.

Ans. to 1st Interrogatory. My age is 61 years. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last thirty years; for ten years I lived within three miles of him, for four years within two miles, and for the balance of the time within four miles.

The deposition of DAVID L. BARTON, on part of complainants, taken on the 21st day of July, 1857.

Ans. to 1st Interrogatory. My age is fifty-nine years. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last fifty years. For twenty-five years I lived within one and a half miles of him, for fifteen years, within five miles, and the balance of the time within four miles of him.

Ans. to 4th Int. I know his general reputation for truth and veracity among his neighbors. It is good; and from that reputation I would believe him on oath.

The deposition of HORACE D. TOWER, on part of complainants, taken on the 21st day of July, 1857.

Answer to 1st Interrogatory. My age is sixty-three years. My occupation, a gentleman.

Ans. to 2nd Int. I reside in the county of Oneida, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last forty years. For fifteen years I lived within two and a half miles of him; the balance of the time, within five miles.

Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of NATHANIEL PUTNAM, on part of complainants, taken on the 21st day of July, 1857.

Answer to 1st Interrogatory. My age is seventy-one years. My occupation a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last fifty years. For ten years I lived within one and a half miles of him; for the balance of the time I have lived within five miles of him.

The deposition of John Haven, on part of complainants, taken on the 21st day of July, 1857.

Answer to 1st Interrogatory. My age is sixty-eight years. I am a farmer.

Ans. to 2nd Int. I reside in Oneida county, N. Y.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last thirty years. For four years I lived within one and a half miles of him; the balance of the time, within five miles.

Ans. to 4th Int. I know his general reputation among his neighbors, for truth and veracity. It is good; and from that reputation I would believe him on oath.

The deposition of Lorenzo Rouse, on part of complainants, taken on the 21st day of July, 1857.

Answer to 1st Interrogatory. My age is fifty-three years. I am a farmer.

Ans. to 2nd Int. I reside in the county of Oneida, State of New York.

158 Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last thirty years. For ten years I lived within three miles of him; for the balance of the time, within seven miles.

Ans. to 4th Int. I know his general reputation among his neighbors for truth and veracity. It is good; and from that reputation I would believe him on his oath.

The deposition of Lester Barker, on part of defendants, taken on the 27th day of March, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. I reside in Kirkland, Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last thirty years. He resides at present in the county of Oneida, and has resided in that county for the last thirty years.

Ans. to 4th Int. I am acquainted with his general reputation among his neighbors. It is bad. I would not believe him on his oath.

The deposition of Simon Z. Haven, on part of complainants, taken on eighth day of August, 1856.

Answer to 1st Interrogatory. My name is Simon Z. Haven. I am sixty-one years old and upwards. I reside in Buffalo, Eric county, New York. I am a practicing physician and surgeon.

Ans. to 2nd Int. I did reside in the State of Illinois. I moved into that State in 1835, and resided in Will county until the fall or winter of that year. I then moved to Chicago, and remained there with my family until the latter part of June, or fore part of July, 1836. I then moved my family to Oneida county, New York. I have been occasionally in Illinois since, but have not permanently resided there.

Ans. to 3rd Int. I am acquainted with the parties to the abovenamed suit. I have known Carlos Haven from his infancy. I have seen him occasionally for the last twenty years. I first became acquainted with Isaac M. Grover within a few days last past, and my acquaintance with him is but slight. I became acquainted with William B. Ogden after I moved to Chicago, as above stated. I have seen him occasionally since, but not within the last few years. I first saw Charles Butler in the city of New York, in the fall of 1836, and I think I have seen him but once since.

Fourth Interrogatory. Have you any acquaintance or knowledge of Section 10, Township 39 north, of Range 12 east of 3rd principal meridian, and the south half of Section 3, of the same Township and Range, Cook county, Illinois? If so, state what acquaintance or knowledge you have of the same, and how long you have had such acquaintance or knowledge.

Ans. to 4th Int. I am acquainted with the lands mentioned in the 4th direct interrogatory. I went round and over the whole of said premises, in the spring of 1836; that was my first knowledge of the premises, or any part thereof.

Ans. to 5th Int. I purchased the whole of said premises of the United States. I think I made the purchase in May, 1836. The price was \$1.25 per acre, and I paid that price. The patents for said lands first came into my possession in 1842, or 1843, but I cannot give the precise date. I don't know where I found the patents; I found them somewhere in Cook county, Illinois. They were left for record at the Recorder's office, in Cook county, by myself, or by some friend at my

request. The last time I got possession of them, I obtained them at William B. Ogden's office, in Chicago, and have had them ever since. He obtained possession of them without my consent.

Ans. to 6th Int. I did sell an equal undivided one-half of the whole of said premises to Jeremiah Tooley, of the county of Oneida, and State of New York. I sold to him at the price of six dollars per acre. The aggregate amount of his purchase was \$2,880. I made the sale in December, 1836. I gave him a warranty deed in the usual form, executed and acknowledged by myself and wife. I do not now recollect before whom it was acknowledged. I have no recollection about the delivery of said deed. I presume and have no doubt it was delivered soon after it was executed.

Ans. to 7th Int. I am the same Simon Z. Haven, who, in the spring of 1836, purchased of Charles Butler, through Wm. B. Ogden, his agent, two lots in Kinzie's Addition to Chicago, and against whom the suit mentioned in the 7th direct interrogatory, was brought, but I cannot state, and do not recollect the number of either of said lots.

Ans. to 8th Int. According to my best recollection, said Ogden said to me, that I must go on and do as well as I could, and make out the payments, and in the meantime, sell the lots if I could, in order to enable me to make the payments.

> Ans. to 9th Int. I paid \$1,600 down at the time of such purchase. I afterwards paid nine dollars on account of a tax on said premises; that is all.

> Ans. to 10th Int. At the time the attachment suit was commenced, I owned an undivided 160 acres, part of said Section 10, and south half of Section 3, and that was all.

> Ans. to 11th Int. I conveyed to Silas Meacham, of Illinois, an undivided 200 acres, part of said Section 10, and south half of Section 3. I can't tell when I conveyed to him. It might have been two years more or less after I sold to Tooley. I also sold an undivided 120 acres to Ozias Holmes. I can't say when I gave him the deed therefor. I think, but am not positive, that it was before I sold to Meacham. It was before the commencement of the attachment suit.

> Ans. to 12th Int. I don't know that said Ogden, prior to the commencement of the attachment suit, received any information that I had previously made said sale to Tooley.

> Ans. to 13th Int. I did inform William B. Ogden of the sale to Tooley. I gave him that information at his request, by letter. I wrote

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the letter and sent it to him by mail. In that letter I informed him of all the particulars and facts in relation to said sale. I think it was near the commencement of the year 1841 that I sent the letter.

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Ans. to 14th Int. I settled said attachment suit and the demand for which it was instituted, in full. I made said settlement in Utica, New York, Sept. 22, 1841. The terms of said settlement were: that I was to, and did relinquish the sixteen hundred and nine dollars which I had paid, as above stated. I also assigned a mortgage against Jeremiah Tooley for, I think, \$290, and some interest. This mortgage was upon the land I sold him, as above. I also conveyed to Ogden, as Butler's agent, sub lots 1 and 7 of lots 2, 3 and 4, in block 84, Chicago, (School Section); also, 26½ feet of west side of lot 1, block 24, of School Section, Chicago. That is the entire of what I paid, and it was to satisfy the attachment suit in full, as I understood it, and that is all I did in pursuance of said settlement. I took a discharge on the bond given by me, and upon which said attachment suit was brought, but I did not then know that said attachment suit had been prosecuted to execution. That settlement was made with said Ogden, acting as agent for Butler. I mean, also, to be understood, that by the terms of said settlement, I not only relinquished the sixteen hundred and nine dollars, but also my interest in the two lots in Kinzie's Addition. I took said discharge of said bond on the 22nd day of September, 1841. By the terms of said settlement, my interest in said Section 10, and south half of Section 3, were to be released from the effect of said attachment, and said discharge of said bond was indorsed on the bond itself. By my interest in said Section 10, and south half Section 3, I mean the undivided 160 acres, part thereof, which I still own, as stated above.

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Ans. to 15th Int. Said Ogden ultimately, and sometime in the year 1845, sent me a quit claim deed of said 160 acres. The consideration of said deed was, that at the time of the settlement, it was agreed, and was a part of the terms of said settlement, that said 160 acres undivided, was to be released from the effect of said attachment, and a sufficient instrument for that purpose. Subsequent to that settlement, 1 provided said Ogden with funds, and appointed him my agent to pay taxes on said 160 acres. He suffered the same to be sold for taxes, and perfected title in himself, and I afterwards ascertained this fact, and required of him that he should give me a deed thereof. There were no other considerations for said quit claim deed, and the above were the only reasons for his giving it to me.

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Ans. to 16th Int. Before the making of the settlement above referred to, Ogden informed me in conversation, that he had attached all the lands which he found by records of conveyances had been conveyed to me, in Will and Cook counties, and which he did not find by the records

had been conveyed to others by me. He asked who really owned them, and stated to me that the effect of said attachment was, that it operated as a lien upon all said lands, whether the same had in fact been conveyed by me to third persons or not, in all cases where my grantees had not procured my deeds to them to be recorded prior to the issuing of said attachment, and that the lien of said attachment was paramount and superior to the title of such of my grantees as had not procured their deeds to be recorded when said attachment issued. I cannot state precisely when he stated this to me, but it was in the course of the negotiations which resulted in said settlement.

Ans. to 17th Int. Said Ogden did, before said settlement, make propositions to me for a settlement of said attachment suit. He made different propositions to me, to which I refused to accede. They were generally made by letter. I do not now recollect of any verbal proposition for such settlement, made by him to me in person, except at the time of the settlement at Utica. He made propositions to my brother. The import of the propositions to me by letter will be seen from the letters themselves, which I now here produce, and which are marked Exhibits A. and B. I say also that I never accepted any proposition mentioned in said letters, as the same is therein stated. I presume I wrote to Mr. Ogden that I would accept his proposition to relinquish to me the undivided 160 acres of Section 10, and south half of Section 3, but I never in any manner accepted his proposition, that he should use the attachment suit to perfect title to property I had conveyed, and which I understood to be the meaning of the letter of 11th December, 1840. I believe these letters contain all the propositions which he made to me by letter.

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Ans. to 18th Int. At the time of the settlement between Ogden and myself, he gave me, in addition to the discharge of my liability upon the bond whereon said attachment suit was brought, a short instrument, which contained, I should say, not more than four or five lines, signed by him, to the effect that he released to me from the effect of said attachment, my undivided 160 acres, part of said Section 10, and south half of Section 3. This release was the instrument which, as stated in my answer to the 15th interrogatory, he agreed to give me at that time. Subsequently, and in 1845, he gave me another agreement or obligation, that he would, within forty days thereafter, give me a deed of said 160 acres, which would effectually protect me against all his acts. This last agreement was subsequent to the sale of said lands for taxes. He sent me the deed within the forty days, and I gave him an acknowledgment that he had done so. I had, after he suffered the lands to be sold for taxes, applied to him for such a deed, (the title having been got into himself,) but he delayed sending it or giving it to me, until after I finally got his agreement to do so in forty days.

Ans. to 19th Int. Ogden did request me to assist him in getting up the mortgage given by said Tooley to said Hezekiah C. Smith, on the undivided half of Section 10, and south half of Section 3. He so requested soon after the settlement was made at Utica. He repeated his request during several years, and we had several conversations on the subject. It was kept up until the last interview we had. At one of these interviews he authorized me to pay \$200 to get up the mortgage. I understood his object was to get rid of that mortgage; so that the mortgage for \$290, which I assigned to him, should not be subject to said Smith mortgage; so that he could collect the \$290 mortgage.

Answer to 1st Cross-Interrogatory. I did not state, in answer to the 12th direct interrogatory, that said Ogden had received any information that I had previously sold and conveyed to said Tooley.

Ans. to 2nd Cross-Int. My answer to the 13th interrogatory states as fully as I can state, when, where, and how such information was communicated, and why. The connection said Ogden had with said lands, was through what he claimed to be the effect of the attachment suit. Said communication was not made accidentally, but at his request, by letter. It resulted from the fact that he had attached the lands, and did not know who they belonged to. It was communicated to him after the commencement of the attachment suit, and pending that suit, and I think the first information I had of its commencement, and my reason for communicating it to him, was, that he asked me if I owned the lands he had attached.

Ans. to 3rd Cross-Int. The settlement may have been first proposed by my brother, but I cannot say positively. I cannot tell from whom any proposition for a settlement first emanated. Ogden did comply with the terms of the settlement, but at the time of the settlement, he agreed to act as my agent in taking care of said 160 acres, and received money from me, to pay taxes thereon, and in suffering said land to be sold for taxes, and getting the title in himself, he violated his agreement with me.

The deposition of Jesse Thomson, on part of defendants, taken on the 27th day of March, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. I reside in Utica, Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for fifteen years or over. He resides at present in Oneida county, and has so resided for the last fifteen or twenty years.

Ans. to 3rd Int. I am acquainted with his general reputation among his neighbors. It is bad; and from that reputation I would not believe him on oath.

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The deposition of Nelson Roth, on part of the defendants, taken on the 27th day of March, 1857.

186 Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. 1 reside in Utica, Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for about fifteen years. He resides at present in Oneida county, and has resided there for the last fifteen years.

Ans. to 4th Int. I am acquainted with his general reputation among his neighbors. It is bad; and from such reputation I would not believe him on oath.

The deposition of Jonathan Brown, on part of the defendants, taken on the 28th day of March, 1857.

Answer to 1st Interrogatory. I do not know either of the parties.

Ans. to 2nd Int. I reside in Augusta, Oneida county, New York.

189 Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last fifteen years. He resides at present in Oneida county, and has resided there for the last fifteen years.

Ans. to 4th Int. I am acquainted with his general reputation among his neighbors. It is bad; and from that reputation I would not believe him on oath.

- The deposition of WILLIAM P. CLEVELAND, on part of defendants, taken on the 28th day of March, 1857.
- 192 Answer to 1st Interrogatory. I am not acquainted with any of the parties, except William B. Ogden, with whom I have been slightly acquainted since 1850.
- 193 Ans. to 2nd Int. I reside in Sangerfield, Oneida county, New York.

Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for the last thirty years. He resides at present in Oneida county, and has resided there for the last thirty years.

Ans. to 4th Int. I am acquainted with his general reputation among his neighbors. It is bad; and from that reputation I would not believe him on oath.

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195	The deposition of Bradford C. Montgomery, on part of defendants, taken on the 28th day of March, 1857.
196	Answer to 1st Interrogatory. I do not know either of the parties.
	Ans. to 2nd Int. I reside in Marshall, Oneida county, New York.
	Ans. to 3rd Int. I am acquainted with Jeremiah Tooley, and have been for about twenty-five years. He resides at present in Oneida county, and has resided there for the last twenty-five years.
	Ans. to 4th Int. I am acquainted with his general reputation among his neighbors. It is bad; and I would not believe him on his oath.
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198	An order, made on the 11th day of January, 1855, overruling the motion of defendant Ogden, for leave to file a supplemental answer.
199	A chattel mortgage from George S. Butler to James F. Draper, upon property in the "Hamilton House," Chicago, to secure the payment of a promissory note for the sum of \$2,125.00, dated November 21st, 1856, acknowledged on the same day, and recorded in Book 6 of Chattel Mortgages, page 16.
205	Articles of agreement between Charles Butler and Simon Z. Haven, set out at page 29 of the record, and at page 8 of the Abstract.

The following letters were also filed as Exhibits, and read in evidence in said cause:

Waterville, Nov. 26, 1838.

DEAR SIR:

Have this morning rec'd yours, dated Nov. 23rd, '38. I perceive that you have not seen a letter which I wrote to you a few days since. I directed to New York city, and I would refer you to that letter, in which I make a proposition to give up the \$1,600 which I have paid on the Chicago lots, and exchange papers, from my total inability to pay the \$4,000 which remains due, together with some interest. I was in New York in May last, and waited at your office (where I saw Mr. C. Butler, Esq. frequently) some days to see you, but did not, though you was expected home every hour. The contract with Tooley, as I believe I mentioned to you in my letter last fall, is given up. I refunded what he had paid. I know you said I should have a deed, but Mr. Bronson said differently. My power of attorney was from him; and besides all this, Mr. Tooley refused to consummate the bargain or give up the house and lot, which was included, without a suit in chancery, and I was not in a condition, on my part, to compel payment, allowing he was able to pay, which was very doubtful. I have sold none of the land in question; don't know as there is a prospect of selling any at present. You will please write. Yours.

WM. B. OGDEN, Esq.

SIMON Z. HAVEN.

Chicago, 11 Dec., 1840.

DR. S. Z. HAVEN,

Dear Sir:

Your brother, of Joliet, has been to see me respecting your debt to Mr. Butler, for which certain property was attached, proposing to settle the matters, &c., and I have looked into the matter with B. and Collins, to whom I said that I would propose to you as follows, to wit: That I would take from you an assignment of Tooley mortgage without recourse to you, a deed from you of the 26½ feet of the west side of lot 1, bl'k 24, and a deed of lots 1 and 7 in bl. 84, all in School Section, and what I could realize from the attachment beside, and release you altogether from your liability for the two lots, Mr. Butler taking the lots back, which are at present of but little value, nor are your three lots in S. Section all worth \$400.

I make this proposition on condition that Tooley's mortgage to Smith is no lien, or is paid, or on the conditions stated in your letter, that Tooley owes Smith but \$150, and that the mortgage is fraudulent, and that Smith will so state on oath when necessary, and in writing now; you remark in your letters that he so stated the fact to be to you.

The result of the attachment suit will be, of course, to convert this property to the payment of your debt due Mr. Butler, and still leave a large balance due from you, but if you please to convey at once that to which you have title, I will agree to have recourse to you no further than to perfect the title in the property attached more certainly, by conducting the suit to the end—but without any further personal responsibility on your part. I repeat, that if this was the only transaction between us, I might be disposed more favorably; but I have bled so freely in other bargains with you, and paid all money to boot, that you can't complain of my asking a good portion of what is due to me on this. And then in your settlement with Tooley, the money you had received of him on account of the sale of Kankakee lands, for mine and others' benefit, you applied to your own account. Surely, under all the circumstances, you can't but think my proposition to release you for what I have already secured to me, and Tooley's bond and mortgage to boot only, is very liberal and favorable to you. By the by, if you should accept my proposition, is Tooley's personal responsibility anything?

I should be glad to receive your reply about New Year, as I may go East after, and if any arrangement is to be made, might take Utica in my way instead of a more Southern route.

Very truly yours,

W. B. OGDEN.

Utica, Dec. 18, 1840.

WM. B. OGDEN, Esq.,

Dear Sir:

I have received no communication from you since Jan. 15, 1840. Have written to you twice since that time—wrote last, I believe, in October last. My brother, from Joliet, informs me that he has had some conversation with you lately at Chicago; that you informed him that you wrote a letter in July last for Collins to copy to me, (which I have not received,) in which you say, as near as he can

recollect, "Say to Doct. Haven, that if he will relinquish his title to what property we have attached, and give the Tooley mortgage, we will say even, withdraw, and give up the papers." Now if you made this offer, I will accept it, if the property attached is the following, a copy of which was sent me as taken from the clerk's office, with the agreement that Bela Brown have a deed of an undivided 160 acres from sec. 10 and 3, which he has nearly paid for, but a deed has not been delivered. This I mentioned before in my offers; justice requires that he should have this deed, and as there was something due, the deed was not given—a demand against him was good for nothing.

Copy, property attached in Cook county:

Charles Butler, vs. Simon Z. Haven. Simon Z. H

E. Fractional half of sec. 15 in T. 33 N., R. 10 E., and S. W. qu. sec. 15, in T. 33 N., R. 10 E. of the 3rd P. M.

If I understand this offer, it will differ from the one I made to C. Butler, and subsequently to you, in my letter, in this: it includes the 26½ feet of lot 1, bl. 24, of which I have a deed, free from incumbrance, on record. I have no interest whatever in the land in Will county which the attachment covers, by deed, mortgage, or otherwise. I have not a foot of landed property, nor a mortgage of one dollar, which has the remotest connection with any trade we ever made, or that was ever purchased with any money, or avails of money, received from you or Mr. C. B. The qur. sec. in 18 Will county, T. 34, I sold soon after I entered it; I received only part payment in cabinet work, and the remaining claim was long since relinquished. The other land which is mentioned, in sec. 15, Will county, was purchased for another man, with his money entirely, and I never owned it or any interest in it; he gave me something for the trouble, that is all. You will, Ltrust, answer this without delay, and state whether we understand each other.

Yours,

SIMON Z. HAVEN.

P. S. You will recollect that I received but a small part of the money you paid me for land; it principally went to Jones, H. B. Clarke, and Doct. Maxwell; it was mostly theirs. I made only one dollar per acre on that. I think you are mistaken in saying to my brother, that this was all one trade; the two trades were perfectly distinct. I took the two lots and paid you half a section of land towards them, and the other contract was perfectly distinct, and a cash trade afterwards.

S. Z. H.

Chicago, Dec. 31, 1840.

DR. S. Z. HAVEN,

Dear Sir :

Your favor of the 18th inst., written before the receipt of mine to you of the 11th inst., came to hand this morning.

I refer you to my letter of the 11 for particulars as to my proposition to settle with you. Your brother is mistaken in understanding me to say that our bargains were all at one time. I stated to him precisely what I wrote to you. He is also mistaken in the list of property attached.

The property attached appears on the writ as follows:

WILL COUNTY.

E fractional ½ of 15, 33 N. 10 E. S. W. 1 of 15, 33 N. 10 E. N. E. 1 of 18, 34 N. 11 E.

COOK COUNTY.

19-24 of Sec. 10 and of S. ½ of S. 3, T. 39 N., R. 12 E. Sub-Lots 1 and 7 of Lots 2, 3, and 4, in B. 84, School Sec. Chicago. 26½ ft. of W. Side of L. 1, B. 24, ""

The above comprises the property attached, and in addition to the inquiries and information asked for in my letter of the 11th, I want to know how it is that the title of each of the foregoing tracts and lots appears in you and unencumbered if it be otherwise. Were not the lots in Will Co. entered in your name, or a title made to you to them in some way?

Do you not know the sub-lots 1 and 7, of 23 and 4, in 84, in S. S.? Please give me the particulars in relation to each tract in your reply. Should you desire to close with my offer, you may convey to me all your interest in 19-24 of S. 10, and of the S. ½ of 3, reserving therefrom 160 acres undivided, &c.

Please reply particularly to my enquiries as to Tooley's responsibility, and as to the origin and present situation of his mortgage to Smith.

I am very truly yours,

W. B. OGDEN.

Utica, Jan. 18, 1840. (Should be "Jan. 18, 1841.")

WM. B. OGDEN, Esq,

Dear Sir:

I have waited one week since I rec'd yours of the 31st Dec. in hope that I should have an answer to my second letter, but as I do not yet obtain one, I will answer this so far as it requires an answer. I believe my letter contains a full answer to all your inquiries except what relates to the Tooley mortgage. I have stated to you the leading facts, in relation to that, in some of my previous letters. I have had no conversation with Smith or Tooley for more than a year do not know whether Smith has ree'd from Tooley the \$150.00 which he owed him or not; but I will take the first opportunity to learn respecting that or any other facts connected with that subject, though I have no expectation of learning anything that will alter the complexion of that affair in the least. A person has lately told me, that knows something of Tooley's affairs, that he supposes him to be worth more than \$10,000. He owns now, I suppose, and has always owned a large real estate—is a farmer, and lives on a large and valuable farm; so I am told. Before my settlement with Tooley I had a mortgage on this land in question, (3-10) as security; he goes to Smith and persuades him to take this \$2000 mortgage, enjoining secreey on him and the attorney, and then

comes to me and effects the settlement, giving me the mortgage, \$290.00 without a bond, which he afterwards boasted was good for nothing-confessing the trick which he had played, and refusing even to pay one cent on the mortgage. Esq. Carpenter, of Sangerfield, is perfectly acquainted with the whole transaction; we talked it all over before him after the disclosure of the \$2000. I asked him, I think in Tooley's presence, if it was not swindling. He said he thought it smelt hard of it. Smith had lent Tooley \$200, \$50 of which had been paid—for this Smith held Tooley goes to Smith one evening, after getting the Tooley's note. writings all prepared, and says, "Smith, don't you want a mortgage on my Western lands? Smith says, "Why, what for?" "You know," says Tooley, "that I owe you." "Yes," says Smith, "but I have your note." "Well," says Tooley, "it will do you no hurt to take the mortgage, and it may do me some good;" so Smith took the mortgage, without paying one farthing in consideration, or giving up the note. After this, in conversation at Tooley's house between Tooley and Smith, Tooley tore up this note of Smith's without Smith's consent. He complained of this, and Tooley says, "You need not be alarmed, Smith; you have this \$2000 mortgage." If I understand, I have complied with your offer in every respect, (giving no guaranty in relation to Tooley) in my last communication, with the exception of the Sub-Lots 1 and 7, Bl. 84, and what I have said in relation to these is simply this: you may have these, if you cancel the remaining dues on the lots. This is relinquishing my interest in said lots, considering the note in the light of a lien on the lots; this, I think, you will say is right. If this meets your views, and I hope it will, you will so inform me, and I will, without delay, make over interest in the property before mentioned.

Yours truly,

SIMON Z. HAVEN.

Utica, Mar. 11, 1840. (Should be "Mar. 11, 1841.")

WM. B. OGDEN, Esq.

Dear Sir:

I have not heard from you since 31 Dec. last, though I have written you since. I say distinctly in this communication, that I comply with your offer for a settlement in your letters of Dec. last, if you have not accepted with my offer conveyed to you in my last; and further, if you have not, I will leave it to your liberality, as to lots I and 7, in 84. If you can do anything as to the balance due Goodhue & Goodrich, for me, on these lots, I hope you will. You are at liberty to take possession of the property in question, and as soon as I can hear from you, I will make out the necessary titles to the land, and you can give up the papers in your hands.

Yours, SIMON Z. HAVEN.

Smith says, his mortgage and his affairs with Tooley, are exactly as they were when he first took the mortgage.

Chicago, 20 Apl., 1841.

S. Z. HAVEN, Esq.

Dr Sir:

I am in receipt of your favor of 11th March, and am glad that you accede to my proposal of the 11th Dec. last, for settlement of our affairs.

I shall go East in July, and will take Utica in my way, expecting to find you at home; will bring all the papers with me, and we will close the business, as acceded to.

Very truly Yours,

W. B. OGDEN.

P. S. Shall I find you at Utica, through the month of July, and when?

New York, Oct. 27, 1841.

DOCT. S. Z. HAVEN.

Dr Sir:

I neglected, in consequence of my illness, when we arranged our matters in Utica, to make the necessary memorandums, and forget all the particulars of the settlement. Will you please make me a brief statement of them, and direct to me at 20 Nassau street, N. Y., and if private opportunity offers, please send me the papers that you was to execute for me. I shall return by Utica, and go and see Tooley, as I proposed to you, and shall probably want you to go with me.

Very truly Yours,

W. B. OGDEN.

P. S. Have you written the parties interested, about paying me costs and recovering back their titles to the property you sold them, but of which sales no record appeared when I attached? I want their attention to that matter as soon as may be.

W. B. O.

Utica, Oct. 30, 1841.

WM. B. OGDEN,

Dear Sir:

In answer to yours of the 27th inst., I will reply: you take Tooley's mortgage which I have assigned to you, the sub-lots 1 & 7 in bl. 84, School Sec. to Chicago, and 26½ feet of lot 1, blk. 24, and I relinquish the two lots which I purchased of you, and you give up the contract which you have against me, which you said was in N. York. You relinquish to me, for Bela Brown, of N. York,

ï."

160 acres of the 960 undivided acres on the O'Plain river, (Sec. 10 and S. ½ of Sec. 3, T. 39 N., R. 12 E.,) owned as follows:

Tooley, 480 (Tooley would be subject to your attachment if his deed was not recorded.)

Dr. Meacham, 200 S. Z. Haven, 160 for B. Brown. Ozias Holmes, 120

960

This accounts for all the property attached in Cook Co. I had no interest in any property which you attached in Will Co. The E. fractional ½ of 15, 33 N., 10 E., and the S. W. ‡ of 15, 33 N., 10 E., I entered for my brother-in-law, and deeded to him long since. The N. E. ‡ of 18, 34, 11 E., I deeded 4 years since to Alvinza Andrews, of Waterville, Oneida Co.—this is all. I wrote to the persons concerned immediately after you left me—they can only wait for you to say how much each one has to pay to be released. You will please to execute to me the proper release from the attachment, &c. I think I can send your papers by private conveyance.

Yours truly,

S. Z. HAVEN.

Chicago, 8 Dec., 1843.

DOCT. HAVEN,

Dr Sir:

On the other side is a statement of the costs made and paid out in carrying to conclusion the attachment suit of C.

Butler vs. S. Z. Haven.

Mr. Holmes came to me and desired to purchase back his tract, and I conveyed it to him, he paying me \$57 37-100, as is stated on the other side. No other person has applied to purchase back any of the property attached.

If I receive within 60 days the \$116 43-100 disbursed by me, together with the costs of conveyance, say \$1.50 for each deed and acknowledgment, I will convey the property to whom you have conveyed it, that is, the lands in Will, and the 160 to B. Brown. But I will not convey it on speculation or to any other than the sufferers by purchase from you.

And if the thing is not attended to within 60 days, I do'nt propose to

continue the above propositions.

As to the lands on the O'Plane, I think a division had best be made

before conveying it to Brown.

How stands matters with Tooley? Is Smith's \$100 or \$150 mortgage paid? or have I got to proceed in chancery to show and prove the fraud attending the giving of that mortgage?

I had an impression that I did not propose to reconvey the Will county lands for a sum equal to my costs in obtaining them, but the Bela Brown tract (160 acres,) only.

Was not such the fact?

Yours, very truly,

W. B. OGDEN.

P. S. The \$3 bill you gave me at Utica was on a broken bank, and I have never got anything for it.

W. B. O.

Statement of expenses incurred in perfecting title to lands of S. Z. Haven, attached by Ch. Butler, to wit:

Paid Will Co. Sheriff's charges, "Expenses of search of records in Will Co., "Cook Co. Sheriff's charges, "Costs of Court, "Attorney's fees, Rec'd of O. Holmes,	133.69½ 57.37
Bal. of costs, Int. on same 3 yrs., 7½	\$76.32½ 13.92 \$90.24½
Add. exp. of Sheriff, deeds and rec. 3 deeds a 1.75 each and recording, a 1.50 each, Paid taxes 1841, Cook Co., \$5.25 " " 1842, " " 3.50 " " 1843, " " 4.00 " " 1842, Will Co., 3.60 " " 1843, " " 28.64	
Rec'd of Dr. Haven, 12.20	- 16.44 \$116.43

Balance of expenses incurred to perfect title to the above lands, \$116.43. Dr. Haven's credit of \$12.20 is made at \$50.00 in Co. orders, had of him, over amount used in paying Cook Co. taxes of 1843. The proportion of expenses can easily be proportioned to each tract from above account.

Utica, Dec. 21, 1843.

WM. B. OGDEN, Esq.

Dear Sir:

I was very much surprised at the contents of your letter, which I have just received, bearing date Dec. 8, 1843, (notwithstanding my journey to Chicago, and the great pains I have taken to see you). When you was here in Sept. 1841, I made a full settlement with you as far as I was concerned, and on my part I assigned a certain mortgage to you and deeded to you 3 lots in Chicago, giving up two lots as you know which had been in part paid for, and on your part you endorsed satisfied, (or your words were, "abandoned and at an end,") the demand on which you commenced the attachment suit, and you further gave me a writing in which you agree to release to me the 160 acres for Mr. Brown, and for which he had paid in part. Now I made this contract in good faith, and delivered to you the deed, and paid for the acknowledging of the same, and supposed that you would send me my deed as soon as you reached Chicago, which I am confident you agreed

to; this, I then supposed, and now suppose, was the contract; at the time, you observed that you should require of those persons whose lands you had attached, under my name, and in which I had no interest (as I had always told you from the commencement of your suit) that they should each pay his proportion of the costs, which you said were some 40 or 50 dollars. This demand I observed to you, I believed to be wrong and unjust, whether unlawful in Illinois or not I cannot say, and so I now think, though I say it respectfully. The land on which you claim costs in Will county, I suppose, are 6 lots, belonging to my wife's brother, in Sec. 15, T. 33-which I never invested one cent in, though I entered them for him in my name, and assigned the certificates to him, and afterwards gave him a deed, which I suppose was given and not recorded before the suit commenced, though I do not know when this was, exactly; and 2 lots in Sec. 18, T. 34, which were deeded to Alvinza Andrews of Waterville, Oneida county, N. Y., and paid for a year or more before the said suit was commenced. Mr. Andrews had a conversation with me on this subject last fall, when Martin Demmond of Joliet was in this county, and I understood him that he had appointed him or some other person to attend to this affair; he is anxious to have it arranged. I have written to Jairus Moffit of Perry, Wyoming county, N. Y., my brother-in-law, who lives 150 miles from me, and whom I have not seen since I settled with you in Sept. 1841. What he will say or do, I cannot say; I have observed to him that it would be impossible for me to pay the amount of cost which you require, and if I could, I did not think it belonged to me so to do. My agent, G. W. Woodruff, Esq., of Joliet, writes me that you "will give title to my 160 acres on the payment of my proportion." Now, is this so? If it is, I have totally mistaken your meaning heretofore? Was I to pay anything to entitle me to a deed of the undivided 160 acres of the Sec. and one-half (10 and $\frac{1}{2}$ of 3) free from any encumbrance? The writing which I have mentioned and which I supposed entitled me to a deed in the following words, "I hereby agree that the 160 acres sold Brown by Doctor Haven shall be released from the sale under the attachment suit brought against said Haven." Signed by your name, Sept. 22, '41.

This land had not been deeded to Mr. Brown. I had given him a bond for a deed and he had paid me only in part, and by releasing from the sale I understood that it was to be released to me, so as to enable me to consummate my agreement with Mr. Brown. If costs were to be paid on this, why was it released in preference to the other parcels. I hope when you reflect upon the subject you will not refuse to give me this deed, in my own name, as it can make no difference with you, if nothing was to be paid you on giving it, and this certainly was my understanding of the contract. You perhaps recollect that when we made this settlement you was sick, and was to start East, a few minutes in the morning, and that what was written, on that account, was extremely brief; that the deeds were made out afterwards. The money which I left for you was left for taxes on said 160 acres, and not to pay costs, as appears to be applied from the credit on your bill of costs, and I wish to have it retained for that purpose. If you did not so understand me, please inform me. You asked whether you agreed to release the land in Will county by the costs being paid. I answer, yes. I have learnt nothing in relation to Smith or his demand against Tooley. The writing on our agreement is in the words following: "In consideration of an assignment of a mortgage J. Tooley of a deed of 3 lots in School Section, Chicago, made to me this day, it is agreed that this agreement above written, between Charles Butler and Simon Z. Haven, is abandoned and at an end. Sept. 22, 1841." Signed by W. B. Ogden, for C. Butler. Now I was holding a certificate from government for said 160 acres, and if I had not supposed that the above endorsement and the release of the land from the suit as given above, would have brought it into my hands to all intent and purposes, I should not have given up additional property which I did at the settlement. I wish not to weary you, and I wish to be understood as writing in the kindest spirit. I am now poor and have no means for defending equity suits. You have the lots back, you have the (1600, 320 acres in Will Co.,) you have 3 lots which cost me \$1000 each, and the assigned mortgage, and are you not willing to give me or allow me to retain it, the last foot of land on which I have any claim in Cook Co., if Brown did not take it from me? You must not be harder with me as agent than you would be if you were principal. Mr. C. Butler promised me in Utica that he would not take from me everything that I had on that \$500 debt. If he knows what I have paid, I am confident he does not wish it. Should you do it, you wound me deeply. If you think proper, you will make me out a deed and leave it to be recorded, and apply the money I left your clerk towards future taxes. If otherwise, you will have the goodness to inform me immediately what is your determination. If the land is mine or comes into my hands, I will take for my share the ‡ of 3 next the river, which fell to me on division with Mallory-should you consent. Yours truly, SIMON Z. HAVEN.

My brother Moffit has a brother, and a small property which he accumulated by laboring by the month almost wholly. Please inform me of the date of the attachment suit.

S. Z. H.

Utica, Aug. 12, 1845.

WM. B. OGDEN, Esq.

Dear Sir:

I am glad to learn by Mr. Denman that you are probably in the city of New York. Now, will you inform me when you shall return, and whether you shall return through this city; and if so, will you call and see me; please tell me, so that I may be in the city when you come; it may save me a journey to Chicago.

I sincerely hope, after all the delay which we have had, and I hope I may say after all the mutual good feelings which have been exchanged, you will not refuse to comply with a written stipulation, which you made on our last settlement, as I cheerfully complied with every iota on my part, and had no doubt you would on yours. If no individual has redeemed any of the land held by the attachment, I do not see how that should affect the agreement, to give me a release on said 160 acres. Your exact words are those: "I hereby agree that the 160 acres sold Brown by Dr. Haven, shall be released from the sale, under the attachment suit brought against said Haven;" signed by you, Sept. 22, 1841. Will you give me this deed? Will you call at Utica and see me? Shall I make a journey to New York? I believe I have always paid the tax on said 160 acres, and have money with G. W. Merrill, Chicago, for that purpose.

Yours truly, SIMON Z. HAVEN.

P. S. Mr. Brown owes me note on this land some \$500.00. I have his notes for \$394.90 and int.

New York, Dec. 27, '45.

Dr. HAVEN, Dr Sir:

I wrote home to have accurate surveys and plan of divisions of our land made, to be submitted to you, but doubt if it arrives before I leave for Chicago, some three weeks hence.

You did not say in any of your letters whether you had seen Tooley,

as you proposed when we met at Utica.

I have a tax title to the land mortgaged by him, and shall hold it, of course, but had rather his mortgage to Smith were cancelled, and the one I hold given up, and his deed given me for the property, if he pleases to do so; if not, I think I shall file a bill in chancery, to get Smith's mortgage set aside as fraud. Shall you see Tooley or Smith, or had you best write them? Please let me hear from you about it before I return. Yours very truly,

W. B. OGDEN.

Bond for deed of 160 acres of land, from William B. Ogden to Simon 225 Z. Haven. Set out in the Record at page 58, and in the abstract, at page 15.

A deed from Samuel J. Lowe, sheriff of Cook county, to William B. 2261 Ogden, dated February 17, 1843. Set out in the Record at page 23, and in the abstract at page 7.

> A deed from Samuel J. Lowe, sheriff of Cook county, to William B. Ogden, dated January 15, 1845. Set out in the Record at page 25, and in the abstract at page 7.

> A deed from Samuel J. Lowe, sheriff of Cook county, to William B. Ogden, dated January 15, 1845. Set out in the Record at page 27, and in the abstract at page 8.

A decree, made on the 3rd day of April, 1858, which is as follows: That the complainants be permitted to redeem the premises in controversy, from the mortgage of Jeremiah Tooley to Simon Z. Haven, and assigned by him to said Ogden, and that it be referred to L. C. P. Freer, master in chancery of Cook county, to take an account of what is due to defendants on said mortgage for principal and interest, and for taxes paid on said premises since the assignment of the said mortgage, by Simon Z. Haven to William B. Ogden, and interest on the same from the times of payment thereof till the time such an account shall be taken by said master in chancery; and what shall be certified by said master to be due to said defendants, for principal and interest and taxes and interest, it is ordered that the complainants pay to the defendant Ogden within six months after the said master shall have made his report, and

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227

233

the same shall have been confirmed; and that upon such payment, the defendants do convey and surrender the said mortgaged premises unto the complainants, or unto such other person as they shall direct, free and clear of all incumbrances done by them, or any person or persons claiming by, through or under them. But, in default of such payment, ordered, that complainants stand dismissed from court with costs.

An order, made on the 30th day of November, 1858, that the name of L. C. P. Freer be inserted in the above decree, and that he carry the same into effect.

The report of L. C. P. Freer, master in chancery, dated June 1, 1859, was filed, June 15, 1859.

By which it appears that the amount due from complainants to defendants, upon said mortgage, principal and interest, for taxes paid and interest thereon, is

which sum is made up as follows:

Principal sum of mortgage debt,
Interest thereon for 20 years and 4 months, at 7 per cent.,
Taxes paid on the land in question, from 1842 to 1857
inclusive, with interest on same to Feb. 1, 1859,

Interest on last item, from Feb. 1 to June 1, 1859,

\$1,328

\$29

419

618

1

And that the master was of opinion that an order should be entered, directing the payment, by the complainants to the defendants, of the above sum of \$1,328.55, with interest from June 1, 1859, until paid in full, for the redemption of said mortgaged premises, as against the mortgage debt and interest thereon and all taxes and disbursements on account of said premises, and interest thereon up to said 1st day of June, 1859.

The final decree, confirming in all things the report of the master, was made on the 23rd day of July, 1859.

From which decree the defendants prayed an appeal, which was granted upon filing bond in the sum of \$1,000 within 30 days, with Mahlon D. Ogden as surety.

The appeal bond was filed August 19, 1859.

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265 1. Cliam B. O. Charles Butter Haven et al abstract Files May 4.1860 bunk

Carlos Haven and In the Supreme Court
Osean M George & Ottawa Illensis
215 15
William B Ofden & appeal from Cook
Charles Butler
Oliquement for appellus

This was a bile in Chancer hought in the Cook Count Court of Common Pleas by Maven Phose as grantees of Teremials Tooley is Ofder & Butte to redum a mortgaze made by Seremina wollhum having title to one Simon & Ma the 1st day of February ab 1838 on the underided hulp of See 10 481/2 of Sec 3 & 39m, range 12 E in the Caunt of Cook, to Lecun to said Simon I Maden \$290 with interest at 7 per cent payable in those your, intenst payable annually which morkage was recorded in the hearders office of Cook Count Left bet 1838. and was on the II do of lept 1841. assigned by the Laid lemon I Haven to the defendant orden who has ever lince held the rand - Refer the Commencement of the suit a proper tender of the amount hecepay to reduce was Mado to Ofden - This title about which there is no dispute was prosed by the

Camplainants on the trial or admitted by the defendants theas of itself sufficient to lutitle the defendant to a dieno of indemprion unless a walid defence was interposed by the difendants - The complainant to anticipate the defence, alleged in their bill that although Ofden putended to hold said land, by the pro-Cudings in a Certain attachment Rint Wherin Charles Buther was plaintiff and our Limere Moven defendant and also by tay titles, that he acquired such pertended titles ender Shoh Circunstaves and an Kuch a manner that they can he no defence, and are in fact-a fraund on the tights of Look Both the defendant and Letting up These pictende tette, as is to the Leite That part of the defende which rested Court luland was ahandaning and as a Candegaence no proof of the payment of the payment of tages was taken or read in evidence of them - and is thenfer desper of and not hefer This Court -The court helas considered the little by the attachment suit acquired by daw Ogden - as Constituting ander the Circum-Stance, Shown in the proof, no defence to the while sought by the complainants

to rever the princes. From which diens the defendant appendix to this court -

The objections which the appellant, ever for the reversal of said deone (it is below, by the countel for the appelless) have not hen Statell eether in their prented brup or on the oral argument before the Court in Luch a manner as to be fully undustind by the Court unless it possessed a most intemuch and accurate Runselle of the state of the cuso presented by the word -Heat to prevent any more derstanding as to the nature of the objections angel and comment them fairly are will state two propositions which it is supposed Cover all the objections made - and render them utilizable - 1st Ogdens acquired of the attachment Line must be regarded as a completedefence to the present unless some facts in a would render an en en ender which by the law Such title havaled against the Complainant, -2d-no kuch fact, an in evidence-Who first of there propositions the appel ilus admit - The Second they denyand found such derival on what is Contained by the record and to be shown

The appeller content first that it is shown by the evidence in the hoord that of den, and through him Buther had before the Commencement of the attackment- notice that Looley has purchased from Lemon & Haven the parente and dependant in the attach-Ment-the lands in Controucty -Looly Liveurs that in the Rummer of 1837. having purchased the lunds inthe Winter previous of Haven on his representation at Oneda Count My. In Cum to Illinois to look after them, and was recommended by an old acquaintance of his, a Mr Chall to call on Mr Ogden in lie theuto. as a propie man to get kin thede. Send diformation, and that he Losly did therupon Call on Mrs Ofder enform him of his purchase from Haven Jc, and that Ofden then Informed him in Substance that the sunhuse was a lufe one te All and of Looley to 6th Int added Sup 19-1 It is not pretended that he is enfracted. all that could be done in that dinor appearing to be this neighbors,

Who would Durear that from Goolies greneral aputation for huth and veracit they would not tections On asken, and Sing mon who Wanted Swear "that from his queeral upulation", alove they would not believe him on outh - while Luctures Michanics and farmers as hoperctable men as in Oneeda Cacenty. and could have easily have housed the humber to Recorded when it now per the expense) to & that Lasley apartation for truth and veracit was good twhich is the fuct tryoud all cuntounds) In his tistemon, he is explicit and his ludence is not to be fritten away E, the Supposition of Josetfulness -He was at the time of his interview with Ogden, a farmer resident as now in Ohuds Count and to him a This to the then almost for west was an andent-likely to make a dup and lasteny hupussion on his Memory and the things he then Law and Theren - The testimony of Goods it so arther

matural and probable, that it Cumon he destiliend Wheel was the position of agalen as the term this notice als given to him tes Groly -? Young buch from this time a little we be him on the 28 th of april 1836 as the atty in fact of Charles Buther of My. entreny into a written Ceentuck With Semon & Haven, the Same who entered the abole land our undereded half fatish es drow in Controvery, the Substance of which was that Hann agued to pay \$50000 for late 546 in Renzies addition to chicago - \$160000 of which was then paid hi land and the residue was to he paid in one and two years the after extents at an per cent, and upon know payment the lots were to be conviged to Maven -Du Es & ats 8 1-and going forward a little ser de Haven from Vhuda Co My. When he has Useded Sence Eng 18361 colors songing with Ogden about his Havens madely-to mut the Contract (See Haven, letter of how 26 1838 ab-35. and his our to 2d int ab 291 and proposing to Ofden often he had been Butter as the only are also controlled the claim to give up the lot, and this too

after Haun had seen Butter) and &dew telling Haven that he must do the list he Could by Selling land to to meet the claims, Lu aus to 8 aut at 307 and o pain Commencing the attackment Suit, (Du ab 98/2, and heating the claim thenofter in all uspiles as if his own - Throughout the whole of this continue hansaction of telling the Hingi lots taking other lands in part payment thinging the attachment, negotisting With the Lyn, Haum, Roth hefen and after Ou attachment. Ogden, & ogden alow is of the dest are from the to the Button he alus at hast the astern (not at law) but in fuch, to control and Collect that debt-from the time it was Contraded in 1836 tels the commencement of the attachment and during that time Gooly informed, as we Have hopen seen that he has haught the land In quistion of Haven now What only of law applies to these facts. On the Cuse of Loc new v Lee heres I White and Judos Cending cules in Equily page 149 (pt-1) the american aunotator says. " It is call settled and " the doctain held in the principal Cube and universally followed that notice

" thotice to the afect is house to the pun-"Cipal astor is well, 4 Wheat 466 " Lackson is Sharps of Toluson 163 "Lackson is alenstoro q Cow 13
"Lackson is Lock 19 alend 339
" Westernett v Huff 2 Sand. 98
" Griffith ve Grippith 2 Page 315 "Blair es Owles 1 Munguel 88 " This bell prevails whether the agency " he expressed or implied and hence when "land is conveyed to two partners en " Lakesfuction of a purhurthip debt notice "to one alile to Sufficient to affect hoth " Wathan is Wills & Cown 468. En " order however to prod a tes usult " the hotice to the agent must be in "the Course of the Kande two in which " he is acting on hebalf of his principal: " for otherwise it will have no legal or " makey Connection with the latter " Bracken a Miller 4 w 4 102 " Mart in Gahnestock & weith 489-In the same muson notice to a huster " Lepon his appointment will not after "a Subsequent purchase to him, before " his apprendment with the subsequentfurther by him on whalf ofthe Cestie " que Kust. Henry is Morgan 2 Binn dogy -Wird when better in the course of the

and when tween in this connections with "this limitation notice to an agent would " Leem ruther to be actual than Constructive "to the principal, for the act of the one " within the & cope of the agency are in point " of low the acts of the other and the prin-1 april Ceinot he shows to avoil "hurself of an interest a equino by the paid " of his agent in prejudice of the lights of " Third persons -" The question of the memory ofthe agent Cannot cut any figure, in a case When he houses the restree in the Caure of the hand action in a he is acting an behalf of his prencipul. If an agent? is employed as baky as Dusannah in Visham Shoundy and while about the the Ensings is in Jieri, about which he has been employed he receny notice Offe ding that kusings - is the principal to Skulk the ligal effect of that notice and preteries (whether how or halle) that his agent Carnot resuender from On Minute to another What is Told him Such a proposition when leciously lergo provokes a suile. and in Suggestion of ton the ten Memor and and ofthe agent would

and abled he was matinal of the notice well attended the matical workers after commenced -(fer bints on this Subject and also as to haw long and and what Car countimers the Leine Transaction may be continued Les openion of V.C. Wignam in Caro of Fullis or Reundi 2 Han 394 - Copibully ustudied in I White and Judor Tecas deng Case, in Equity Not 2 (pt-11 pay 140 and Subsequent -) The Cure of Hamilton ve Rouse I Joh & Expellant, and the oral algument of the appellant, and the only cure it is supposed Lo defends to - it is endert was mis-apprehends by them - hard Mardungh in Ochivering the specieon in that Case Aleys, "But of as in the present cure a man " agrees to purchase under limetation in a deed " Which make it mossery for him to look , buto that deed - and that due contains " hortals of Judgments affectingthe lands be "hus to agreed to purchase - he is boundly " those judgments, for he had a right to see " the whole deed under which he purchased " and thenfen mult-be taken to have been " the whole and must-consequently " In pusumed to have taken notice oferen " Thing Contained his the died affecting his purchases

Does it be observed that his Toodship sun "the purchaser is hourd of those performent, " pocities in the deed under altrich he hold," no distinction is made whether the Khichuser had head his deed or not nor Whether he remembered its Contents or not-The is having absolutely -True his stordship says bu the same openion by alay of diction - Sucha Ouse not heing hipen him If a man " purchases qu'estate aubre a deis estriche " happens to alate to land not compile " in that purchase, and afterwards famolistes " the other lands, to which are apparent little " (1) made independent of that das - the former " notice of the deed will not affect him " her the Lecond Transaction, for he was not " hound to carry his recollection those parts " of a dud which have no belition he was " then about nor to take notice of more " ofthe dies them affected his then purchase, It- will be sun on looking attentively to the dictamofhis lordship was only discussing the ligal effect ofthe purchase under the perst dud, as service. and that bee bear sur and that Whether the purchaser had ever known the Contents ofthe deco or him his Concluding

words an the parchaser was not bound to notice mon after deed chan effective his own penchase and of the phrase forme notice the evident means only the maked freet-there the remark, of his bordship read by the opportunity on at order ong clums, dista the Ranchaser has taken the former distant of the the land of the the state of the the the it as it may what meno-Org is Material or hot, it is futmitted that Ofden did not forget the notice given him by Gooly - at-the time it was given hearly ploods of the debt from Haven to Buther was several months past due, and auplied, and the debter a nonasedent, and if then, not actually insolved he hearne so soon them ofter; it may alith truth he said that the only hope of Ogden to muke that diet, were y mens of Havens property in Ollinois - per cumstances news to Ofden that llaven had sold 480 aous of valuable land would helikely to be forgotten -If Justin evidence of notice was needed it is supplied from the fact that Ofden before commencing the attachment text Searched the records to see about land has been Conveyed to Haven - Ku Hadens aus to 18th Ist. abstract page 32) and ha Lear ching must Have seen the mortgage from Goody to him: Haven had convige that land to Gooley.

You ledy by by den on the fractional part in object that the land in Having deed to Meach un then on heart on no hypotheses expect that he dearched the record, before the leave was made.—

again it is contended as the part-of The fract of the appeller the Hunen paid His debit afondin in for the relinguishing to Butter the lots for when the debt was Contacted and the \$1609 he had plaid on there and Conaging to Ofder the other lots in Chicuso and assigning to him thethorygage of Looly der \$290 an the land in question This Lettlement was agreed on tutween Haven and Ofden as early as april 20 1841 and Enfor progment has been entered in the attrohement Suit, and was candudo when the parties mel at Action in Sept 1841 Was this a full Littlement and Jany ment of the debt-? Hann Swears positively that it / su his and to the 14th ent- abstract 31/. Ogden an the Contany

now Contends that it was only a Lakespaction of so much ofthe dest- as Should remain after appropriating about 2/4 Lections of Other persons liends o Maw which is the most probable of these poletions? agden rest, his putentions entirely cipon his letter of Dec 11 th 1840. The in-Lists apon the Shirt letter of his bould It is true there is formething in that letter that looks like he cutended to please to Haven 160 acres of his, Madens land Quid des charge him from all personal leabilit - I to cudewrift himself by appro-Briation to his and are and hempit the resesse of the Cask and will County lands. But such a dishoust purpose sught not to be asculed to him without Clear and anegainocal evidence, Looking to the whole letter as explained by his Lubsequent Comspondence, it is Susceptible of a Construction Consistent with howesty and fair dealing The Comspondence for the Letternent of this debt commenced as early as how 2h 1838. In a letter of that clate Haven proposed to to Oflen to give up the \$1600. which he kind on the Olicago lots and exchange papers

Whilst-the attachment land flending in the Winter of 1840 Ogden Made a propasition to blances nother for the Settlement of this debt, which being reported to Haven by his leather, he on the 18 th of December 1840 wrote " My hotten from Lobet informs Me that he has had some Consendation with you lately at chicago, that you infor-Mid him that you wrote a letter in Luly last for Collins to Copy for Mc (which I have hot received in which you say that, as hear as he Our headlest, La, to Dr Haven if he will relenquish his little to What Inopens ; We have attacked & give the hortgage are will say even, within, and give up the papers, Now if you made this offer? will accept it if the following a copy of Which was Sent mo as taken from the Clarks office with the agreement that Bela Brown have a deed of an andwedd 160 acus from Sec 1043 Which he has hearly paid for aut-a deed has not her delevered I as then was Something due to deed was hot given ta demand against him ales goodfor nothing, here follows the list of the property attached Containing all that was cettached except lot- 17 in Ohicago - he then als. "If I understand this offer it will

differ from the one I made to C Butter I Lakequents toyou in my letter, in this, it includes the Ilya feet of lat-1 Block Its of which Thave a deed free from in cumbrance on lecon, I have no intenst in the land in will County Which the attachment-Covers, by dew, mortgues, or otherwise" - It will be Seen that the proposition Communicated to Haven by his bother, was to alenguist little to the property attached - (there is not a word about appropriating the peoperty of atten Men, and they were to lay even, withdraw and give up the paper", and although Ofden Corrected the Statement of Havens brother about other meeting he mutter no enternation at hatteres that this put of it is incomed, as will be shown presently. When Haren evrote this letter he had Not received Ogden, of 11th Recember 1840. In this letter Ofden Lugs he had Lind to Butterfield and Collins" that I would propase to you as follows toulet, that I would take frame an assignment of Loolup Moth gage without meante on you, a deed from you of the 261/2 feet of the west lide of Got 1 /3 c'h 24 ta dud of lots 147 in be 84 all in School Section and What I Corold realize from the attachment beside

I what your altogether From your leability for the two lots, Mr Butter taking the lots buck " . Now the appellant, entire releance lest, apan the words to wredy underseoud They it is contended embraced not and the land in question, but a section in will and a half Lection in cook besides. - The words What I could realize is pully bukget to two Constructions - They May Mean what he Could realize from Havens property - In the Dense the proposition was an honest one. and Cundittent with the offer communicated to Haven to, his brother and the Subsequent Canduct of the parties - the they May mean What he could realize from the property of other men - In this Leade the offer was a dishould-one, and inconsistent with the futteguent conduct of the planties - this of itself is Lufficient to condense the latter Construction In another part-ofthat letter he Leys" if you please to convey at once that to which you have title I will ague to have to course to you no further than to perfect the title in the propertial-an end tached mon Certainly by conducting the Sunth but without any further personal perpositioning By his attachment he would have paligue from the property of Heven the value of the 160 any or least the food due on thom Brown -

Haven is to concey that to which he had title anofer the parpose of Lecuring his little to it More Certainly Ofden would prosecute the heat to the end, The object of this andoubtedly wear that Ofden would prosecute the Luit to the to protect himself against incumhency done or suffered Du the 31 th of Dec 1840 (abchast 37 48) Ogden replies to Havens of the 18 the ofthe Sumo month Council, his hothers flatement of the level level on by adding to the list Loot, 14) in School Section Chicago, hut does not comet his hother, Statement as to the terms of the Settlement - He Lays' Should you chasse to close with my of a you may convey to me all your interest in 1/2 of lection to tof the 1/23 aserving then from 160 were underneld te" It will be observed that there is not one word about any thing but Havens intenstragter pleasing 160 acres acces Haven had us interest except the Looley mortgage and this & the agreement Haven was tolet Ogden have, -Haven in his answer of Jany 18 1841. (abstract 38 49 / Lays" if I anderstand, I have complied with you offer in svery respect (giving no quaranter in relations to Gooley), in my last communications with the exception of Sublot, 149 116 84. What I have have Said in relation to these is Limply this. you may a there if you cancel the bemaining dues on the lots

the the lots On the 11th of Ikarole 1841 (abshaot 39) Haven wrote to Ofden again. "In this letter I Lag distinctly in this Communication that I comply with your offer for a Lettlement in your letters of December last." you an at-liberty to take possession of the property in quete - Vas Laon as d'an hem fram you d'aile make out the Macpay titles to the land and you can give up the pape in your hands". This was before progrent has hewitake in the attackment suit. and if the papers went he given ap on which the said was founded it would put anend to the Sint - In his auseum of left 20 1841 (abstact 40) Agden Suys that "Dam glad you accede to my proposal of the 11th Dec hast for Settlement of Our affairs. Only a cent feely and will take letica in my way expecting whind you at home, with hing all the papers with mot are will close the Ensures as acceded to " Ogden treaty this as an acceptance of his offer of the 11th of Dec 1840, - mow there is a mistake - By this offer Haven was to canny his title to the attached lands in Cook, But by hor letter of the 31 of Dec 1840 Haven was to becieve 160 aous ofthat land, Havens acceptance then of Ogdens offer is to be taken as Haden lenderstood it, and that understanding is to be deter-Mind not by Cavilleng over the meaning of particular abords and phruses in a single letter hut le, the general feofer and tenor of the Whole Correspondent Here State, (abshat 87) & gleur offer to be as

64 Comminecuted to him by her hother, to be that if he Haven would relenguest his title and give the Looky mortgege Ogden abald Lay even, withdraw and give up the papers - In his andulu of the 31st of becember (abstract 37) Ogelen Cornects Havens anderstanding as to the amount ofthe lundy attached, but does not-Cornet his andustanding in any other propert after becoming of deur letters of the 11 the and 81th of December 1840, Haven repeats his ander-Standing of Ofdens tother by Stating that he Haven has complied with it in every respect in his last communication except as to Sublots 177 4 as to them he accepted with I amo huntations. Now the Campliance left to was that theat Haven should plenquiste this totte to the lands attacked, and that ofden we all belingaith the debt and give up the papier and I his letter of march 11 1841 Haven out does unconditionally what he has previous dono Conditionally. Haven owed Often Hatter a debt which he wished to pay and throughout the whole negotiation his attention was denoted chiefly to the pagment of the debt and have much property he weall have to give fer that purpose, and his attention was not attend ted to the Comet Meaning of particular words or phruses looking to the appropriation of atter

Mens property to the payment of his debe - The

leading idea which him is that he was paying his own debt with his own peoperty - and I paper word to show that this idea alus cunul, out in the Consumention after Lettlement & was that Haven an his part should relinquish tu lot parchased and the floor which he had paid on them; Convey to Ofden thru lots in Chicago & all his tette to 19/24 of the Cash lunds, except-160 goes, a which als nothing mon them the Looly Mortgage Thereon Jux290 / and that in Conseration thereof Ofder Should belinguish to Haun the debt-and give up the papers - Well, when they ment at letica in Septement to Carry out this afted an presently in agent, what do they do? Haven an his part belinguestes to Butter the two lots which he had purchased of him the Allow which he hasfail thenon - I conveyed to Ofder the three Olicaco lots, and also assigned to him to Kim the Looley Morkgay & in consideration thent Ogden acknowled Lates fuction ofthe debt on the back ofthe Contrad & delevered it to Haven - the sudorsenent on the houd is as follows " In considedation of un assignment of a mortgage by I Looly and a died of the lats in School Section Chicago made tony this day, it is a gued that the agreement above written between Chas Buther 452 Haven in dichas Suid and at an oud With Ogelen Sept 22 18411 2 leve Butter 18

Mow if Ogden deceived any thing more in payment ofsuid hand, then the above prouded recetul is not tree, and under the Magic words "What I can realize from the attachment," he Mound Our Lection of land in will and are of 19/24 tof a Lection and a half of land hi Cook except 160 acres, it should have been heited as a part-ofthe Consideration. But Ofdens Subsequent consepandence Thows that he looked to these lands alone only as a means of paying the costs, and of collecting the Garly Morkgage Then if there was nothing else in the case it would be evident that House intended the Settlement as he Swears as a full pregment of the debt and costs Rud that Opten Knew he to intended it But Havens evidence dispets every Shadard of doubt on this paint the says the Settlement was in Jakespection of the houd & attackment in full as he auderstood it and that he never con-Sented that Ofden Shauli asi the attachment to perfect title to property which he Haven had Conveyed away - (Lee his aus to 14 4 17 luts abor 31432) It is said the o checago lots were of little value - This assumption notes on the Statement of Ofden When he is tecking to dive what he con-Ceder to be a hard hargin an the part of Hanew. It-is also Laid that the love Hark caunty lands Well this assimilar tiels for of suppose

Luct that they even show off at the Shenffs Hale, for seems ablien in the aggregate amounted to about that sum - Every person Knows that a shriffs hale of land subject to bedeingtion is no index of its value - No inference then can be drawn from the value of the land subject.

Now Ofden himself in his letter ofthe Het De 1840 (abshact 36) Lays Juney under all the Cucumstances your court het think my prop-Action very lettered to where you for what Thank already Secured tomo and In oleys Mortgage todast only, is very lederal and haveauchte toyan, Moso for a make to take people to the teingloss Which had been paid on it I three other lots in Olicago ta mortgage fer \$290 them amounting to floor to hoot in Lakis faction of the Ralance of the purchase money may he very liberal their but Land, Mr Ofden Could not have the efficienty To sathat to take in addition to all that Sweln hundred and forty acus of valuable land in Will Hook Counties, assall he very tideral or fair - he could not mean any luch thing.

It when he says the weelt of the attachment that will be convert this property to the Sayment of your debt due her Butter that have a large halance due from you he meant

he met the property attached, which belongs to Haven and did not include the property helonging to ather persons that is the 1240 and of land that are also attached - He had notate time concined even of subjecting them to the Bayment of costs, that was an afterthaught -It agden has really heen to greedy for property and to unconscientions as to Insist in the Lettlement with Haven as one of the Conditions of that Rettlement that he Oden It sailed he allowed to proceed with the attach-Ment fuit and make about he could out. of the lands of other persons sold to Waven to them and the duds not a corder, motwethe Standing Haden and his area land was to he Aleased, have, in the name of common lance did he, after getting his allach ment title, Come to died hack, to Ofias Holmer, (ane of the Sufferery for the pulty consideration offor 3 his 3/24 after Cook Caunty lands hich off at the Shiriffs Inle ger \$200 an?" and aguen, how under Juch Circumstances Carne in to affer, on the pregnent of \$116 43 hing Costs intents and targer as he said, to affect to dud hack to the owners the will caunt, land, kid off by him at the sheriffs hale for \$60000 Lu Ogdens letter of bic 8 1843 abrhust 41.42 The agreement was not as

Lo heapetulate, Haven in 1888

peoposes to ogden to beling insh the lots

pen chased and the \$1600 paid on them in

Lakefuction of the halance then du

on them

Ogden in his letter of the 31 Dec 1840 Reforms Haven that his agdens author includes lots 124 School Section also, Haven in author his answer of Day 18 1841, to this and another letter of Ofden of Die 11 1840 States that he has in his purwas commencations Compleid with Ofdens offer as he Haven anderstoodit in every support with the exception of said lots 149 and that he night them also if he would concil the praint this Condition and accepted Ofdens offerencenditionally. This acustance of agolius offer was of course on Having continuation ofich, achien how heen so clearly announced that Ofden Cauld not have Medualutton

And that construction was, that Haven thank whing cush to Buther the lots pour Chased and the flow pland and them and county to Buther there other lots in Chicago and also assign to him the Yade, moregay, in assign to him the

Haven andertanding, shanda if he intended any thing mon, have to informed Manew. And to he informed Manew. And as he do so, he must be ander stand to have adopted or acquesced in Havens Canshiction.

If Ofden defined from Manew in the Canshuction appeter terms often perpased fittliment as they were armouned of Ham. he shands have given information often difference, he cause if other persons were texture to fray Maner in purposed to frage Manual have given information of the difference, he cause if other pursons were texture to fray Maners deby he are all he headle to them for the Manual the headle to them for the Manual the headle

Was not as the appellant, contend, hut as was not as the appellant, contend, hut as was as all Lay - was not believe hadour why offen is tilent about during hack Looleys land, he held it and literard to hold by the attachment the pro-Curings in the attachment suit, hut he cause he held Looleys mortgage on it condby during it back to him, to he wants have Cancelled that mortgage -

Licanto held it by the attackment; but his will a mortgage anifer on Norty and during it huck to him would have Currelled there.

Bishynge.

Thirds

Det as haw examino the effect of the Sittlement made between Haven & Ofden on the Construction Contended for & the appellents -This construction of that Settlement is sub-Standally this; that it was effected butirely by Comspandence Returnen Haven & Ogden, and Cancluded to for as it, terms were concurred on the got of Much 1841. the late of Havens letter then advised to Ofden - that it terms were in Substance - that Haven Should relief Weingaish to Butter the two lots he had pen-Chased of him, and otto flear he had paid on them, assign to Ofden the Ladley Mortgage, ded to him the lot in chicago, and he wheated from all personal liabelity an the debt, Which were the foundation of the attachement Quit, and have all the cask caunty lands in Which Haven had any cuterest / 160 acres undered, Chard from the attadement, which afteriously was to be prosecuted by ofden, for the purpose

form Haven !. where affects he of den was well acount of .

The character of Luch a husaction heeds no new definition. It is confessed a fraud-It is admitted to be Such, by the defendants, who however try to execuse thinkelves, and escape its legal conseguences under the plus that it is only à little one . Rather a hovel excuse in a court of Equity. and save also ellewhere, except in the Single custance, except colore attented vice attempted to cover its shame ancho the blea that the little illegatemate was kender and alieght. only a very served and !!! But does not the hold awawal ofthe paternity of the little one Create a suspecion of auterior intercourse and confirm the other evidence thaning that I gden when he commen and that attachment suit. larle Rnew Lealeys higher in the premises the attackment Suit had Leen apprized that the dedt had hun settlen off, the debtor released from pusoual asponsetility, and the going formed for the only parpose of making money out-of other persons lands would in not (author of rendering a pedyment I have dismissed the suit, on its

non lactus is the margin can quear, on

non lacdas" is the margin that gaids all this Class of Cases. and even if the the transaction had not been intentionally fraudulent, it would at hast he such a fraud in law upon the rights of the purchasers from Haven as to descharge then land from the attachment -When a cuditor releases his principal debtor he thirty discharges the Lecuity Nicholson or Revell 4 adolp & Ellis 675 Eng com Caw 11.1. 1 Story Egails Sundretion 498a Frote 3 This rule applies to all cures where a orditor has a light to collect his dear from the puson on proporty of another, whicher that Night-arises and of Contract or other ligal liability independent of Cuntract - This is so held as a general principle of equity, that he was has wilfully re-Casioned a loss, aught to hear it and not throw the Cansignena of his own wrong on the Shoulder of others - aldrich is Cuoper, Equity Eleading Cases Ad 2 pt. 229 notes Destin & these principles Goolege land was Clearly dis charges from the attachment. Ofden by the Settlement - not only wheater Havens per-Sunal hability, but also pleased too a ones of Hamus land - . St Shat land was Haven, for although he had cantraded to sell in to Brown yet her had not paid fer it - and Ofden agreed to

I did afterwards actually conget him. In the case of Micholson & Rever above upon to the curron held two holes against-a punciful from par leurs of solor and faul, and apon the payment of a seen of money by the principal less than the amount of the lister, he gave apone of the Samo anderess from the other the ham of the principal his Same 2/5/6
Same of the fand of stained the note shawing steerly a char intention to hold the security. aut the court held that the Security- alas discharged - X and although the outhorities in the baoks may be Conflicting whether by the discharge of and funty another is discharged in toto or only pro tanto there is no confict in the author, in aspect to a discharge of the the personal dibles operating the surety in toto - absolutely from all liability In the case of Laylan Roy & Maris & Rawle St. Sargent I in delenering the opinion ofthe court Ruy " An over- which is perfectly legal and sunscent in itself May he como improper if the part has notice that the the lights of these persons may be impaired by it, as if a covenantor or reluxor is apprised beforehand that a partion of the land is hound by a Judge acut morking in fann of another purson, and that if he discharge a different partion, and reserves his lieu against the fant haund by the mortgues, thus loading it with a drable tanden, ota claim after mortgage will he La sifiad by his privily 2 It is manifest that,

thus it is inegictable and aufair, that he should do an act Nohentaris producing these consequences. Die ater tue at alienam non lacdas. - Thus in an analogous care a puson may huy a title few from all Lecut trusts, but if he has notice of a trust although he may pais his money, Equit, will make him the truster for the part-beneficially intensted" Citul in I Ceading Cases in Eguity pt 1, 227. and further an in the same page it is said " Thus it Was decided in Steven v Cooper I John Chy that Where lots of ground bound by the dame morking wen told to different purchasers a reliase ofono ofthe lots was a belower discharge protante of the atters, for the manager could meether he entithed, to throw the hurden ofther whole debt on one of the parchasers nor to unow the other liable to a Suit for contribution to the pergment of a debt Which has been released - This case was followed en Covernear v Loynoh 1 Paige 300 and Genion v Grapp 6 do 35 andly the Supreme court of Pennsylvania in Parton vollanier 1 Jones 312 when it was deceded that a mortgage against a purchaser of part of the morkgaged premises, after having released a labreguent purchaser of the residue" - " and the general principle that an encumhanon that woh very the rights of the owners of the lend encembered as between thembelder. and that if he does so the loss will be thrown on him

Was adopted by the Cucait Con of Mussachusetts
Parkman & Wilson 19 Pich 231 11

Sauthy Sich it, for the rake of the argument lie, that by the livey of the attachment in Dotohu 1839 a valid lien was on ated on the lands in Controvers, that this ken was any an incepient, inchaste and imperfect the phot, that might or might not ripen but a title, and might he wained like ather should like ather should like ather should like a title should be prosecute and hair it—

The attachment which was to see an the facentation that the lands attached helment to the standards.

that the lands attached belonger to Haven-Agden was apprised were hot Havens lent will when agy it has padiment has been rendered on its debt were in fact Lasleys, - Thanking this, in the Settlement with Haven he takes from him The mortgage from Lady an the same lands and puts himself in Haven place in propert to that mortgage - how Haven parition was such hath uspect with mortgue and the det to Butter, that he aught to have notinquished the debt and the attachement lien on the land, he did extendent the det, and the holding & deturing the lieur to be asserted against and as by that he consented to tender the Lady mortiful

as the creditor and holder opethe attachment lien, he could not in the Lettement of the debt on which it was faunded in part payment thereof, take the Yade, morkguse an the same land, without at the Lame term virtually waiving and abandaning, Lo Las as the Morkgaged land was concerned, the attackment liew, and agreing that therefore those land, went to be held by him Lablerwient to the title of the morkgager—

The tette by the attachment was diametically

The title by the attachment was diamentically opposed, to the title by the mortgage, and could not could not carried in the same person, and one must go to the grant-and as a consequence the acquestion of the mortgage taken in part payment of the debt-for which the lands were attached clearly indicated an intention on the part of officer to waive and abandon the attachment to far as the lands covered the mortgage arem concerned

If the lands Wen Rubget to the attachment the mortgage would be extensionshal by it and be worthless. Then why was it purchased, taken in part discharge of the allachment debt -? If the Mortgage was to be regarded as any account whatever it cauld be so out because the attachment so far as the Mortgage land, were concerned was to be waived and he do for in the waived

This is not the lase, as the cause for the appellant, Suppose, of a cuditor Kaning an elder and a funior hum on the same premises both of which may well exist at the fame time - Meither is the effect of the acquisition ofthe mortgage by again tohe discussed (as the appellant, have attempted) huder the Supposition that it was acquired by him after the sale under the attachment. In Substance and fluct it was acquired, when The agreement for Lettlement between him and Haven was Canduded, which was before Ofdens That it was the cutention of Oflew to waine land cover of the mortgage, at the time he aging agained it from Hower We theat is abandantly Shown by the record - In his letter to Haven of the 11 1840 he Lays "I make this proposition on Caudition that Endeys morkgage to Smith" a pier him an the same premeter "; no lien or is paid, or on the condition stated in your letter that Laster ower Smith heet \$150 Ve (alshact 36) In his heat letter of the 31 Dec 1840 he inquires about Loolup responsibility personally their Please uply particularly to my engains as to Ladys personsedilety and as to the origin and present Reduction of him mortingente Spritte ". Del

a liquide of the world Courspondence he manifelt, a great and Cantenew auxiety about that Smith Mortgay, perfectly hurnless to him in the way if the he was halding under the attackment, but in his way as a pieor him if he was holding under the Mordyage - In his letter of dec 27 1845 (abstract 45) he sup the " you did not say in any of your letters whether you had keen Lasty as we peoposed when we met at letila-I have a true title to the land mortgaged by him, and shall hold it of Course but has rather his morkgage to Swith were Canadled and the and I hold given up and his died given me for the property if he pleases to do so If not I think I shall Like a hill in Chancer to get fruiths morkers Ach akide for fraud to . This letter was written almost thru years after he got his attachment deed, and it will be obreved that nuther here nor elswhen in his com-Spendence does he ever claim or flutend to Claim that he is holding the Morning I land and the attachment lette - If he even had a lien on these lands by the attachment he wained in the Letthment made with Haven and he acquired no right he, the attackment sin -and one duny wained in never levined Holding the land then as Mostyagu

Masky it hight he show if deemed Maskey that he cauld not let up an advice acquired after the acquesition of the morkgage title to defeat the bedenption.

I spence Eq. In 654. 65% - 1/18/9) bottom, 808. 1pin It is not deared that as mortgage bylew Might, had it here markeys, have purchase to pestot the estate of the morsegre, have purchased in on authorizing little or incumbrance, to he held not fer himself howing hut furthe Morrison and general in the purchase of the expense incume in the parabolation of the ap in that way by the defendants that Is an advention that of an advention of the parabolation of it are allowed in the appendix one advention of its propertion of its propertion of its propertion of its propertion of expenses.

In Conducion; It is Lub mitted that if either ofthe four positions taken by the either of the Appeller, in this ergament are tenable, the attackment title in the hands of Ofden is invalid as against them, and the decree below Cornet IM brown

205-104 Wim to Oden & Chares to when Carlos Haven 7 Imhoven argument of Filed May 11,1860 Le Leland Clust STATE OF ILLINOIS-THIRD GRAND DIVISION.

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Supreme Court thereof, April term, 1860.

WILLIAM B. OGDEN and CHARLES BUTLER

CARLO HAVEN and ISAAC M. GROVER.

The defendants in error filed their bill against the plaintiffs in error to redeem the undivided half of the south half of section three and of section ten, town 39 north, range 12 east of the third principal meridian from a mortgage executed by Jeremiah Tooley, in 1838, to Simon Z. Haven, for \$290, and which was assigned by said Haven to said Ogden on the 22nd of September, 1841.

The plaintiffs in error deny the right of the defendants in error to make such redemption, on two grounds—

1st. Because the plaintiff, Ogden, as they allege, has acquired an absolute title to the land under certain proceedings in an attachment suit, commenced by Ogden in the name of Butler on the 11th of Oct., 1839, against Simon Z. Haven; and

2nd. Because said Ogden bought said land at tax sale for the taxes of 1841, and procured tax deeds for the same, which they allege constituted claim and color of title made in good faith, under which they say Ogden paid all the taxes assessed for more than seven years.

It is admitted that the defendants have a right to redeem unless they are barred by one of these causes. I propose to examine each in its order, and

1st. The claim of title under the attachment.

The writ of attachment was issued Oct. 18, 1839, and was levied on the land Oct. 30, 1839. It does not appear that the Sheriff filed any certificate of his levy in the Recorder's office. Judgment was entered in the attachment suit May 7, 1841, and execution issued June 28, 1841,

under which the Sheriff sold the land to Henry Smith, who purchased for Ogden, July 22, 1841, and the Sheriff, in pursuance of said sale, conveyed the land, Feb. 17, 1845, to Ogden, and the deed was recorded June 17, 1845. Haven conveyed the land to said Tooley Dec. 16, 1836. Independent of our recording acts, it is clear that Ogden, by the foregoing proceedings against Haven, could acquire no title to the land, because Haven had parted with all his interest prior to the institution of the attachment. But it is insisted that as Tooley's deed was not recorded, and Butler and Ogden had no notice of it until after the levy of the attachment, that Butler, as a creditor of Haven, acquired a lien on the land, and that Ogden is entitled to hold it, as a subsequent purchaser, under our recording act.

Ogden acquired no title, first, because he had actual notice of the conveyance by Haven to Tooley prior to the institution of the attach. emnt. Tooley gave him that notice in the summer of 1837, whilst he held the claim upon which the attachment was founded, and of which he was part owner; and being acquainted with Haven and the land, the information so given him would make an impression that he would not be likely to forget in two years! Besides he must have had actual notice. by an examination of the records, of the mortgage from Tooley to Haven, and that was sufficient to recall to his memory the information previously given him by Tooley, and to put him upon inquiry. Ogden told Haven that he levied the attachment upon all the lands which the records showed had been conveyed to him and which he had not conveyed away; and of course as he was searching the records to see what lands had been conveyed to Haven, he must have discovered the Tooley mortgage; and the fact that he wrote to Haven inquiring who owned the land shows, at least, that he had reason to suppose that they did not belong to him. There is nothing improbable in the statement of Tooley as to the information which he gave to Ogden, and the attempt to discredit him is, as the Court will see from the evidence, an entire failure.

> LeNeve vs. LeNeve, Equity Leading Cases, vol. 2 part 1, 139, 142. 140. 141. 149. 150 & Cuses Then Cited X / Stevens vs. Cooper, 1 John. Ch., 430; Gouveneur vs. Lynch, 2 Paige, 300; Gwin vs. Knapp, 6 Paige, 39;

Paxton vs. Harrier, 1 Jones, (Pa.) 315; Howard Ins. Co. vs. Halsey, 4 Sand. (sup.) 570;

Baker vs. Briggs, 8 Pick., 129.

But it is not denied that Ogden had notice of the said conveyance to Tooley long before the said judgment was obtained. In the answers both of Ogden and Butler, they say they had no notice prior to the institution and levy of the attachment. A creditor within the meaning of the recording act, is one who has instituted such proceedings as give him a lien on the land. That lien is not acquired by the levy of an attachment, until a certificate thereof is filed in the Recorder's office.

Jewett vs. Palmer, 7 John., 67; Gaty, Cune & Gladsby vs. Pittman, 17 Ill., 21, 22; Martin vs. Dryden et als, 1 Gil., 217; Story vs. Windsor, 2 Atk., 630.

these case refer to a paint made an mast p Que marked Thus &

And as no such certificate was filed in this case, no lien was acquired till the entry of the judgment, and it is not denied that Ogden had notice of the conveyance to Tooley before that time.

Brown et al vs. Welch, 18 Ill., 346.

But if any lien was acquired on said land, it was discharged by the settlement between Ogden and Haven, agreed to on the 20th day of April, 1841, and consumated on the 22d day of September, 1841. The settlement was, in fact, made before the judgment was rendered, and when it was consumated, Haven did not know that the attachment had been prosecuted to execution and sale. Haven swears positively that it was a settlement in full of the attachment suit and of the bond upon which it was founded, and that he never accepted any proposition in the letters of Ogden as the same is therein stated; that he never, in any manner, accepted his proposition that he should use the attachment suit to perfect title to property which he had conveyed, and which he understood to be the meaning of his letter of December 11th, 1840. And in this he is supported by the circumstances and admitted facts of the case, as well as by the presumptions of law arising on those facts and circumstances.

1st. As to the facts and circumstances: The suit was brought to recover part of the price of two lots which Ogden had sold to Haven, and upon which Haven had paid \$1609.00. Ogden considered his proposal to settle this balance very liberal and favorable. This liberal and favorable proposition, according to Haven's understanding of it, was that Ogden should retain the \$1609.00 paid, as well as the lots for which it had beed paid, and should also have three other lots and the Tooley mortgage. But according to Ogden's present pretensions he was to have, in addition to the above, two and one-quarter sections of valuable land. Ogden, five days after the settlement, had forgotten its terms, and for a long time afterwards did not claim anything more than the costs of said attachment. By the settlement Haven was to have one hundred and sixty acres, being all that belonged to him of the attached lands.

These are the facts in the case. The presumption of law is, that Ogden and Haven, in making said settlement, acted honestly; a presumption altogether inconsistent with the pretension of Ogden that he gave up to Haven his own land, and took in payment of Haven's debts two and one-quarter sections of land belonging to other persons. This pretension can only be sustained on the supposition that both Haven and Ogden intended to perpetrate a gross fraud upon the rights of other persons. If the transaction was as is sworn to by Haven, then the parties acted in good faith; but if it was as now pretended by Ogden, it was such a fraud upon the rights of others as renders it utterly void.

1 Story Equity Jurisprudence, sections 333, 633 and note 684 a, 638, 324, 325, 326, 498, 499 a, 499 b. 2 from the substant 215, 16 2 white Years 32). (fet) and crub then cit

Haven, in his letter of the 18th Jan., 1840, (1841,) to Ogden, speaking of his former letters—"If I understand, I have complied with your offer in every respect (giving no guaranty in relation to Tooley) in my last communication, with the exception of the sub-lots 1 and 7, bl. 84, and what I have said in relation to these is simply this: you may have

Lu authority referred

hese if you cancel the remaining dues.

This is relinquishing my inter-

they should each pay his proportion of the costs, which you said were some 40 or 50 dollars. This demand, I observed to you, I believed to be wrong and unjust, whether unlawful in Illinois or not I cannot say, and so I now think."

Now suppose the bargain had been that Ogden took the Tooley mortgage and the three lots in full payment of the debt, except the costs of the attachment, \$40 or \$50 as he then stated it to be, or \$186 as he stated it in Dec. 8, 1843, and that he would release Haven and his land from the payment of that part of his debt and collect it out of the lands of other persons. There was due to Haven from Brown on the 160 relinquished to Haven, \$500; that amount was justly and legally subject to the payment of his remaining debt of \$186, and to relinquish it to him and collect the debt of other persons would be fraudulent.

It is very evident that Ogden did not claim the Tooley land under the attachment. Why, if he did, his great and continued solicitude about Tooley's mortgage to Smith? That mortgage could have no effect on a title derived under the attachment against Haven. He enquires, Dec. 8, 1843, "how stands matters with Tooley? Is Smith's \$100 or \$150 mortgage paid? or have I got to proceed in chancery to show and prove the fraud attending the giving of that mortgage?" He writes to the same effect Dec. 27, 1845. It is true that in this last letter he claims the land as his own under a tax deed, but does not intimate that he claims it under the attachment.

2nd. As to the claim and color of title, &c., it is sufficient to say that there is no proof that Ogden paid the taxes for seven years; and if he had paid the taxes and occupied the land, his possession would not have been adverse to the title of Tooley. As mortgagee he was entitled to the possession, and whilst the relation of mortgagor and mortgagee continued, neither of them could do anything to the prejudice of the other.

2 Spence Eq. Jurisdiction, 654, 656, 668 and 807; Bakestraw et al vs. Brewer, 2 P. Williams, 512; Foster vs. Marriott, 2 Ambler, 668; Godfrey vs. Watson, 3 Atk., 518; Choteau vs. Jones et al, 11 Ill., 322; Voris et al vs. Thomas, 12 Ill., 444; Ralston vs. Hughes, 13 Ill., 481.

The purchase being by, and in the name of Smith, even if he had purchased for himself, can make no difference.

2 Story Eq. Jur., sec. 1264; Kennedy vs. Daly, 1 Sch. & L., 379; Armstrong vs. Campbell, 3 Yerg., 231; Oliver et al vs. Piatt, 3 Howard, 401; Nolen et al vs. Gwyn, 16 Alabama, 727.

The such was brought in aph time.

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11 Wheatout 56,
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United States of America &.

Slead before the Formable the Judges of Superior bount of Chicago within and for the Country of book and State of Illinois, at a require term of David Superior Court of Chicago, begun and holden at the Court Stouse in the City of Chicago in Said Country and State on the first moracy being the fourth day of Judy in the year of our Jora on thousand the Court day of Judy in the year of our was of the Underpudence of the United States if Chemica, the Couply fourth

Present Show How: John M. Victorio . . . Chief Justice of Superior Cours of Chicago.

Now Ab. Miggins and Grown Goodish . Charges.

Calos Manew Prosecuting Otherway

John Gray Shoriff of Cake County.

Matter Chimonto Cake,

Be it unembetted that heretofice to wif on the Swanty third day of Sanuary () D. 1836 came backs Marce and March of the Greek of the Greek of the block of the block of the block of the block of the bout of bommen Deas, then Certain Bile of Company of the Chancery pide thereof, "Thirth paid Bile of Complaint is in words and figures as follows, to wis.

"To Hw OHm!: John M. Wilson, Juage of the bounds bounds bound of bommon Pleas of the wood State of Meiners, in Chancery Dittuis:

Stumbly Conficiening place auto your Horor, your braken barlos Hauno and Isaac In. Grover both of the State of Alumis Heat heretofore to wit, no or about the pirth day of May A.D: 1836 one Dinon y. Staven 16 w a resident of the Blato of New York purchased of the United States for the consideration. of Ono dollar and twenty fine Cause per acre the following to described tracts of Land Situate in the bounty of book aforesaid to wit, Dection View (10) of Township Therity nine Morth, Range Twelve East, of the third principal meridian, and the South half of Declino Anne of the pame Township and Range and received from the United States a proper berificate of gaid to purchase - and that afterwards in or about the discrete day of December Q. D. 1836 the paix Somer in the worte Consideration of the pum of \$ 2550. pola le one Verenicale Dorsy there and now a resident of Ornida County, State of New York One undivided half of said Lands and there transferred and conveyed the same in fee to paid Troley by Dead of Generals

Howanty duly executed and delivered by Good Hown to paid Forty. The how said Deed is hot, and after the most diligant search or carned be found, so that your Craters cannot gue a Gry of the same. Clust that afterwards on or about the first day of February of D. 1838 the said Dooby made his certain Industria of to mategrage bearing date the day and year last aforesaid to the said Simon y. However, to him the fragment of Two hundred and mining delars in three bounds Clomat fragments to be made from the first day of February 1838 with annual witness from said day at Swen for but and delivered the same to the said Have be delivered the same to the said Haven, who coursed the said mangage to be been in the Recorders Office of said book bounty on the by day of we September 1838. A before whose of logither with the builficates of acknowledgment and person is houter attached marked Eacheri a colored and made a fact level

Incl your Orasons Swisher show that afterwards in the Swist day of Getober 6. D. 1839 Fasents were isomer by the United States to the said of Sand producted by him as afreesaid Which Patents were prove Months, afterwards delivered to the said Haven but were not research not accepted by him till long after the Communicament of the attachment suit forcewaster mentioned, nor lile long after the long herein after wo mentioned of which Patents before an horte attacher, marked Evelicits B and b. and made a from hereof.

Anow your Orators further show that by peason of the furnitio the paid Tooley because parged in few periple of the undivided one half of the whole of the Lands so purchased by the spaid Haver, and the absolute owner of the said purplet

matgage which the said Hooley had made to one Hogelicht b. Smith and awred and held by your Orator the paid Grever auco being so severa afterwards the said Proley on the 29 th day of September of D. 1865 by his Deed of that date duly executed and delivered, conveyed the said Lands so puchased by his as afores and to your Orators. a forpy of which Deed together with the bedificate of adherwledgment there is to hard attached marked the bedificates of adherwledgment there is to hard attached marked to the bedificates of adherwledgment there is to hard attached marked to bedificates of adherwledgment there is to hard attached marked to be bedificates of adherwledgment there is to hard attached marked to the bedificates of adherwledgment there is to hard attached marked to the bedient D, and made a feat hereof.

And your Oralno further show that before the Covery and of the Daid Dodley to your Graters as africaid on the Dand day of September A. D. 1841, this paid Bimon y. However assigned without precourse in him also his right title and interest in y to the paid Dreaty to him, to one William B. Ogain of the boundy of book and delivered the Same to him, who now plate holas the Same.

And your Gratus further show that the said Villeaux B. Egana well flurwing that the said John of How had sold this worked by him as afreen to the space of Soley as afreed and that the witnest of said Tooley was not subject to attachment for the duty of said Have for the said Tooley was not subject to attachment for the duty of said Haven, and that said Ham had preserved from said Tooley the acome many afree aforesaid for the said for the said Janus yet turporning and vitending frauduleutly to acquire to himself title to said Cando yet one beards, and having in his houds a claim belonging to one beards Butter of the State of New York (and for whom the said Egan was then actual as against the said Simon y. Haven, and having first in order to concent his

intended operations informed the paid Haven who was then a receident of the State of New York that he should be ful to no house about paying paid claim but might pay it along as he could, in the moulone perhaps pelling some of the Lots from the Date of which by Dava Bulled to Dava Haven the gaid to claim had originated, the better to accomplish his para fraudulus culent and to cheat and defrance the saw Tooley and his legal repredentatives and others, and without the Knowledge of the said Buller, on or about the Elwark day of October to, D. 1839 and luforo Min para Palento enero deliversa lo Min para Haven or teamor or alexplice by him careed a duit in affactionant to to withtuled in the Circuit Court of paid book bounty on the law pide thereof in favor of the said Butter as Plantiff, and against the Dava Dimon, y. Howen as defendant, and professing to act as the Citionery in fact of the Daw Charles Butter to the Daw Cleventh of Betoler, files his the paid Ogdens Officiaris in the Office of the black if said bourt therein Outling forthe aurong other Things that The said Simon if . Howen was then madebled to the said Charger Busser in the Jam of \$4,540. being the amount there claimed to les du from the said Hanew to the gaid Butter on artain Otheles of agreement under the perpetues hours and Deals of this para Harrow Dearcing date the 28 1/20 day of April a. D 183h, by which paid altholes of Egument the said Butter Covaranted to pole to paid Haven Jots no & to wo Block no 14 w Ringer addition to the Tour of Chicago, and wherein, as it is pot forste un paid Officiant, The said Have agreed and coveranted to fray to saw Butter therefor the power of Sounders hundred dollars in the 28 th day of April 1834 and the feather

of Seventen hundred dollars on the 28th day of Copie 1838 with unserest on the whole from the date of Daid agreement at low for bent, and we which paid afficient it was alleged that the paid two payments had not been made by the poid Hoven and that logalluro with the witerest there was then and thereon the Dune of Four thrusand five hundred and forty dollars and thereupon the said Copden 16rew files a Certain Attachment Bond his paids Office purporting to be executed by the paid Charles Buller by his Alterary in fact the para Ogden as principal and the paid Ogoin as preurity and thereupon their cauted a That of Alfochuses to be cosed by the boart of good bourt in former of How paid Bullet and against the Estate of the paid Simon & Howen who was the Defendant Murein; Ithick paid Writ bore date the 18 th day of Corober 1839 and was then and thereby The Daid Milliam , B. Ogden delivered to the Shriff of Daid boot bounty to execute and was afterwards petured to the said blacks Officer by paid Sheriff willo the following Indorsament made thereon by Jana Striff "Executed by attaching the to following de cribed property of Sim on. 7. Haven OEP. 3015 C. D. 1839 - 2/1/2 feet on the West 1/3 of West piac of Got 1 Brook 24 School Section addition to Chicago also the 19/24 part w undivided from Seetin 10 4the South half of Section 3 Township 39 north Range 19 6 ast of the Hrow puncipal Meridian; a Much paid levy was made by the paid Sturify at the instance and request of the pain Egaen auco by his directions, and after words by the procurement of the Daw Egden there having been publication of notice in paid cause, on the 31th day of morch

Oliveles of Eigenmut numbered in the Officianit of the said Cogan luxuisefore referred to as the Jobs and organit of the said Cogan luxuisefore referred to as the Jobs and only causes of action in said altroducent sait, and that afterwards to unt or the of the day of may Op. I. 1841 the paid Cogan causes push proceedings to had in paid said that among other things a Suagnout was readired against said Decadant who had more been sound with freezes nor entered his afficient who had more been sound with freezes nor entered his afficient with had more for the said said, and south of son the said suit, and for a special Event of said which of the lands uttained in said suit, the brains contained in said suit, the brains as deresaid the whole of this said more claused by your Bratos as aforesaid before of which proceedings, and three publication the brain said suit sured said that sured and marked south first and such made at fast sured and marked south south sured and made at

And your Grotor further plane that afterwards to wit in the 28th day of Inwo B. D-1844 The Sava Grown fraudulavely coursed tower than to be colored out of paid bout, derected to the Shrift found book bounty to severate, upon the fungement afree vice was delivered the pame to paid Shrift with three finits to we ento the same of the save of the save of the save allocation as afreedown, and afree and the fraudulant intent afores aire, the save of the safe he bear to early out to be approved by faid thereif one of the approved property law, to approve and value a fair of aire faid Cando attacher, to with the save and which to any out the save and and and are the save by Sava thought, and chair ast as one of the approved be made by save Shrift, and chair ast as one of the approved to make such approaches to make approaches to water as one of the approaches to make such approaches to water as one of the approaches to make such approaches to water made as a property approaches by the straight in the same approaches to water as one of the approaches to make such approaches and as will more form approaches by the straight make approaches to water more form approaches to the same of the approaches to make approaches to make a contraction of the approaches to make the approaches to make approaches to make a contract the approaches the same approaches to make the same approaches the

Said Execution and the Entitleate of Quid approximent, under the howo of Jard Ogan alfasted thereto, and afterwards to wit on the 220 day of July a. D. 1841 the pair again procured the pair Shoriff without advertigement to make Sate wider Jaio socation of the lands last aforesain and at the Date thereof trocured one Henry Smith a man thus without means, and no the Jaids Ogació emperment, and intro also had notice of the pad Ded from para Navar to gaid Forly, to bid of Jaia Cands in the Drawo of Java Smith, but in reality for the use and benefit of Dava Ogacol, to whom unwestiably thereafter the Contificate to some Smith by the paid Sturiff to the para provohase was arrigner by Jaid Smith without any consideration whatever and that afterwards to wit on the 14th day of Gebruary Co. D. 18413 Hw Quea Ogan progress the Shriff of gara look County in furture of said fretended Sale to escente and deliver to fino the said Eggen a shouffs deed for the frances last afreed and and after wards to wit, or the 14 th day of June 1845 carried Dard Deed to be previous in the Recorders Office of Jan book County a Copy of which saw Dua, logstown with the bertificates of actinowleage Drunt and Reord theren is him ish filed was wade a fact Sureof marken Cochini . 6.

And your Orators further phow that the Said again the letter to carry out his fraudulant hurposes aforesaid; the said of order being entirely agrice out of said affection from boning made from the Abaiffs sate aforesaid court fraudulently to acquire a pretanded title to said lands to hundred, without the Strowledge of the said

Buller, in a Conecald and fored manner and under cowied by the Real owners of the paul, will consummated, after the Sale theof by Jour Striff as afores aico, and before one year has sefued a from Hw Line of puch Date and whilst the paix agree held the Contificate of purchase three of given by said shiriff as aforesaid on paid Sate, to wit, on the DD & day of September Q. D 1841 in Consideration of the assignment of the Jaid Mertgage from Jaid Troley to paid Atowers, to him the paid again and of a dead of Hire Lots in the Bohood Section of Chicago Him want by Haven To said Ogdon at his prequest and that the Tets afores and purchased by the para Have of the Daw Abutter should be petamico by the para Buller and l'exferted le lui as in para agreement pued on in said attachment suit lead been provided, agreed with said Haun thor para agreement piece on auco allo matters growing out of it Phones le discharged, enreidered as paid and at an know, which said agreement was signed by the said agree, written at the fort of this elepticalo of Java Outieles of agreement duck on, and delinere to the paid Haven, and is in the words and figures following. to wit, " In consideration of an accignment of a margage of Tooley and of a Dead of 3 less in Saluel Section Chicago made to me this day, it is agreed that this agreement about written between Chr. Butter auco S. y. Hours is declared fraud and at an Ind. The late being pelanical Sept. 22:1841. by Daia Buller St. D. B., agden for 6. Bullet.

Dava' agreement is hereto alto about marken Cochelis Dand made a fruit hereof.

And your Gratus further phow that the paid Settlement was by the space House witerawas to be and pealey was as by the statements of the spaid Ogeter the spaid Hawa had less without of the war of the spaid allowed in spaid attachment purt and state it the spaid of the spaid throught of the spaid of the spaid throught of the spaid of the spaid of the spaid and state of the spaid attachment suit and the without if the spaid of grands by without of the spaid attachment spaid and the proceedings therein, the spaid lands therefrom complete redemption and discharge of said lands therefrom

Clare your Oration further carel that the gard Froley was up to the lime of said Delflerment and long thereafter culorely ignorant of paid attachment puit, and that the paid Traver relying on Hw pard agreement so wado by Hw saw again and his verbal promise at the pamo him made to dismuss paid puit haid no further attention to the matter and notwethstanding and legals previous conduct as aforesaid, being a very confiding in an mutte to watch and dog the Dara bogden to Kep how from franchersly Organing the Sando of the Dana Haven and others by the un Machinery of the Courts of law. Het the David Cydow Veter the tending Daid agreement no writing and Dard world from the letter to carry out his afores and francolat witers of agguring a protonand little to the lands of said Fanow, Storley tothers, including the lands oforesaid claimed by your Orators, and for the purposet huidering and obstructing the said Teolog and his legal on representatives from the good lands of your Graters from the good Montgago given by the paid Tooley to the said Haver after

procured the paid Sturiff of Cook bounty in Istal disregard and violation of said agreement to social and chluir to him, the said Shriffs and before multioned areas preferred to; and when the said Howard years threather on learning of said agains Condust in the frameway personalized him therefor, he decided back to the said Manen without consideration all the Said which the said Money of the long of said attachment, that is to say, of the hundriches of said Section Sent and of the Sauch half of said section Three in order to the home of the Sauch half of said section Three in order to the holes of said and the said of the said the said affect of said the said t

And your Grators further over that after the said Ogder has received from the said Haven the accignment afore soid of the gaid margage to the said Have from the said to Troby the Daia leguno plice belowing Daia Margage - and ofter the Said Sale by the said Shoriff the said again stee helding the para bertificate of purchase in order the better to carry out his fraudicular culculion of acquiring to hundle w fortune of little to pard Lands of your Oratio and to brider and prevent the Dara Tooley and his legal representatives from redeeming the Dance from Dara Malgage made as aforcount by the said Joly to the paid Howen & puffered the lances on the game for the year 1841 to remeand infraid, and the said lances claimed by your Oralers with offer Lands to be gold by the Short of Saw book bounty for the gover land wheres and ant, which saw was made on the 25th day of november A. D. 1842, and afterewards in pursuance of said Sale on the 15th day of Jamary A. D. 1845 procured the Struit of said bounts to consule and deliver to him the said again two instruments in withing to comment of bour law deads, the own pretending to be a boungain from said Steriff to said again of 19/211 undivided of said Ocelin Two, and the other to be a boungaine from said of the form of the said of said of said of said of said of said of the said of t

And your Oratore further show that the said Cycles Trow claims to hold the said Land of your Gratus (which has rower yet been in the accupation or proceeds un of any one) as his own by vertice of the Said two areas as unto as by said Shoriffs Duot.

The your Grahas further show that on the day of Gormany a. D. 1886, they were ready and withing and offered to fory to the said Egan the full amount of the firms pad and witerest due on the said Investigage from the said Firly to the said Fredry to the said Fredry to the said Fredry to the said Endey to the said there is and fraid to should at the cost of your and release and guit claim to should at the pight litte and no witerest and guit claim to them are the pight litte and no miterest and margage and adoption the said Said That gage and adoption of Said Margage and adoption the said Said Stariffs cheed in said allowhere the authority there and there we refused to arapt.

final luarning of this course it may be desired that upon payment being wade by your Orators to gan again of what shall to found due by ouch accounting that the paid again please and quit clavie lo your Grators ale the right litte and interest in Daid Lands which the Daia Ogdus holas thereis by so without of the said mortgage and the paid assignment thrist Heo said Shiriffs dead in paid allachment suit and said law Deeds, or (if it phale seew better to your hour on the having of Daiou Course, your Orators fray that it may be decreas that refer frayment being made as aforesaid, the mortgage aforesaid the sheriffs dua apresaia and said lase deeds be pet acide, for naughs held and Carcelled.

And your Gratoro further pray for puch other and fullwo peliet in the frances as furties and bouch may regions Cha your Brators at in duty bound with ever fray \$8 6. Haven 3 Solicitors

of Mr. Grover & Spro Del. P

A Miceaus

Their Solicita."

"Teremah Tooley

Sinon . " Howen

The Judenture mano the beath day of February in the year of our Ford one thousand eight humound and thirty eight between Teremak Forly and blesto his

Fife of the Fown of Sangerfuld, bounty of Guerda and State of New York parties of the first part and Simon of Havan of the power flace of the previor part Himesesh that the pour frances of the first frant for and in consideration of the sun of Furo hundred and muchy dollars Current money of the United States to there in hone paid the peoult whereof is hereby achievaledged have granted brongania pola released Suferfed and confirmed Charley there presents do grants bargain fel release Enferth and Confirm unto the Dava harry of the pread part in his actual possession now being and to Section rumber For in Yourship rumber Fring Drive, north of Lange member Suntos Cast of the Shore princapal Muchaw, Hw whole of Daw Deelier Consisting of Dix w Sundred auto forty actes more or less; Cales one equal underided half of the South half of South hunder Force. in Township Trumber String June Dento of range Trumber Juluo Cast of the Third principal meridian paid bulf Declin consisting of three hundred and twenty acres of lan bo the parise moto or less; para preses of land are pituate in the State of Illenois

To how and to how the aroun bargained of remises to the point front of the permit from the pole and may proper use, burefit and behoof of the point framing of the poend frant his huis and assigne forwer Provided always and there of reach are upon this corpores Condition, that if the point frantes of the first frant their built contact administrators or assigns, phate well and buty fray

or cause to be from to the said harry of the Deserve part his hearspaceators, administrators or assigns, the sum of Two hundred and minety delears in three equal annual fragments from the first day of February 1838 with annual witerest from Doud last mentioned day at Jeww how Court, thew these opresents Shall cease and les rule and void, Cha the para tromah Girley party of the first part for hunself his tries coccentors and administratoro dollo covenant promiso grant and agua lo and willo paia hourty of the Decend front his hive socialities in administrators and assigns that he well und much frely pay or Course to be fina will the para francy of the Deeni Grand his hurs societies adminicolators on assigns, the said pun of Two hundred and muchy dollars and interest thereon at the lund and in the mount about mentioned, and that we cake of the non payment of the paid pune of Two tundres and Trusty dollars and the witerest therever or any frant thereof at the line or huis above limited for the Gayment Hursel, then and us such ones it strato and may be lawful for the said party of the Decoua front his hero executors administrators or apropry and the said frates of the first frat do Comment and agree and by there presents emprener and authorize the paid party of the Decours front Suis luris, exceution, administrators or assigns to gran Cargain, peler pelease and comey the said fremises with the appulerances there unto belonging at Pullo Quetion or under, and or port Dato to make and execute to the purchaser or purchases his her or this hars and assigns forever, goods autic and sufficient Deeds of Convey once in the Law Jursuant to the Statute

in push come made and promoter, Rendering the purplus moneys if any there he to the sand parties of the first part, their heirs Executors, administrators on assigns, after deducting the costs and changes of Duch Neudu and Sale as aforce-oria,

In nulmess whereof the paid harties of the first part have houseld Det their hands and Deals Ha day and year on frest allower written.

Signa dealed aux delucion , dereman Forley (Seus) w Hw prosesses of Clera . Ch . Fooley (Seas)."

"State of Drue York? Guiaa Country .. & S.

No il permembered that on this 10 to day of Fishmany a. D. 1838 pursonally camo before me the undersigner, Gremah Godey Posecla his wife to me known to be the herson described in and who have consented the within Mortgage and aethorneaged that they deverally executed the wishen morgage for the used and turprosed therem mentioned And the paids Olesta being by me promined peparate and apart from her dana lindbourd a Mouleager Heat the forecuted the pain as Malgage fiely ouce without my fear or compulation of two paid fusboud.

doeps D. Husbands. Sup Court bono of Ourida bounty. M. 4. "

" States of new Yorky Greida County , 1 6:

I Lanus Deaw, black of the Dava Country of

Buciesa De bertify that brooks D. Husbando rog. who name is publicated to the buthficate of the frust or askinowle agreent of The annexed witrement in writing and widersed thereon was as the live of talking such proof or a chie wheelyment a Commissioner of the duference bourt, in and for para bounty & duly authorized In lotto the pairs, and that I and well acquainted with the handwriting of Java Commessioner and verily belows that the ro signature to the paid Certificate of proof or askerowledgment is

On witness whereof I have hereunto det my hand and officea my Official Scal Hoo first day of June 1838.

(Seas.) There Justice. Dep Cork."

"Filia the 6" and Recorded the 8th Sophenson 1838

Dio 1434, Riche V. Marrillon. Cook"

Minitia States 10 Simon y Haven. Contificate no 31/08.

The United States of America

To all to whom thes Presents shall Come Guiting:

Thereas Sinen &. Hover of book bounty, Illinois, has aporte in the General Sand Office of the United States a bertificate of The Aguster of the Land Office at Chicago Ithursday it appears Keat fill payment has bow made by the paid Sours 'y Haven decording to the provisions of the Class of Congress of the DII to April 1820 addles an Get making further provision for the

Filico Hw 1416 day of Dune A.D. 18113.

"Oxfield 6"

Certificato Dr 3409.

Hw Unico Slaw of Unarrea

Thereas Sunos "Z. Staum of Cook County, Illinois, has depointed the Sunos Sunos "Z. Staum of Cook County, Illinois, has depointed to the General Sunos Office of the Vinited Brates a Contestidate of the Sunos Office at blueage, Whereby it appears that fute faporent has been made by the pain Sunos "Z. Have a cecording to the Inovisions of the Cat of Congress of the Dut of Copies 1530 intitled aw Get malling further fivinging for the Sate of Pacies Sands for the South holf of Section of the District of Sunos Sunos for the South holf of Section of the District of Suno surped to Sate at Chreage, Illinois, Containing Flores Sunas surped to Sate at Chreage, Illinois, Containing Flores Sunas surped to Sate at Chreage, Illinois, Containing Flores Sunas surped to Sate at Chreage, Illinois, Containing Flores Sunas surped land lands pointing to the General Sand Office by the Survey of land lands pointing to the General Land Office by the Survey of Land Section & Have

NOW Know up that the United States of Americalin Consideration of the premiers and in conformity with the powerse and francis of the powerse and provided and fravious hour quent and granten and by three presents do gine and grant unto the said Suin & Have and to his heirs the paid tract about dotter frave and to hold the said to getter with all the prights fricileges immunities & appulations of what own

makeno Mure unto belonquioj unto Mo para Brinon Z. Has au hig

In losting whereof & Martin Van Buren President of the United States of America have consecs these Sesters to be made Fatut and the Jean of the General Sand Office to be turedo official.

first day of Catolin in the year of our Ford one thousand eight hundred and thirty mine and of the Quarturdence of the Undermour of the Undermour of the

Mortin Van Buru

Siaco) By In. Naw Burew: Beet:

H. M. Beaulana, Recorder of the General Lana office.
Recorded Nob 8 page 26.

Filed 14 100 day of A.D. 1840.

Eli 18. Williams Recorder!"

Exchibit D.

"This Judichure made this 29th day of Befrenter in the year of our Low one thousand eight hundred and fifty fine Between Jerual Godey and bloods to his wife of the one fiant and barles Haven of Chicago and Locase m. Grover of Juney State of the Descript of the pair fiant is of the Descript front for and in Contideration of the pure of Our delas in hance hand by the pair found the pure front the pair hand of the Descript where to have by the pair for the pure front for the pair hand of the descript where to have by the pair hand of the descript where to have pulled as and the descript there for the pure peleased and discharge there

from hors period peleaseer Dola Comerfed and opin clavised and by these presents closes remises peleases pele convey and quel clamo unto the paid party of the previous part his heirs and acriging for ever all the right little wherest clave and dewand which the paid party of the first part has in and to the following described for price or pares of Sana, lo wit, The undivided on half of Jeelini Sew (10) Chio His undivided one half of the Bowt half of Section Acres (3) Township Fruits Time (39) North parge Tenelia (19) bast of 30 P. M. lo rach of the para grances an equal undivided one fourth had of paid Jestion 10. Touth half of Jaio Section 3.

To home and to hold the face logether with all the migular The apportenance of friendeges Hureunto belonging or in any wise Therewite appreloining, and are the Estate pight little wherest and clavie whatever of the para party of the first fart either in law or Equity to the oney prespect use benefit and behoof of the paid party of the glorina from their heirs and assigns forwer

On witness whereof the Daid party of the first part luverule pot their hands and deals the day and year frest about weiten.

Signess Sealed and delucied Teremish Fooley Seal"

brok bounty . . fo. bily of Chicago

I George . Co. Augases a Notary Public m'and

for the billy of Chicago in paid Country in the State afores and Dobuseby Cortify that Derewich Tooley who is publicated Renown to me as the pawe furson where name is publicated to the fore young wishinsment of writing appeared before not this day in form, and adding what he propried Deated and delivered the paid wishing as his for and voluntary act; for the way and purposes there in set forth.

Guai wider my hand can Deal Dutarial this 291/20 day of Sephulier A. D. 1855

Scal George A. Angales
Dulany Public!

Town of the Count Court for the Country of Cook and State of Illinois for the year 1841 pressur a judgment against Swiner "Z. Haven for the pane of Fine theres and one hundred and must be designed a decempe, and costs and charges of put, upon which dudgment a decemp pluvies Special Hart of Fini Forais was was wound dated the Turning eight day of Rune 1841 devoted to Arbett State law Steriffers aforesain, but the dance Country of Court to Secret and by vertice of and Writ the dance Country of Court to secret and by vertice of and Writ the dance Country of Court to secret and by vertice of and Writ the dance Country of Court to Shoriff as a oferedain lever upon the lands how after described and the power was struck of and polar to Shoriff as after described and the Source was struck of and polar to Shoriff as after described and the Source was struck of and polar to Shoriff as after described and the Source was struck of and polar to Shoriff the

highest and but bidder therefor and the line and place of the Dato Hurreof howing been duly according a coording to Low, and the para Henry Smith having ally assigned the Certificate of purchase to Williamo 48. Ogdew Drow Hurstone Know all by this Dow That I Souvel . I, Lowe, Steriff of Daie County of book in arroideration of the primited have grantice bargained and solo and do healy convey to the said Itilian . Copace assigne as aforesain his hears and assigns the following describes tract or paral of Land Situation in the Country of book and State of Alluris and Known as Dunction tenenty fourth forts a underected from Destun Sew (10) and the South half 1/2 of Declini Three (3) Township Hurty rime (39) Worth range Frules (19) Cast To hour and to Into the parci des crisco premiers with all the apporten onces Hureto belonging to the saw Villiam . To. Ogan assigne as aforesaid his heirs and afrigns former Witness my hand and deal this deventeenth day of Tromany a. D 1843, He words " for Our thousand on human

auco forty dollars " interluica, and the words " and of and Thenoand one hundred and forty dollars tone in hand paid Ho precipt where of is hereby asked wheaged " traced before signing. Sealed and delucina, Samuel I, Love Shrift do hresence of .. & book b; Alls. " Sone"

"State of Illuis is & So.

I Stowy & Hulland black of the book Consuit Court de bereby bertify Steat on this Eleventh day of April A.D. 18113 personally appeared before me Somet I three who asknowledged that he how enter the game as his Official and and dud In witness whereof I have hereunte get my hand and seas Official the day and year first above written.

(Sould)

Fred Hus 1416 June Q. D 1845. No 13384"

"Oxhibit S. 49."

"Shoriff of book Country to Itilian , B. Cogas,

Know als men by thee fresus That whereas at the a Provember Special Down 18142 of the Circuit Court of Cook Country a Juagment was obtained in paid bourt in favor of the State of Ellivis against number twenty fourthes undivided of Section Sew (10) in Township mucher Thirty new (39) North of rouge mucher Suche (12) Cart of the Flire on President merideau for the pow of Sichen dollars and forty eight couls, being the amount of laves witerest and costs aford whon paid boot of Land for the year 1841 Cha whomas on the liventy eighthe day of november 1842 of Samuel I. Some Storiff of the Country aforesaid by with of a free:pt cosmo out of the Circuit Court of the Country aforesaid dated the Tunity pisceth day of Inventer 18412 and to me divide cha express to Public Jale at the door of the Court House in the bounty aforesaid in conformity with all the Requisitions of the Statute in Such case made and forwird the hast of land about described for the potes facture of the Quagment de rendered as aforesaid Chia interesas at the line and place

ofores and Miliam. B. Copen of the Country of book and State of Allunis howing offered to long the aforesaid pour of Swites and Illustic how how how to said broad of land which was the heart quantity bear for, the paid kost of land was placedia off to him at that fire Now therefore a Samuel of the paid bounty of Cook for and in Considering of the paid beart of Cook for and in Considering of the paid beart of the him of the aforesaid paid, and the paid of the aforesaid paid, and the paid Miller of the States in puch case man of firewall baryone and by unition of the States in puch case man of firewall baryone and put united and only the paid the said the him of the formation baryone and puts and the paid Milleram. Be Copen his true and assigns muster land fruith made also of Coation no Two two in Township musters that madinidad of Coation no Two two in Township musters thinky music (39) Months of range muster in Township musters thinky music (39) Months of range muster (12) Fuelled East of the Flina fruity music maintains.

To how and to hold unto him the paid Stilvano B. Cogden has twis and alsigns forevert. Judged however to all the rights of tedentalini formided by Law.

In whites whereof I Samuel I, Low. Shoring as afore paid, by writies of the authority aforesaid have hereunto survenition my name one approved my seal this Siftenth day of January 1845 Samuel . I. Lowe

Shoriff of Cook 6; Ales."

"Slave of Selections) &

Bo is known that in the day of the date hord fursonatey appears before me Sound toward, black of the a boisent bount within and for sain bounty, Samuel I. Lower personately known to be the year forces where name appears no

outscribed to the foregoing Descrop boundance as having executed
the pains in the capacity of Sheriff of said Country of asknowledge
the localities to be his free act and dress for the uses thurses
there sofressed

Sens Source Mus 15th day of Jamary & D1845. :

Sens Juice His 21. Lany 1845.

Tilea This 21. Lany 1845.

Shoriff of Cook bounty to William B. Ogunt Throw are men by those Tresents that whomas at the november The war Terms of this Circuit bourt of book bounty a fragment was obtained in Jaid bourt in favor of the State of delivers against minister leventy fruthe undivided of the Jouth half of Jeoleon Here (3) in Sourcehop number Hurly True (39) North of Kange Trumber Tunder (12) Cart of the Oliva fringepalmendia for the puw of laght whears I forty eight cours being the omount of lances wherest and costs assessed upon the paid hact of land for the year 1841 Choo whereas in the DIST, day of November Co. D. 1842 & Samuel J. Lourd Shoriff of the Country afresaid by virtue of a preacht asked out of said Circuit Court of the County of resard dated the Quenty sixth day of necession 1842 and to mo divideo, did populo to Tueles Sale at the Door of He Court House in the Courty aforesaid to conformity with ale the prequisitions of the Stobule in Just care mades and formaid The brack of Land above described for the parisfection of the judgment do pendered as ofores aix Aux whereas at the time

and place of prescript Milroin B. Ogano of the Country of Cook and State of Illinio having offered to you the afresion of soin tract of Land cholicars of forty eight Cours for the whole of soin tract of Land there is the feast quantity bea for, the paid tract of Land was the feast quantity bear for, the paid therefore I Samuele I Louis, shoulf of the said Country of Cook for and the said soil sounds of Cook for and the said the said state of the Statute in such case the said by the said of the Statute in such case made and from the hard beard and from the said such said the said of the said of said the said

Go have and to hold with him the said William B. Byden his heers & assigns forever Subject however to all the rights of pedentition provided by law.

Lis witness whereof I Samuel. I. Lower Shrift as aforesing by witness of the authority afores and, have hereute suscepted my name & affices a my grat this fifteenth don't I wood 1845.

Sturiff of book 60. Hes:

"Stars of Steriois &

Be it permembered that on the day of the date hereof pursually appeared before me Samue Heare blok

of the boienit bourt within and for paid bounty, Samuel of few pears therewally known to me to be the pears person when name appears surservind to the foregoing down as learning location the same in the capacity of shoriff of raise bounty and action leaged the boreculing to be his few act and down

Summer Source of Source unto set my hour and soil of said bourt at Chicago this 15 th day of Samary (A.D. 1845 - Source this 21, Jany 1845.

It. 18 Egaw . Bearder ."

"Eschibit D'

"There is of Agranus made and Construct the twenty eight oray of April in the year of our Sera on themsone eight tomas of thirty Die Advice Charter Butter of the City Country totals of Must Vert by his Otherway St. B. Cycles but writes of a house of alternay twouled by para Charter Butter and Chiza A. his wife huarries the the first day of January on throusance eight huarries theirly See, of the first part ance Time if Haw of Chicago of the Second field: Witnesseth that the front, and in Consideration of the money to be, and the General fact being expensive at the propert of the francy of the Second fact being expensive to be performed by the harty of the Second fact being agrees to pets to the said franty of the Second fact being contain for and france of Jana situate in the Source of Chicago in Court Country, to the State of Stances Success the country the Second of Stances Success to the Country, to the State of Stances Success the country to the Second for the Chicago in Court Country, to the State of Stances Success to Chicago in the Second of Chicago in the Second to Chicag

on file in the Office of the Recorder of book bounty as lets 5 th in Brook Bunchese we paid Adailing wills the frivileges and appurtuances thereto belonging

And the price horse of the groone has the corrected whin of the fremises hereby agrees to pay to the Daid Charles Butter to to his afterney executors administrators or assigns the Duning Time thousand delears as follows, to with

Siselow hundres dellars this day, Seventeen hundred delears one year from date, and Senewhere hundred dollars two years from date, with witerest at the pate of Dew for Cout for annually be from him annually on the whole pour from him to him pruraining wificial.

And also that to will used and faithfully in due plassing from or course to be pain all lases and assessments oranized beochanced uning for any propers whatever upon the past formises or appropriate.

Auso the said farty of the first frakt frulture Community and agrees with the said farty of the second frakt that when the faith fut free formance by the said farty of the second frakt of his undertakings no this behalf and of the fragment of fruitifiab and interest of the said farty of the first hart shall manner specified to the said farty of the first hart shall one will unlivered by allowing authorized a good and sufficient died or duals and thereby agreed to the said the first has sufficient died or duals and thereby african a good and sufficient died or duals and thereby african a good further hart of the said farty and the said farty of the said farty and the said farty of the said farty and the said the said farty of the said farty and the said the said the said farty of the said farty and the said the

with their appurtenances.

The it is mutually coveranted and agreed by and between the fartus hereto that in Cale defoult shall be made in any of the hayments of finincipals or interest at the line or any of the lines about specifica for the payment thereof and for posity days thereafter this agreements and all the preceding from ins huse of shall be Drule and void too longer builing at the oflier of the paid limity of the first hart his petersentatives or assigns and ale the fragments which shall thew have been made heren or to hursuouce hereof absolutely our forever a fordisted to the paid forty of the first part, or at the Election of I'm para francy of the first hart his petresentatures and assignis the Consumers and liability of the paia Granty of the Second part shale continue and ternain obligatory upono the saw party of the Second hart and may be unforced and the consideration money, and every from Hursel with the annab witerest, as alone phraited, be ablacted by bustien The according to Law or Equity from the paid party of the previous part his hors executors administrators or aleigns.

Ina it further mulually communities and agreed by the butwow the sparties hereto, that in cale of default in the to become the plants of the tracty of the sound front of the sure of most first first presentatives or assigns to consider the foregring contrast of pare at an such and fries seprents for first lies paid facty of the decord fort his here referentatives or designs to consider the foregring contrast of pare at an such and fries seprents for file paid from front find here referentatives or assigns to a sure from the right of two or assigns who way have from the right of fureigns or assigns who may have from the right of fureigns or assigns who may have from the default or of

any line Humater strate to considered and are hereby agreed and the land to be use Law and Equity the land and land to an land at and of the part for the prepresentations and also opens on a rent agree to an interest of Ten fur Complex arrange on this whole amount of the function money above of section from the clay of such default in particular of friends or interest.

And after such defoult in fragment and lection to consider the such beauty of the first front his representatives and assigns shall and may have such from some exercise are the powers prights and tenudies havided by Yow or boundy to actual such rent or to remove such humant or towards the pane so if the relation of Gauderal and Twent treety distance was created by an Original about the Such for that sold for that sold furtices on a straight and trust as for that sold for that sold furtices on a straight and trust and fund sold for the sold for the sold for the sold furtices on a straight such that so find sold furtices on a straight such as

Such that in such case the said levant to levants show and wite frag on Cause to be frank also land or accessed or during unlike may be laid or accessed in said premised or any frank thereof during the Continuouse of frush tenancy and wite not Commit or suffer any waste or danage to said premises on the affindmentes, but will begun and chive up on the determination of such landing, the said frances and appurtenances in as grow order and repair (ordinary was and decay and man inavoidable injury by the other security was and decay and man in as grow order and repair (ordinary was and decay and man inavoidable injury by the others securities) as they were no or the commitment of such landing. In without to have first fact

by his said altorney and the party of the Second part in his proper parom how hereundo respectively det Him hands and deag the day auso year first about wristen.

Seate auco delucie a Charles Buller Seat)

In presence of . & buy his cuty Seat)

2. & moblime. Ot: 78. Ogden

Simon . Y. Haven Sene)."

on the book of which bontract is this people

" Reads Ceprio 28, 1834 Use first payment of Sicker Sunano delears on this Contract in Land.

Thur B. again"

and this offer uniting

" In Correideration of an altigre of a mortgago ut I. Tooly of a crea of 3 Tots in School Scelus Cheago Breado lorne Mis day it is agreed that this agreement about written between the Butter & S. 'y Have is declared faid and at an lual. Sept. 20. 1841. } H. 18. Cegam The los being relance by oard Buten & for le Buter!"

And thoughter to wit on the Severthe day of Deptember a. D. lighten hundred and fifty sion came the said to Defendant Butter by his Solicital and fred in the office of the borto of paid bourt his answer to paid Bell: Ithish said answer is in the words and figures following that is to pay.

"barles Hower and Jubert Durch bours of Common Dhas.

Thiliain . B. again State of Allinos

and blimtes Butter Du Chancery.

For How Honorable John In. Filson, Juage of the Cook Country Court of Common Deeds. In Chavery.

Flow Descrate Cruswer of Charles Butter, are Defendant to the Bile of Complaint, about la district against him and Filsian B. Ogaan in this Honorable Court Exchidited

This Defendant now and at old lives, dowing and receiving to hundelf all manner of benefit and advantage of boxeefthin which can ob may be had to the wang errors we much anities and other uniperfections no the paid Complomants Bill entoniaed for answer therewate or unto so much, and fuch finite thire of, as this defendant is admired, to it are material or recessary for him to make answer unto, this Defendant.

Heat he admits upon his information and lectif, that on or about the Swelle day of May a. D. 1836 one Some of However, now a periodent of the State of New York furchased of the United States, for the crucideration of One detear Housing dive Carts an acto, the following assertion track of Gana, a dilutate in the Country of Cook aforesaid, to wit, Section, In (10) of Township Shirty nine (39) North pange Swelne (2) East of the Flind prince for the South half

of Section Three (3) of the same Touriship and Range, and received from the United States, a proper Contificate it such a

Husewhelder whatever and we information except what is derived how the place and we information except what is derived how the place of benefitant continues, white the paid Birmon. It. However, we consideration of the grow of \$2880 poles to derivate Tooley no said Bile mentioned, one undividual half of said Lands, and there have forced and converged the some with so to the paid Sortey, by and of grown from y duly execution one admirantly paid the said the said Sortey, or white said Door to for a few forced by said the said often the most diliquet sorted caused for formal for found, and thousand to said soften the most diliquet sorted caused for found, and thousand the contract of dead the contract of the said the said but contains but heaves the Complainants to that what we paid the contains but heaves the Complainants to push from thereof, as they may be advised.

This defendant upon his information and felief admito,

Med no so about the first day of February A.D. 1838, the faid

Froley made his mentgage to the paid Simon "g, Haven to be are

the programs of Dire hundred and muchy adears to the lener of

Effect as fet forth in paid bile, and that said manage was

detinized to said Hains, who could the same to he preserved,

as alreged in said Bile.

This defendant freelles answering pays that he has no her he has no leveled pour that is derived from the platements up the said Complanants bill, whether in the first day if October 1839 Patents were tronced by the United States, to the said Haven for the said trans of Cana purchase

by him as afrees air, nor whether soud Palacks, were sono months oftenwaxels delivered to the said Hami, woo whether the same with the said the commune of the allachused si accepted by him until long after the commune smed of the allachused suit mentioned in said Bill, and long after the lawy therein mudiones, and he can restur admit now day the allegations in that behalf, in said Bile contained

The Defendant further answing denis that the said Troley become sorged in to suite of the undered one half of The whole of para Lanas. Do prochased by said Haven, + The absolute sweet of the Dame, or of any front thereof, Judgick orly to 11w Margages particularly closeribed in pain Bir of Confitant, but this Defendant on his information and ledif. arers that cortain attachucuts were laid upon the para Having rights and witness in paia Lanas (in paia Bue mas un particularly described) long from to the regionation of the Said frelended Dea from Said Haven to the said Forty and without any notice whatever that said Lands had been polar by para Haven to para Tooley as is firetonand in part Complaining Dara Bile of Complaint, and their to power were polorunder of by without of certain bosceluluis isoned upon Daid attachueuts and purchasew by Havey Smith and the Conficates of the purchase thereof assigno to the Defendant William, B. Ogden and that the Jain Lands were Dulisequestly Conveyed to the said Defendant again by the proper Officer as will be more particularly shown hereafter, and this Defendant avers that The para borneyance to paia agood was provided by him and that he holds the same subjet to the Equitarile lights of This Defendant as heremafter pet forth and this Defendant also action As infront his information and belof, that the said Teolog on the 29th day of September as Dest content and delivered a Desce for said Lands to the said Complanionts, but this Definion derives that the said Tooley by said Desa Conveyed said Lands or any tright a little sister in law or Equally to said Tooley had any tright a little sister in law or Equally to said Sould for therefore Convey show by said Desa,

This Defendant further austrering admits that on the 220 day of September a. D. 1841 the pair Surion of Howard assignation of September as him, all his pair Surion of Howard assignation of the Miss pair Mortgage guine by the pair Tooley to him to the sair Defendant Williams, B. Ogano and delivered the saire to sair to sair Ogano, and that the pair Defendant plice holds the saire Sulyers however to the Equitable claims and witerest of this as Defendant therein as heremafter set forth.

This Defination further australing states that on the about the 11th clay of Cosolow Co. D. 1839 (but whether before or ofters the saw Potents were deliced to the saw Stance or received or ocception by him this Defendant closes not know ance to mit information sound by the saw Belo of Complaint (this defains by the saw Defendant Patterney to fact did cause as south in attachment to be writted to the bound of the saw side thereof the saw side thereof the saw of the Saw side the saw of the saw of the saw of the saw of Coston the saw Defendant and that on the saw I've day of Coston the saw Defendant sive that on the saw I've day of Coston the saw Defendant sive that on the saw I've day of Coston the saw Defendant Silverine B Cogain that fire his Afficient

in the Office of the Clerk of said bourt therein, Jetting faith according to the fact and the bruther, aning other things, that the Said Jones 'y Marco was I how wideblies to the Defendant we the sum of Focor Mores and fine hun area Horty dollars (\$14540) being the anount their claimed to be due from the said Itames to this Defendant on certain articles of agreement particularly described to para Complomants bill of Complaint, and that He para Eguew ded file a Certain Officehurent Bord in pain Office powenters as is aleagie in some Todo of Complaint by this Defendant by Dara agara as his afformer in fact, as principal, and by the Said Ogder as July and throughon Course a Strike of Cylochuccul- to to isouco by the Clork of said bours in favor of Mis Defendant and against Ho Colato of Ho said Simon 1/2. Stavew who was the Defendant therein which said Itrit bore dato the 18 % day of October 1834 and was delivered by the Said Defendant Ogdew to the Sturiff of the Daid Country of Cook to loccento, and was afterwards returned to Daid Carks Office by the Dand Storiff with the Judo wwell thereon as Atalia is said Confilmants Bute of Complant, which said lung was more at the wistones and preferre of some Cyan and by his direction and that after two frublication of Votico to Daw Canto in the 31" day of March A D. 1840 a Delaration was find three as alleged in soin Bills of Complaint aux that in the Y's day of May a. D 1841 two dark Defendant Ogden carrier such in proceedings to be have in said soil, that among other things, a Judgment was rendered against and Hawn, as is alleged in some Confusion for the sum of \$5109 in and cost of said dut

ond for a Special Recention against the lands attached in said put as is alleged in paid Bile of Complaint, and this Defendant alleges, that the said Defendant Ogden as the Attorney of this Defendant had full from and jught to take the proceedings aforesaid, and this Defendant adopts confirms & patifies the way

. . . .

Hus Defendant further associated desires that at the home of the mobilities of said proceedings in allashment against paid through in favor of this Defendant, either his this Defendant, or the paid Defendant byden his Orforney, had any Knowledge romitors ration or Proties that said Hawen had pola the midwicked one half of the Gands, trunchased by said Vlaver as afores and to paid Trovery or any from them of, or that said Alawer had a traver to be paid the paid through the paid the said through the paid through the said of the said through the Divingage afores and, for the said of \$290 m. the said Sands.

Africo Defendant further austrating deries each and any aleegation in the pois Bile of Complant contained, of france, france that prepresentation or improper or infair conduct on the france of said Defendant Agreed, in pelation to the para Coplashment of moundings, the Legendant Agreed, in pead Sands, the approximant thereof, or the acquisition by him of the hite thereto and this Defendant alleges and auro infro, his information and but of that the said two executings wire in also perfects legal and proceedings, and that in all that the paid I that the acquisition of the paid two executings, or the paid I all the acquisition of the file to paid I are considered to the paid Defendant again also in proteen, and good fourth luminaries said Haven, and all the paid the paid to paid the pai

And Defendant further and wound admits that on the 28th day of Sund 1841 by the Ortomys he caused foresition to be a consider of Shrift of cans book bouchy, made Sale under the Same of the Sands pefored to m' said 18 its of bomplains, Ital Henry Smith his of said Sand Sand Sand Server of thereof, which he afterwards are ignor to paid Defendant Coyden, who afterwards in the land of June 1845, he said Sturiff which afterwards in the 14 th day of June 1845, he said Orden, caused to be presented to the paid of June 1845, he said Orden, caused to be presented to the product of the paid of Sund Orden, caused to be presented to the pr

Afris defendant also desnies that when said Smith bed of the David Lands has had any Broties whatever of David Insterned Desso fun said Asser to said Tooley.

Finis Defencions further auscuring actions, Maton 11/20 day of September, in the year 1841, in correlations of the assign must of social moragays (from soia Groly to said House) to the said Defencion and Again, and of a Corney auso of House Gots, in the Solver Section of Cheaige, from said ottamed to the said again, & Miat the Gots aforesaid, frurolated by said House from this as Defencion, should be retained by him and forfered to him, as in said agreement process to was provided, the said again asking as the aforesey of this Defendant, their agree with soid Mame, that said agreement plants be considered as at an ence, but they Defendant alongs and involve to the said agree and the said agreement that they are a love and distinctly unders loved and agreement by the said agree and the said Again and the said Manue, from his his said agreement was only to develor and formation the said Again and the said Manue, from his his said agreement was only to develor and formation of the said Again.

for which he was bound under paid affects of agreement, and that the price was not in any mount to affect, prejudice or impair the price was not in any mount to affect, prejudice or impair the price procedurage of ores aid which have lover the disciplinal possession and Salo afores aid, all of which were to pland, localithat paid agree agreed to convey as fundamental possession and pland, acres of paid Sand to paid Haun, as to Such fusion as paid Haun, as to Such fusion as paid Haun, as to such fusion as paid Haun, as to such fusion.

Fire Defendant further custoring admits that the land for the year 1841 on paid Land, choo person unfaire, and that the paid for the equal three poles by the Fluid of said book beauty for soin the paid with the said before beauty for soin the paid of said book beauty for soin the paid of said before a D1852 and were furthered by the paid Defendant again, who afterwards no furthered the Blivill of paid County to foresult and dimer to him paid again, lure histramula of writing commonly called your Dead no a boundary have histramula of writing commonly called your Dead no boundary of 19/211 the undivided of paid Section Lew (10) and the other a boundary of the paid Section Lew (10) and the other a boundaries of the South hat of paid section there (3) & afterward on the 2134 cay of January a.D. 18116 cauched paid Deads to the presenced in the Resonders Office of said book County,

This Defendant also admits that said Sate took filase after the said Defendant Ogate had precised said assignment of said Diortgage from Dorley to Haver as afores nice, and while he still held the said Shoriff in the said allachment proceedings and while the said Shoriff in the said allachment proceedings and while the said Defendant Ogace stile held said berificate of prochase But this Defendant

Defendant Organo or uniproper concealment on motives in fair as Defendant Organo in po doing, and aurs on information of beliffeld at the line the paid Defendant Organo obtoned paid Confeder of forest are from paid Henry Smith, and at the line of the paid Dettement and arrangement with paid Simon 'L. Hored, he paid Ogan proposed the lance assessed on poid Land for the year 1841 has been fraid by the paid Limon 'L. Howe, ful discovered afterwards by the advertisement that they were unfined and did buck off ance function fraid Social Social Social Daw Bate, paid Ogan Maring Low on Sand, and that the paid Social Social Social Discover, fuffice the paid Defendant Organ Advertisement that there is pure the form the paid Defendant Organ Social Soc

Two Hris Defendant also avers Hint the paid Proseques from paid Dolly to paid Hawar was assigned by said Hawar to How paid by said Hawar to the paid Defendant again, for no other purpose than to quiet the paid Defendant against hills to paid Lands purchases by Said Smith and afurwards conveyed to the paid Defendant against back duriff.

Auco Phis. Defendant further ano mering alages and and clamis that he is the actual beneficial & Equipallo owner in his own pight of no Phiro frant of the Daid Mortgoge, home said Tooley to said Hama and of all the pight little niterest Hereforty of Daid Agase Phersia acquired by the said acoignment thereof or otherwise, the also anges, avers & clamis that he is the actual beneficial and actual owner in his own right of all the lands latter hands

or produced paid lossestions or law sales, on the hills whereof was conveyed to paid Ogaco by writer of all or any of the astroccedings per forthe or referred to in paid Bill of Completinisty by
this Definition claims that Daid again holds the paid mortgage
and the Lands, referred to in Daid Bill of Complaint, and not
already conveyed by him, in trust for this Defendant to the
welcut of one third thereof, which one third of said Mortgage and
social Sands, this Defendant claims against the Hamilifo, the paid
Defendant Ogales and all other peroms.

Anco this Defendant denies all and all In asmen of no mulawfue combined ation and confecturely wherewish he is by the social Biles charged, Hillrout this that there is any other matter canon on thing in the paid bomplainants said Bile of bomplain contained, material or recessary for this Defendant to make answer unto, and not herein and hereby well and pafficiently answered confected, traversed and arrided or deried to him hereways or belief of this Defendant allo which matters and things, this Defendant allo which matters and things, this Defendant of and interest and trave as the desired this Defendant belongs to and humas from as the desired, and humas from as the desired, and humas from the funce closmics of with his peasonable looks and charges in this but all all mosts wrongfully personally and humas charges in this

Charles Buster ."

And thereafter to wit on the Twenty fifth day of Oprio a. D. Lighten hunared and fifty & is comed the said Defendant Ogelen and filed in this Office of the black of said bourt, his auswer to said bourt and figures felcowing to wit.

"Corlos Haven and Graco M. Grover T — W — { Hillians, O. again}

In Cook County Court of Common Flogs

and Charles Buster &

Lo Mo Howardle John, M. Wilson Juage

of the Court leaunty bourt of Common Pleas,

On Chancery.

The Deveral Answer of William B. against lo the Bill of Complaint alrows Insisted a against him and Charles Butler To this of Jones also Court exchilected.

This defendant Now and at all hines hereafter paving and preserving unto himself all limited and advantage of exception which can or many be had on taken to the many herrors to envertanities are other uniperfections in the San Complainants saw Bile of Complaint Contained for answer thereweth or unto for much and such parts thereof as this Defendant is advised is or are material or recessary for him to make answer unto this Defendant and corner of this

Flat he admits to be the as stated in said Conflamants said Bilo of Conflamits that on or about the le the day if May a. D. 1836 one Simm. If. I saven now a pesident of the State of Thew York purchased of the United States for the Consideration of Good Detear and humby fine Cents her acre the following described Tracts of lance dilutes in the Country of Goots

That part of said boughtainants David Bill of Complaint in which it is alleged that on an about the the day of December CD. 1836 the said Simon. y. However in consideration of the pain of \$2880. Soloo to one Jeremiah Forley there and trove a paiding of Precide be waty. State of New York, no undivided half of said Said Solay by Deed of General Harranty duly execute and deliminated by pain of Janes to said Forley, which said Deed is foot for the pain of said Sorley, which said Deed is foot and offendant to hot admired saw by the said Dound. This Defendant is not admired saw by the said boundaniants of this Defendant is not admired saw by the said boundaniants on the paid of boundants and has no the include with the has derniced from Common purpose and Counted there will be had derniced from Common purpose and Counted there admired has derniced from Common purpose and Counted there admired has derniced from Common purpose and Counted there admired the has derniced from Common purpose and Counted there admired the has derniced from Common purpose and Counted there admired the has derniced from Common purpose and Counted there are admired there are derniced from Common purpose and Counted there are a derniced from Common purpose and Counted there are a derniced from Common purpose.

frant of Said Conflourants Said Bilo of Conflaint in which it is alreged that on ar about the first day of Frencary CoD.

1838 the Said Tooley was his Certain Ludentin of Montgage bearing date that day one or year food aforesaid, to the said Simin y. Haum I Decure to him the payment of Two hundress and much dollars in there equals among frayments to be wade from the first day of February & D. 1838 with annuals as

Marcost from Said day at Sence fur Cent and delivers the Sauce to the Soin Thatyage tobe seconded in the Recorders Office of said book bounty in the ble day of Sistember D. D. 1838, This Reference actions the Sauce to be known actions the

Finisher auscurring this Defendant pays that as to all that food of David Complaint in which its to aleeged that on the loss day of Catotier Co. D. 1839 Patents were counced by the United of the Jon How Januar for the David Tracks of Your Plants of the Januar for the David Tracks of Your Months afterwards delivered to the Java Hand of the Charles the Sand from the Cettachund Suit mentioned with Bile of Georgiant, how the long after the few in Jaio Bile of Complaint, how the long after the few in Jaio Bile of Complaint mentioned, this Defendant has In Recentedge and is not informed in pelation thereto, proceepts to careful by the David Complaint or deary the Interference with the Cettachund can be plated the four that therefore complaint auto paid Bile of Complaint auto Cannot therefore

Firsther ans wering this Defendant denies that the said Sorby feecomes person in he suights of the undivided one half of the whole of the said Sands to furchased by the said Sand Sands to furchased by the said Sand Have the said for the said of any hard thereof, Subject only to the mort gages particularly described in said Bill of Complaint, but this Defendant avers that certain althochusents were loud upon the said Stanus hights of interests in said Sands (hereinofter particularly described) long prior to any registration of the said Sorter leady described from the said

That said Lands have been solve by said Haven to some in Sorby as is pretended we saw acres solve made source Bill of sompland, were that the same were solve mader and by without of artain insecutions is such upon said altrohomats and hurchaire by Henry Smith and the Catheraks of the prophase hurchaire by Henry Smith and the Catheraks of the prophase to this Defendant by the proper affect, as wife to made forward to this Defendant by the proper affect, as wife to made further large shown hours lay the proper affect, as wife to made further day shown hours lay the Jephenson to Defendant admiss that the said the said being and someway the said to said being the said of the said being the said complained to the said fact and so that the said fact the said fact and said fact the said fact the

Further awarency this Defendant admits that on the DDS day of September a. D. 1841 the said Simon. It stawn assigned without received on him all his pight hile and wherest in and to the said Sorty to him to this Defendant Defendant and detained the same to him and this Defendant still holds the same.

Swither ausuming this Defendant states that more about the 11th day of Getolar & D. 1839 (but whether before a after the Davia Flavour on procured or acceptant by him this Defendant does not know and is not informed pave by the Said Bile of Complaint) this Defendant to Agent and Culturary in fact for Charles Butter of the City of Down York dia cause a suit in altachurent to be westertake

in the brient bount of said book bounty on the law side Thereof in lower of the said Buster as Plaintiff and against The said Simon if . Havin as Defendant and on the said 11 % day of Cerolevo this Defendant did file his Officianis in the Office of the blerke of the said bourt therein Delting forthe awang other things that the Daid Finon & Hawwing thew widebled to the David Charles Butter in the Dum of Four thous and five hundred; clotters (\$ 11540) being the amount thew dained to be du from the para Haven to the paid Butter on Culair whiles of agramment particularly described in paid Complaniants said Bilo of Confidering, and this defendant did file a Certain alfachment Bone in Said Office Executed as is alugia in paid Bilo of Complaint by the paid Charles Butter by this Defendant and his autorney in fact as principal, and by this Defenciont as surchy, and thereif or Coursed a Writ of Altachment to be issue by the black of paice bourt in favor of the paid Butter and against the Estate of the paid Simon & Staves who was the Defendant Hursin, which pais Writ from date the 18th way of Colober 1839 and was a delivered by this Defendant to the Thruff of vaia book bounts, la executo and was afterwards returned le lu vaia bloke Office by the Daid Shorff will the ladorounced thereon as stated in paid Complainants said Bill of Complaint, which said luy was made at the instance and request of this Sefendant and by his direction and after the Parlication of Metics in Dan Cause on the 31th day of Morch (D. 1840 a dolaration was pieco therein as is allegen in paid thise of bomplaint and that in

The Y'll day of May It D. 18111, this Defendant Cando puch proceedings to be had in said suit, that among theothings a Sudepment was pendered against Found Haver as is alleged in said Bets of Conflower for the June of \$5109 me V corts of Daid Duit, and for a yperial laceution against the Vando altoched in paid puit as is alleged in paid Bill of Complaint But this Defendant uttaly ance enagenoveally denies that as the him of the mobilition of such proceedings in affectment against Dara Haven in favor of gard Bullow that this defendant haw any knowledge, information or rotico that said Haner had sold the undivided one half of the Lands purchased by son Haven as aforesard to said Tooley or my frant Microf, or that paid Have have recieved from said Holy the morgage on apresaia, for the paix \$390 on the paix Lands, and this defendant also denies, that for the purpose of concealing his wilender ofundiosis or for any purpose to die inform the gase Have that he should be ful to no trouble about paying said claim, and expressly denies and repelo all allegations and instituations of fraud or unproper concealment as stated hi paid Bies of Complaint his regard to the manner of instituting David Ottachenent put or of prosecuting the pane.

Further ausurring this Defendant admiss that in the D8 15 day of June A, D. 1841 he through his Orferneys Caused location to be is such out of paid bount dericied to the Theriff of book boundy to societ upon the judgment aforesaid and that the paid the paid Shoriff with drietions to lay the paid of Swiff with drietions to lay the paid of July A. D. 1844 the

Jaia Shoriff made Sate under paid Execution of the paid Lauras referred to un para Bile of Complaint and that Henry Smith bid of paid Louds and look a Contificate of frenchase therefor and afterwards assigned sain Certificate to this Defendant, and That afterwards on the 14 to day of February & D. 1843 this Defendant procured a Gees from the Storiff of the premises a referred to wi the para (Bile of Confilains and afterwards on the 14th day of June 1841 & caused said Deed to be presided withe Recorders Office of doin book bounty, all which proceedings relating to Daia allochumus, this Defenceant auns were Conducted by the attorneys of Daia Charles Butter without any special derections or literference on the part of this Defendant, Click it may be that this Defendant did act as appraiser as is alregue in paid Bile of Complaint, but whether he did or not, he does not now pewereber but if to did so act this defendant denied all franco in so acting and awars that he was Comprehens to act as push, and was wholey. Clionisterested in the matter, and this defendant also deries that he procured sain shoriff lo make paia Saw without advertisment as is alleged we paice town of bourpeous, and auers that if it was do made (Ithich is propressly deried) that it was unlluower to this Defendant, on to the paid Henry Smith botto of whom pupposed and believed the whole procudings un perpos thereto la house been jugular and logal as they had are been under the leprenal care of the astoneys of the Maintiff he paid cause.

Oluco Muis Defendant admits that he procured paid Smith

To bid off paid Lands in his own name at the Saw thereof inforces aid, and have been that paid Smith had any thereof whatever of said fredericed dead from said thanis to said Tooley and this Defendant expressly denies and pepuls the impulation of france contained in said Soo of Complaint in respect to said appraisement and Sato and hurchase of Jaia Sands, and auco the dated throughout in all favines and honesty.

Findles auswering this Defendant admits that after good Sale by good Shriff and Seefore one years have expired from the luie of push pate, and whilst this Defendant held the Conficato of purchase thereof, to wit, on the 22" day of w September a. D. 1841 in consideration of the assignment of saw Mortgage (from paid Froly to paid Haven) to this Defendant and of a borneyand of three Sob in the Johoob Joston of Chicago, from Jaio House le this Defendant, and that the Toto afores aix purchasex by the paid Hamis from vaix Bullow phoula be relaised by the dand Bullow and forfulia to him as in paia agreement referred to was provided, this afections dia agree with para Haver, that said legrement phoula be Oneidered at aw ma. and Hurry on this Lesfenant attacked to Soia agreement a written Monorandum in the following words and figures, to wit; " Ou consideration of an assignment of a heard gago us. I. Towley and of a dead of Horse Lots un Sahoob Section blue ago, weadon to we this day it is agreed that this we agreement above written between Charles Bullow and S. Z. Howen is declared found and at an end, the lots being retained by the Buller Sefer 221841 (Diejnew) H.B. again for & Buller,

But this Defendant devices that the para Dethement was by the pair Haver intended to to and really was, or that this Defendant made any platements le victure the paix tames le believe the Janue was a fues payment and patrifaction and discharge of the Said Judgment, Salo aux all proceedings in said affectment Quit, but this Defendant admits that paid arrangements was interior to discharge paid thouse from ale liability on paid axticles of agreement for the balance due on said articles of agreement from Dain Have after dedichuig from the amount due thereon at the him of saion Shorifo Sale Ha sum him him said lands to said Smith. Cho this defendant arres that Daid arrangement was formally brokoew to para Haven by letter from this defendant and was formally accepted by him and was entirely understood by him as it is herein jespreserted and in no other mount, and that Daix Hance fully understood at the time that he was to forful and abandon all right to paid los mentioned in paid Ocholes of agreement and to convey para three lots in Delivor Destion, Change ni order to descharge the balance de on sain articles of agreement Cha that the saw Theriffs pale of the lands afores and was to Stone and this defendant to be suitled to all of the Lando Do attached and dolo as aforesaid by paid thuiff, weeft but humano and Jichy acus thereof Thick the paid Haver Epresentethe hax pola le a Certaine. Brown, aux which this defendant quie his Bonce lo said Have lo corney lo him vo lo whoever to plinula deriet, and which this Defendant and afterward Convey to the paid House as will appear by the bone of this defendant and the posited of the Dava Flavor endorsed therein co Copy of which is lareto america marker cochelit " and

prayer to be taken as a frant of this answer. The this answer. The this answer. The this answer. The this are the desired any right or witerest in pain lands by wister of the pain attachment but and the proceedings therein the Settlewest afores and was an Complete ademption and discharge of pain Sounds therefrom and owns that paid Dettement was rown designed or understood by pain that paid Dettement was rown designed or understood by pain than to Effect any such pourt.

Further ausuring this Definance states that he close not know whether the Daid Forly was up to the two of vaid a Desthument and long thereafter ignorant if paid attachment suit or not, and is not informed paid by the altegations of said boughtamants paid Bilo of boughtamis, and is utterly unable to her arise what consequences it is in the Cause whither the was ignorant of it or not.

Sweller anounting this Defendant admiss that he that afterwards processed the paid should of lovelle bounty to someth and claims for someth to be someth and claims for heart his character of lovelle bounty to something of lovelle bounty to something of his paid that this paid was done in which or that his confidence of the paid thouse of any three person or that he was actuated by any founding purpose against the paid thouse or towns or any theo paid thouse of the paid through the paid thouse the paid through the paid the paid through the defendant and the paid through as wife fully appeared by reference to the Estimate and the paid through at the paid through a through the paid through the paid through a through the paid through a through the paid throug

And this Defendant further admits that he aid afterwards as hereinlustone station correct back to the said Human Cro human and hereinfus peace states of said land so as afrees and solve by said and Shariff in said attachment how ceroming but this defendant derices that the said was close in consequence of the perfer actus of the said that was done in order to the paid therefor buy said Haun or that it was done in order to they the said thank quiet, so to keep this from from petroving the conclust of this Defendant in the premises, but this Defendant was made to said thousand were that said borneyand was made to said thought to the confirmity with a written agreement butteria with this defendant with said thousand the hims

Further awaring this Definance admits that the laws for the year to De 1841 on Daice Sands die Jennain impaid, and that the game were place by the Shoriff of paid book bound for what the game were place by the Shoriff of paid book bound for white Defendant who november as D. 1862 and were purchased by this Defendant who oftenwards in pursuance of gain Saw on the 18th any of Damary and 1845, procured the Theriff of said bounty to Swearts and deliver to this defendant has distributents of witting commenty caree Saw dreas, no a boungare from the good Shriff to this Defendant of 19/211th undivided of said Streif to this Defendant of 19/211th undivided of said Streif to this Defendant of 19/211th undivided of said Streif to this Defendant of 19/211th undivided of said Streif to this Defendant of 19/211th undivided of Said Streif to this Defendant of 19/211th undivided of Said Streif to this Defendant of 19/211th undivided of the Bouth half of David Scation two (10) and offerwards on the South half of David Scation there (3) and offerwards on the Determined with the Recorders Office of paid book bounty, this defendant also admits that Said feet of paid book bounty, this defendant also admits that Said feet

look place after this defencious has received paid assignment of Daia Margage funco Froley lo Haven as afres aix and to whilst he stile held the Dane, and after paid Sate by the said Sheriff in the said Ostachwent proceeding and while this Defendant stile bula said butificate of purchase But this to Defendant devies all france or infroper Concealment or molinis in po doing and ancre that at the him he obtained sains Consificate of purchase from good Havy Smith, and at the law of paid petternent and arrangement with paid Suion y. Vanno ho pupposa the large assessed on Daia Law for the year 1841 has leave from by the Daid Grunn 'y, Staney, but discoursed afterwards by the advertigement that they were unfraid, and dis bico of & purchase pain Lands at pain law Sass, having been a disser that said lasas were a Julishing line no pair lana and that the game had averned before this Defendant hade obtained his hilo thereto, and that it was necessary to entinguish the Dane.

Aux His Defendant also awas that the paid Malegage from paid Hortey to paid of forew was assigned by faid Has defendant to this Defendant for no other purpose than to quiet this defendant hills to paid Said Said Smith and afterwards conveyed to this Defendant by paid Shrifts

Surles answering this Definitions activity that he how - clavies to hold the paid Lours (which has here yet how in the actions occupation or prosession of any one) as his own by wither of the paid two law deeds, as also by paid Stwiffs deed, and arever that he also clavies it by claim and color of hite made in good faith, and the payment of are laws and weesments

for Jenew consecutive years prior to the filing of paid Complanions

Mux this Defendant huttur admits that on the day of Jamany & D. 1836 the paix bomplanians were ready of willing and offered to pay to this defendant the full amount of the principals and witerest of the air Moragage from Daix Froley to paix Have to wis the pum of ablance and required of this Definant that he should at their Cost release and quit claim to them are the pright hill air witerest acquired by him in said Lands by welve of said Mortgage and assignment and said Sheriffs deed in said

astachment puit Ithrest offer the Defendant thew and there to five to accept for the preason that he could not recognize any a legiteriate claim, which the vaia Complaniants had or have to

paior lands, and also for the peason that this Defendant consens ho had a good and valia life to Jaia land unas in good

faish, and never presenced to hold said morgage as a debt against I aid Lands, or for any other prespect that to quit

his lillo Hurelo.

Shorther auswering this Defendant states he knows nothing of the peadures or willingness of the paid Complanions to lay paid morey on paid Condition and count Concuir what highe they have to a Compliance with such bonditions, and annies that he is under any month or legal obligation to comply with such Conditions. That having the pole and bound fide between owner of said Louds this Definitional at least may claim the friedlig of selling his Sands or not as may hest according his come views

Further austrición Mis Deforcant admits that or the pano day the paid bouplaniants were peacy and willing and offere h hay to this Defendant the pure aforesoise named in para matyage logether with all larces that had been assissed on paix land and paios ley this Defendant, with lawful wherest on said laces from Mos perfection lines of payment lett the line last afores and legining this Defendant to pelease and quit claim to soid bomplain aux at thin cost are his right help and vibrest as afores aid, and that this Defendant dia refuse to accept para offer for the peasons housibelow get forth, and it may be that the said Complamais and plile peady and willing to make puelo fragment ou paid Conditions, but this defendant outnines that to is unvilling to dispose of his own property except upon his own lines. and recognizes no claries on the part of Jaio Complaniants and no obligation ow his own part to them that should could him to Ourrender the right of perferoing or accepting any offer made for Daix Sands by the good Confeamants, certain it is that he would show hunself any regarders of his own interests to dispose of dais Taurs at a small mounty of whather pain for the pawo to the year 1841, when through adoutitions we Circumstances the value of them has been largely mereaux, and Cannot arrest to forfeit- what pepulation he may have larve for business pagacity and hudewed by such an union and profilees operations

And this Defendant clines all and all manus of unlawful Combination and Confederacy wherewith he is for the said Bile charges. Without this that there is any other matter

Cando or Muniq in the paid bruplaniants pain Bile of Complants Coritained. Material or meres ary for this Defendant to make answer, muto and notherein and hereby well and preferency answered Confession, transposed and overial or derived, is true to the Knowledge or belief of this Defendant all which material and things this Defendant is produce and untiling to and markers and things this Defendant of our maintain and produced this of the our phalo direct, and humbly brains to be humbled bount phalo direct, and humbly brains to the lines dismission with his peasonable Costs and charges in this left material without and charges in this

"E. R. Stooger

(digno) It. B. Cogden!"

Solve for Deft 6."

Exhibit A.

The value received and in consideration of an adear to mo fraid of hereby agree and build myself my heirs Passigns to convey or cause to be conveyed to Surion. L. However or to whom he phale direct aw undivided but hundred tricky acres of fance in the following has comprosed of comprising the Book half of Pection Flow and all of Jection Der in Town 39 mosh of pange 13 bass in book bounty Illinois paid tract logitain Containing 9h0 acres more or loss and paid of James intractions

Duco to fee Quit Claim with Convaints against Granter and to he sevented and forwarded to said offam at Whice I'm by Mail or otherwise without 40 days from this date.

Notices "D. B. Gradwin" (light) "M.B. Copun" (S.S.)

Does. Have plian be pelasea from the Late under the accurate duit broughs against Daiso Haven.

(Riopea H. B. Ogdan "

Sept: 228 1841.

" Mieco Gap: 31% 18115.

I havely berify that all the Dispulations of the willing Borrow has been fulfilled according to the Conditions of dai've Borrow wiz:

Aw Quit claire duce of an unducided 160 acres of Lano in 160 State of Illinois, book bounty \$9 has been quine with Tharrowty \$0 and within the huis specified of &.

(ligna) "Swino. "& Thana."

"Thilsian B. agaw et as book bounty bours of Common Pleas

- als - Chausey

Carlos Mouse et as Du this deventents day of actober a. D1854 Thereain B. Cyclus, or of the Defendants to the about hitten care build duly program departs and page; That at the line to was begins to felio an austure in land cause, he was very much occupied in many business offoirs which required his frequent absence from the bity of Charage and the State of Allinois; that the circumstances and transactions which vaid Pilo of Conferme to founded, are Circumstances and transactions which transfer was founded, are Circumstances and transactions which transfer was many years price in pronues to which, at the line of fitting his course and anower, this afficients resolution was very midestined.

auco this afficied prequestion to B. malagy togo, or Solisitos of this looust, to examine and ascertain the foots, as to which This afficial was required to auswer, and to prepare for this afficient and answer bething forth puch foots as his was required to plate by paia Bilo of Complaint: That this afficient is so informed and believes that Daiso Mebagy anthonyow & B. Horper Esque - also a delicitor of this bourt to prepare daid visuer and that the one over of this affect was prepared by said Hooper: That this affeait tresuming that said Tuebogg had from the Records ma otherwise obtained fue once recurdo diformation in pelation to the masters, which this affect was required to fet forth wo his paid answer, this affaut without any commistion of Said ouseur, and willout reading the pane in full signed the paux whow handed to him for his dignature. after to reflecting over the matters to which paid hill and auswer refor which as this official has stated, transpired many years sined, that is to day from deventered to Twenty yours, prive to the date of this afficiant, and which ruthing has for many years . brought to this afficients muio, until the foling of the Dava Bio in this cause, and after a Carolus examination of down and wer frea by this officies formers in paid cause, this affiant has disenvered Mot there are Cortain exemerca un statements in sand auswer, which may materially projudice this afficients cause and endanger or prevent the administration of an impartial Equity and fustion in the primites.

This affeciet has discourred that what the faid

Question by Harry Smith, represents daid Smith as the purchaser at the Salo we baid ausurer det forth except in which paid ausure of both except in which paid ausure is dominated obscure and appears to be unconsistent with itself, as it is certainly at various with the fast, in which it sets forth as follows.

"Flis Defendant admit that he procured daia Smith to bear of pair Land in his own name at the Sale thereof aforesaid" \$3.

This affect further states that the Daia dinish has frequently, and at various loves curring the fast Swenty years arted as this afficulto agent - prequently provahasing for this afficient, with anco without waterclions and frequently proveliating for liwielf and on his own account of a beginnity Dolling la Mis affeorie and to others and that this affeaux as the live of filing dari ans were as himself no tes forth, firesumed that his paid Selicitor had ascertained the facts in the premies so they truly excisted i but this afrait upor careful unestigation, suice the filing of paia autur has ascertained from said Smith and unestigations by lum made that us the particular sate - dad Smith was hunself the boux for purchaser of the promises in question and fundaces the same not as this Expairs agent, or for this affeair, but on his own areaut and for himself auco this afficiet feveler days that he holds the paice frances det forth in paia Pelo of Complaint in host; one Disch witerest for the hours of William to Gover, decrated

Our peoch werest for mahlon . D. again - Our third wiferest for Charles Burler of New York the remaining on third wilevest belonging to this afficient which paid feveral wherests of para deveral parties is not as to is informed and believes true fet forth in his daia answer, and ho is desirous that this dard onsure phoules ho omended do asto state and show the peneral wherests of para ference parties about named Chao this affair firster parts that the said Charles Butter

had no notice of the poweral matters charged in said Belet of Complains except the Commencement of para poit in allachment and the proceedings in said but and he also prays thathis Dava Ous wer may be amuched to plate and show the last recited facts.

Subscribed and horn, to this teightenthe day of Mounday a. D. 185'4 before me ..

If. B. agdew "

(Sous) Franklin Hasheway Public "

"Filed Drouember 2/3 & 1854,

And Kureafter to without the fifth day of november a.D. lighteen hundred of fifty penne the said bomplaniants fire in paid Office their Replication to paid anomer of paid Busho, in words and higures as follows to wis.

"barros Hanen of Joaco M. Grover Juste Gook County Court of Common Bras, State of Miliano. B. aguan Hearen Benser & Allinois. In Chancery of Barlos Hane & Boaco M. Grover

Replicants dawing ance preserving to the orders of Charles Buses definations Replicants dawing ance preserving to the orders not a condition and also manues of advantage of exceptions that may be had a local and also manues of advantage of exceptions that may be had a local and also maintain and from their dain Bus to be him certain and and pufficient in the Law to be and murea and pufficient in the Law to be and murea and must and that poor and pufficient to be peopled and buster to intrud, uncertaintance and cusualficient to be peopled and buster to intrude that any other washer or thing whatower in pair and and pufficiently repliced unto confessed and avoided transcript or denien is true, all which makers and therefore and avoided transcript or denien is true, all which makers and there are and prove as this offenerable bourt may divid and from as the Beier they have abready fray and form of them as in their paid beier they have abready fray and barlos of them.

Solve pro del."

And also on the sixtenth day of June a D. Eighteen as hundred and fifty pion the paid Complaniants like Keer representing in paid Solvert, to the Austral of the gaid Defendant again in words and liquies following; to wit

Carles Have of Goaco. M. Growy du the book County bours ve - E of Common Deas William. B. again Hohanles Busser & In Chancery.

Ho replication of barlos Haven & Joans In. Grouse Consplanianto 10 1/2 pewerat ausmer of William & Ogaco. Defendant.

These Repliants sawing and reserving to thouselves now and at als hires hereafter all and all manuo of lenefit we advantage of reception, which may be how or laken to the manifold minifican of the said answer for replication thereunto gay that they will and manitain and prove their paid Bite of Complaint to be bure Certain and pufficient in the Law to be answered unto and that the paid ansuro of the paid Defendant is uncertain untrio aus visufficient to be peopleid unto Without this that any other maken on thing who wowen in the dand answer contained, making on Effectual in Law to two preplicas unto and not berieve and trendry well and Pufficiently replied unto conferma and avoided transcretea on device is two Get which mathers and things there Repliants will be peacy to and manitain and from as this Hourable Sourt way devil and humbly pray as to their paid Dio they have already frayed

Carlos Hause. France Mr. Grover

Folicitors per de!"

And on the Twenty thurs day of January to D. lighteen hundred Hilly gio, Two was filed in Said bourt in Said Course a certain Transcript of proceedings in the Court of book bounty in a Ortaling therein wherein Charles Butter was Plaintiff & Simon & Howen, defending Which Franscript is in words Higures as follows, to wit

State of Allinois So books Guenty Circuit Court Thear held before the Bowalle Sihn Pearson fudge of the deventh Judicial Circuit of the State of Minois and presiding studge of the book Circuit bourt at a torn though begun & held at the but bourt the City of phicago in the vaid frunty in the fourth day of Reveniber in the year of our Lord who Thousand sight hundred and thurty nine, it being the first Monday In faid month and the Independence of the United States the eight fourth year.

Mon. Som Pearson Sudge, alonga Muntington States attorney, Saac M. Gavin Sheriff.

Michard f. Mamillon blk .

South remembered that heretofore to wit, on the Excessite day of October in the year of our Lord me thousand eight hundred and therty nine there were feled in the Office of the West of the fireint bourt in x for the bounty of book & State of Minois a certain bond, decurity for folls, affidavit and attachment found which are in the

words & Jegures following to wit, porte Cir. Gours Charles Butter Simon L. Haven) I do hereby enter myself security for Costs in this cause & acknowledge myself bound to pay or cause to be paid all costs which may account in this action afther to the opposite party or to any of, the Officers of this Court in pursuance of the Lains of This State. Wated October 14 th A. D. 1839 W. B. Ogden. Otato of Allinois, S.S.

State of Illinois So.

Shis day generally appeared before the undersigned Prichard for the pounty and Plate of the Civait Gunt, within and for the County and Plate of the State aforesaid, William B. Again agent & alterney of, Wharles Butter of the bounty of Cock and State of Stlinois, who is about to a ply for a writ of Foreign allachment against Sinow L. Haven of the County of and state of Saw york and who being first duly sworn according to Saw york and who being first the said Simon L. Haven is justly indebted to him the said spinow L. Haven is justly indebted to him the said spinow L. Haven is justly indebted to him

Thousand five hundred & firty dollars burget money of the United states, being the amount now due to the said Butter from the said Haven on certain particles of agreement, under the respective hands & . deals of the said of aren & Butter & dated the 28 th day of april A. S. 1836. by which daid privates of agreement the said Souther contracted to sell to the said Maren, Lots So five ediz, in Block So seventeen in Rivinie's addition to the sown of phicago - & the said Haven among other things agreed & Covenanted to fody to said Butter Therefor the sund of Sevention hundred Sollors on the 28" day of Goril A.D. 1837, & the further sum of Seventeen hundred dollars the 29" day of april A. D. 1838 with interest in the whole from the dates of said agreement & which said two payments have not been baid by vaid Haven is which with the interest thereon amount to the said sum of Four thousand five hundred & forty Dollars. and this deponant further says that the said Haven is an inhabitant of the State of New. York without the limits of this thate so that process cannot be per-Sonally served upon him - & that he the said Haven does not reside in this state but in the State of New york - so that process from this state cannot be personally served upon him - is that he has as their deponant believes property sneal estate in Cook County leable to attachment. This deforant therefore prays for an attachment at the

Suit of said Butter against said Haven according to Law.

Swond to pad Subscribed W. B. Ogden

before me this 17th

day of October 1839

Rich & J. Mamilton blke

Bond for attachment

Know all men by these Tresents, That we pharles
Butler of the City & State of New York by William

B. Ogden my atterney in fact, & William B. Ogden

of Cook Gounty Stlinois are held and frimly

bound unto Simon L. Haven of the state of,

Sew York in the penal sum of the state of,

Sew York in the penal sum of the United

Bates, the payment of which said sums well

and truly to be made, we wind ourselves, our heir,

specular and padministrators, jointly and

seals and pated this fifteenth day of October

A.D. 1839.

is such, That whereas the above Obligation Butler by William B. O gdew his agent has en the day of the date hereif, prayed an attachment at the duit of him the said wharles Butler against the estate of the above named Simon S. Haven

for the gum of Hour thousand Five hundred & Forty dollars facoful money of the United States. and the pame being about to be sued out, he turnable out the Hirst Monday of Sevember next to the November terms of the Circuit Court, then and there to be holder, in and for the County of book, at phicago, in Said County, Now of the said pharles wither shall prosecute daid duit with effect, arin, case of faiture therein, shall well and truly pay and tatisfy the said simon I Haven all such costs in said duit, and such damages as shall be awarded against the paid Charles Butter, his heirs, gecutors, and administrators, in such suit or suits, which may hereafter be brought for wrong fully suing out the faid attachment, then the above obligation, to be word, and of no effect; otherwise to remain in full face and virtue. Charles Butter Escal 3 Sugned, Sealest and by W. B. Ogdewhis atty delivered in presence of W. B. Og dew Eseal3 Wich of Mamilton And afterwards to wit, on the 18 " day of October in the year last aforesaid there issued out of the office of the blerk of the Court aforesaid, the

following to wit,

I eaple's writ of attachment directed to the sheriff of

State of Illimoid County of Good S The People of the State of Illinois to the Sheriff of Cook Greenty Greeting) Theread William 19. Ogden, agent, and attirney for Charles Butter of the Country of book and state of Illinois, hath complained on Oath to Krichard I. Spamiltow clerk of the Circuit pourt of Good Gounty that Simon L. Maven of the State of New York is justly indebted to him the said Charles Wutter in the sum of four thousand five hundred and forty Deven Vollars lawful money of the United Plates, And the said pharles Butter having, ginew bond and security according to the Act in such cases made, and forwided; We therefore command you that you attach

No therefore command you that you attack so much of the lestate peal or personel, of the gaid Timen I. Aparen to be found in gour bounty as shall be of value sufficient to saliefy the gaid delet and costs, according to the said sum plaint; and such estate so attached in your hands to secure, or so to provide, that the same may be liable to further proceedings thereupon according to law, at a circuit fourt to be holder, at the first Mind by of sovember myt, so, as to complete the first Mind by of sovember myt, so, as to complete the said Vienow L. Haven to appear and answer the complaint of the said phartes Butter

when and where you shall make known to the said Gourt how you have secuted this writ.

And have you then and there this writ.

Nitness Richard f. Hamilton Glerk of our daid bourt, and the Deal thereof at Chicago, this 18th day of October AD. 1839

Seal 3

October AD. 1839

Seal 3

Olerk

The aforesaid writ was afterwards returned to the Office of the Clark aforesaid by the Sheriff aforesaid with his return endorsed thereon, which is in the words & figures following to wit

described property of Simon S. Staren Pet. 36. a.D.
1839 26/2 feet or the West 13 of West side of Lot 1
Block 24 School Section addition to phicago also the 19/24 part undivided from Section 10
the South half of Section 3 Govership 39 South Range 12 East of the third principal meridian
Fixes

1 Servico - 0.50 1 milo - 0.6/4 Return \$ 0.12/2 iff. C.C. Sus

S.m. Gavin Shiriff .C.C. Alls ley M. A. Davis Depty Sheffs

and afterwards to wit, on the seventh day of november in the year last aforesaid there was filed in the Office of the blest aforesaid a certain precipe which is in the words & figures following to wit, Charles Butter Simon L. Manen) Rease issue, alias, attacht in this pause to Mild County Now y = 1839 Arnold & Ogden And afterwards to wit, on the day & year last aforesaid there issued out of the Office of the Clark aforesaid in this cause the people aleas wrist of attachment directed to the otheriff of the County of Well in said state clothed in the words & figures following to wit, State of Sllinois Sel. The Teople of the state of Illinois to the Sherif of Will County Greeting -Theread William B. Ogden agent and attorney for pharles Butter of the County of Goods, and State of Illinois, hath, complained on outh to Cuchard f. Mamilton, Clerk of the bircuit gourt of Good Gounty, that Dimon L. Haven of the County and State of New york

Buttle in the rum of four thousand five hum dred & forty Dollars according to a certain agreement in writing, and the said wharles buttle having given bond and security according to the paid whatles according to the paid to have

We therefore Command you, that you attack so much of the estate real, or personal, of said Simon L. Haven to be found in your founty, as shall be of value sufficient to patisfy the said debt and Costs according to the said compolaint; and Juch estate so attached in your hands to Secure, or so to provide, that the same may be liable to further proceedings thereupon, according to law, at a Circuit Court to be holder at phicago within and for the County of Cook, on the sight monday after the first monday of march nest; Do as to compet the said Sinion S. Hanen to appear and answer the complaint of the Said Charles Butter; when and where you Shall make Known to the said (Court how you have secreted this wit, and have you then and there this writ; Wetness Wichard f. Mamilton plerte of our

Said Gourt and the Seal thereof, at bhicago, this seventho day of november A. D. 1839

Richard f. Mamilton blenk Edeal 3 And afterwards to wit, on the deventh day of November in said fear the Sheriff aforesaid returned Said wit to the Office of said plerke with his endordment thereon which is in the words and Jegures following) nig. By virtue of the within writes have levied, seized upon, and, attached the following described lands, to wit, The north East quarter of Section Gighteen in Township Sumber thirty four North of Kange Sumber eleven, East of the third principal Meridian, and the part Shacking half of dection Number fifteen, in Township Number thirty three North of Gange num ber Ten, gast of the third principal meredian and the Southwest quarter of Section num New fifteen, in Township number thirty three north of Range Number Sew. East of the there principal meridian Dated this 11th day of November 1839 Sheriff of will, Co Ills plu f Hinch fun weputy I elevisce 0 = 50 Return quit = 12/2