

**ADAM WATERFORD VS ISAAC BAKER CASE TRANSCRIPT**  
**May 4, 1830-January 6, 1841**

Be it remembered that on the 4th day of May 1830, a Transcript of the Record from the Chancery Court at Rogersville East Tennessee, in the case Adam Waterford Complainant, and Isaac Baker, Respondt, was filed in the Office of the Clerk of the United States Court for the seventh circuit and District of East Tennessee, in the words and figures following to wit.

The Record of a Suit commenced in the Court of Chancery held at Rogersville for the District composed of the Counties of Sullivan, Hawkins, Grainger and Claiborne in the State of Tennessee between Adam Waterford Compt. and Isaac Baker Defendant, and transferred to the Circuit Court of the United States at Knoxville for the District of East Tennessee.

On the 8th day of May 1829, the Complainants Bill was filed in the Office of said Court of Chancery and is in the words and figures following towit.

To the Honorable Chancellor Setting in chancery for the Counties of Sullivan, Hawkins, Grainger and Claiborne. The bill of Complaint of Adam Waterford a freeman of colour and citizen of the County of Sullivan Humbly complaining, Sheweth unto Your Honor that heretofore on the 25th January 1823, Your Orator executed a deed of trust to Adam Russell of Abingdon Virginia, a copy of which deed is herewith exhibited Marked A, which your orator prays may be made and [1]\* taken as part of his Bill of Complaint. The object of which deed of trust as will be perceived on examination of its contents, was to indemnify one Isaac Baker and John Baker, Citizens of Washington County Virginia, from any liability for costs and damages that they might be

\*Numbers in brackets [1] indicate the end of the page in the original transcript

subjected to by reason of their becoming Securities for your orator, as appearance bail of your orator in a suit of James Orr against your orator, instituted in the said Court of Washington County Virginia and also to secure the said Isaac and John Baker from all costs and damages that said Bakers might sustain by being disturbed in the possession of a certain slave your orator sold said Bakers, which slave they have never been disturbed in the quiet possession to this day.

Your Orator further states that said Bakers have not or ever will be disturbed or subjected to any injury in the payment of costs & damages, in consequence of their becoming your orators bail in the Suit Orr against your Orator in the Court of Washington County Virginia. Your Orator further states that afterwards on the 12th May 1823 Your Orator executed another deed of trust to David Campbell of Abingdon Virginia, a copy of which deed is also herewith exhibited Marked B, which Your Orator also prays may be made part of his Bill of Complaint, by which it will appear on the face of said Deed that its object to secure to said Isaac Baker the payment of \$704.85, which said deed asserts was due by Your Orator to said Baker, but which debt was really only \$625. in Nashville Money borrowed from Francis Smith Esq. who loaned [2] it to Your Orator at a time when Nashville Money was upwards of thirty per cent under par, & for which money so borrowed of Capt Smith Your Orator executed to him his obligation & which obligation said Smith transferred in some way to said Isaac Baker, by which deed of trust it will appear Your Orator was to pay said Isaac Baker said money on the expiration of eighteen months after the date of said deed of trust.

Your Orator further charges that afterwards your Orator drove forty head of cattle to said Isaac Baker's near Abingdon being the cattle mentioned in

said deed of trust and for the purpose of paying said debt to said Baker as far as they would go, but instead of paying said debt, they were sacrificed and only sold for fifteen dollars as said Baker informed Your Orator although said cattle were in the spring of the year towit in April 1825, the time of the delivery they were worth three hundred and fifty dollars, for which cattle so disposed of and sacrificed Your Orator claims to be allowed on final hearing before Your Honor. Your Orator further charges by said deed of trust to David Campbell, Isaac Baker was to be indemnified against his securityship for Your Orator in a suit your Orator had with one William Shoemaker, in which Suit Your Orator was plaintiff, and for which securityship said Baker was never subjected to pay any thing as Your Orator cast said Shoemaker in said cause in Washington County Court Virginia, and Your Orator also advanced said Isaac Baker fifteen dollars to pay costs Pending said Suit, for which said Baker ought [3] to account to Your Orator. Your Orator further charges that the said David Campbell, as Your Orator has been informed & believes has pretended to sell said tract of land mentioned in said deed of trust, in some place in Virginia & the said Isaac Baker, at said pretended sale became the purchasOr as Your Orator has been informed & believes & has procured some kind of transfer of the title of said tract from the said David Campbell and on said pretended title instituted a suit against Your Orator in the Circuit Court of Sullivan County in this state and in order to enable him more effectually to distress and ruin Your Orator and to deprive him of the tract of land aforesaid, the Isaac Baker procured as Your Orator has been informed & believes the said Andrew Russell, the Trustee in the Deed Exhibit A, to transfer and make over to him the title vested in the said Andrew Russell by virtue of said deed, in doing which Your Orator charges that the said Isaac

Baker was guilty of a gross fraud and the said Andrew Russell of a manifest breach of trust inasmuch as by the express stipulation in said deed contained it will most fully appear that the said Andrew was to hold said land in trust until the happening of a certain contingency, which has not yet happened, and in case that never took place the land was to be reconveyed to Your Orator. Your Orator states that the said Isaac Baker did not succeed in the suit which he had instituted against Your Orator, but on the contrary, owing to a defect in the title which he produced, he was forced to suffer a non suit, and he now threatens to institute another suit against Your Orator [4] and vex and harass him and put him to trouble and expense and to obtain his land from him for almost nothing. Your Orator charges that the said Isaac Baker hath no good and valid title to the tract of land in said Deeds of trust mentioned for the following reasons, viz The legal title to said land was vested in Andrew Russell as Trustee for a valuable consideration to be held by him until an event should happen which has not yet taken place, & of course the legal title having been vested in Russell no legal title vested in David Campbell by the second Deed of trust and so Campbell could convey no title to Isaac Baker by his sale having no legal title in himself and Baker can claim no right to disturb your Orator by virtue of any conveyance from Russell, as he in taking said conveyance from a Trustee made himself a Trustee and is bound to hold the bond in trust for Your Orator until the event shall happen for which said land was conveyed to said Russell. Your Orator states that he is willing & ready to come to a fair and honest settlement with the said Isaac Baker and to pay him up whatever sum is justly due to him, but in doing so your Orator claims a deduction for the difference between Tennessee depreciated currency and par money on the sum he recieved from said Baker, for your Orator charges that it



was an usurious transaction on the part of the said Baker to let Your Orator have Tennessee Bank Notes which were thirty per cent below par and to charge him for the same amount in par money, and he is advised that a Court of Equity will interfere and compell the said Isaac Baker to take the real value of the money which [5] your--recvd from him. And also Your Orator is unwilling to loose the whole value of the forty head of cattle which the said Isaac has recvd from him, but unless your Orator will give up the whole value of said cattle & also pay the depreciated Tennessee ~~paper~~ money at its nominal value in par money the said Isaac will not settle with your Orator nor recieve his money, but he says he will hold your Orators land by virtue of the aforesaid pretended sale by the said David Campbell and the aforesaid fraudulent transfer of the sd Andrew Russell, than which, your Orator is advised that nothing can be more unjust. Your Orator also states that he has not heretofore applied for or obtained an injunction or Supersedeas in this case. To the end therefore that the said Isaac Baker may be made defendant to this Bill and may be compelled on his corporal oath, full, true and perfect answers to make to all and singular the premises, in as full and ample a manner as if the same were herein again repeated and he thereunto more particularly interraged, and more particularly that he answer and say how much money he advanced to Your Orator on the deed of trust Exhibit B, was not said money recvd by your Orator in Tennessee money? How much was the Tennessee money below par at the time and place it was paid to your Orator? How many cattle did the said Isaac receive from Your Orator? Were they the same cattle mentioned in Exhibit B? How much were they worth? How were they disposed of? Has not the said Isaac sued Your Orator on a pretended title as herein before ~~stated~~ set forth? Does he not threaten to sue him again on said pretended

title? The premises [6] considered Your Orator prays that the said Isaac Baker may be enjoined from again suing Your Orator in the premises until the merits of this cause shall be heard and determined in a Court of Equity And that the said Isaac Baker may be compelled to account and settle with your Orator for the cattle he has recieved from your Orator and that he may account for the difference between the Tennessee money recvd from him and its nominal amount in par money. And that he may be compelled to receive from Your Orator the sum that is really due to him in Equity and good conscience. And that on recieving what is justly due to him the aforesaid Deed of trust and all the deeds of conveyance under which he claims the aforesaid tract of land may be decreed null and void, and that an injunction may be granted to Your Orator and all such other and further relief in the premises as is consistent with Equity and good conceince may be granted to him and that process may issue &c.

McKinney for Compt.  
State of Tennessee  
Hawkins County

Personally appeared before  
the Honorable Saml. Powell  
one of the Judges this Circuit

Courts in and for the State of Tennessee the within named Adam Waterford and made oath in due form of law that the facts stated in the foregoing Bill as of his own Knowlege are true and those stated on the information of others he believes to be true.

Sworn & Subscribed  
this 8th of May 1829.  
before me S. Powel

His  
Adam X Waterford  
Mark [7]

To the Clerk of the Chancery Court composed of the Counties of Sullivan, Hawkins, Grainger and Claiborne~

Let an Injunction issue agreeable to the prayer of this Bill~ S. Powel

(SO) one of the Judges of the Circuit Court

### Exhibit A

This Indenture made the 28th day of January 1823, between Adam Waterford a free man of color of the County of Sullivan in the State of Tennessee of the one part, and Andrew Russell of the County of Washington in the State of Virginia of the other part witnesseth that the said Adam Waterford for and in consideration of the sum of One thousand Dollars to him in hand paid, doth bargain and sell unto the said Andrew Russell and his heirs, one certain tract or parcel of land lying and being in the County of Sullivan of the State of Tennessee containing two hundred and six acres or seven acres being the same more or less tract of land purchased by said Waterford from a certain Adam Miller of record in the County Court of Sullivan aforesaid with all its appurtenances unto the said Russell and his heirs to the sole use and behoof of him the said Russell and his heirs forever in trust. Nevertheless that if the said Waterford shall indemnify a certain Isaac Baker and John Baker from all damages which they may sustain by reason of entering appearance bail for the said Waterford this day at the Suit of James Orr in the County Court of Washington and also shall secure the said Bakers in the undisturbed title and possession of a certain slave named Waterford purchased by the said Bakers from the said [8] Waterford, and shall indemnify the said Bakers from all costs and damages which they may sustain by any adverse claim being set up to the said slave Waterford, then and in that case this Indenture shall be utterly null and void and of no more effect than if the same had not been entered into; and in further trust that if the said Adam shall fail to indemnify the said Bakers for entering his appearance bail in the suit aforesaid from all damages which they may sustain on that account, and also if he the said Adam shall fail to secure the said Bakers in the undisturbed

possession of the said slave Waterford, or shall fail to indemnify the said Bakers from all damages which they may sustain by any adverse claim being set up to the said slave Waterford, then and in that case it shall be and may be lawful for the said Russell at the request of the said bakers to proceed to sell the said tract of land upon the premises to the highest bidder for ready money, or so much thereof as may be necessary to raise whatsoever will indemnify the said Bakers for whatsoever damages they may sustain for the causes aforesaid, after having given at least ten days public notice of the time and place of the sale thereof by advertising the same and giving said Adam notice thereof ten days before the day of sale, and out of the proceeds of the sale to pay whatsoever damages the said Bakers may sustain on the causes above mentioned and on the indemnification of the said Bakers for this causes aforesaid by the said Adam, then the said Russell will release the said Waterford all title in Law and Equity described under this indenture. Witness our hands and seals this 28th day of January

1823. Test. Jno. Dunn,  
Chas. Wallace, Mary Ann Dunn,  
Solomon Crabtree

His  
Adam X Waterford (Seal)  
Mark  
Andrew Russell (Seal) [9]

Virginia to wit at a Court continued and held for Washington County the 21st day of March 1823. This Indenture in Trust between Adam Waterford of the one part and Andrew Russell of the other part was proved in Court by the oath of John Dunn, Charles Wallace, and Solomon Crabtree, three of the subscribing witnesses thereto, to be the act and deed of the said John Waterford and Russell and ordered to be certified. In testimony whereof I John Campbell Clerk of the Court of the said County have hereunto subscribed my name and affixed the Seal of the said County this 22nd day of March in the year of our Lord 1823 and in the forty-seventh year of the Commonwealth. John Campbell



Washington County towit I Robert Campbell presiding Justice of the Court of said County do hereby certify that the foregoing attestation of John Campbell who is clerk of the said Court is in due form. Given under by hand this 24th day of March 1823.

Robert Campbell

State of Tennessee  
Sullivan County

Court of Pleas & May session 1823  
Then was the foregoing

deed of trust exhibited in Court, which was examined by the Court and ordered to be certified for registration.

Reg. 13th August 1823, Book, L. T. 328.  
State of Tennessee  
Sullivan County

Richard Netherland, Clerk  
By G. M. Netherland, D. Clerk

I John Anderson Register  
of Sullivan County do hereby  
certify that the foregoing is

a true copy of the above deed of trust from Adam Waterford to Andrew Russell registered in my office. Given at office 14th March 1827.

John Anderson, Register  
By G. W. Netherland, D Register [10]

#### Exhibit B,

This Indenture made the 12th day of March in the year of our Lord one thousand eight hundred and twenty three between Adam Waterford of Sullivan County and State of Tennessee of the one part and David Campbell of Washington County and State of Virginia of the other part witnesseth that the said Adam Waterford for and in consideration of the sum of one Dollar to him in hand paid the receipt whereof is hereby acknowledged, doth grant, bargain and sell unto the said David Campbell and his heirs for ever the following tracts or parcels of land, one tract lying and being in the County Tazewell, State of Virginia containing one hundred and twenty two acres, but in the Deed made by James Thompson sent to his son William P. Thompson dated 10th day of January

1810, called one hundred and sixty acres. The said tract has been conveyed by the said William P. Thompson to the said Adam Waterford and lies in Burkes Garden, the Deed recorded in Tazewell County Court, also one other tract lying and being in Burks Garden in the same county, containing Two hundred and eighty acres, conveyed to said Adam Waterford by William P. Thompson Executor or Administrator with the Will annexed of James Thompson the younger Decd. This Deed also of record in Tazewell County Court, also a tract or parcel of land lying and being in the county of Sullivan Tennessee containing Two hundred & six or seven acres, by said Waterford from a certain Adam Miller and the Deed for which is recorded in Sullivan, being the same land on which said Adam now lives, sixty head of cattle more in said Adams possession, one waggon and two horses, the farming utensils and [11] the personal property on the land last mentioned with all their appurtenances to have and to hold the said tracts or parcels of land with all their appurtenances and personal estate unto the said David Campbell and his heirs to the sole use and behoof of him the said David Campbell and his heirs forever, and the said Adam Waterford for himself and his heirs doth covenant with the said Campbell and his heirs that he the said Adam and his heirs the tracts or parcels of land with all their appurtenances & personal estate unto the said Campbell and his heirs against the claims of all persons whomsoever shall warrant and will forever defend, in Trust Nevertheless, that if the said Adam Waterford or his heirs shall well and truly pay or cause to be paid unto Isaac Baker or his heirs, the just and full sum of Seven hundred and four Dollars and Eighty three cents with interest thereon at 6p Cp A from this day which is justly due and owing to him, together with the expense of drawing and recording this Indenture within Eighteen Months from the day of the date of these presents. Then and in that

case this Indenture and every part thereof shall be null and void, and in further trust, that if the above named Adam Waterford shall not on or before the 12th day of November in the year of our Lord One thousand Eight hundred and twenty four well and truly pay or cause to be paid to the said Isaac Baker or his legal representatives the said sum of seven hundred four Dollars and Eighty three cents, and also shall not completely & entirely indemnify him for being his security in a suit in Chancery brought by said Waterford against William Shoemaker together with the expense of drawing and recording [12] this Indenture, then and in that case it shall be lawful for the said Campbell at the request of said Baker or his heirs Executors or Administrators to proceed to sell the above described tracts or parcels of land and personal estate, or so much thereof as shall be sufficient to raise whatever may be then due to the said Baker of the debt aforesaid or his indemnity aforesaid, and expense of drawing and recording this Indenture, at public sale to the highest bidder for ready money before the Court house door in the town of Abingdon after having given at least twenty days public notice of the time and place of sale by putting up an advertisement for that purpose, for that space of time at the front door of the Court house of the County Washington, and at such other public places as the said Campbell, his heirs or administrators shall think proper, and out of the proceeds of the said sale to pay to the said Baker or his legal representatives whatever may be due to him of the debt aforesaid with the interest thereon, together with the expenses of drawing & recording this Indenture, or whatever he may be compelled to pay as security aforesaid and the expense of sale and six per cent to the Trustee for his trouble in executing the trust, and the overpluss if any, to be paid said Adam or his legal representatives, and the said Trustee or his heirs or Executors or

Administrators is to convey the said tracts or parcels of land or so much thereof with the appurtenances as shall be sold at public sale as aforesaid to the purchaser or purchasers thereof, and the said Campbell for himself and his heirs doth covenant with the said Waterford and his heirs that he the said Campbell or his heirs or Executors or Administrators will well and truly execute the trust [13] hereby reposed in him, and that on the payment of the debt, Interest and expense of drawing and recording this Indenture on or before the 12th day of November in the year One thousand eight hundred and twenty four and indemnity as aforesaid, then the said Trustee or his heirs, Executors or Administrators at the proper expenses and charges of the said Adam will release to him or his legal representatives all demands in Law or Equity derived under this Indenture. In witness whereof the parties to these presents have hereunto subscribed their names and affixed their seals, the day and year first above written; signed sealed and delivered in presence of

Jacob Lynch  
Lewis Temeray (Toncray),  
John Dunn

his  
Adam X Waterford (Seal)  
Mark  
David Campbell (Seal)

Virginia towit

At a Court held for Washington County the 20th day of May 1823, the within Indenture in trust between Adam Waterford of the one part & David Campbell of the other part was proved in Court to be the act and deed of the said Adam Waterford by the oath of Jacob Lynch, Lewis Turnay (Toncray) & John Dunn the subscribing witnesses thereto and was acknowledged by the said David Campbell to be his act and deed and ordered to be certified. In testimony whereof I John Campbell Clerk of the Court of the said County have hereunto subscribed by name and affixed the seal of the said County this 21st day of May 1823 in the (legal seal) 47th year of the independence of the U. S.



John Campbell

Washington County Towit

J. Robert Campbell, presiding [14]

Justice of the Court of the said County do certify that the above attestation of John Campbell Clerk of the Court of the said County is in due form~

Given under my hand this 21st day of May 1823~

Robert Campbell

State of Tennessee  
Sullivan County

Court of Pleas & Quarter  
Sessions, May Session, 1823.

Then was the foregoing deed of Trust exhibited in Court and examined by the Court & ordered by the Court to be certified for registration.

Reg. 13th August 1823.

Richard Netherland, Clerk  
By G. W. Netherland, D.C~

State of Tennessee  
Sullivan County

I. John Anderson, Register  
for Sullivan County do hereby

certify that the foregoing Deed of Trust and certificates is a true copy from the Records of my office. Given at office 15th March 1827.

Book L. Page 326

John Anderson, Register  
By G. W. Netherland, D.Reg.

Whereupon the complainant entered into Bond with security which bond is in the words and figures following, towit,

Know all men by these presents that we Adam Waterford and John A. McKinney are held and firmly bound unto Isaac Baker in the penal sum of Five Hundred Dollars to which payment well and truly to be made and done we bind ourselves, our heirs, Executors, Administrators and assigned jointly & severally, firmly by these presents. In witness whereof we have hereunto set our hands & seals [15] this 8th day of May 1829.

The condition of the above obligation is such that whereas the said Adam Waterford hath this day filed in the Court of Chancery for the District

composed of the Counties of Sullivan, Hawkins, Grainger, and Claiborne his Bill of Complaint against the said Adam Waterford praying for relief in the premises, now should the said Adam Waterford well & truly prosecute his said suit, so by bill as aforesaid instituted with effect or in case of failure then pay and satisfy all costs which may be awarded against him for wrongfully filing said Bill, And abide by and perform such decree as said Court shall make on the final hearing of said cause, then and in that case this obligation to be void and of no effect, otherwise to be and remain in full force and virtue.

Test. D. Alexander C & M.

His  
Adam X Waterford, (Seal)  
Mark  
John A. McKinney, (Seal)

And thereupon writs of Injunction and subpoena were issued according to the prayer of said Bill, the Injunction issued on the 9th day of May 1829. In the words and figures following, towit.

State of Tennessee  
Chancery Court

To Isaac Baker, his attorneys,  
counsellors, agents & to

the Sheriff of Sullivan County. Greetings.

Whereas Adam Waterford hath this 9th day of May 1829 filed his Bill of Complaint against the said Isaac Baker in our Court of Chancery held at Rogersville for the District composed of the counties of Sullivan, Hawkins, Grainger and Claiborne wherein among other things he charges that he executed a Deed of Trust to Andrew Russell of Abingdon [16] Virginia, and which is made an Exhibit to said Bill, for a tract of land situated in said Sullivan County and containing Two hundred and Six or Seven acres for the purpose of indemnifying a certain Isaac Baker & John Baker, Citizens of Washington County Virginia from certain liabilities therein mentioned. And also that the said

Adam Waterford executed another deed of trust to David Campbell of Abingdon Virginia, which is also made an Exhibit to said Bill, to secure the payment of Seven Hundred four dollars Eighty five cents to said Isaac Baker, &c &c. And that the said David Campbell has pretended to sell said tract of land described in said Deed of trust & that said Isaac became the purchaser at said sale, & has procured a transfer of the title from said Campbell for said land, and has also procured the said Andrew Russell to transfer and make over to him the title vested in said Russell to said land. And the bill charges that the said Isaac Baker now threatens to institute suit against said complainant to vex and harass him and to obtain said land &c.

And whereas the Honorable Saml. Powel hath issued his fiat commanding that a writ of Injunction issue.

We therefore, in consideration of the premises do command and enjoin you, forthwith, absolutely & wholly to desist from commencing or instituting any suit or suits against the said Adam Waterford concerning the said tract of land in said Bill mentioned or in any manner disturbing the said Adam in the possession or enjoyment of said tract of land until the merits of said cause shall be heard and determined in our said Court of Chancery. And you the said Sheriff are hereby commanded to execute and make due return of this writ at a court to be held on the first [17] Monday of November next at the Court House in Rogersville. Witness Dicks Alexander Clerk & Master of our said Court at Office in Rogersville this first Monday of May A D. 1829.

D. Alexander, C & M

"Endorsed thus, writ of Injunction Adam Waterford vs Isaac Baker Isd. 9th May 1829 To November tern 1829." Recvd. 7th August 1829, and made known the contents of this bill to Isaac Baker same day. J. K. Snapp, Shff"

The subpoena to answer issd. the 9th day of May 1829, returnable to November Term 1829, but has not been returned into the Office of the Court aforesaid.

And at November Tm. 1829 the following petition was filed by the Defendant Reg.

To the Honorable the Court of Chancery now sitting and hold Court for the first Chancery District in the State of Tennessee, or District composed of the counties of Sullivan, Hawkins, Grainger and Claiborne in said State at the Court House in Rogersville. The petition of Isaac Baker a Citizen of the County of Washington in the Commonwealth of Virginia to the Honorable Court, represents that he is impleaded in Your Honorable Court by a Bill in Equity filed in said Court by one Adam Waterford a citizen of Sullivan County in the State of Tennessee.

Your petitioner further represents to said Court that the aforesaid Bill in Equity filed by the aforesaid Adam Waterford in said Court is filed for the recovery of and to divest your Orator of the title to a tract of land in Sullivan County aforesaid whereon the said Adam Waterford now lives and the said tract of land contains over two hundred acres, and is of much more value than five hundred Dollars. Your petitioner further represents to the Honorable Court, that he claims and has title to said land by deed [18] of trust from the said Adam Waterford to Andrew Russell and David Campbell of Washington County Virginia and by Deeds from said Russell and Campbell to your petitioner authenticated. Your petitioner prays the Honorable Court on inspection and consideration of said bill and proceedings, to direct by order made at this term that said cause may be transferred and adjourned and remove to the Federal Circuit Court of the United States for the District of East



Tennessee held at Knoxville there to be answered unto and heard and finally determined. And he will pray &c.

Sworn to and subscribed  
before me this 2nd Nov. 1829.  
D. Alexander C & M.

Isaac Baker

Chancery Court at Rogersville in the State of Tennessee Personally appeared in open Court John F. Johnson and made oath that he is acquainted with the tract of land whereon Adam Waterford the Complainant now lives, and which is named in the foregoing petition of Isaac Baker the Petitioner, and that he esteems and considers said tract of land to be of more value than Five Hundred Dollars or even One thousand dollars.

John F. Johnson

Sworn & Subscribed  
this 2nd Nov. 1829  
D. Alexander C & M

Endorsed. Adam Waterford vs Isaac Baker.  
Petition filed 2nd Nov. 1829.

Adam Waterford  
vs  
Isaac Baker

November Term 1829,  
in this cause it appearing to the  
satisfaction of the Court of the  
Complainant is a Citizen of Sullivan

County in the State of Tennessee and that the defendant [19] is a citizen of Washington County Virginia. And the defendant having by his petition in writing shewed that the property in dispute is worth more than five hundred dollars besides costs and prayed this Court to direct that this cause be removed from this Court to the Federal Circuit Court of the United States for the District of East Tennessee to be held at Knoxville. It is therefore ordered & adjudged by the Court that this cause (the Defendant having given security to the satisfaction of the Court conditioned for the filing of a Copy of the Record in said Federal Court and paying all costs &c.) be removed to

the Federal Court for the District of East Tennessee And that the Clerk and Master of this Court make out a transcript of the Record in this cause to be transmitted to said Federal Circuit Court.

Bond of Isaac Baker in the words & figures following vz: Know all men by these presents that we Isaac Baker, Francis Hawley, William K. Blair, & Peter Parsons are held and firmly bound unto Adam Waterford in the penal sum of Five Hundred dollars to the payment and discharge of which sum well and truly to be made and done we bind ourselves, our heirs, Executors, Administrators and assigns to the said Adam Waterford his heirs, Executors, and assigns In testimony whereof we have hereunto set our hands and seals this 3rd day of November 1829. The condition of the above obligation is this, that whereas the above named Adam Waterford a citizen of Sullivan County in the State of Tennessee has filed his Injunction Bill in Equity in the Court of Chancery held for the District composed of the counties of Sullivan, Hawkins, Grainger and Claiborne setting in Equity in Rogersville against the above bounden Isaac Baker a Citizen of the County of Washington in the [20] State of Virginia. And whereas said Isaac Baker hath by his written petition, prayed said Court to remove said cause to the Federal Circuit Court of the United States for the District of East Tennessee to be held at Knoxville on the second Monday in October next there to be filed and answered unto and finally determined. And also shown that the amount of the value of the property in dispute is more than five hundred dollars, besides costs. Now if the said Isaac Baker shall file a transcript of the Record in said cause in said Federal Circuit Court of the United States at Knoxville on the first day of the next term of said Court and shall well and truly pay all such costs as shall be awarded, adjudged and Decreed against him in said cause, by said

Court, then the above obligation to be void, otherwise to be and remain in

full force and virtue

Witness

D. Alexander C & M

Isaac Baker (Seal)

Francis Hawley (Seal)

Wm. K. Blair (Seal)

P. Parsons (Seal)

#### Bill of Cost

Adam Waterford

vs

Isaac Baker

|   |                    |
|---|--------------------|
| One copy Bill issued 23 copy sheets                 | \$ 5.75            |
| One Subpoena to answer                              | 1.25               |
| Sheriff J. K. Snapp; serving same                   | .62 1/2            |
| One injunction (Writ)                               | 1.50               |
| Sheriff J. K. Snapp; serving same                   | 1.00               |
| Bond and one security                               | .40                |
| Bond and three securities                           | .90                |
| Five rules  | .50                |
| Recording Bill 23 Copy Sheets                       | 5.75               |
| Making out transcript of proceedings 36 Copy Sheets | 9.00               |
| Affidavit to Bill .25 two other affidavits .50      | .75                |
|   | <u>\$27.42 1/2</u> |

[21]

State of Tennessee st.

I, Dicks Alexander Clerk and Master of the Court of Chancery held at Rogersville for the District composed of the Counties of Sullivan, Hawkins, Grainger and Claiborne do hereby certify that the foregoing is a correct Transcript of the proceedings of the cause therein mentioned, and also of the Bill of Costs as taxed in said cause, as appears from the Record in my office.

In testimony whereof I have hereunto set my hand and affixed my  
(Seal) private seal having no seal of Office, at office in Rogersville  
this 1st day of January 1830.

D. Alexander C & M

On the back of the foregoing Record the following Endorsement is made by the Clerk of the United States Court at Knoxville Tennessee, towit;

Transcript filed 4th day of Jany 1830.

W. C. Mynatt, Clerk.

On the 13th day of January 1830, Isaac Baker filed his answer, to the foregoing Bill of Complaint, in the Clerks office of the United States Court at Knoxville, in the words and figures following, towit;

The answer of Isaa Baker to the Bill of Complaint of Adam Waterford, now pending in the Circuit Court of the United States, for the Seventh Circuit and District of East Tennessee at Knoxville.

This Respondent now and at all times hereafter saving and reserving to himself, the right to, and benefit of all and every manner of exceptions to the manifold uncertainties, untruths, and informalities in complainants Bill contained, for answer thereto, or to so much thereof as he is advised it is in any way material for him to [22] respond, answering saith, that in January 1822, one John Baker, the son of Respondent purchased from Complainant a slave named Waterford and paid the price agreed on. Afterwards, about the 28th of January 1823, respondent and his said son John were applied to, by the Complainant, to become his appearance bail, at the suit of James Orr assignee of William P. Thompson, in an action of debt for the sum of Two hundred Dollars, besides interest and costs. About this time, or shortly before, respondent and his son John heard there were doubts about the title of the slave Waterford, it having been said that Col. William Byers had lien or incumbrance of some kind on him. Complainant living in Tennessee, and they, wishing to avoid trouble, agreed to become his appearance bail, provided he would indemnify them for so doing, as also indemnify them against any adverse claim that might be set up to said slave, which he agreed to do, and thereupon executed the trust deed to Andrew Russell, dated the 28th of January 1823, which is exhibited in complainants bill as exhibit A. Respondent & his son became the appearance bail, in the suit before named. The cause progressed,



and afterwards, to enable complainant to make his defence, they entered his special bail, at his request, whereupon Complainant pleaded non est factum, and the plea was decided against him by a jury. A seire facias (being the proper in such cases in Virginia) was sent out against this respondent and his son John, as special bail as aforesaid and Judgment obtained against them for the whole amount of the Judgment against complainant, besides the costs of the seire facias. Before any execution issued on this last judgment, complainant obtained an Injunction [23] in the Superior Court of Chancery held at Wythe, and again applied to respondent and his son to become his security in the Injunction Bond, to render the injunction effective. They agreed to do so, on being sufficiently indemnified, whereupon complainant executed the trust deed to Andrew Russell, dated the 15th day of March 1824. Afterwards the complainant executed the memorandum at the bottom of said deed, explanatory of the interest and meaning of the parties, dated May 24th, 1824. The Injunction in Chancery progressed to a trial which took place on the 23rd day of October 1827, when the injunction was dissolved, and complainant Bill dismissed. Until this time the proceedings on the judgment against respondent and his son were suspended, but shortly after this Respondant was informed by Edward Campbell, Attorney for Orr, that immediate steps would be taken against him and son, and that an execution would forthwith be placed in the hands of the Sheriff, unless the money was paid. In order to save further costs, respondent paid on the judgment obtained by Orr, the sum of three hundred fifteen Dollars, Said bill for an injunction was filed not only to stay the collection of said Orr's judgment, but also to enjoin one Burke, a free man of color from sueing complainant on a note for Two hundred and ten Dollars, as assignee of said William P. Thompson. The injunction aforesaid was dissolved

and this respondent rendered liable for the whole amount enjoined. In addition to the sum paid, he has deposited the amount of Burke's claim with the Clerk, making, in all, about Seven hundred Dollars he has paid for complainant in this branch of their transactions. The Honorable Court will discern that two deed of Trusts were executed by complainant to [24] said Andrew Russell for the benefit of this respondent, the first, dated the 28th of January 1823, which is made an exhibit to the Bill, Marked A, to secure respondent and son for being bail for Complainant in the suit Orr against him, the second, dated the 15th of March 1824, which respondent will produce, if required, to secure this respondent for being security for complainant in the before named suit in chancery. Respondant will now answer that part of the complainants bill, which charges him with fraudulently procuring from Francis Smith a debt due by Complainant &c. On the 3rd day of September 1821, the complainant, having borrowed six hundred and twenty dollars of said Smith, as respondent has been informed, executed his note for the same, and also executed a trust deed to David Campbell, of same date, for two tracts of land, in the State of Virginia, to secure the payment of said sum. Said note was to bear interest from the date and to be paid in Nine Monthly, thereafter, which note is here exhibited Marked 1, and prayed to be taken as a part of this answer--~~afterwards, about the 12th day of May 1823.~~ Said deed of trust is also exhibited, Marked 2, and to be taken as a part of this answer. Afterwards, about the 12th day of May 1823, Complainant came to this Respondant, and informed him, that he owed Francis Smith Six Hundred and twenty Dollars besides interest. That he had given a Deed of trust on some land in Burkes Garden, Tazewell County, Virginia, which be represented as very valuable, to secure its payment that the time was out, and Smith was about to

have the trust closed by a sale of the lands and [25] earnestly requested some assistance from this Respondt. to save his land, and to procure longer indulgences, that he might raise the money to dischargeth Debt.

This respondant, accordingly went to Smith and executed his own notes for the Amount of debt, interest and costs, and took up the Note executed by Complainant, which is before appended to his answer. Yet complainant feigns himself ignorant how Respondant became his creditor in the place of Smith. Respondant avers that at the time he took up said Note, at the request of complainant, he knew not what kind of money complainant had borrowed from Smith. Complainant did not give him the slightest intimation of any dissatisfaction towards Smith, or that he had recieved any thing but par money, and if he did borrow of Smith depreciated paper, Respondant has not been in any way benefited by it, as he has paid the whole amount in par money, and as he acted without notice, and that too at the instance of Complainant, he cannot be made answerable for the improper conduct of Smith. The debt, interest and cost advanced by respondant for complainant amounted, at the time, to seven hundred and four Dollars and eight-three cents, and to secure the repayment of the Sum so advanced the Deed of trust, dated the 12th day of May 1823, was executed by Complainant to David Campbell, which deed is exhibited in complainants bill as Exhibit B, and which is here referred to. Respondant has paid the whole of this amount to said Francis Smith, and would here, remark he was neither party, nor privy to any of this transaction, till applied to by Complainant as above set forth, and he denies [26] he received any benefit from the transaction, or will recieve any more than his legal interest, but on the contrary he has and will receive great trouble and expense. Complainant by this arrangement obtained an indulgence of eighteen

months. The failing to pay at the time limited, the property specified in the deed of trust was advertised by the Trustee David Campbell, for sale on the 15th day of February 1825, pursuant to the stipulations of the deed, and as the complainant lived out of the State about twenty five miles from Abingdon where the sale was to take place, by the terms of said deed, the Trustee, though not required, adopted the precaution to send him a notice in writing, which he received the 27th day of January 1825, about eighteen days before the sale was to take place.

The Complainant attended on the day, and at his request and by consent of this respondent, the Trustee postponed the Sale till the 31st day of March next thereafter. The sale of the land took place on the day agreed on, in the presence of complainant, and a large concourse of people. The personal property specified in the Deed of Trust was not delivered by complainant, and at his request the sale of that was postponed till the 25th of April 1825, which was the first day of the Supreme Court of Law of Washington County, in the State of Virginia, shortly before which day forty head of Cattle were delivered to said Trustee to be sold. The residue of the property named in the Trust deed was not delivered. The forty head of cattle consisted of cows and calves, and young cattle of an indifferent quality and poor, and were all sold on said 25th day of [27] April 1825, for the sum of one hundred and thirty four Dollars and thirty seven and a half cents, which it is believe was a fair price, and no more could be got for them. The land before named was sold for the sum of five hundred fifty dollars, and Respondant was the purchaser. Respondent avers both sales were publick, fair and honestly conducted. The Trustee executed a deed of conveyance for said land to Respondent dated the 24th day of April 1827, which he has ready to produce, if



thought necessary. The five hundred and fifty Dollars were permitted to remain in the hands of Respondent, except the Sum of thirty three dollars, which he paid to said Trustee as Commission. Out of the proceeds of said forty head of cattle Respondent recieved ninety five dollars five and a half cents, the residue being consumed in costs and charges. This respondent has paid and advanced for complainant the following sums. In 1827, on the claims of Orr and Burk about \$700.00, on the 12th of May 1823, to Francis Smith 704.83 also a considerable amount of costs in divers places, and at different times; the aggregate amount of which respondent will make out by proof, on the hearing. All he has ever recieved is a deed for the land, from the possession of which Respondant is sought to be kept by complainants bill, and also the said sum of Ninety five dollars five and a half cents.

Respondant understood, about the time of the sale of the land aforesaid, that according to the laws of Tennessee, complainant has the right to redeem the land sold as aforesaid, within two years, therefore waited to see if he would avail himself of the priviledge, but failing to do so the Trustee David Campbell [28] after the expiration of two years, at the request of respondent executed the deed before named, pursuant to the stipulations of the Deed of Trust. Respondent insist complainant has not any right in a Court of Equity to destroy the validity of his own contract solemnly executed. It is true that shortly after the said trust sale doubts were suggested whether the legal title was not in the Trustee Russell, and if so, the equitable title or interest was only vested in respondent by the purchase aforesaid, and the Trustee Russell being advised that as respondent had purchased the land as aforesaid, he was vested with the equitable title, and that it would be his duty to convey the legal title to said purchaser, who was cestin que trust in



the deed to which he as trustee, which was done, with the consent of John Baker all of which appears by their deed of release dated the 7th June 1827, which Respondent has ready to produce on the hearing. Respondant is fearful complainant is not in earnest when he says he is ready and willing to settle and pay what is due. If he be in earnest there cannot be much difficulty in this cause as respondent would prefer that to the land Respondent has now given the facts of the cause as they really exist, and will proceed to a more particular notice of some of the changes in the bill. Complainant seems desirous to create an impression that the forty head of cattle were delivered to this respondent. They were not so delivered, but were delivered to the Trustee David Campbell, who sold them as directed by the deed of trust, and as stated before in this answer, and were not sacrificed, nor did respondent ever tell complainant they sold for fifteen Dollars, which is ridiculous, as the complainant was present at the [29] sale, and recieved a credit for the value of the cattle. Respondent never had any control over them, and presumes he ought not to be answerable for more than they sold for at public sale. Complainant pretends ignorance of the place where David Campbell, as Trustee, sold the land. An inspection of the Deed of trust will shew the Court how uncandid he is in his bill. It directs the place of sale, and complainant was present when it was sold, and knew who was the purchaser, and for how much, and then made no objection to the Sale. Respondent is likely to be greatly the sufferer by his acts of kindness to complainant, but if he will comply with his legal obligations, this Respondent will ask nothing from this gratitude. Again if Respondent has no title, as alleged, complainant has no use for his bill. If he intend it a bill of peace he comes into this Court too soon, there having been, as the bill shews, no trial upon the merits of

this respondents title at law, and therefore complainants arguments, upon this part of the case, shew his bill ought to be dismissed. It is charitable to suppose Complainant intended to state the money transaction with Smith after Respondent advanced for him the amount thereof, according to what he supposed was its legal effect, for he has made a most manifest departure from the truth. He never received any Nashville money from this respondent, as falsely charged, but the truth is as heretofore stated in this answer, that the money advanced to Smith was par money. If the Contract between Smith and complainant was usurious respondent does not stand in a situation to be affected by it, being neither part nor privy further [30] than he became so at the instance of Complainant.

Respondent denies all fraud and Combination with which he is charged; and is ready to verify the matters in this answer, and prays the injunction obtained by Complainant may be dissolved, his bill dismissed and this Respondent hence discharged with his reasonable costs expended decreed to him &c.

Spencer Jarnagin, Att.

Isaac Baker

United States of America

Seventh Circuit and District of East Tennessee. On this 13th day of January 1830, personally appeared Isaac Baker before me, William C. Mynatt Clerk and Master of said Court and made oath that the facts stated in the foregoing answer of his own knowledge are true and those stated as being derived from the information of others he believes to be true.

Sworn to the date above  
W C. Mynatt Clerk & Master

Isaac Baker

Exhibit No. 1~

\$620.

I promise to pay or cause to be paid unto Francis Smith, his heirs or assigns the just and full sum of Six hundred and twenty dollars, in Nine Months from this date, with interest from the date till paid, for value recieved.

Witness my hand and seal this 3rd September 1821.

Test. D. Campbell

His  
Adam X Waterford (Seal)  
Mark

Exhibit No. 2~

This Indenture made the 3rd day of September in the year of our Lord One thousand Eight hundred and twenty one, between Adam Waterford [31] of Sullivan County and State of Tennessee of the one part, and David Campbell of Washington County and State of Virginia of the other part, witnesseth that the said Adam Waterford, for and in consideration of the sum of six hundred and twenty dollars, to him in hand paid, the receipt whereof is hereby acknowledged, doth grant, bargain and sell unto the said David Campbell and his heirs forever the following tracts of land, lying in Burkes Garden in the County of Tazewell, to wit, one tract containing one hundred and twenty two acres, but in the deed made by James Thompson to his son William P. Thompson, dated the 10th January 1810, called one hundred and sixty acres, the said tract is conveyed by the said William P. Thompson to said Adam Waterford by deed of record in Tazewell County Court, and bounded as described in the said deed, and in the deed from the said James the elder to his son William of the 10th of January 1810, and one other tract containing five hundred & Eighty acres, being part of James Thompsons Burks Garden tract, and conveyed to said Adam Waterford by William P. Thompson Executor or Administrator with the will

annexed of his brother James P. Thompson on a division thereof among his heirs, except some small portions thereof. The deed for this latter tract is also of record in Tazewell County Court, by a reference to which will more fully appear, with all their appurtenances, to have & to hold the said tracts or parcels of land with all their appurtenances unto the said David Campbell and his heirs, to the sole use and behoof of him, the said Campbell and his heirs forever. And the said [32] Adam Waterford, for himself and his heirs doth covenant with the said David Campbell & his heirs, that he the said Adam Waterford and his heirs, the said tracts or parcels of land with their appurtenances unto the said Campbell and his heirs against the claims, of all persons whomsoever shall warrant and will forever defend: In trust nevertheless that if the said Adam Waterford or his heirs shall well and truly pay or cause to be paid unto Francis Smith, or his heirs or assigns the just and full sum of Six Hundred and twenty dollars with interest from this date, which is justly due and owing to him together with the expense of drawing & recording this indenture, within Nine Months from the day of the date of these presents, then and in that case this indenture and every part thereof shall be null and void, and in further trust that if the above named Adam Waterford shall not on or before the 13th day of June in the year of our Lord One thousand eight hundred and twenty two well and truly pay or cause to be paid to the said Francis Smith or his legal representatives, the said sum of Six Hundred and twenty dollars, with interest at six per cent per annum from this date, together with the expense of drawing and recording this indenture, then and in that case it shall be lawful for the said Campbell or his heirs, executors or administrators to proceed to sell the above described tracts or parcels of land, or so much thereof as shall be sufficient to raise, whatever

may be then due to the said Francis Smith of the debt aforesaid and expense of drawing and recording this indenture, the the public sale to the highest bidder for ready money, before the Court [33] House door in the town of Abingdon, Washington County, after having given at least twenty days publick notice of time and place of sale by putting up an advertisement for that purpose for that space of time at the front door of the Court house of the County of Washington, and at such other public places as the said Campbell or his heirs executors or Administrators shall think proper; and out of the proceeds of the said sale to pay to the said Smith or his legal representatives whatever may be due to him of the debt aforesaid, with the interest thereon, together with the expense of drawing and recording this indenture the expense of Sale and Six per cent to the said Trustee for his trouble in executing this trust, and the Surpluss, if any, to be paid to the said Waterford, or his legal representatives, and the said Trustee or his heirs. Executors or Administrators is to convey the said tracts or parcels of land, or so much thereof with the appurtenances as shall be sold at public sale as aforesaid to the purchaser or purchasers thereof. And the said Campbell for himself and his heirs doth covenant with the said Waterford and his heirs that he the said Campbell, or his heirs, Executors or Administrators will well & truly execute this trust hereby reposed in him, and that on the payment of the debt interest and expense of drawing and recording this indenture on or before the 3rd day of June, in the year one thousand eight hundred and twenty two, then the said Trustee or his heirs, Executors or administrators at the proper expense and charges of the said Waterford will release to him or his legal representatives all demands in Law or Equity derived under this Indenture. In witness [34] whereof the parties to these



presents have hereunto subscribed their names and affixed their seals the day  
and year first above written  
signed sealed and delivered  
in the presense of

His  
Adam X Waterford (seal)  
Mark

David Campbell (SD)

Endorsed thus on the back of said answer  
vz. "Isaac Bakers answer - filed"  
"13th January 1830. W C. Mynatt, Clark"

And on the 13th day of January 1830 a Cross Bill was filed by said Isaac Baker  
in the foregoing case in the words and figures following, towit,

The Cross Bill of Isaac Baker against Adam Waterford, filed in the  
Circuit Court of the United States for the Seventh Circuit and District of  
East Tennessee, at Knoxville. Humbly complaining sheweth unto your Honors you  
Orator Isaac Baker, a citizen of Washington County, in the State of Virginia,  
one of the United States of America, and resident in said State of Virginia,  
that on the 8th day of May 1829, the said Adam Waterford filed his bill in the  
Court of Chancery held at Rogersville for the District composed of the  
counties of Sullivan, Hawkins, Grainger and Claiborne, in the State of  
Tennessee, against your Orator. Said Adam Waterford is a citizens of and  
resident in the District of East Tennessee, in the State of Tennessee one of  
the United States of America. An injunction issued on said Bill on the 9th  
day of May 1829, and also a copy of said Bill & subpoena to answer. At the  
November term of the Chancery Court aforesaid, held at Rogersville, your  
orator filed his petition to have said cause removed to the Circuit Court of  
the United States at Knoxville, the Honorable Chancellor then presiding  
removed said cause into this [35] Honorable Court, where the Transcript was  
filed on the 4th day of January 1830. Your Orator has filed his answer to  
said Bill, and thus the cause is now pending in this Honorable Court. The

object of said Waterfords bill is to enjoin your Orator from suing him at Law in ejectment, and for an account and offers to pay what may be due & thereby have the trust property released. Your Orator hews to Your Honors that on the 28th day of January 1823 said Adam Waterford executed a Deed of trust to Andrew Russell, for the benefit of your Orator and another, which is made an Exhibit to the Bill of said Waterford, as Exhibit A, and which is referred to as a part of this cross bill. Shortly after the execution of this deed of trust said Waterford got your Orator to pay a debt for him to one Francis Smith, which he did, amounting at that time, costs and all, to the sum of Seven hundred and four Dollars and eighty three cents, and to Secure the repayment of this amount said Waterford on the 12th day of May 1823, executed to David Campbell a deed of trust, for the benefit of your Orator including among other things the tract of land in Sullivan County. All this time, your Honors will discover Your Orator was unwilling to rely upon the personal responsibility of said Waterford. This second deed of trust is exhibited in said Waterfords bill as Exhibit B, and prayed to be taken as a part of this Bill. The first deed of trust here referred to was given to indemnify Your Orator against possible liability, which has been made certain and Your Orator on account of his Securityship has been forced to pay about Seven Hundred Dollars besides costs, the amount of which he is not now able to state, but expects to prove upon the hearing. The second [36] deed here referred to was given to secure the amount of money advanced by your Orator to Francis Smith for said Waterford and interest thereon. The money was to be repaid in eighteen months from the date of Said Deed, as will appear by inspection of said deed. The money was not paid, and Your Orator requested said Trustee David Campbell to proceed and sell the trust property, who accordingly

advertized the same for sale, pursuant to the terms of the Deed of Trust, and gave said Waterford a notice in writing of the time and place of sale. The sale was appointed to take place on the 15th day of February 1825, Waterford attended in person on the day and at his request the sale was postponed to the 31st day of March next thereafter, at which time the land in Sullivan County was sold. Waterford being present, and purchased by Your Orator at five Hundred and fifty Dollars, thirty three dollars of which were paid to said David Campbell as his costs and charges. Your Orator did not immediately take a deed of conveyance from said Campbell, but waited for the space of two years to see if said Waterford would redeem; he having no disposition to do so, or making any effort to pay Your Orator the balance due, Your Orator to realize the profits of his purchase took a Deed of conveyance from said David Campbell, for the tract of land purchased as aforesaid, dated the 24th day of April 1827, a copy of which with it authentications is hereto annexed as exhibit A, and prayed to be taken as a part of this bill. Your Orator further shews to put beyond dispute his title, he accepted a deed of [37] release from Andrew Russell, the Trustee in the Deed dated the 28th of January 1823, and John Baker, one of the persons for whose benefit it was made. Said Deed of release is dated the 7th day of June 1827, a copy of which with its authentications, is hereto annexed as Exhibit B, and to be taken as a part of this bill. Said Waterford insist in his bill that this deed of release was obtained by fraud, and was a breach of trust in said Andrew Russell &c and that Your Orator by his acceptance of it has made himself a Trustee. Your Orator believes he has a good title to the tract of land and ought to have recovered the possession long since. Said Waterford refuses to pay Your Orator any thing more, and insists upon retaining the possession of the land

so sold and purchased as aforesaid. To the end therefore that complete Justice may be done between your Orator and said Waterford, let the said Waterford be made defendant to this Bill, and answer upon his corporate oath the several matters thereof in as full and ample a manner as if the same were here again repeated, and he thereto particularly interrogated.

The premises considered, your orator prays that on the hearing of the cause of said Adam Waterford against your Orator this cause may be heard, and that said Waterford may be decreed to surrender the possession of said tract of land in Sullivan County to Your Orator, but if that cannot be done, Your Orator prays that an account may be taken by the Clerk & Master, ascertaining the amount due your Orator, and secured upon the trust property named in the Deeds of Trust, and that the Clerk of this Court sell the said tract of land in Sullivan County, in the room of whoever may in Equity be now the Trustee, and out of the proceeds [38] of said sale, pay to your Orator the amount found due to him. Your Orator prays all such other and further relief in the premises as may be consistent with equity and good conscience, and as the Nature of his case may require, according to the rules of this Honorable Court, and that proper process may issue to said Waterford &c.

Spencer Jarnagin Sol

Isaac Baker

#### **Exhibit A**

This indenture made this twenty fourth day of April in the year One thousand Eight hundred and twenty seven, between David Campbell of the one part, and Isaac Baker of the other part, both of the County of Washington & Commonwealth of Virginia; Whereas Adam Waterford of the County of Sullivan and State of Tennessee, in order to secure & provide, among other things, for a debt due and owing from him to the aforesaid Isaac Baker, amounting to Seven

Hundred and four dollars and eighty three cents, with interest thereon from the 12th day of May 1823 by an indenture bearing date on the said 12th day of May in the year One thousand eight Hundred & twenty three, and admitted to record in the proper office in the said County of Sullivan, and State of Tennessee on the 15th day of August One thousand eight Hundred and twenty three, did convey to the said David Campbell, among other things, all that certain tract or parcel of land, on which the said Adam Waterford lived, lying and being in the County of Sullivan aforesaid, containing Two Hundred and Six or Seven acres, purchased by the said Adam Waterford from a certain Adam Miller, & the deed for which is recorded in Sullivan County, together with all it appurtenances; in trust [39] nevertheless, and with power and authority to the said David Campbell to sell the said tract of land with it appurtenances for the purpose of paying the Said debt, and expense attending the execution of the Said trust if the said Adam Waterford should fail to discharge the said debt; and the Isaac Baker having in consequence thereof, default having been made of payment, required a sale of the said tract of land to be made, for the purpose aforesaid, the said David Campbell, in execution of the said trust after having given more than twenty days notice of the time and place of sale, by putting up an advertisement for that purpose for that space of time, at the front door of the Court house of Washington County, Virginia, and at other publick places in the said County, and in the County of Sullivan aforesaid in Tennessee, having adjourned the sale from the 15th day of February 1825, by consent of parties, did on the thirty first day of March, in the year One thousand Eight hundred and twenty five, before the Court house door in the town of Abingdon in the State of Virginia, expose to sale, at public auction to the highest bidder, for ready moneys, the said tract of land, with the



appurtenances, and at the sale as made the aforesaid Isaac Baker became the purchaser of the said tract of land, with the appurtenances, by bidding therefor the sum of Five Hundred and fifty Dollars, which was the highest bid made for the same, which sum has been permitted to remain in his hands, he being the Creditor, after receiving from him thirty three Dollars for the commission of the Trustee. -Now this indenture witnesseth that the said David Campbell for and in consideration of the said Sum of Five Hundred and fifty Dollars bid and paid as aforesaid hath granted bargained and Sold, and by these presents doth grant, [40] bargain and sell unto said Isaac Baker, and his heirs the same tract of land herein before mentioned and described, with the appurtenances, to have and to hold the Said tract or parcel of land with the appurtenances and all the estate, right, title and interest of the said David Campbell therein, unto the said Isaac Baker and his heirs forever. And the said David Campbell for himself and his heirs doth covenant with the said Isaac Baker and his heirs that he will forever warrant and defend the said tract of land with the appurtenances to the said Isaac Baker and his heirs from himself, the said Campbell, and his heirs, and all persons claiming under him or them, but against the claim of no other person whomsoever. In witness whereof the said David Campbell hath hereunto subscribed his name, and affixed his seal the day and year first above written.

David Campbell (seal)

Virginia

At a Supreme Court of Law continued and held for Washington County at the Court house thereof the 30th day of April 1827. This Indenture of bargain and sale between David Campbell of the one part, and Isaac Baker of the other part was acknowledged in Court by the Said David Campbell to be his

act and deed, which, on the motion of this said Baker is ordered to be certified. In testimony that the foregoing is a true copy from the records of the Superior Court of law for Washington County, I Andrew Russell, Clerk of the said Court have hereunto subscribed by name and affixed the seal of the Said Court this twenty sixth day of May in the year 1827.

(Seal)

Andrew Russell [41]

I Peter Johnston presiding Judge of the Superior Court of law for Washington County in the State of Virginia do hereby certify that the foregoing attestation of Andrew Russell, who is Clerk of the said Court is in due form. Given under my hand this 28th day of May in the year 1827.

Peter Johnston

In addition to my former certificate of the twenty sixth day of May last, I Andrew Russell, Clerk of the Said Superior Court, do hereby further certify that I am acquainted with the foregoing named David Campbell the bargainor, who has signed and acknowledged the foregoing deed and that he is an inhabitant of the County of Washington in the State of Virginia.

In testimony whereof I have hereunto subscribed my name (having heretofore affixed the seal of the Said Court this 7th day of September 1827, in the 52nd year of the Commonwealth.

Andrew Russell

Virginia  
Washington County &c.

I Peter Johnston judge of the said Superior Court of law, in and for the County aforesaid do certify that the foregoing certificate of acknowledgement by David Campbell of a Deed to Isaac Baker, for the land is in due form, and that it is done in pursuance of the laws of the State of Virginia, and by the proper officer.

Given under my hand this 25th day of September 1827.

Peter Johnston

State of Tennessee

Sullivan County 28th of September 1827.

Received the State tax on this deed.

G. W. Netherlands, D.C. [42]

State of Tennessee

Sullivan County

Page 349.

Registers Office, September 28th, 1827.

Registered this Deed with the  
certificates thereon in Book M

John Anderson ~ Register  
of Sullivan County.

### Exhibit B.

This Indenture made this Seventh day of June in the year One thousand eight hundred and twenty seven between Andrew Russell of the one part and Isaac Baker of the other part both of Washington County in the State of Virginia: whereas Adam Waterford, a free man of color of the County of Sullivan in the State of Tennessee, did, by deed dated the 28th day of January 1823 and of record in said County of Sullivan, Convey bargain and sell unto the said Andrew Russell a certain tract or parcel of land laying and being in the said County of Sullivan, Containing Two Hundred and Six or Seven acres, being the same tract of land purchased by the said Waterford from a certain Adam Miller and being the same on which the said Adam Waterford now resides, in trust to secure Isaac and John Baker from all damages which they may sustain by reason of entering appearance bail for the said Waterford at the suit of James Orr, and also to secure the said Bakers in the undisturbed title and possession of a certain Slave named Waterford, purchased by the said Bakers from the said Adam; and whereas the said Adam Waterford by deed dated the 12th day of May 1823, did bargain, sell and convey the same tract of land to David Campbell with other property in trust to secure the above named Isaac Baker the sum of Seven Hundred and four Dollars and eighty three cents with

interest [43] and costs, and with authority to sell the said land with the appurtenances in order to raise the said debt. Interest and costs in case they were not punctually paid, which last deed is also of record in the Registers Office of Sullivan County: & whereas afterwards, to wit, on the 31st day of March 1825, in consequence of the default of the said Adam Waterford to pay the debt last mentioned, the said David Campbell, in pursuance of the trust reposed in him by the parties, made sale of the said tract of land, with the appurtenances as directed by the said trust, and the above named Isaac Baker became the purchaser and on the 24th day of April 1827, the said David Campbell, by deed, in proper form, bargained and conveyed the Said tract of land with the appurtenances to the said Isaac Baker: and whereas the said John Baker hath directed that all claim, which he hath in the deed of trust to the said Andrew Russell from the said Waterford dated the 28th day of January 1823, shall be released to the said Isaac Baker and the said Isaac Baker hath also requested a release to himself of such legal title as is in the said Andrew Russell, Therefore this Indenture Witnesseth, that in consideration of the premises and for the consideration of One Dollar in hand paid, the said Andrew Russell doth hereby, remise, release and forever quit claim fully and absolutely to the said tract of land with the appurtenances to the said Isaac Baker and his heirs to have and to hold the aforesaid tract of land with its appurtenances to the said Isaac Baker, his heirs and assigns to the only use and behoof of the Said Isaac Baker and his heirs forever, so that the Said Andrew Russell or John Baker nor any other person whatsoever claiming under either [44] of them, shall by any ways or means, hereafter, have, claim, challenge or demand any estate, right title or interest to the said premises or any part thereof.

In witness whereof the said Andrew Russell and John Baker have hereunto subscribed their names and affixed their seals, the day and year first above mentioned.

Andrew Russell (Seal)  
John Baker (Seal)

Virginia.

At a Court held for Washington County the 19th day of May 1827.

This release from Andrew Russell and John Baker to Isaac Baker, was acknowledged in Court by the said Andrew and John as their act and deed and ordered to be certified.

In testimony whereof I David Campbell, Clerk of the Court of said County, have hereunto subscribed by name and affixed the seal of the Said County, this 30th day of June in the year One thousand eight hundred and twenty seven, and in the 51st year of the Commonwealth.

David Campbell (Seal)

Washington County, to wit,

I, Robert Preston, presiding Justice of the Court of said County do certify that the foregoing attestation of David Campbell, Clerk of the Court of the said County is in due form. Given under my hand this 9th day of July 1827.

Robt. Preston

In addition to my former certificate of the 30th day of June last, I do hereby certify, that I am acquainted with the foregoing named Andrew Russell and John Baker, the bargainers, who [45] have signed and acknowledged the foregoing release and that they and inhabitants of the County of Washington in the State of Virginia.

In testimony whereof, I have hereunto subscribed my name (having heretofore affixed the Seal of the Said County) this 7th day of September 1827



in the 52nd year of the Commonwealth

David Campbell  
Clerk of Washington County

Virginia  
Washington County

I, Peter Johnston Judge of the Supreme Court of Law in and for the County aforesaid do certify that the foregoing certificate of acknowledgement by Andrew Russell and John Baker, for lands, is in due form, and that it is done in pursuance of the laws of the State of Virginia, and by the proper officers. Given under my hand this 25th day of September 1827.

Peter Johnston

State of Tennessee  
Sullivan County 28th September 1827.  
Received the State tax on this release

G. W. Netherland, D.C.

State of Tennessee  
Sullivan County

Registers Office September 28th,  
1827. Registered this release

with the certificates therein in Book M, Page

351.

John Anderson, Register  
of Sullivan County.

The following endorsement appears on the back of the foregoing Cross Bill, viz. "Cross Bill Isaac Baker vs Adam Waterford, filed 13th January 1830, [46] And at the October Term 1830, of said United States Court, the following entry appears of record in the foregoing case, viz;

Tuesday 12th, October 1830.

Adam Waterford  
vs  
Isaac Baker

In Equity  
For reasons appearing to the  
satisfaction of the Court on the

affidavit of the plaintiff this cause is remanded to the Rule Docket and leave

given the complainant to file a replication in the original cause, and that he have leave to file an answer to the Cross Bill filed in said cause.

And at the same term of said Court the following entry appears of record in the foregoing cause towit,

Friday 15th October 1830.

Adam Waterford  
vs  
Isaac Baker

For reasons appearing to the satisfaction of the court upon the affidavit of complainant leave

is granted him to answer the original Bill in this cause and that 3 months be allowed complainant to make such amendments, and that complainant pay the costs of said amendment and by consent of parties leave is given complainant to demur or answer the Cross Bill in this cause until the answer is put in to the amended Bill.

And afterwards, towit, on the 3rd day of December 1830, Adam Waterford filed his amended Bill in the foregoing case in the Words and figures following to wit. {47]

To the Honorable the Judges of the Circuit Courts of the United States, setting in Chancery in and for the Seventh Circuit and District of East Tennessee humbly Complaining sheweth unto Your Honors, Your Orator Adam Waterford in this his amended Bill of Complaint.

That on or about the first day of January in the year 1821, Your Orator had occasion to borrow a sum of money from a certain John Baker then and now a resident in the County of Washington in the State of Virginia about Four hundred Dollars as well as your Orator now recollects, and to Secure the payment of said sum of money so borrowed. Your Orator put into the possession of the said John baker as a pledge a Negro man a slave for life, named Waterford, who belonged to Your Orator, and had by Your Orator been purchased

from a certain William P. Thompson, and the said Negro Slave Waterford has ever since continued in the possession of the said John Baker or in possession of a certain Isaac Baker, for they both live together and appear to have things pretty much in common. And Your Orator charges that the reasonable hire of Said Said slave is worth at least, One hundred and twenty Dollars for each and every year, that he hath so remained in the possession of the said John and Isaac Baker. And Your Orator positively States that said Slave Waterford was not sold to the said John Baker nor to the said Isaac Baker but was only pledged to them to secure the payment of the sum of money herein before mentioned.

Your Orator further states that on the 28th day of January in the year 1823 he executed a deed [48] of trust to a certain Andrew Russell, then and now a resident in the county of Washington aforesaid for a tract of land situate in the County of Sullivan in the State of Tennessee containing Two Hundred and Six acres and is the same place on which Your Orator now resides; The Sole object of which deed of Trust was to keep the said John and Isaac Baker free from damage on account of having become appearance bail for Your Orator in a suit which a certain James Ore had instituted against Your Orator in the County Court of Washington County in the State of Virginia, which suit was for the recovery of Two hundred Dollars which Your Orator owed to the said James. Your Orator further states that sometime after said Deed of trust was executed the said James Ore pretended that he had Some kind of a claim to the said Slave Waterford, and threaten to disturb the said John Baker in the possession of said Slave and the said John Baker applied to Your Orator to have a clause inserted in said Deed of Trust, that the said John Baker should not be disturbed in the possession of said Slave Waterford by reason of the

claim of the said James Ore, until the said Slave Should be redeemed by Your Orator. To which proposition Your Orator consented that said addition Should be made to Said deed of Trust. And Your Orator States to Your Honors that he is an illiterate person, who, unfortunate for himself, can neither read nor write. And he is informed and believes that said Deed of Trust in that part so added, now read thus, "and shall [49] 'also secure the said Bakers (meaning Isaac and John) 'in the undisturbed title 'and possession of a certain Slave named Waterford 'purchased by the said Bakers from the said 'Waterford, and shall indemnify the said Bakers 'from all costs and damages which they may 'sustain by any adverse claim being set up to 'the said Slave Waterford then &c,'" at least such is the way said Deed of trust reads in a Copy Which Your Orator has procured form the Registers Office in Sullivan County in which office said Deed has been registered by the Said Bakers, and which copy Your Orator annexed to his Original Bill, Marked A; And Your Orator positively states that if such be the language of said Deed of trust, it does not speak the language it was intended to Speak when Your Orator consented that said addition should be made to it, for Your Orator positively states that he never made any contract with the said Isaac Baker of any kind respecting said negro slave nor did he ever sell said slave to either of the Bakers, nor was it so understood between Your Orator and either of the Bakers, nor was it so understood on the part of Your Orator that any thing should be added to said Deed of Trust respectory said salve except that Baker should be indemnified from all claim to Said Slave while he should continue as a pledge in the possession of the said John Baker. But how the original deed of Trust reads Your Orator cannot tell as he has never seen it since said addition was made to it, nor, if he had, could he have read it, for the reason herein before

stated, but if the original deed reads as the Copy from the [50] Registers Office does, then it is not the deed your Orator intended to execute as to that part of it and whether it happened by mistake in the person who made said addition, or otherwise your Orator cannot tell; but one thing is certain that the said John and Isaac Baker, have both repeatedly stated to sundry persons that the said slave was the property of your Orator, but that your Orator should not have him if he would give fifteen hundred dollars for him. Your Orator further states that on the 12th day of May in the year 1823, Your Orator executed a Deed of trust to a certain David Campbell, then and now a resident in the County of Washington in the State of Virginia for the same tract of land herein before mentioned; and also for a valuable tract of land in a place called Burkes Garden in Tazewell County in the State of Virginia, a copy of which last mentioned Deed of trust Your Orator exhibited with the original Bill now in this Honorable Court, Marked B, and to which Your Orator now refers, the object of which last mentioned deed was to Secure to the said Isaac Baker, the payment of the nominal sum of \$704.25 which said Deed of trust asserts, was owing by Your Orator to said Isaac. But which was in reality only \$625, which sum Your Orator had borrowed from a certain Francis Smith in Notes of the Nashville Bank at a time when the notes of said Bank were at least thirty per cent below par, and for which sum so borrowed, Your Orator executed his obligation to the said Francis Smith which obligation the said Smith afterwards, and after it became [51] due, transferred to the said Isaac Baker and is the same debt, and no other which said last mentioned Deed of Trust was executed to secure the payment of, which payment was to be made in eighteen months from the date of said Deed. Your Orator further states that some time in the month of April in the year 1825, the said Isaac Baker



took into his possession upwards of forty head of cattle, being part of the cattle in said Deed of trust mentioned, and which were in fact, at that time worth upwards of Four hundred Dollars, which cattle the Said Isaac turned into an old waste field, and kept them there about six or seven days without any food (except what they picked up in the field) until they were in a perishing condition, and then had them sold on a few days notice, when, by the terms of said Deed of Trust they were to have been advertised at least twenty days before sale, and your Orator charges, that by reason of the condition said cattle were in at the time of Sale, and the short notice of the time of Sale, they did not sell for more than one fourth part of their real value, and were bought or pretended to be bought, by the said Isaac Baker and by his Son John Baker, and his Son-in-law John Dunn; and Your Orator is advised, that the said Isaac is liable to account to Your Orator for the full value of said cattle which would be at least Four Hundred dollars Your Orator further states that by said deed of Trust, Your Orator was to keep said Isaac Baker indemnified for and on account of his being [52] security for Your Orator in a suit which your Orator had with one William Shoemaker, in which suit Your Orator prevailed, and so the said Isaac has sustained no damage on that account, but Your Orator advanced fifteen Dollars to the said Isaac in the progress of that suit for which he is liable to account to Your Orator. Your Orator refers to his original Bill, in which he charged that the said David Campbell, as Your Orator has been informed and believes, had pretended to sell said tract of land in said Deed of Trust mentioned; and that at said pretended sale, the said Isaac had pretended have been the purchaser, and had procured some kind of a transfer of the title to said tract of land from the said David Campbell, and on said pretended title had instituted an action of Ejectment against your

Orator in the Circuit Court of Sullivan County in this State, and that in order to enable him more effectually to distress and ruin Your Orator, and to deprive him of the tract of land aforesaid; the said Isaac had procured the said Andrew Russell, Trustee in the first mentioned deed of Trust to transfer and make over to him the title vested in the said Andrew by virtue of the said first mentioned Deed; in doing which, Your Orator charges that the said Isaac was guilty of a gross fraud and the said Andrew Russell of a manifest breach of Trust in as much as by the Terms and stipulations in said Deed of Trust to the said Andrew, he was to hold said land in trust for your Orator until a certain event should take place, which had [53] not yet happened, and in case that never took place, the land was to be reconveyed to Your Orator, all which will more fully appear by a reference to said Deed of Trust. Your Orator further stated in said original Bill, that the said Isaac did not succeed in the suit which he had so instituted against your Orator, but on the contrary had been forced to suffer a non suit, and that he had threatened to institute another suit against your Orator, and to put him to trouble and expense, and to obtain his land from him for almost nothing, and your orator alleged and now alleges that the said Isaac hath no good and valid title to the tract of land in said Deed of Trust mentioned; because the legal title to said land was vested in the said Andrew Russell, as Trustee, for a valuable consideration, to be held by him until an Event takes place, which has not yet taken place; and the legal title having vested in Russell, no title vested in David Campbell by the second deed of Trust, and so he could convey no title to Isaac Baker the pretended purchaser by his Sale, having had no title in himself, and the said Isaac can claim no right to disturb Your Orator by virtue of any release or conveyance from the said Andrew Russell, as he in taking a

conveyance from a Trustee, made himself a Trustee, and as such, is bound to hold said tract of land in trust for Your Orator until the event shall happen, for which it was conveyed to Russell. Your Orator states that he is ready and willing to come to a fair & honest Settlement with the said Isaac Baker, and [54] to pay him up whatever sum may appear upon such settlement to be justly due to him. But in doing so, Your Orator will claim a deduction for the amount of the difference between depreciated Nashville Bank Notes and par money, on the nominal sum for which he executed his obligation to the said Francis Smith, and which obligation the said Isaac purchased from said Smith after it had become due, and to secure the payment of which Your Orator executed said deed of Trust to D. Campbell. For Your Orator charges that it was an usurious transaction to let Your Orator have depreciated bank notes thirty per cent below par and to charge him the full amount of it in par money for the sake of giving him day for the payment of the money, and Your Orator is advised that as the said Isaac purchased said obligation from the said Smith after it became due, that he stands with respect to Your Orator in the same situation that the said Smith would have done, and that the obligation in his hands, is subject to the same Equity that it would have been, had it remained in the hands of said Smith and moreover the said Isaac had a full knowledge at the time he recvd. said obligation of what your Orator had recvd for it. Your Orator on said settlement will also claim the full value of said forty head of cattle, which the said Isaac recieved from Your Orator, and of which he has recieved the full benefit. Your Orator also claims from the said Isaac and John Baker an account of the yearly value or hire of the Salve Waterford from the time he has been in the possession of [55] the said Isaac and John, at the rate of One Hundred and twenty dollars per year and that the

remainder of the hire of said slave after paying the amount of the money for which he was pledged, may be applied to the satisfaction of whatever may be due to the said Isaac on said Deed of Trust to D. Campbell and to the end that the Court may be enabled to inspect the Deed of Trust originally made to Andrew Russell, and in which the clause is inserted respecting said slave. Your Orator calls on the said Isaac Baker to exhibit said original Deed of Trust with his answer to this amended Bill. Your Orator further states that about the time when the said Isaac Baker procured the pretended sale of the tract of land aforesaid by the said David Campbell, Your Orator was about to sell said land himself to one Matthew Rhea for the purpose of paying off all the debts he owed to any person and the said Matthew had at that time, cash in his possession to the amount of twenty five Hundred Dollars and the said Matthew Rhea tendered to the said Isaac Baker and offered to pay him every cents which your Orator was indebted to him on any account, but this offer the said Isaac refused & assigned as a reason that Rhea only wanted to get an advantage of Your Orator, and this, he Baker, might as well get as let another person get it. And had the said Baker then accepted of what was due to him, Your Orator would not have been harassed and vexed in the manner he has been and if Justice and fair dealing had been the object of the said Isaac, he would not [56] have refused to have accepted of his money when it was offered to him.

Your Orator prays that the said John Baker may be made defendant with the said Isaac Baker to this amended Bill: and that the said Isaac and John may be compelled full, true, and perfect answers to make to all and singular the Charges in this Bill contained in as full and ample a manner as if the same were herein again repeated and they thereunto more particularly



interrogated, and more especially that they may state and say was not the Negro slave Waterford pledged to one of them for a sum of money borrowed by Your Orator and how much was it? How long has said slave been in the possession of the Defendant? Has not the Defendt. repeatedly said to sundry persons that said slave was the property of Your Orator, but that he should not have him? When was the stipulation respecting said Slave Waterford introduced into the Deed of Trust to Russell and for what purpose, and by whom and under what circumstances? When were the Cattle herein mentioned sold? What was their Number? How many days notice of the time of sale was given? How long were they in the possession of defendant before the day of sale? Where were they kept and how were they taken care of? and who became the purchasers of them? The premises considered, Your Orator prays that the Defendants may account to him for the hire of the Slave Waterford, and that they may be decreed to deliver up said Waterford to your Orator. That the Defendant Isaac Baker may [57] account for the value of the cattle recvd. from your Orator. And that he may be compelled to recieve whatever sum (if any) that Your Orator may be indebted to him. And that on receiving what may be so due to him, that he may be decreed to release to Your Orator all claim under the aforesaid deeds of Trust, and that he may be perpetually enjoined from suing your Orator on his pretended title to said land under the Trustee Sale. And that all such other and further relief in the premises as is consistent with Equity and good conscience may be granted to him and that process may issue to compel the Defendant to appear and answer this amended Bill.

McKinney for Compt.

The following endorsement appears on the back of said amended Bill viz.  
"Adam Waterford vs Baker & Baker. amended Bill" filed December 3rd, 1830. W.



C. Mynatt, Clerk, "36 copy sheets in this amended Bill. 2 Subpoena, and 2 copies issd. 8th Decr. 1830.

W. C. Mynatt, clerk & Master

And on the 12th day of October in the year 1831, John Baker filed his separte answer to the foregoing Amended Bill of Complainant, in the wordz & figures following, to wit.

To the Honorable the Judges of the Circuit Court of the United States setting in Chancery in and for the Seventh Circuit and District of East Tennessee.

The separte answer of John Baker to the Amended Bill of Adam Waterford instituted in this Honorable Court against the Defendant and his [58] father Isaac Baker.

This Defendant reserving the right of making all just and proper exceptions, to Said amended Bill, for answer thereto or to so much thereof as he is advised is material for him to answer saith; That on the 11th day of January 1822, he loaned to the plaintiff \$450, which was to be returned on 1st day of February following, to secure the payment of which, the pltf. put the slave Waterford in the possession of this Defendnt as a pledge; it was however agreed at the time that, if the money was not then returned, that this Defendant was then to pay the additional sum of \$50, making \$500, in all, and the sale which was before conditional, was to be absolute. The said plaintiff faild to return the \$450, and this Defendants father, for him, paid the \$50, as had been agreed on; part of which, towit \$41.25, was paid to one Wm. Wallace, by the order of Harrold Smith who held a note on the pltf. for about \$94.50, all of which will appear by said order herewith filed as part of this answer Marked No. (1). This order is not dated, but this Defendant charges

that the money was paid before the 21st day of March 1822. The ballance of the fifty Dollars was paid to said Waterford in some other way not now recollected by this Defendant, so that from that time, this defendant charges that the said pledge was at an end, and an absolute title to the Slave Waterford was vested in this Defendt. as was then distinctly understood by both parties. Afterwas about the 28th day of January 1823, this Defendant having heard that some person [59] probably Col. Wm. Byars had some incumbrance or prior lien upon the slave Waterford and that there was some doubts about the title, proposed to take his money and return the slave, but the complainant refused to do so, or to recant the contract last made, but said if this Defendant and his father would go his appearance bail at the suit of James Orr so that he would be released from custody, being then in the Jail at Abingdon, Washington County, Va. that he would give security for the title to the slave for he knew that it was good. This Defendant and his father agreed to the proposition, went his bail, and in consideration thereof the said Waterford executed the Deed of Trust herewith exhibited as part of this answer marked No. (2) bearing date on the 28th day of January 1823, for the express purpose of securing the title to said slave Waterford, who had been purchased, as well as securing them for being his appearance bail as aforesaid; and he expressly denies that the trust deed was given to keep this Defendant in the undisturbed possession of the Slave only, until he should be redeemed as is falsely stated by the Pltf. the contract had been changed as already stated, and the Pltf. when this Defendt. proposed to let him have the slave, at the same price he had given, replied that he would not give it, as the slave was unwilling to go with him. It is also utterly untrue that this clause was inserted some time after the Deed was executed. He avers that it

was all one contract, and all executed at one time, which was then distinctly and well understood by all concerned.[60] It will be seen by inspecting the Deed itself, that the clauses or stipulations relating to the slave, were all written when the Deed was executed. For there are two clauses in the Deed upon that subject, 1st. where it stipulates to "secure the undisturbed title and possession of a certain Slave" &c. and afterwards when it stipulates, if he fails to "Secure &c. or shall fail to indemnify &c. so that it is entirely impossible that those clauses could have been inserted afterwards as is falsely asserted by the pltf. It is also altogether untrue that the Deed of trust speaks a language it was not intended to speak; except in this, it secures the title to the slave, to both this Defendant and his father, when the sale was to this Defendant only, but that was a matter considered of no importance at the time and was tho't unnecessary to be altered. It is true that the sale of the Slave Waterford was not to Isaac Baker as stated by the pltf. but it is equally true that the sale was to this Defendt. in the manner herein before mentioned. This Defendt. knows not how the copy of the Deed of trust referred to by the pltf. reads, but he avers that the original Deed which he files as part of this answer in securing the title of said Slave, which had been purchased by this Defendant, is exactly what was intended and well understood by the contracting parties, and he further expressly avers that if the title to said Slave had not been secured in that, on some other satisfactory way, he would not have involved himself in trouble & difficulties by becoming his bail at the suit of Orr, as [61] aforesaid, for this Defendant then began to suspect, what the plaintiff is ascertained to be, a schrewd, unprincipled man, cloaking his cunning & artifice under the garb of ignorance and illiterateness. This defendant denies that he ever stated, since his

purchase of the Slave Waterford became absolute as herein stated, that he was the property of the Plaintiff, but that he should not have him if he would give \$1500, for him as is falsely stated by the plaintiff. As further evidence of this Defendts. purchase, this Defendant would beg leave to state that the Negro Waterford was formerly the property of one Evan S. Thompson, who, on the 14th day of May 1821, sold him to one William P. Thompson; and the said William P. Thompson, on the 1st day of January 1822, sold him to the Plaintiff as will appear by voucher No. (3) herewith filed as part of this answer. The said sale to the plaintiff tho. absolute in its face was conditional, as this Defendt. understood from the said Plaintiff, that is to say, the said William P. Thompson, who had become involved in debt, had let Harrold Smith, herein before mentioned, have several slaves, and among them, one he called Jefferson, and when he executed the Bill of Sale to the Plaintiff for Waterford, he took a writing from the plaintiff, declaring that bill of sale to be void if he did not procure the said Jefferson for him, whom he was desirous to own. The said plaintiff, in order to procure the said slave Jefferson, obtained the \$450, aforesaid, from this Defendant on the 11th January 1822; on the next day, as this Defendt. is informed, he made the purchase of Jefferson from [62] Harrold Smith, paid the money he had got from this Defendt. and executed his note to Smith for the balance and probably some other claims he had against him. He then went to the said William P. Thompson and obtained a writing shewing that the bill of Sale which had been conditional, was then good and valid and never to be revoked, this writing bears date on the 14th day of January 1822, and is herewith filed as part of this answer marked No. (4). These bills of sale were delivered to this Defendt, after the Trust Deed dated 28th January 1823, was executed for the

purpose of shewing his chain of title and in further confirmation of the contract aforesaid.

If however the testimony here adduced is not considered sufficient to prove an absolute purchase of the slave Waterford from the pltf. (which he avers to be the fact) this Defendnt then relies upon and claims the benefit of the Statute of limitations in such cases made and provided, in bar of the Plaintiffs right of Equity of redemption, he having had possession of the said slave Waterford every since 11th January 1822.

This defendant denies that the hire of the slave Waterford was worth \$120. He charges that such slaves were worth at that time about \$70. or \$80, and that they have been depreciating even since, being now, not worth more than \$50. or \$60. a year. This defendt denies that he purchased any of the cattle of the pltf. at the sale in the pltffs bill mentioned. His father purchased only three, and John Dunn purchased 14 head. the rest were purchased by various individuals, as will [63] appear by a list of sales made by the Trustee, and herewith filed as part of this answer, marked No. (5) from which it will also appear the property was advertised and the sale postponed from time to time at the request of the pltf. until the 1st day of the Superior Court of Washington County. This Defendant believes the sale was honestly conducted and that the cattle sold at fair prices, particularly for a sale at auction. These cattle were never taken possession of by Isaac Baker, for this Defendnt and the said Isaac, his father, lived together at the time & this Defendant knows that the cattle were not brought to their residence. The fact is the pltf. sent the cattle by his son and father to be delivered to the Trustee to be sold on the 1st day of the Superior Court, as stated by the Trustee.



They were put into a field, belonging to the Trustee by them, but how long before the sale this Defendant does not know. He denies that they were worth \$400. It will be seen by the list of sales, that the cattle consisted of cows and calves, and young heifers principally. They were of very indifferent quality and for further particulars in relation thereto this Defendant refers to the answer of his father, filed in this Court to the plaintiffs original bill, a copy of which this defendant has seen and believes to be true.

And having answered the amended Bill of the Complainant, so far as he is concerned, prays that it may be dismissed as to him and that he may have a decree for his costs. [64]

State of Tennessee  
Circuit Court of the United States  
Seventh Circuit and District of  
East Tennessee

October Term  
1831

This 12th day of October in the year 1831, John Baker, the respondent in the foregoing answer appeared in open Court, and made oath, that the matters set forth in the foregoing answer, as of his own knowledge, are true, and those stated upon information of others, he believes to be true.

Sworn to in open Court  
12th October 1831.  
W. C. Mynatt, Clerk

John Baker

on the back of the foregoing answer, the following endorsements are made, viz:

Baker vs Waterford. ans: Filed in Open Court 12th October 1831. W. C. Mynatt, Clerk.

#### Exhibit No. 2.

This Indenture made this 28th day of January 1823, between Adam Waterford a free man of color of the County of Sullivan in the State of

Tennessee of the one part, and Andrew Russell of the County of Washington in the State of Virginia of the other part, Witnesseth that the said Adam Waterford for and in consideration of the Sum One thousand Dollars to him in hand paid, doth bargain and sell unto the said Andrew Russell and his heirs, one certain tract or parcel of land, lying and [65] being in the County of Sullivan of the State of Tennessee containing Two Hundred and six or seven acres, being the same tract of land purchased by said Waterford from a certain Adam Miller of record in the County Court of Sullivan aforesaid, with all its appurtenances ~~unto the Said Russell~~ to have and to hold the said tract or parcel of land with it appurtenances unto the Said Russell and his heirs, to the sole use and behoof of him the said Russell and his heirs forever.

In trust nevertheless, that if the said Waterford shall indemnify a certain Isaac Baker and John Baker from all damages which they may sustain by reason of entering appearance bail for the said Waterford this day at the suit of James Orr in the County Court of Washington, and also shall secure the said Bakers in the undisturbed title and possession of a certain slave named Waterford purchased by the said Bakers from the said Adam Waterford and shall indemnify the said Bakers from all costs and damages which they may sustain by any adverse claim being set up to the said Slave Waterford, then and in that case this Indenture shall be utterly null and void and of no more effect than if the same had not been entered into. And in further trust that if the said Adam shall fail to indemnify the said Bakers for entering his appearance bail in the suit aforesaid, from all damages which they may sustain on that account, and also, if he the said Adam shall fail to secure the said Bakers in the undisturbed possession of the said slave Waterford, or shall fail to indemnify the said Bakers from all damages which they may sustain by any

adverse claim being set up to the said slave Waterford, then and in that case it shall and may be lawful [66] for to the said Russell at the request of the said Bakers to proceed to sell the said tract of land upon the premises to the highest bidder for ready money or so much thereof as may be necessary to raise whatever will indemnify the said Bakers for whatever damages they may sustain for the causes aforesaid, after having given at least ten days public notice of the time and place of the time and place of the sale thereof by advertising the same and giving the said Adam notice thereof ten days before the day of sale, and out of the proceeds of the sale to pay whatever damages the said Bakers may sustain on the causes above mentioned, and on the indemnification of the said Bakers for the causes aforesaid by said Adam, then said Russell will release the said Waterford all title in Law and Equity derived under this Indenture.

Witness our hands and seals this 28th day of January 1823.

John Dunn  
Charles Wallace  
Mary A. Dunn  
Solomon Crabtree

His  
Adam X Waterford (Seal)  
Mark  
Andrew Russell (seal)

**Virginia**

At a Court continued and held for Washington County the 21st day of March 1823.

This Indenture in trust between Adam Waterford of the one part and Andrew Russell of the other part was proved in Court by the oath of John Dunn, Charles Wallace, and Solomon Crabtree three of the subscribing witnesses thereto to be the act and deed of the said Waterford & Russell and ordered to be certified. In testimony whereof I, John Campbell, Clerk of the said

County have hereunto subscribed my name & affixed the seal of  
(Seal) the said county this 22nd day of March in the year of our Lord

[67] 1823, and in the forty seventh year of the Commonwealth.

John Campbell

Washington County, towit.

I, Robert Campbell, presiding Justice of the Court of the said County do hereby certify that the foregoing attestation of John Campbell who is clerk of the said Court is in due form.

Given under my hand this 24th day of March 1823.

Robert Campbell

State of Tennessee  
Sullivan County

Court of Pleas and Quarter Sessions  
1823. May Session

Then was the foregoing Deed of Trust exhibited in Court, which was examined by the Court and ordered to be certified for Registration.

Richard Netherland, Clerk  
By G. W. Netherland, D.Clerk

State of Tennessee  
Sullivan County

Registers Office 13th August 1823

Then was the annexed deed of Trust, together with all the certificates pertaining to the same registered in Book L. page 328.

John Anderson, Register of Sullivan  
By William Anderson, D.Reg.

**Exhibit No. (3)**

Recvd. from Wm. P. Thompson, seven Hundred Dollars, it being in full payment of the purchase of Waterford a mulatto man, the title of the said boy, to the said Wm. P. Thompson and his heirs forever. I warrant and forever defend, as witness my hand and seal this 14th day of May 1821.

Witness

E.S. Thompson (seal)

John Huff [68]

Recvd from Adam Waterford, Six hundred Dollars it being in full payment for Waterford, purchased by said Adam from me, the title of said Waterford to the Adam Waterford and his heirs forever I will warrant and forever defend against the claim or demand of all and every person claim or claimz whatsoever. As witness my hand and seal this 1st day of January 1822.

Wm. P. Thompson (seal)

**Exhibit No. (4)**

Whereas Adam Waterford executed to me an instrument of writing declaring a Bill of Sale for the purchase of Waterford void if he said Adam should fail in furnishing Jefferson in ten days from the date of said writing, these presents witnesseth that the said Adam hath this day furnished me with Jefferson agreeable to contract and the Bill of Sale for Waterford is good and valid and never to be revoked, as witness my hand and seal this 14th January 1822.

H. Keyes

Wm. P. Thompson

**Exhibit NO. (5)**

A list of sales of land and cattle belonging to Adam Waterford and conveyed by him to David Campbell as Trustee to secure a debt due Isaac Baker, by deed dated the 12th of May 1823. The trust deed required 20 days notice. On the 20th of January 1825, the trustee advertised the property to be sold & fixed the 15th of February 1825 being the first day of Washington County Court for the sale. When the day of sale arrived, Waterford solicited to have it postponed, which was done, with the consent of Baker, and it was accordingly postponed to the 31st of March, [69] on this day the land was sold and purchased by Baker, he being the highest bidder for the sum of | \$550|00

The other property was not produced on that day, | |



and Waterford asked a further postponement of the sale,  
 which was granted him by consent of Baker to 25th of April  
 being first day of Sup. Court, on that day the cattle  
 mentioned in the following list were delivered and sold.

| Names of Purchasers | Description of Cattle                     |              |
|---------------------|---|--------------|
| Peter Cooley        | One spotted cow & calf                    | 6 75         |
| Robert Cummings     | one white cow without horns and calf      | 5 00         |
| Same                | One red cow and calf                      | 6 25         |
| Conrad Shoemaker    | One brindle cow and calf                  | 5 25         |
| Thomas Findlay      | One red cow without horns                 | 6 25         |
| John Dunn           | One cow white face without horns & calf   | 4 00         |
| Same                | Twelve head of young cattle               | 33 50        |
| Isaac Baker         | One red cow                               | 5 12 1/2     |
| Same                | One brindle heifer                        | 4 87 1/2     |
| Same                | One red heifer, white belly, star in face | 3 25         |
| Jno. Galliher       | One Dun Cow and calf                      | 5 87 1/2     |
| David Hume          | One spotted cow and calf                  | 7 00         |
| Jno. Galliher       | One red cow White back                    | 5 00         |
| James Davis         | One dun cow white back & calf             | 5 75         |
| Michael Fleenor     | One brindle cow no horns & calf           | 6 00         |
| Same                | One spotted heifer with calf              | 5 12 1/2     |
| James Cummings      | One white cow red face                    | 6 37 1/2     |
| Isaac Hortensline   | One spotted brindle heifer                | 4 00         |
| Michael Fleenor     | One black heifer                          | 4 00         |
| Andrew Russell      | One spotted heifer no horns \$134.37 1/2  | 5 00         |
|                     |   | <hr/>        |
|                     |   | \$684 37 1/2 |
|                     | D. Campbell, Trustee [70]                 |              |

And at the October Term 1831 of said United States Court the following proceedings were had in said cause, towit.

Wednesday October 12th 1831.

Adam Waterford  
 vs.

Equity

Isaac Baker

In this case the complainant by his

Solicitor suggest the death of Isaac Baker one of the Defendants, and on motion leave is given the complainant to file a Bill of revivor against the heirs and personal representatives of the said Isaac Baker.

And at the October Term 1832 of said Court the following proceedings were had in said caus viz.

**Monday 8th October 1832**

Adam Waterford  
vs  
Isaac Baker &  
John Baker

In Equity  
By consent of the counsel of  
the respective parties in this  
cause, it is ordered that the Bill

and Cross Bill in this cause stand revived in the name of John Baker  
Administrator of said Isaac Baker Deceased.

And at the September Rules 1833. the Bill and Cross Bill were set for  
hearing on Bill and answer.

And afterward, towit, at the October term of Said Court the following  
entry appears of record in said cause, vizs.

**Tuesday 15th October 1833**

Adam Waterford  
vs.  
John Baker Admr.

Equity  
By consent of the parties  
this cause is continued until

next term of this court. [71]

At the October Term 1834 the follow proceedings were had in said cause,  
viz:

**Friday 17th October 1834.**

Adam Waterford  
vs  
John Baker, Admr. &  
Bill and Cross Bill

Equity  
For reasons appearing to  
the satisfaction of the Court

upon the affidavit of Adam Waterford the complainant in the original Bill. It  
is considered by the Court that this cause be continued until the next term of  
this Court, and that defendant to this Cross bill have leave to file his  
answer and that said Adam Waterford pay the costs of this cause which have

accrued at this term.

It is also ordered that said cause be remanded to the rule Docket and open for taking testimony on both sides.

And at the October Term aforesaid 1834 of said United States Court, Adam Waterford filed his answer to the Cross Bill aforesaid, in the words and figures following to wit.

The answer of Adam Waterford to the Cross Bill of complainant exhibited against him by Isaac Baker in the Circuit Court of the United States for the Seventh Circuit and District of E Tennessee.

This complainant saving and reserving to himself all manner of Exceptions to the many errors and uncertainties in said Bill contained for answer thereunto, or to so much thereof as he is advised is material for him to answer unto, answering saith. That he admits it to be true that he exhibited his Bill of Complaint against the Complainant in the Court of [72] Chancery for the District composed of the Counties of Sullivan, Hawkins, Grainger and Claiborne in the State of Tennessee and that on application of Complainant said cause was removed into the said Circuit Court of the United States where it is now pending. This respondent further admits that the object of his said Bill was to enjoin the complainant Isaac Baker from sueing him at Law and to have an account taken between the complainant and this respondent. This Respondant further admits that the complainant has put in his answer to the Bill exhibited by this Respondant as stated in his Cross Bill

This Respondant further admits that he executed a Deed of Trust to a certain Andrew Russell for the benefit of the Complainant and John Baker, and that he this Respondant exhibited a copy of said Deed of Trust with his

original Bill and that the date of said deed of trust may be stated correctly in complainants Bill.

Respondant further states that he executed his Bill single to Francis Smith for a certain amount which Respondant recieved from the said Smith in depreciated Tennessee Bank notes at a time when said notes were passing at a discount of thirty per cent or there abouts as stated in his original Bill, and Respondant is informed and believes that the Complainant purchased said Bill Single or obligation from the said Smith with a full knowledge that it was given for such depreciated notes, and in fact paid the debt in the same kind of notes, but respondant denies that it was done at his request as is untruly stated in Complainant Bill, nor does this respondent know what the Complainant means by costs [73] as the said Smith never sued Your Respondent on said Bill single nor does your Respondant know what amount the Respondant paid to the said Francis Smith. And if it be material he requires proof on this point. Respondant further admits that he executed a Deed of Trust to a certain David Campbell, and it may have been at the time stated in complainants Bill, but denies that any lawful sale has taken place under or by virtue of said last named deed of Trust by the said David Campbell, or that any valid conveyance has been made by the said Trustee, or that in consequence of said pretended sale or conveyance any legal title hath vested in the Complainant to the tract of land in said deed of trust mentioned. This Respondant doth not admit that the complainant hath been damaged to the amount of Seven hundred dollars or any other sum in consequence of the liability of the Complainant and John Baker in the case or cases which the first deed of trust was intended to secure and calls for strict proof of this alligation in his Bill, more especially as he does not set out in what matter or manner he

has been so damaged. This Respondant insists, as he has done in his Original Bill, that as by the first deed of trust to Andrew Russell, the legal title passed to the said Russell nothing passed by the second deed of trust to David Campbell so that it was impossible for him to make any valid Sale of said tract of land, or vest the title to the Same in any person by said pretended sale. And Respondant further insists, as he has done in his original Bill, that if the said Andrew Russell made any conveyance of said tract of land [74] to the complainant, he was guilty of a breach of trust in so doing, and if the legal title passed from the said Russell to the complainant (which respondent doth not admit) then the complainant holds said land as trustee for this Respondant. Your Respondant further states as he has done in his original Bill, that he sent forty head of Cattle to David Campbell the Trustee, or to the Complainant which were to have been applied to the satisfaction of the debt due originally to Francis Smith, but which had been transferred to the Complainant which cattle were worth four hundred Dollars as respondent believes And if the proceeds of said Cattle hath been faithfully applied to the extinguishment of said debt there can be but little of it remaining due And at all events the complainant and John Baker have had in their possession for many years a most valuable slave named Waterford whose yearly hire is worth, and has been ever since he was in the possession of the complainant and the said John One hundred and twenty Dollars per year which slave was put into the possession of the said Bakers as a pledge to secure the repayment of a small sum of money and Respondent states that he is advised that that the complainant and the said John Baker are bound to account with this Respondant for the yearly hire of said slave, which is in the opinion of this Respondant will be sufficient or nearly so to satisfy all the just claims which



Complainant can have against this Respondant. This Respondnt refers to the fact stated in his original Bill, and prays that the same may be taken as part of this answer. Respondt denies all fraud & prays to be dismissed as to compts. Cross Bill to which this is an answer.

McKinney for Respondant. [75]

United States of America  
Seventh Circuit and District of East Tennessee.  
October Term 1834.

Personally appeared in Open Court Adam Waterford and made oath that the facts set forth in the foregoing answers, as of his own knowldge are true, and those stated as having been derived from information he believes to be true

Sworn to & Subscribed  
before me in open Court  
October 17th 1834.  
W. C. Mynatt, Clerk

his  
Adam X Waterford  
Mark

And at the October Term 1835 of said United States Court, the following proceedings were had in Said cause towit.

Adam Waterford  
vs.  
John Baker, Adm.  
Bill & Cross Bill

Monday 12th October 1835

In this cause the death of  
Adam Waterford is suggested

and leave of the court given to file a Bill of Revivor in the name of heirs and personal Representatives of Waterford the Complainant. And as to the case Baker vs. Waterford the death of defendant suggested.

And on the 13th day of June 1836 a Bill of Revivor was filed by complainant Waterford in the words and figures following, towit.

To the Honorable the Judges of the Circuit Court of the United States for the Seventh Circuit and District of East Tennessee, humbly complaining sheweth unto Your Honors Your Orators and Oratrixes David Waterford

administrator of all and singular the goods and chattels rights and credits that were of Adam Waterford late of the County of [76] of Sullivan decd. and one of the children and Heirs at Law of the said Adam, William Waterford, Calvin Waterford, Granville Waterford, Alexander Waterford, Hamilton Waterford, Eliza Waterford, Marian Waterford, Frankey Waterford, Lettitia Waterford, Melinda Waterford, and Sarah Waterford, children and heirs at Law of the said Adam Waterford.

That on the 8th day of May in the year 1829, the said Adam Waterford the Ancestor of your Orator and Oratrixes filed his Bill of Complaint against certain Isaac Baker, now Decd. in the Court of Chancery in and for the District composed of the counties of Sullivan, Hawkins, Grainger and Claiborne in the State of Tennessee and within the District of East Tennessee aforesaid the object of which Bill of complaint was to obtain a perpetual injunction against the said Isaac Baker to prevent him from sueing the said Adam at Law respecting a claim set up by the said Isaac to a tract or parcel of land situate in the County of Sullivan aforesaid, and then in the possession of the said Adam, and to compel the said Isaac to account with the said Adam &c. all which will more fully appear by a refference to said original Bill on file in Your Honorable Court. Your Orators and Oratrixes further state that the said ~~John~~ Isaac Baker who was a citizen of the State of Virginia one of the United States of American appeared in the court of chancery aforesaid and on his application said cause was removed into this Honorable Court, according to the directions of the Act of Congress in such cases made and Provided and after said cause was removed to this Honorable Court, the said Isaac filed his answer to Said Bill which [77] is also on the files of your Honorable Court.

After which, the said Isaac Baker departed this life, and his death

having been suggested on the records, said cause was regularly revived against John Baker the son, who was heir at Law and Administrator of the personal Estate of the said John Baker Decd. And while said cause was still pending and undetermined in your Honorable Court the said Adam Waterford the original complainant departed this life intestate leaving your orators and oratrixes his heirs at Law and your orator David has, by the Court of Pleas and Quarter Sessions of the County of Sullivan aforesaid, been duly appointed administrator of all and singular the goods and chattels, rights and credits that were of the said Adam Waterford, now Decd. Your orators and oratrixes further state that the death of the said Adam has been regularly suggested on the records of your Honorable Court and leave has been by your Honors granted to them to file their Bill of revive in this cause.

The premises considered your orators and oratrixes pray that said cause may be revived against the said John Baker heirs at Law and Administrator of the said Isaac Baker who resides in the State of Virginia aforesaid and that your Honors will on the final hearing of said cause decree as in said original Bill has been prayed for by the said Adam Waterford &c.

McKinney, for Compt. [78]

At the October Term 1837, the following proceedings were had in said Cause, viz.

Wednesday 11th October 1838

Adam Waterford, Compt.

vs.

Isaac Baker and  
John Baker        ) Resp.

The death of Isaac  
Baker one of the  
Respondents, and also the  
death of Adam Waterford

the Complainant having been heretofore suggested in this cause, this day came the parties by their attorniz and with assent of the Court agree that this

Cause be revived and in future prosscuted in the names of David Waterford, administrator of all and singular the goods and chattels, rights and credits that were of Adam Waterford Decd. and also in his name and that of William Waterford, Calvin Waterford, Granville Waterford, Alexander Waterford, Hamilton Waterford, Eliza Waterford, Mary Ann Waterford, Frankey Waterford Letitia Waterford, Malinda Waterford, and Sarah Waterford, children and heirs at Law of the said Adam Waterford Decd. against the said John Baker in his own right and as heir at Law and Administrator of Isaac Baker Deceased, and the said cause is so revived. And it is further agreed by the parties aforesaid that the Cross Bill filed by the said Isaac Baker against the said Adam Waterford in this Court be revived and in future prosecuted in the name of the said John Baker as heir at Law and Admints. of Isaac Baker deceased against the said David Waterford Administrator as aforesaid of Adam Waterford Deceased and against him [79] William Waterford, Calvin Waterford Granville Waterford, Alexander Waterford, Hamilton Waterford, Eliza Waterford, Mary Ann Waterford, Frankey Waterford, Letita Waterford, Malinda Waterford, and Sarah Waterford, children and heirs at Law of the said Adam Waterford deceased and it is so ordered by the Court; it is further agreed by the parties that each party have leave to take testimony in these causez respectively.

-In October 1838, the Judges did not attend.

At the April, special Term 1839 of said Court, the following entry was made in the foregoing cause, towit.

**Tuesday 16th April 1839**

David Waterford  
Administrator &c & others  
vs.  
John Baker  
Administrator &c and  
John Baker

The Bill and Cross Bill  
in this cause is continued  
by consent of parties to the  
next Term and leave is  
granted to take further  
testimony by the partiez.

And at the October Term 1839 of said Court the following proceedings were had in the foregoing Cause viz:

Saturday 26th October 1839

Waterfords Heirs  
vs.  
John Baker  
and  
John Baker  
vs.  
Waterfords Heirs

Bill and Cross Bill

In these causes by the agreement of the parties in these cases, and with the assent of the Court, it is agreed that [80]

the Clerk and Master take an Account & report, to this Court at the next Term of this Court.

1st. What is the amount of the reasonable hire of the Slave Waterford in the pleadings mentioned stating the yearly value of the hire of said slave, and also the aggregate for the whole time he has been in the possession of Isaac and John Baker.

2nd What is the amount due to Baker for advances made by either of the Bakers on the foot of the contracts in the pleadings mentioned and that he also report upon any matters submitted by either of the parties.

All questions of Law, facts and equity in these casez are reserved till the hearing.

At the October Term of said Court, the Clerk and Master, made two Reports in the foregoing cause, in the words and figures following, viz:

Adam Waterford  
vs.  
John Baker

The Clerk and Master of this court having been ordered by an interlocutory Decree to take

an account in this cause and report to the present Term of this Court.

1st What is the amount of the reasonable hire of the slave Waterford in the pleadings mentioned, stating the yearly value of the hire of said slave, and also the aggregate for the whole time he has been in the possession of



Isaac and John Baker.

2nd What is the amount due to Baker for advances made by either of the Bakers on the foot of the Contracts in the pleadings mentioned and that he also report upon any matters submitted by either of the parties, submit the following Report. [81]

The clerk & Master having given the parties due notice of the time and place of taking the account proceeded in the first place to ascertain what is the amount of the reasonable hire of said slave Waterford.

It is proven by the Depositions of Jacob Shoemaker and George W. Rutledge, on file, that the reasonable hire of said slave is \$100 per year. By reference to the Deposition of Andrew Russell on file it will be found that said slave went into the possession of Baker on the 11th January 1822 and remained in his possession until he was hired to Geo. W Rutledge which was about the beginning of the year 1835, (see Rutledge's Deposition) which makes the whole length of time he was in Bakers possession 13 years & producing the following result, towit,

|  |   |   |   |   |   |   |   |         |
|--|---|---|---|---|---|---|---|---------|
| 1st years hire.                                      | . | . | . | . | . | . | . | \$100." |
| Int. from the 11th January 1823 to 11th January 1835 |   |   |   |   |   |   |   | 72."    |
| 2nd years hire and Interest for eleven years         | . | . |   |   |   |   |   | 166."   |
| 3rd " " " " " ten                                    | . | . |   |   |   |   |   | 160."   |
| 4th " " " " " nine                                   | . | . |   |   |   |   |   | 154."   |
| 5th " " " " " eight                                  | . | . |   |   |   |   |   | 148."   |
| 6th " " " " " seven                                  | . | . |   |   |   |   |   | 142."   |
| 7th " " " " " six                                    | . | . |   |   |   |   |   | 136."   |
| 8th " " " " " five                                   | . | . |   |   |   |   |   | 130."   |
| 9th " " " " " four                                   | . | . |   |   |   |   |   | 124."   |

|      |   |   |   |   |   |       |   |   |              |
|------|---|---|---|---|---|-------|---|---|--------------|
| 10th | " | " | " | " | " | three | + | . | 118."        |
| 11th | " | " | " | " | " | two   | . | . | 112."        |
| 12th | " | " | " | " | " | one   | . | + | 106."        |
| 13th | " | " | " | " |   |       | . | . | <u>100."</u> |

Aggregate amt. for Waterfords hire for 13 years \$1768."

Baker admits in his answer to the amended Bill of Complainant, that on the 25th April 1825, forty head of cattle were sold, belonging to compt. out of the proceeds of which he recvd. (after the payment of incidental expenses) the sum of -----

95.05 1/2  
\$1863.05 1/2

[82]

Amount brought Forward \$1863.05 1/2

The amount of interest on the \$95.05 1/2 from the date of the sale, 25th April 1825, until the 12th May 1835, when the slave left respondents possession, being 10 years and 17 days is

\$ 57.26  
\$1920.31 1/2

Second. As to the amount due Bakers for advances made by them.

It is admitted in the Bill, that at the time the slave went into Bakers possession, Baker paid Waterford about \$400. Baker states the amount paid by him at that time, to have been \$450. This amount was paid by Baker to Waterford in consideration of a Bill of Sale or mortgage, from Waterford to Baker. Andrew Russell who was a witness to said Instrument, states in his deposition that the Amount acknowledged in the Instrument to have been received by Waterford, on the 11th January 1822 was. \$ 450.00

The Amount of Interest on said sum from the date of its  
 payment to Waterford, to 11th January 1835, being 13 years, is.      \$ 351.00

Amount paid by Harold Smith, by Baker for Complainants  
 benefit in March 1822.      \$41.25

Interest on this amount from March 1822, to 1835.

say 13 years...      32.17      73.42

Amount paid by Baker to H. Smith in May 1824

(For this & the last item, 41.25, See H. Smiths

Dep. on file)      26.30

Interest on this sum from May 1824 to Jan. 1835.

10 years & 8 months...      16.83      43.13

Amount paid to F. Smith, by Baker on the 12th May

1823. See Bill answer & Exhibit B.      \$704.83

Int. on this Amt. to 12th May 1835. 12 years -      507.47      \$1212.30

\$2129.85

[83]

Amount of advances made by Bakers.      brot forwd.      \$2129.85

From this amount deduct the hire of the Slave, and

the amount for which the cattle sold. . . . .      1920.31 1/2

And the balance remaining is.....      \$ 209.53 1/2

Interest on this amount from 12th May 1835, to 17th

October 1840. 5 years & 5 months.....      88.83

Amount due Baker      \$ 298.36 1/2

Respectfully Submitted

James W. Campbell, Clerk & Master

### EXCEPTIONS

The Respondent excepts to the Masters Report because the sum of \$700 paid on account of the liability incurred in the case of Orr vs Waterford is not taken into the account.

Swan & R. J. McKinney, Sols. for Respt.

Waterford  
vs  
Baker      Exceptions to account.  
This account is excepted to, because the full value of the 40 head of cattle received by Baker, has not been allowed. 2. Because the value of the Bank, recvd. by F. Smith from Baker has not been reported. 3. Because the amount of 41.25 said to paid by Harrold Smith has been allowed.

Wherefore the complainant prays that said account may be by the Court inspected and corrected in the foregoing particulars.

McKinney for Compt.

Report 2nd.

Waterfords Heirs  
vs  
John Baker      The Clerk & Master submits the following report shewing the amount due Baker should [84] the slave Waterford, and the lands mentioned in the pleadings and purchased by Baker, be decreed to Respondent Baker.

It appears from Exhibit B, referred to in the pleadings that a Deed of Trust was executed by Complainant Waterford to David Campbell, on the 12th May 1823, to secure the payment of a Debt amounting to \$704.83 acknowledged to be due to Baker from Complainant, certain lands mentioned in said Deed, were sold and purchased on the 25th May 1825, by Baker as he admits in his answer for the sum of... \$550.00

Respondent also admits that forty head of Cattle were sold at the same time, which were the property of Complainant, out of the proceeds of which (after payment of the expenses incident to

|  |                  |
|--|------------------|
| the sale) he recieved                              | <u>95.05 1/2</u> |
| Amt. of payment made by Waterford 25th April 1825. | \$645.05 1/2     |

|  |          |
|--|----------|
| Amount due Baker on the 12th May 1823, as proven by Exhibit B, and referred to in the Bill and answer. | \$704.83 |
|--|----------|

|   |              |
|---|--------------|
| Interest on this amt. up to the sale of the land and cattle mentioned above 25th Apl. 1825. | <u>82.81</u> |
|   | \$787.64     |

|                                      |                   |
|--------------------------------------|-------------------|
| Amt. sales of land & cattle as above | <u>645.05 1/2</u> |
|                                      | \$142.58 1/2      |

|  |               |
|--|---------------|
| Interest on this amount from the 25th April 1825, to this time, 15 years 5 3/4 months. | <u>132.37</u> |
|  | \$274.95 1/2  |

The slave Waterford went out of the possession of Baker about the first January 1835 (see Geo. W. Rutledge's Dep.). The value of his year hire is \$100 (see the Deps. of Rutledge & Shoemaker).

Giving Baker his yearly hire from the time he left his possession till this time, and the result is as follows.

|                                |              |
|--------------------------------|--------------|
| Amount taken over.... [85]     |              |
| Amount brot. forward           | \$274.95 1/2 |
| Hire for 1st year              | \$100.00     |
| Int. for 4 years and 10 Months | 29.00        |
| 2nd Years hire                 | 100.00       |
| Int. for 3 years and 10 Months | 23.00        |
| 3rd Years hire                 | 100.00       |
| Int. for 2 years and 10 Months | 17.00        |
| 4th Years hire                 | 100.00       |



|                               |              |               |
|-------------------------------|--------------|---------------|
| Int. for 1 year and 10 Months | 11.00        |               |
| 5th Years hire                | 100.00       |               |
| Int. for 10 Months            | 5.00         |               |
| 10 months hire                | <u>83.83</u> | <u>668.83</u> |
| Amount due Baker              |              | \$943.78 1/2  |

Respectfully Submitted

17th October 1840

Jas W. Campbell, Clerk & Master

### Exceptions by Complainant

Waterford vs Baker| exceptions to account.

The whole of this account is excepted to on the part of the Complainant Waterford. 1st. Because unauthorised by the interlocutory decree made in this case. 2nd. The hire of Waterford the slave is charged against Complainant after the time he went into the possession of G. W. Rutledge. Wherefore the complainant prays that said account be set aside or overruled and the sums there reported, be disallowed

McKinney, for compt.

The Respondent excepts to the Masters report, because the sum of \$700 paid on account of the liability incurred as security in the case of Orr vs Waterford has not been taken into the account, and also because, from the sum of \$550, the proceeds of the sale of the land - has not been deducted the sum of \$33., paid [86] the Trustee for his services in making said sale.

Swan & R. J. McKinney

Sols. for Respt.

At the October Term 1840 of said United States Court, the following decree was rendered in said cause, viz.

Friday 23rd October 1840

David Waterford  
Administrator of  
Adam Waterford Decd.  
and the other Heirs at  
Law of said Adam  
Waterford

vs.

John Baker in his own right  
and sole Heir at Law and  
Devisee of Isaac Baker Decd.

Bill and  
Cross Bill

This day came on to  
be heard the 23rd day  
of October 1840, before  
the honorable John  
Catron, associate  
Justice of the Supreme  
Court, and Morgan W.  
Brown, District Judge  
&. on the original and

amended Bills, the cross Bill and Bill of Revivor, the answers, Replications, and the Exhibits and proofs, and because it appears to the court that at the time of the Sale of the tract of land in Sullivan County, Tennessee, by the Trustee David Campbell under the Deed of Trust executed to him on the 12th, day of May 1823, the legal title to said tract of land was outstanding in Andrew Russell, in whom the same had been previously vested by Deed of Trust, dated the 28th day of January 1823, for the benefit of Isaac and John Baker as therein is recited and set forth. The court is of opinion and doth accordingly declare, that no legal title passed by the sale of the said David Campbell, Trustee, to Isaac Baker Decd, the purchasor of said tract of land at said trust Sale, and that the [87] title to the land was too much embarrassed because of said outstanding deed to bring a full and fair price, and the Court being further of opinion that the execution of the deed of Relinquishment by said Andrew Russell to said Isaac Baker on the 7th of June 1827, was contrary to the power and authority vested in him, doth also declare that the said Isaac Baker took the same subject to the trust specified in the Deed to Andrew Russell of the 28th January 1823. But because it further appers to the Court from the Report of the Clerk and Master that of the sum of \$704.83, advanced by Isaac Baker for Adam Waterford to Francis Smith on the 12th day of May 1823, (the payment of which among other things it was the object of said Deed

of Trust to David Campbell to secure) including the interest which has accrued thereon, there remains due from the Estate of said Waterford the sum of \$1356, after deducting the amount recieved from the proceeds of the sale of cattle in the pleadings mentioned. And the Court being of opinion that the Defendant is entitled to have satisfaction of said sum with the interest which shall here after accrue thereon, out of the lands embraced in said Deed of Trust, and that the Complainants are entitled to redeem said land because of the deed of confirmation made by Andrew Russell to to Isaac Baker, is pleased to order, adjudge and decree, that unless the Administrator or Heirs of Adam Waterford, on either of the Complainant shall within three months from this date, pay to the defendant John Baker \$1356, with interest thereon, the Marshal of this court shall proceed [88] to sell for ready money, the tract of land in Sullivan County, described in said Deed of Trust to David Campbell (that being the only tract of land described in said deed within the Jurisdiction of this Court) at the Courthouse door in the town of Blountsville, after having previously advertised the same for the space of forty days preceeding said sale, and that he report to this court at the next term what he has done in the premises. And the Court is further pleased to decree that such title as is now vested in the Defendant to the tract of land in Sullivan County in virtue of the Deed from David Campbell the Trustee, dated the 24th of April 1827, to Isaac Baker, and the deed of release from Andrew Russell to said Baker above mentioned, shall be retained in the Defendant until the further order of this court, to the end that such title may be transferred to the purchasor under this decree; And the proceeds of said sale shall be first applied to the payment of the costs of the cause, and the surpluss to the satisfaction of said sum of \$1356 as far as it may go. And because the amount

paid or hereafter to be paid by the Bakers, as the securities of Adam Waterford in the suit of Orr against him at Law and in Chancery, and other advances mentioned in the pleadings are not certainly ascertained, the Defendant, as to these matters, is left to his remedy against the lands in Virginia, and the same are not taken into the account in this case. And as regards the slave Waterford in the pleadings, [89] mentioned, pledged or mortgaged by Adam Waterford to Defendant John Baker on the 11th day of January 1822. It is ordered adjudged and decreed that the Bill be, and is hereby dismissed - from which decree of the court the complainant prayed an appeal to the next Supreme Court of the United States to be held at the city of Washington on the second Monday of January next.

The Complainant having entered into Bond with security the same is granted.

#### **Appeal Bond**

Know all men by these presents that the David Waterford, administrator of Adam Waterford Deceased, and John A. McKinney are held and firmly bound unto John Baker Administrator with the will annexed of Isaac Baker decd. and John Baker, a citizen of the State of Virginia in the pennial Sum of One hundred Dollars, for which payment will and truly to be made and done, we bind ourselves, our heirs, Executors &, firmly by these presents signed with our hands and sealed with our seals, and dated this 23rd day of October 1840.

The condition of the above obligation is such that whereas if the said David Waterford, administrator and William Waterford, Calvin Waterford, Granville Waterford, Alexander Waterford, Hamilton Waterford, Eliza Waterford Marian Waterford, Frankey Waterford, Letitia Waterford, Malinda Waterford & Sarah Waterford heirs & do with effect prosecute an appeal this day prayed for

and allowed to them from [90] the Decree of the Circuit Court in the District of East Tennessee setting in Chancery, to the Supreme Court of the United States, on a Bill and Cross Bill filed in said Circuit Court, by and between the above named parties, otherwise pay & satisfy all costs and damages which may accrue or be adjudged against them for a failure, then this obligation is to be void, otherwise to be and remain in full force.

David Waterford, (seal)

John A. McKinney, (seal)

The following Record from the Circuit Superior Court of Law and Chancery for the County of Washington and State of Virginia was objected as evidence against the Defendant Baker. The Court permitted it to be read to see to what subject matter it applied to. And after the whole evidence was gone through with, rejected said record as incompetent evidence against the Defendant.

State of Virginia, to wit,

Pleas at the Court House in the County of Washington before the Circuit Superior Court of Law and Chancery for Said County, on the 28th day of May 1836.

Be it remembered, that heretofore, to wit, on the 23rd day of April 1834, came John Baker, and sued out of the office of the said Circuit Superior Court of Law and Chancery, a Writ of Capias ad Respondendum against George Rutledge, which writ with the endorsement and return thereon made, is in the words and figures following: "The Commonwealth of Virginia to the Sheriff of Washington County greeting. We command you to take George Rutledge if he be found within your [91] bailiwick and him safely keep so that you have him before the Judge of our Circuit Superior Court of Law and Chancery for the said County at the Court House on the first day of the next term to answer



John Baker of a plea of detinue for one mulatto man slave name Waterford of the value of Six Hundred Dollars, and have then there this writ.

Witness Andrew Russell Clerk of our said Court at the Courthouse the 23rd day of April 1834, in the 58th year of the Commonwealth.

Andrew Russell"

Endorsement, "This is an action of Detinue for the recovery of a mulatto man slave, named Waterford of the value of six hundred Dollars; Bail is required.

John Baker"

Return, - "Executed on the 28th day of April 1834, Thomas Fulkerson James C. Smith and Samuel E. Goodson bail-

Chas. C. Gibson, D. S.

For Reuben Bradley, S.W.C."

And at another day, to wit: at rules held in the office of the said Circuit Superior Court of Law and Chancery, on the 2nd day of June in the year 1834, came John Baker, by his attorney and filed his Declaration against the said George Rutledge in custody &, of a plea of Detinue; which Declaration is in the words and figures following to wit; "Washington County to wit: John Baker complains of George Rutledge in custody & of a plea that he render unto the said Baker, a certain male negro slave named Waterford of the price of Six hundred Dollars, which he unjustly detains from him; for that whereas the said Baker heretofore to wit: on the \_\_\_\_ day of \_\_\_\_\_ 1834, at the County aforesaid was lawfully possessed of the said male negro slave, as of his own property, and being so possessed thereof, he the said [92] Baker afterwards to wit: on & aforesaid at &, aforesaid, casually lost the said slave out of his possession, and the same afterwards to wit: on the \_\_\_\_ day of \_\_\_\_\_ 1834, at the County aforesaid came to the possession of the said Rutledge by finding: Yet the said Rutledge well knowing the said slave to be the property

of him the said Baker and of right to belong and appertain to him, hath not as yet delivered the said slave to the said Baker, although often requested so to do, and hath detained and still doth detain the same from the said Baker, to wit: at & aforesaid. To the damage of the said Baker \$600.00 and therefore he brings suit etc.

H. & Watson

McComas & Boyd"

And at another day towit; at Rules held in the Clerks Office of the said Circuit Superior Court of Law and Chancery, on the 7th day of July 1834, the Defendant being arrested and not appearing, on the motion of the Plaintiff by his attorney, it was ordered, that judgment be entered for the plaintiff, against the Defendant, for the slave in the declaration mentioned, if he may be had, or the price of him, if he may not be had, together with damages for detaining him, unless the Defendant shall appear and plead to issue, at the next rules.

At which day, towit: at Rules held in the Clerks Office of the said Circuit Superior Court of Law and Chancery on the \_\_\_\_ day of August 1834, the Defendant still failing to appear, on the motion of the plaintiff, by his attorney, it was ordered that the last order made against the said Defendant in this cause be confirmed; and that the value of the slave in the Declaration mentioned, and damages for detaining him, be ascertained by a Jury at the then next term.

And at another day, towit, at a Circuit Superior [93] Court of Law and Chancery held for the said County of Washington at the Court house, on the 16th day of October 1834. The Defendant by his attorney pleaded non detinet and put himself upon the country and the plaintiff did likewise. The Defendant has leave to plead specially, and thereupon this suit is continued

till the next term, at the costs of the Defendant.

And at another day, towit: at a Circuit Superior Court of Law and Chancery continued and held for Washington County at the Courthouse thereof on the 28th day of October 1835. This day came the parties by their attorneys and the Defendant by his attorney offered nine special pleas in writing, to the reception of which the plaintiff by his attorneys objected; and the Court sustained the objection to the fourth fourth, fifth, sixth, seventh, eighth and ninth pleas, and overruled it as to the first, second and third and permitted the said three pleas to be filed, requiring the plaintiff either to reply or to demur to them. Whereupon the plaintiff took until the next term to reply, and the cause is continued until the next term.

The Court rejected the 4th & 5th pleas, because these two pleas offer the same defence identically with plea No. 2, -Usury being pleaded in all.- The 6th plea rejected as containing no good defence to the plaintiffs action.- The seventh plea rejected. The Court however doubts whether a mortgagee before forfeiture can maintain detinue against the Mortgagor.- The 8th & 9th pleas rejected as constituting no good defence to the plaintiffs action. Besides it is doubtful whether, if the matter thereof was good, it could not be given in evidence under the general issue.

The third plea herein contained, recieved with some doubt whether the matter contained in it might not be given in evidence. The three pleas which [94] were recieved are in the words and figures following towit; "Rutledge ads Baker, In detinue. And for further plea in this behalf, the deft. says that the plff. ought not to have and maintain his said action against him, because he says, that on the 11th day of January 1822, one Adam Waterford was the lawful owner of the slave in the Declaration Mentioned; and that on said day

he borrowed of the plff, \$450; to secure the payment of which the said Adam executed a mortgage to the plff: by the terms of which mortgage the said Adam was at liberty to pay the said sum of money at any time thereafter and resume the possession of the slave, when such resuming of possession did not interfere with the making of a crop by the said Baker (the plff) and afterwards, to wit; on the \_\_\_\_ day of \_\_\_\_\_ 182\_\_\_\_, at the said county &, before the bringing of the plffs action, the said Adam, by his agent tendered to the plaintiff the said sum of money with the legal interest that had then accrued thereon, to wit the sum of \$\_\_\_\_ which time of tendering said sum was at a date when the resuming possession of said slave would not have interfered in the making of a crop by said Baker and the Defendant avers that the said Baker then and there refused to recieve the said sum of money & deliver possession to the said Adam, of the slave aforesaid: and afterwards, towit: on the \_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, the said slave came to the possession of said Adam, and he by contract of hire, delivered possession of said slave to the defendt; and the deft. is ready to verify etc.

"And for further plea the deft. saith, that the plff. ought not to have and maintain his action against him because he saith, that the slave in the Declaration mentioned, being the property of Adam Waterford a man of colour, and the said Waterford being desirous of borrowing a sum of money [95] borrowed of John Baker the pltf, the sum of \$450, and thereupon executed to the said John a mortgage, to secure the payment of the said sum of money on the slave in the Declaration mentioned, who is the brother of the said Adam, which instrument and obligation is in the possession of the plff, and bears date on the 11th day of January 1822, and the Deft. avers that before and at the making the said writing towit, on 11th day of Janey 1822, at the county

aforesaid, it was corruptly, and against the form of the statute in that case made and provided, agreed by and between the said Waterford and the said John the plff, that the said Baker should lend and advance unto the said Waterford, the said sum of \$450, and that the said Baker should forbear and give day of payment thereof to the said Waterford until and upon the 1st day of February 1822, or if not then paid, at any time afterwards when it did not interfere with making a crop by the said Baker, and that the said Waterford for the loan of the said sum of \$450, and for giving day of payment thereof as aforesaid, for the time aforesaid, should put into the possession of said Baker the negro man in the declaration mentioned to work and labor for the said Baker till the time of payment of said sum on money, for the forbearance and giving day of payment of the said \$450, and it was further corruptly agreed by and between the said Baker and Waterford, that the services of said Negro should be recieved and enjoyed by said Baker till the money aforesaid was paid, in lieu of the interest thereof, for and during the time said Waterford kept the said money on loan and the said Defendant avers that in pursuance of the said corrupt agreement the said Waterford executed the deed of mortgage aforesaid, and was and is bound to pay the said Baker the said sum of \$450. as [96] aforesaid, and to place the said slave in the Declaration mentioned in possession of said Baker to work and labour for him, in lieu of the interest of said money, and for the forbearance and day of payment of the same, and the deft. avers that in furtherance of said corrupt agreement, the said Waterford did put the said slave in the possession of the said Baker to work and labour for him from the date of the said Mortgage, till the repayment of the said money, during which time the said slave did work and labour for the said Baker in lieu of the interest on the said money, as borrowed for and during the



forbearance and day of payment of the said sum of money so borrowed of said Baker, and the said Waterford in furtherance of said corrupt agreement made his deed of mortgage aforesaid, which was accepted by the said Baker & then and there in pursuance of said corrupt agreement delivered the said slave to the said Baker as aforesaid, who then and there accepted him on the terms aforesaid, and Rept. possession of him and recieved his labour in lieu of the interest & forbearance aforesaid, from the 11 day of January 1822, the date of the mortgage, till the 20th day of April 1834, thereafter, when the said slave came again into the possession of the said Waterford, and was then placed in the possession of this Defendant by the said Waterford on hire, under whom this deft. now holds him. And the said Defendt. avers that at the time the said slave was put into the possession of the said Baker towit on the 11th day of January 1822, the date of the Mortgage his labour was worth \$120 per year, and continued to be worth that sum annually till he left the possession of the said Baker, and was worth [97] that sum annually during all the time of forbearance of said Baker and giving day of payment for the said sum of money in the mortgage deed mentioned, which was well known to the said Baker at the time he accepted the said deed. And the Defendant avers that the said sum of \$120, annually the value of the said slaves hire, agreed to be given and allowed to the said Baker for the purposes aforesaid and in lieu of interest of the said sum of \$450, so recieved and to be enjoyed by the said Baker by the condition and provisions of the agreement aforesaid exceeds the rate of six Dollars for the forbearance & giving day of payment of \$100 for one year, contrary to be form of the statute in that case made and provided by means whereof, and by force of the Statute in that case mad & provided the said contract and writing was and is wholly void in law, and the Defendant avers

that the agreement and writing aforesaid is the only claim and right of the plff, to the said slave, and that he has no other and this the Defendant is ready to verify, wherefore he prays Judgment whether the plff. shall have and maintain his action against him.

"And for further plea in this behalf the Defendant says that on the 11th day of January 1822, one Adam Waterford being then the lawful owner of said slave borrowed of the plff. the sum of \$450, to secure the payment of which, said Adam executed a deed of Mortgage to the plff, upon the said slave in the Declaration mentioned; by the conditions and stipulations of which mortgage the said Adam was at liberty at any time thereafter to pay the said sum of money and the legal interest thereon accruing; and the Defendt. avers that afterwards, towit, on the \_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at said County of Washington, and within the time allowed to the said Adam [98] for the payment of said amount, by the stipulations of said deed of Mortgage, and before the bringing this suit by the plaintiff, the said Adam did fully pay and satisfy the said sum and the legal interest due thereon, to the plff, whereby all right, title & interest of the plff, to the said slave became and was wholly divested. And afterwards, towit, on the \_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, the said slave being in the lawful possession of the said Adam, he the said Adam hired him to the Defendant by contract; by virtue of which the said slave was, at the institution of the plaintiffs action, and still is in the possession of the Defendt: and this the Defendant is ready to verify wherefore he prays judgment etc.

Mayo and Logan, for Deft.

And at another day, towit; At a Circuit Superior Court of law and Chancery continued and held for Washington County at the Court house the 27th

day of May 1836, John Baker plaintiff against Geo. Rutledge defendant. In detainue. The defendant heretofore pleaded the general issue and many special pleas, to the reception of which special pleas, the plaintiff by his counsel objected. The Court at a former term on examination of said special pleas rejected them, as naught, except three, viz, the pleas of payment, usury, & tender, and now at this term of the Court entertaining doubt, whether the matter of said three special pleas may not be given in evidence under the general issue in this cause pleaded, and the plaintiff agreeing of record that all matters which could be given in evidence under the said three special pleas, if the same were legally and properly pleaded, might be given in evidence under the general issue aforesaid; and also that all legal and proper evidence under any legal and proper state of pleadings that could be made [99] up between the parties in this cause, except equitable matter allowed to be pleaded under the statute of 1831, may so be given in evidence under the general issue aforesaid, the Court doth therefore now reject the said three special pleas and leave the parties to proceed to trial under the agreement aforesaid, upon the general issue aforesaid, although the defendant insists that the trial shall proceed upon the issues, made upon his said three special pleas and the general issue. And thereupon came a jury towit, William T. Thurman, Elijah Gillenwaters, William Grant, William Fulcher, Alexander E. Prewet, Emanuel Wright, John G. Thurman, James Bryan, William B. Seay, John W. Stephens, Lawrence Sheffey and Andrew Williams, who being elected tried and sworn the truth to speak upon the issue joined; but the trial running to such length that it could not be concluded on this day, the jurors aforesaid are adjourned until tomorrow morning 11 oclock.

And now at this day, towit, at a Circuit Superior Court of Law and

Chancery for Washington County, continued and held at the Courthouse on the day and year first herein mentioned, to wit; on the 28th day of May 1836, came again the parties by their attornies and the jury sworn to try the issue in this cause appeared in Court according to their adjournment and having heard the evidence, were sent out of Court to consult of their verdict, and after some time returned and upon their oath do say, that the said defendant doth not detain the slave in the declaration mentioned as in pleading he hath alleged.

The plaintiff by his attorney moved the Court to set aside the said verdict against him, and to grant him a new trial, which motion was overruled by the Court. Therefore it is considered by the Court that the Plaintiff take nothing by his bill, but for [100] his false clamor be in mercy etc, and that the defendant go hence thereof without day and recover against the plaintiff his costs by him about his defence in this behalf expended.

And at another day, towit: At a Circuit Superior Court of Law and Chancer continued and held for Washington County at the Court house the 31st day of May 1836.

The plaintiff by his counsel tendered two bills (Nos. 1 & 2) of exception to opinions of the Court in this cause in which a verdict and judgment were rendered for the defendant against him, on the 28th day of the present month, which bills were signed and sealed by the Court and ordered to be made part of the record in said cause. Which said bills of exception are in the words and figures following to wit: "John Baker Plff. vs. George Rutledge deft. in detinue of a slave.

"On the trial of this cause the jury rendered a verdict for the deft. Rutledge, whereupon the plaintiff by his Counsel moved the Court to set aside

the verdict and grant him a new trial on the ground that the said verdict was contrary to the evidence: which motion the court overruled, and refused to set aside the verdict, being of opinion that the same was well sustained by the evidence. Whereupon on the prayer of the pltf. Baker, by his counsel, the Court doth certify that the following are all the material facts proved in the cause viz:- That on the 1st day of January 1822, Adam Waterford, an emancipated negro, then possessed and owned the slave Waterford, his brother, in the plaintiffs declaration mentioned; and that on said day, whilst so owning and possessing said slave, the said Adam Waterford executed to the plff a deed of mortgage in the following words and figures viz; "Know all men by these presents that I Adam Waterfor of the County of Sullivan in the State [101] for and in consideration of the sum of Five Hundred Dollars current money do bargain and sell unto John Baker of the said County a certain slave Waterford a mulatto man between twenty and thirty years of age, which said slave I hereby warrant and defend to the said Baker and his heirs forever. And the said Waterford doth covenant with the said Baker that he the said Waterford, the slave shall serve the said Baker faithfully, and shall behave himself well. But it is agree between the said Baker and the sd Adam Waterford that whenever the said Adam Waterford shall pay to the said John Baker the sum of four hundred and fifty dollars which he has this day advanced to the said Adam, at any time when it does not interfere with the making of a crop by said Baker (unless said Adam should return the money this day advanced to him before the 1st Feby next, then the boy is to be returned to said Adam). Then the above bill of sale is to be void otherwise to remain in full force \$70, in State Bank of North Carolina \$30 in United States and Virginia and \$350 in Silver. Witness our hands and seals this 11th January 1822."



Testi. Andrew Russell

his  
Adam X Waterford (seal)  
mark  
John Baker (seal)

and that in pursuance of the terms of said Mortgage, the slave aforesaid was on said day delivered by Adam Waterford to the plt, who at that time resided on the plantation and in the family of Isaac Baker his father, & that said plt, continued so to reside with his father until the death of the latter in the autumn of 1830. That during all this time the the plt, & his father, were frequently heard to speak of said slave, as "our slave" "our boy" though sometimes before the death of his father and always afterwards, when speaking of said slave, the plt, spoke of him as his slave, and claimed to be [102] his sole owner. That said slave continued on the plantation aforesaid, and in the possession of the pltff. until the Spring of the year 1834, when he left the plts possession, without his knowledge or consent and was taken into possession by the said Adam Waterford and immediately by him hired to the deft. Rutledge, who was in possession of said slave at the commencement of this suit and even since the spring of 1834, until now on hire. That the hire of said slave was worth from one hundred, to one hundred and twenty dollars per annum, and that said slave is worth Nine Hundred Dollars. It was also proved by Major William Rutledge the brother of the defendant that he has for many years past, been on terms of intimacy and friendship with the plt, and his father, at whose house he was accustomed to stay-when in this part of the country his residence being in Tennessee about 15 or 18 miles from plts,

That in the year 1826, the witness was frequently at Isaac Bakers where the plt, resided, and that whist there, in repeated conversations between Isaac Baker, John Baker the plt and the witness, concerning the mortgage of this slave herein set forth, and concerning a trust or mortgage which Isaac

Baker held on the lands of Adam Waterford; the the said Bakers told the witness that Adam Waterford had repeatedly been to their house, and told them, that Matthew Rhea would redeem the said slave and lands for him by paying them the amount of the debts for which they were pledged or mortgaged, and that afterwards the said Rhea, came to them with the money and tendered to them the whole of the debts for which the said slave and lands were mortgaged, in redemption of the same, which money they refused to recieve or to permit the said mortgages to be redeemed, saying that Adam Waterford would be broke up any how, and that they might as well get his [103] property as any one else, and they desired the Witness to request Rhea not further to interfere in the matter. The witness on being interrogated said that he did not pretend to give the precise language of the Bakers, in the conversations aforesaid, nor could he certainly say that they used the word tender, he had given the substance of those conversations in his own wordz; and the witness afterwards in speaking of this matter sometimes used the word tender, sometimes the word offer. It did not appear at what time of the year this tender was made or whether the then redemption of the slave aforesaid would interfere with the making a crop by the plt. The witness disclosed no objection upon that ground by the plt. or Isaac Baker, nor did it appear by the testimony of any other witness that such objection existed or was made. It was admitted at the trial by the parties that Adam Waterford and Matthew Rhea were neighbors and residents of the adjoining County in the State of Tennessee, and that they both departed this life before the trial of this suit, and before the testimony of said Rhea could be taken or procured. This was all the evidence in the cause.

To the opinion of the Court overruling his motion for a new trial on the

ground aforesaid, the plt. by his counsel excepts and prays that this his bill may be signed sealed and made a part of the record, which is accordingly done

B. Estill (seal)

Washington County to wit:

John Baker this day made oath before the undersigned to a justice of the peace for the County of Washington, that he did some time in the year 1823 make an absolute contract with one Adam Waterford, for the purchase of a slave named Waterford, on which said Baker had taken a mortgage from said Adam, on the 11th day January 1822, and that on paying to [104] said Adam an additional consideration beyond the money advanced to him, at the time of taking the said mortgage, the said Adam did sell to him the said Baker, the absolute property in said slave. And the said Baker further swears that no tender or offer was ever made to him by the said Adam Waterford or his agent, to redeem said slave, either before the confirmation of the title to said slave, in said Baker, in the year 1823, or since that time, by paying or refunding to said Baker the money he had advanced to said Adam on account of said slave, and knowing this was the case, the said affiant says, that he did not think it possible that any proof could be introduced in the cause decided during the present Term of the Circuit Superior Court of Law and Chancery between himself and George W. Rutledge involving the title to said slave, (the said Rutledge claiming said slave under said Adam Waterford) tending to prove that said Adam Waterford by his agent had tendered to this affiant the money he had advanced to him on account of said slave, for the purpose of his redemption; and that had he anticipated any such proof, as was offered on this subject during the trial aforesaid, he could have proved that the agent by whom it was said a tender in the premises, had been made to him, had said that he never had made

to him such a tender. And the affiant further says that he can now prove, that the said Adam Waterford has said that he had made to him a good and perfect title to the slave in question. And that had the proof herein before referred to, as tending to prove a tender, been such as in the estimation of his counsel, established the facts that he is informed by his counsel, that they would in all probability have suffered a non suit, or at least have taken some course, different from [105] that which they did take in the management of the case of the affiant. Given under my hand the 30th of May 1836.

Saml Chastain

Baker plt vs. Rutledge deft. in detinue of a slave upon this affaint the plt. moved the Court to set aside the verdict of the Jury, and grant him a new trial, upon the ground of surprize at the trial, which motion the Court overruled & refused to set aside the verdict, because the Court does not percieve how the plt. could be surprized by the proof of tender, when that matter was heretofore specially pleaded, and the plea was only rejected at this term by pltfs agreement that that matter might be given in evidence under the genl. issue & any other matter which could be properly pleaded. And because although it was not evidence in this cause, the witness Rutledge stated that Matthew Rhea told him, that he had tendered to the plaintiff the money due on the mortgage of this slave. And because the Court would require strong evidence to satisfy it that Adam Waterford ever intended to sell his brother, or that the mortgage was by subsequent contract converted into an absolute sale, though he might and probably did, pledge him to raise money to redeem his son Jefferson from bondage. The pltf has attempted by the deposition of Col. Harold Smyth to prove the fact which he says he can now prove, viz, that the mortgage was made absolute, in which he has failed.

Besides, he has rested his claim to the slave upon his mortgage deed. The Court percieving no surprize in this case upon the plt. which ordinary diligence on his part would not have obviated, refuses to disturb the verdict of the jury with which this Court is entirely satisfied. To which opinion of [106] the Court overruling the pltfs motion aforesaid, the pltf by his Counsel excepts, and prays that this his bill, may be signed, seald and made a part of the Record which is accordingly done." B. Estill [?] (seal)

And at another day, to wit: At a Circuit Superior Court of Law and Chancery continued & held for Washington County at the Courthouse the 2nd day of June 1836. Another bill of exceptions was tendered by the plaintiffs Counsel No. 3 signed and seald by the Court and ordered to be made part of the Record.

Which said bill of exceptions is in the Words and figures following to wit: "Be it remembered that after the verdict had been rendered in this cause, and after the Court had overruled a motion made by the plaintiff, for a new trial, upon the ground that said verdict was contrary to the evidenced in the cause that the plaintiff by his Counsel tendered to the Court, to be signed and sealed and by the Court made a part of the Record in the case, a bill of exceptions in the words and figures following to wit. Be it remembered that after the verdict had been rendered in this cause by the Jury, the plaintiff by his Counsel moved for a new trial, upon the ground that the verdict rendered was contrary to the evidence in the case, which motion the court overruled and thereupon the plt. by his Counsel moved the Court to certify the facts proved in the Cause, and accordingly the Court doth certify that the following are all the facts, that were proved before the Jury in said case: That on the 11th day of January 1822, one Adam Waterford, then owning the



Slave in the plaintiffs declaration mentioned which slave is the brother of said Adam, who was an emancipated Negro, did execute to the plaintiff a Mortgage on said slave, in the words and figures following towit.

Know all men by these presents that I, [107] Adam Waterford of the County of Sullivan in the State of Tennessee for and in consideration of the sum of five hundred dollars current money do bargain and sell unto John Baker of the said County a certain slave Waterford a mulatto man between twenty and thirty years of age which said slave I hereby warrant and defend to the said Baker and his heirs forever. And the said Waterford doth covenant with the said Baker that he the said Waterford the slave shall serve the said Baker faithfully and shall behave himself well. But is agreed between the said Baker and the said Adam Waterford that whenever the said Adam Waterford shall pay to the said John Baker the sum of four Hundred and fifty Dollars which he has this day advanced to the said Adam, at any time when it does not interfere with the making of a crop by Baker (unless sd Adam should return the money this day advanced to him before the first Feby next, then the boy is to be returned to said Adam) then the above bill of sale is to be void otherwise to remain in full force \$70. in State Bank of South Carolina \$30. in United States & Virginia and \$350. in Silver. Witness our hands and seals this 11th January 1822."

Test Andrew Russell

his  
Adam X Waterford (seal)  
mark  
John Baker (seal)

And that in pursuance of said mortgage, said Waterford delivered said Slave into the possession of the plaintiff, who at that time resided on his fathers plantation: and with his father Isaac Baker: And that said plaintiff continued to reside with said Isaac until he died in the fall of 1830, that

during this time the said Isaac and the plaintiff were frequently heard to speak of said slave as "our slave", or "our boy", and it also appeared that the said plaintiff both before and since the death of the said Isaac, claimed, sometimes, when speaking of said slave, exclusive property in him. [108] It further appeared, that said slave continued in the possession of the plaintiff, until the 20th day of April 1834, when he left the possession of said plaintiff without his knowledge or consent, and was taken possession of by the said Adam Waterford, and was by him hired to the Defendant, who had slave in his possession at the commencement of this Suit, and who still holds him, on a contract of hire. It was also proved that the services of said slave were worth from one hundred to one hundred and twenty dollars per annum, and that said slave was worth about \$900.00. It was also proved by the brother of the defendant William Rutledge that in the year 1826, said Witness, who was well acquainted with Isaac and John Baker, was frequently at the house of the said Isaac and that whilst there on one or more occasions, in a conversation or conversations, with the said Isaac and John, in relation to a deed of trust or mortgage, on the lands of said Waterford, in favor of the said Isaac, and the mortgage of the plaintiff upon the said slave they the said Bakers said, that Matthew Rhea had come to them and tendered to them, or offered to pay to them, the money for the redemption of said slave, now claimed by the plaintiff, and the lands on which the said Isaac had a mortgage, the precise language of the said Bakers, the witness said he did not recollect, and he could not say that they had certainly used the word tender, but that he had given his own language the substance of the conversations he had had with the said Bakers and the impressions thereby left on his mind: It was also proved by the said witness, that at the same time, the said Bakers

said, that before Rhea had called upon them the said Adam Waterford, had repeatedly told them, that the said Rhea would redeem his property, by paying to them, the debts he owed them: And that the [109] said Bakers said that they had refused to settle with the said Rhea, or to recieve from him their money because they said the said Waterford would be broke up, any how, and that they had as well get his property, or get a good bargain out of him, as any one else: And that they asked the witness to request Mr. Rhea, not to interfere with the subject. It was admitted by the parties that Adam Waterford and Matthew Rhea, had both departed this life: And now to the opinion of the Court overruling his motion for anew trial on the facts herein before set out, the plaintiff by his Counsel excepts, and prays that this his bill of exceptions be signed and sealed, and be made a part of the record, which is done. (seal)

Which bill of exceptions, the Court refused to sign, alleging that the statement therein contained, purporting to be a statement of the facts proved on the trial, in the case, was not correct--Whereupon the Court drew up & signed and sealed the bill of exception No. 1 as containing a more perfect statement of the facts proved in the cause but the plt. by his counsel still contending that his statement of said facts, as contained in this bill of exception is more correct than that prepared by the Court, requested that it might be signed and sealed by the Court & made a part of the record, which the Court refused, preferring as most accurate the statement of facts contained in Exception No. 1: Whereupon the plt. produced the affidavits J W. Stephens, Wm.B. Seay, and J W. C. Watson, taken without notice, tending to shew what the Witness Rutledge, who had previously left the Court for his residence in Tennessee, had proved before the Jury. But as all these statement of facts,

and affidavits, were made some days after the trial of said cause, and after the Witness Rutledge had left the Court, the propriety of recieving such [110] affidavits was doubted by the Court who preferred relying on his own recollection of the testimony and facts proved in the cause, to which he paid particular attention, than to the recollection of Jurors and Counsel, and therefore refused to sign and seal the bill of exception aforesaid presented to him by the plt, having signed and sealed the bill No. 1. containing in the opinion of the Court a full and fair statement of all the facts proved in which opinion the Court is sustained by both the defts, counsel. To which refusal of the Court to sign and seal the exception aforesaid, presented by the plaintiffs Counsel, he excepts & prays that this his bill may be signed sealed & made a part of the record which is done accordingly."

B. Estill (seal)

The affidavits referred to in the foregoing exception are in the words and figures following towit;

Washington County, to wit: John W. Stephens this day made oath before the undersigned a justice of the peace for the County aforesaid that he was one of the jury, who during the present term of the Circuit Superior Court of Law and Chancery for the County aforesaid rendered a verdict for the defendant in an action of detinue, pending in said Court, in which John Baker was plaintiff and George W. Rutledge Defendant; that he paid the strictest attention to the testimony in said Cause, and that he thinks his recollection of the same is accurate. The affiant further says, that he recollets well the testimony of William Rutledge the brother of the Defendant, and that his evidence was to this effect. That in the year 1826, the said witness was frequently at Isaac Bakers and that whilst there on one or more occations in a

conversation with the Bakers, in relation to a deed of trust or mortgage on the [111] lands of the said Waterford in favor of the said Baker, and the Mortgage of the plaintiff upon the said slave now claimed by him in this suit, the said Bakers told me that Matthew Rhea had come up to see said Bakers, and tendered the money for the redemption of the slave, and the land mortgaged in Tennessee, and that the Bakers said they would not recieved it because Waterford was spending his property; and they might as well have a good bargain as any other person. The Witness was then questioned, whether the Bakers made use of the word tender, he could not be certain, whether they did or not, nor did he pretend to be certain he was using the language of the said Bakers, but the substance of it and the impression left on his mind was a she had stated, he further stated that the Bakers requested him to ask Mr. Rhea not to interfere in the subject.

The witness further stated, that the Bakers told him that Waterford had told the said Bakers, that he Waterford would send or get Mr Rhea to come up and settle his debt or debts with plaintiff. This affiant further says that Mr Rutledge was the only Witness that attempted to prove a tender, in the case, the affiant believes that he has given a true and correct statement of the evidence of the Witness Rutledge and further he says not. Given under my hand this 2nd day of June 1836.

John Keller

Washington County, to wit: Wm B. Seay this day made oath before me a justice of the peace for the County aforesaid that he was on the jury in the case spoken of by the affiant Jno. W. Stephens in the above affidavit, and that his recollection of the testimony of William Rutledge, the only [112] witness in said case whose testimony tended to prove a tender in said case,



corresponds with that of the affiant Stephens, he can only perceive one instance in which he would vary his statement of the testimony of said Rutledge, and this instance is that where said affiant last speaks of the plaintiff in said action, in his affidavit, he thinks that it should read the Bakers "or with them". affiant further says that said Witness Rutledge spoke in his testimony of some matter, which he regarded as wholly foreign to the case, and which has not been stated by Mr. Stephens because as affiant supposes, said Stephens likewise thought said matter wholly irrelevant and unimportant. Given under my hand this 2nd day of June 1836."

John M. Preston

Washington County, to wit: John W. C. Watson this day made oath, before me a justice of the peace for the County aforesaid that he was of counsel for John Baker in the cause tried between said Baker and George W. Rutledge, during the present term of the Circuit Superior Court of Law and Chancery for said County, that to the testimony in said cause, he paid the strictest attention; and that he believed his recollection of the same to distinct and accurate: that he has carefully examined the bill of exceptions, presented by himself and his colleague in said cause to the Court, on the overruling of the plaintiffs motion for a new trial in said case, on the ground that the verdict of the Jury was contrary to the evidence heard by the jury, and that he believes the same to be correct in its statements; and that he is well assured that said bill of exceptions does the defendants testimony in the cause, full justice; And the affiant further says, that he has [113] also carefully examined, the bill of exceptions, drawn up and signed and sealed by the Court, as containing a full and accurate statement of the facts proved on the trial of the said case of John Baker against George W. Rutledge, and that he is well

satisfied that said bill of exceptions presents a stronger case for the said defendant Rutledge than was made out before the Jury; and that therefore he does not regard said bill of exceptions as containing an accurate statement of the case, which it purports to set out: As witness my hand this 2nd day of June 1836."

J W Paxton

State of Virginia - Washington County, towit:

I, Connally F. Trigg Clerk of the Circuit Superior Court of Law and Chancery, for the said County of Washington, in the State of Virginia, do hereby certify, that the foregoing is a true transcript of the Record and proceedings in a certain action of detinue, lately depending in the said Circuit Superior Court of Law and Chancery, between

John Baker plaintiff, and George Rutledge

(seal) Defendant, with all things touching the same,  
as fully and wholly as they now-exist,  
among the records of my office.

In testimony whereof, I hereto set my hand and annex the seal of the said Court, this 13th day of September 1838, in the 63rd year of the Commonwealth

Fee for copy of Record authentication. Connally F. Trigg C.C.

& tax on seal \$6.50.

Virginia

Washington County, to wit:

I, Benjamin Estill, only Judge of the Circuit Superior Court of Law and Chancery for the Said County of Washington, in the State of Virginia, do certify, that Connally F. Trigg, who hath given [114] the preceding

certificate, is Clerk of the said Court; and that his said attestation is in due form. Given under my hand this 27th day of September 1838.

Benjamin Estill

Depositions on behalf of Complainant, viz:

"Adam Waterford, Compt.

vs.

John Baker, Respt,  
Administrator of Isaac Baker

Circuit Court of the  
United States for the District  
of East Tennessee

Be it remembered that on the 21st day of November in the Year One thousand eight hundred and thirty three, personally came before me, the subscriber, a Justice of the Court of Pleas and quarter Session for the County of Sullivan in the State of Tennessee note being of Counsel or Attorney for either of the partys in the above cause nor enterested in the event of the cause, Samuel Whiteman Mary Whiteman William Rutledge Esqr. Jacob Shomaker, John Spurrier, James Arnold, John Petors Samuel Keller witnesses for the Complainant in the above cause now residing in Sullivan County in the State of Tennessee aforesaid at the distance of One Hundred mile and upwards from Knoxville in the State of Tennessee the place of trial in the above cause, who being by me duly sworen and cautioned to testify the whole truth and carefully examined did depose.

1st Witness - Samuel Whiteman being of lawful age after being deposeth and saith.

Quest. by compt. Did you not see Adam Waterford pay Isaac Baker five Hundred Dollars in silver at Federick Whitemans house and did not said Baker tell you the next day he had got Said [115] Waterfords money and was taking the same to his Bakers house and State all about the transaction.

Answer. I think about 19 or 20 years ago Baker came to my Fathers house with a sum of money which I understood to be \$500.00 in Silver and Gold

owing and pay able to Adam Waterford which sad money he sd. Baker left with my mother over night and said Baker went to sea Waterford who lived near my Fathers and next day Baker and Waterfor ware tolking about said money and understood by both the partys that Baker took back said \$500. as Waterford has no use for said money. Mr. Baker told me he took the money home with him.

Question by Respondt.- Mr. Whiteman did you understand by my Father what use he intended to make of the \$500.

Ansr. I cannot tell what use he intended to make of it.

by same. Are you certain to your own knowledge that it was \$500. my Father got of A. Waterford as you statet you sean the money

Ansr. by sam. I do not know that there was or was not \$500 ownly what I herd them say towit Baker and Waterford and farther this responent sayeth not

his  
Samuel x Whiteman  
mark

2nd Witness - Mary Whitemain of lawful age deposeth and sayeth. State what you know about the money spokin of by the former witness.

Answr. I think about 19 or 20 years agou Isaac Baker came to my fathers house with sum of money the amt. of which I do not know and stayed alnight and Adam Waterford came there next morning and I sead [116] them have the money but what desposition was made of the money I do not know, and furthermore Recollect that my brother Saml. Whiteman was present and that it was the same transaction spoken of by him, and further this deponent sayeth not

her  
Mary X Whiteman  
mark

3rd Witness - Jacob Shoemaker being of lawful age deposeth and sayeth

Qust. by Comt. did Isaac Baker tell you about what Matthew Rhea having

offered to the Redeaming the property of Adam Waterford on which he Baker had a lien.

Ansr. Isaac Baker told me some sort time after he had purchased Adam Waterfords plantation that Matthew Rhea havd offered him Two Thousand Dollars for all the property towit said plantation and some other property and land in Burks Garden in Virginia. Baker did not name the Burks Gardens but witness understood Mr. Baker that it included all the property that Baker held a lein.

Quest. 2nd - Did Mr. Baker say wheather Rhea wanted to redeem the property for Waterford or only to purchase it from Baker.

Ansr. Mr. Baker told me that Matthew Rhea had offered him Two thousand Dollars for all the property that the held by purchase at Sale and lien on Adam Waterford property and my impreshin was that he Rhea would fight it out with Waterford.

Quest. by Respt. - Was there some cattle sold by Adam Waterford for the benefit of my father and how did they sell. Ansr. [117]

Ans; Some of them sold tollerable well for ready money but wont say for the whole for ther was a good many them. I bought one myself and thought it waas prety well for Sherriffs sale or ready money and I believe I could bought one as cheap in the Neighborhood from my neighbours for ready money.

Quest. by Compt. - How many of Adam Waterfords, cattle was sold Wheane ware they sold and what time of the year and was Adam Waterford present.

Ansr. I think thear was forty head as I understood, and they were sold at Abingdon I think on a Court day. I cant tell wheather the sale was in the Spring or fall but think there was but little picking in the pasture and I did no sea Adam Waterford at the sale.

Quest, 2, by whome ware those cattle sold and who purchased the princple



part of them did not Isaac Baker purchase a good many of them and if you know who did purchase said cattle

Ansr. by the sherriff. I bought one, Mrs. Weaver bought one I saw one at Duns and Mr. Isaac Baker bought some how many I cant tell.

Qest 3 Wheare did you sea these cattle before the Sale and what sort of pasture was it hay weare in and did thay not fall away in that pasture

Ansr. - I saw said cattle at the Maple Spring Coln. Campbells farm 6 miles west of Abingdon on the Stage Roade, it was an indifferent pasture, I think those cattle ware there 4 or 5 days of core they must of fell away some.  
[118]

Quest by same. describ those cattle that ware sold wat ware there cizes and Sese and what was thare value

Ans...the one I purchased was a Milch Cow I gave \$7 fer her. Mr. Weaver was a Milch Cow also gave \$8: I don't think there was any youg calves there might likely of bin one yearling and from one year upwards and as to thare value I cannot tell what was thair value

Quest. 5th by same. did or did not Isaac Baker tell you that if it had not been for Capt. Smith and Andrew Russell he would not of Got the deed from Waterford to him Baker for the Burkes Gardens land proven by Lewis Smith and what did he say was the Reason

Ansr. he did tell me so he told me that Lewis Smith and his wife ware the subscribing witnesses and if it had not bin for Capt. Smith Andrew Russell and Coln. David Campbell that they would not of proved the same.

Quest 6th. do you know the Boy Waterford and whos posesion is he now in and whos posession was he formerly in

Ansr. I know the boy Waterford, he is now in the Possesion of Mr. John

Baker. Mr. Isaac Baker and his son Baker lived in the same house together

Quest 7. did you ever hear Eather Isaac Baker or his son John Baker say wat was the worth of his hur a year and do you know if your owen knowledge what his is worth by the year.

Ansr. I don't recollect of ever hearing eather of them saying what was the worth of his hur by the year. he lives within halve a mile [119] of me and I think he is as good a slave as aney I ever saw and from his honesty and Endustry and intigrity I think him worth as much as any slave I ever Saw and don't think neighbour can say any harm of him there might some Black McCanicks hier for more then he because he has no trade. I think if he belonged to me I would not take one Hundred dollars a year for his Scervices.

Quest. by Respt. - do you know what was the nature of the contract between my father Isaac Baker and Adam Waterford concerning the Boy Waterford.

Ansr. I know nothing about the contract beten the partys accept of what I heard Isaac Baker and John Baker say. I have always understood from them on til laitly that he was a pledge to them in security for a sum of money the sum of money I think was about \$400. or \$450. And understood that John Baker loaned that sum of money to Adam Waterford for which he Waterford pledged said Boy Waterford as security & I further recollect that some 5 or 8 months agou Mr. John Baker told me he had loaned Adam Waterford in addition to the \$450; ontill the whole amt. was about \$590 or ninety od for which to secure the payment thereof to Baker had got from Adam Waterford a bill of sale for the boy Waterford but on til the 6 or 8 months as above I had always winderstood that from them that the boy could be redeamed from them by the payment of the money. and further this deponent sayeth not

Jacob Shoemaker [120]

4th Witness. John Peters, after being sworn deposeth and sayeth-  
Quest. by Compt. Did you or did you not see Isaac Baker receive a sum  
of money from Adam Waterford and if so how much when and where

Answr. I saw Isaac Baker receive from Adam Waterford five Hundred  
dollars in his own house. I cannot tell how long ago it was but think it was  
about the time Adam Waterford lived on Whitemans plantation in Sullivan County  
Tenn I do not know on what account it was got one from the other. and  
farther this Deponent sayeth not.

his  
John X Petors  
mark

Adgurned on til to morrow

D. Shaver (JP)

James Ernott being of lawful age after being sworn deposeth and sayeth.

Quest. by compt. - Did you see the cattle Adam Waterford that were taken  
to Virginia, did Isaac Baker tell you that said cattle were sold and how much  
do you think they were worth.

Ansr. I saw the cattle and counted them, there was forty one head, and  
Isaac Baker told me the cattle were all sold. I think the cattle were worth  
three Hundred Dollars or more. I think there hides would bring one Hundred  
Dollars

Quest. 2nd. What sercomstance induced you to take particular notice to  
those cattle.

Ansr. - I went to Adam Waterfords in order to buy one or two cows with  
calves. I then examined the cattle I went all threw them and also when they  
went on to Virginia I again noticed said cattle and the cows that I had before  
looked [121] at now had calves. I think there was about four calves in the  
drove. I think there was 8 or 10 cows or more there was some good lumps of  
Steeres, they were in medling order & thought they were taking them to Range.

the rest of the cattle beside the aforesaid caws were young cattle, Steers and heafors. I think it was the last of March or first of April that I saw the cattle going to Virginia.

Quest. by Respt. - Do you or dou not think that the young cattle were indifferent cattle

Ansr. by same - I think there were some small and indifferent cattle. And some were tollerable good lumps of cattle. Some I think I offered him ten dollars in money and he askt eleven and the cows that I wanted to buoy of Waterford went on in the drove and when I examoned those cows in the medow previous to them being taken on I think think there was but little differeincc in thair value but I don't know that he took all along in the drove

And further this deponent sayeth not.

his  
James X Arnott  
mark

5th Wit. John Spurrier of lawful age deposeth and sayeth-

Quest. by compt. - Dou you know the buoy Waterford now in the posseon in John Baker and if so what is the value of his yearly hur

Ansr. - I do know the boy Waterford and think his yearly hior is worth one Hundred Dollars.

Quest. 2 by same. What did Isaac Baker and John Baker tell you about the boy Waterford having been pledged to them by Adam [122] Waterford for a sum of Money. State all you herd them say on that subject

Ansr. - I herd Isaac Baker and John Baker say that the boy Waterford was put in pledge by Adam Waterford to them for four Hundred and fifty Dollars and was redemable on the payment of that money

Quest. 3 by same. - Did not Isaac Baker and John Baker live together and carry on thair buisness conjointly-

Ansr. They did.

Quest. 4th by same. - Did you not live with Messrs Bakers for some time, and if so how long, what did you get a month from them per month, and do you not beleive that the Waterford was as good a hand as yourself.

Ansr. - I did. I lived with them seven years and nine months, and when I worket for them, thay paid me ten Dollars per month. And considered the boys labour worth as much as mine acsept that I sometimes made shoes and he did not.

Quest. by Respt. - Did you or did you not understand that the money menchined in the Bill of Sale was to be paid on a certain time, or the Bill of Sale was to be final.

Ansr. - I did not on til laitly and farther I did not herd of it on til after Isaac Bakers deth, and then only from a conversation beteen me and John Baker. And father this deponent sayeth not.

John Spurrier

6th Wit. Coln. William Snodgrass being of lawful age deposeth and sayeth-

Quest. by Respt. - Did or did not Matthew Rhea [123] tell you what took place beteen Isaac Baker Relevant to an offer said Rhea made said Isaac Baker concerning lands and other transactions beteen Adam Waterford and Isaac Baker.

Compt. decline to continue or proceed to taking this deponents deposition.

And I the said Justice do further certify that the foregoing deposition ware redused to writing by me and subscribed by the said Witness in my presence, and that the partys complainant and defendent ware both personally present at the taking of said Depositions, and saw Depositions without cometion Blountsville the place of taking the same being more than one hundred



miles from Knoxville, the place of the trial of the above cause.

David Shaver  
Justice of the Court pleas and  
quarter sessions of  
Sullivan County

A Bill of Costs

|   |      |             |
|---|------|-------------|
| To 6 depositions at \$1.00                              |      | \$6.00      |
| To 3 days attendance of Sal Whiteman at 50 cts pr day   |      | 1.50        |
| To 3 " " of Mary Whiteman at 50 Do Do                   |      | 1.50        |
| To 3 " " of John Peters at 50 Do Do                     |      | 1.50        |
| To 3 " " of John Spurrier at 50 Do Do                   |      | 1.50        |
| Milage 18 miles twice going and coming                  |      | 2.85        |
| 3 days attendance of Jacob Shomaker at 50 cents per day | 1.50 |             |
| Milage 18 miles twice going & coming                    | 2.85 | 4.35        |
| 2 days attendance of Jas. Arnott at 50 cents per day    | 1.00 |             |
| Miliage 10 miles going & coming                         | .80  | 1.80        |
| 2 days attendance of Wm. Rutledge at 50 cents per day   |      | 1.00        |
| 2 " " " Sal Keller at 50 Do Do                          |      | <u>1.00</u> |
|   |      | \$23.00     |

Novr. 22, 1833

David Shaver, Justice of the Peace [124]

State of Tennessee  
Sullivan County

Persuant to the annexed  
commission to me directed,  
I have this 18th day of July

1838 at the Courthouse in Blountville, in the County of Sullivan aforesaid,  
the said David Waterford mentioned in said Commission being present, as well  
as John Baker Admr. of & the defendt. proceeded to take the depositions of  
George W. Rutledge, William Rutledge Thomas White, witnesses on behalf of the  
said David Waterford and the other heirs of Adam Waterford Decd. who being

duly Sworn, depose and say as follows towit.-first - George W. Rutledge  
deposeth and saith-

Question by Plaintiff

What is the yearly value of the hire of Walter Waterford who was  
formerly mortgaged, by Adam Waterford, to Isaac and John Baker-

Answer by Deponent,

I consider the yearly value of said Walter Waterford at one  
hundred, or more, but I have heard the sd. Bakers value, the yearly value of  
him greatly more than \$100, a year he is as good a hand to work as I am  
acquainted with.

Question same.

Does Walter Waterford now live with you, how long has he lived  
with you, & how much do you give him by the year?

Answer by Dept.

He lives with me now, has lived with me upwards of three years,  
and I gave him for part of the time \$10 pr month, & for the other part of the  
time \$100 pr year. This year [125] I pay him \$100, last year at \$10 pr month,  
all in cash, while he worked being sick part of the time-

2nd question by same.

Did Walter Waterford live with the Bakers if so please state how  
long, did he live with them from the time he was mortgaged to them by Adam  
Waterford

Answer by Dept.

he did live with the Bakers from the time that Adam Waterford  
mortgaged him to the Bakers until he came to my house, bout three years, or  
upwards, past.

(Blank space - 3rd question by same?)

Had you ever any conversation with Isaac and John Baker respecting Walter Waterford if so state that conversation, and also the time and place you had said conversation.

Answer by dept. In the year 1824, '26 or 1827, at the house of Isaac and John Baker, I had a conversation with them about Walter Waterford at which time and place they state that Walter Waterford, was such a careful and good farmer, that they could both leave home at any time, entrusting their farm and its management to Walter, they (the Bakers) also stated that old Rhea (whom I new to be Matthew Rhea now decd.) had been up and offered them, all the money for which Walter, was Mortgaged to them by Adam Waterford, tho refused, saying they would not be without Walter for two hundred dollars a year, & that Walter would sooner live with them (the Bakers) than any body else. This Deponent further states, that he had [126] frequent conversations with Isaac Baker & that in each sd. Baker always admitted that Walter was merely and only mortgaged- And that he never heard either of the Mr. Bakers set up any other claim to Walter, until since Walter came to live with the deponent.

Question by Same.

Since Walter Waterford came to live with you did Mr. John Baker institute suit against you in Abingdon Virginia..If so, how did that suit terminate

Answer by Defendt,

Yes, & the said suit was determined in my favor-

Here the deft. by his counsel objected to the last question and answer-

Question by same.

Did Adam Waterford bring Walter from Virginia & hire him to you.

Answer by same.

Adam Waterford hired Walter to me. I do not know who brought him- but John Baker told me that Adam Waterford, stole Walter from him, and that he indicted Adam for it in the State of Virginia. This deponant further states, that he was in Virginia at the trial of Adam - on sd. charge and that Adam was acquitted.

Question by Deft.

Did you ever hear John Baker say that Walter was only mortgaged, if so, when, and who was present-

Answer by Deponant.

In the conversations before alluded [127] to one of the Mr. Bakers said as much as the other, and that his impression or best recollection is that John Baker did state that Walter was only mortgaged, that this particular conversation took place in 1824, '26, or '27, at which times this Deponant kept a Horse in Virginia. And further this Deponant saith not.

G W. Rutledge

Then comes Thomas White Esq. of lawful age deposeth and saith as follows, towit;

Question by Pltff.

Did you see a drove of cattle that Adam Waterford let Isaac and John Baker have, if so how many, what was their value and when was it.

Answer by Deponant.

I seen a pretty good lot of cattle goe along the road by my house, belonging to Adam Waterford, on their to way to the Mr. Bakers in VA. I cannot remember the value of sd. cattle, the number of them, nor the time when the passed along. they appeared to be good, stock cattle for our country-

And further this Deponant saith not

Thomas White

Majr. William Rutledge of lawful age deposeth and saith as follows  
towit.

Question by plff.

Had you ever any conversation with the Messrs. Bakers-respecting  
their claim to Walter Waterford?

Answer by Deponant,

The Messrs. Bakers frequently stated to me, that Walter Waterford  
had belonged to [128] Mr. Thompson of Virginia, that Adam Waterford bought  
Walter from E. Thompson, and that sd. Adam borrowed from them, the Bakers,  
between Three and Four Hundred Dollars-to pay for Walter, and that Adam then  
mortgaged Walter Waterford to them, to secure the payment of the before  
mentioned sum of money, that Deponant has heard Isaac & Jno. Baker say so  
frequently. Deponant further states that the Messrs. Isaac and John Baker  
lived together in the same house, eat at the same table and appeared to have  
all things in common.

Question by same.

Did you ever hear Mr. Isaac Baker or Mr John Baker set up any  
other claim for Walter except as Mortgagus of Adam Waterford until Walter was  
taken away from them by Adam Waterford?

Answer by Deponant.

No, they did not and we had talked about frequently

Question by same.

What do you know about a lot or parcel of cattle, that Adam  
Waterford let Messrs. Bakers have in satisfaction of this mortgage.



Answer by Deponant,

I understood from A. Waterford & the Messrs. Bakers that the number of cattle the Messrs. Bakers got from A Waterford was forty head. This deponant seen the cattle, shortly before Waterford delivered them to the Bakers-& that they were worth on an average between five and eight Dollars pr head. This deponant further states that the cattle were delivered in the Spring of the year, the Messrs. Bakers kept the cattle some time, and then were sold as Mr John Baker and A Waterford informed this deponant for fifteen [129] dollars after defraying the expenses, about which Adam Waterford complained most grievously saying that the Messrs. Bakers, had kept them until they became poor that they would bring nothing. This deponant further states that Isaac Baker said he was to take care of the cattle-& sell them-and furthermore that sd. Isaac Baker came to Tennessee to see why the cattle had not been delivered to him Baker, according to promise, the proceeds of the cattle were to be applied to the payment of Adams debts to the Messrs. Bakers, what particular debt he does not know

Please to state what conversation you had with either of the messrs. Bakers respecting the money tendered by Matthew Rhea, on behalf of Adam Waterford, for all the money due by Adam Waterford to the Messrs. Bakers.

Answer by the Deponant-

The Messrs. Bakers informed me that Matthew Rhea, had tendered them all the money due from A. Waterford to them (the Bakers) and they refused the money, saying that Matthew Rhea was advancing the money for speculation, and that Adam Waterford would be broke up-Any how, and they (the Bakers) might as well have the benefit of the speculation as Rhea, that Walter did not want to live with Rhea & furthermore that they had advanced the money to Adam, to

purchase Walter, & save him from being sold & sent out of the Country - The foregoing conversations took place several years ago at Bakers house and else where.

Question by same-

What did the Messrs. Bakers tell you about having taken a mortgage on Adams land [130] And did not Messrs. Bakers tell you that Mr. Rhea offered to redeem the land as well as Walter-

Answer-

The Messrs. Bakers informed me they had a Mortgage on Adams land to secure the aforesaid debt and others, but that there was some defect in the said Mortgage which rendered it unavailable, and that Mr Rhea offered to redeem the land as well as Walter, but that they refused for the reasons already stated. And further this deonant saith not

Wm. Rutledge

I hereby certify that the foregoing Depositions were sworn to and subscribed before me David Shaver J P. an acting Justice of the Peace for the said County the day and place before mentioned and furthermore that I am not of Counsel or Attorney for either of the parties nor am I interrested in the event of the suit.

Justice. 3 depositions - \$3.00

David Shaver, Jr.

Thos. White a Witness 1 day .75

Justice of the Peace-

\$3.75

Recvd. the above of Adam Waterford, D. Shaver Jr. J. Pease.

The following exceptions were filed by Respondents Counsel, to the foregoing depositions viz.

April Term 1839

The Defendts except to the reading of the foregoing depositions. No interrogatories having been filed as required by the rules of Court-

It does not appear in the Caption or otherwise that the witnesses were of lawful age.-

No sufficient certificate is made by the commissioner.

Swan & Alexander

Sols. [131]

Depositions for Defendant

Washington County Virginia to wit,

Agreeable to an notice given to David Waterford Adm. of Adam Waterford Decd. to take the Deposition of James Head at the House of Saml. Hensley on the 21st October we have proceeded to take the Deposition of James Head to be read in certain suit pending in the Fedril Court at Knoxvile Tennessee in which you are pltf and John Baker Adm. of Isaac Baker Decd.

Deft.

James Head being a witness of lawful age being first sworn  
Deposeth and saith.

Question by Defendant.

Did you not hear Adam Waterford say that he had sold to Bakers a  
slave named Waterford

Answer.

I heard him say that he had sold Baker his Brother it was hard but  
that he had made them a good Bill of Sale for him-

Question by Deft.

Did he not tell you that the slave was where he wanted to be and

where he, Adam Waterford, wished him to be-

Answer.

He told me that the boy would rather live with Baker than any other man & that he Adam would rather that Baker should have the boy than any one else, and further this Depont. saith not-

J. Merchant (seal)

Samuel Hensley (seal)

This witness is entitled to 16 miles mileage. [132]

The deposition of James Orr a witness of lawful age taken at the office of John W. C. Watson in Abingdon Virginia by John Baker, to be read as evidence in a cause pending in the Federal Court at Knoxville, Tennessee to which the said Baker, and David Waterford Administrator of Adam Waterford Decd. are parties. Deponent being first duly sworn;

Question by Defendant Baker.

Please state what you know relative to a lot of cattle sold by David Campbell as trustee in a deed of trust executed by Adam Waterford to secure a Debt due my Father Isaac Baker.

Answer. I was present and saw the cattle sold and believe I cried the sale. It was in the Spring of the Year & the cattle were in low order I do not recollect what they were sold for: but I do remember that I thought at the time that the cattle were very well sold taking into consideration the condition they were in & the circumstances under which they were sold. I think this sale must have taken place ten or twelve years ago. Deponent says he bid for some of the cattle but did not get any of them as they sold for more than he was willing to give. and further this deponent saith not

James Orr

The above deposition was taken, subscribed and sworn to on this 29th September 1838 at the place in the Caption mentioned, before me a Justice of the Peace for Washington County, Virginia; and by the agreement of John Baker and David Waterford, the parties [133] in the caption mentioned, the further taking of depositions in this cause is adjourned until the 5th day of October next, when other depositions will be taken in the cause at the place herein before set out - Given under my hand this 29th September 1838.

Saml. Chastain

The deposition of Henry Richards, a witness of lawful age, taken at the Office of John W. C. Watson, in the town of Abingdon State of Virginia by adjournment, at the instance of John Baker, on the 5th day of october 1838 to be read as evidence in a suit pending in the Federal Court at Knoxville Tennessee, to which the said Baker and David Waterford Administrator of Adam Waterford Decd. are parties. Deponent being first duly sworn;

Question by Defendant Baker

How long did you live with my father?

Answer. I lived with him about six years.

Question by Defendt Baker - Did you not live there in the years 1822, \_\_\_ '23 and '24?

Answer. I think I did-

Question by the same. Do you not recollect being there on the evening that Adam Waterford and his father and me and my father came to my fathers from Abingdon in the year 1823.

Answer. Yes; I was there that night.

Question by the same - Do you not recollect hearing Adam Waterford on



that evening state several times, that he had sold me Waterford that day-  
[134]

Answer - Yes; I heard him say it several times that evening-

Question by the same. Did you not hear Adam Waterford next morning call Waterford out of the kitchen and tell him that he had the day before finally sold him to me?

Answer. Yes; I heard him say it two or three times next morning, as well as I recollect-

Question by the same. Do you recollect any thing of the cattle which Waterford brought to Col. Campbells plantation, who was Trustee in a deed of trust, in favor of my father?

Answer - Whey there was some mighty sorry looking cattle brought there, looked like they were about two years old heifers and calves and most of them mighty small-

Question by the same. Do you not think they sold as well as cattle usually do of that kind?

Answer - No, I don't think they did but I was not at the sale and further deponent saith not-

his  
Henry X Richards  
mark

I do hereby certify that the above deposition was this day taken, sworn to and subscribed before me a Justice of the peace, for Washington County Virginia, on the day and at the place in the Caption mentioned. Given under my hand this 5th day of October 1838.

Saml. Chastain, J.P.

Pursuant to a notice filed herewith, I have proceeded the 28th day of August 1839 at the Court house in the County of Washington and, [135] State of

Virginia to take the deposition of Harold Smyth in behalf of John Baker which is intended to be read as evidence in a suit depending in the Federal Court at Knoxville Tennessee wherein David Waterford as Administrator of Adam Waterford is plaintiff & the said John Baker is defendant.

Harold Smyth of lawful age in behalf of the defendant was introduced but it being late, by consent of the said David Waterford & John Baker, the taking of his deposition was postponed till tomorrow at 3 oclock. P. M.

August 29th 1839, the parties, John Baker & David Waterford being present, Harold Smyth was again introduced and being first duly sworn on the holy evangilists of Almighty God deposeth and saith.

That about the year 1821, he purchased from Wm. P. Thompson of Washington County a negro boy slave 17 or 18 years old or thereabouts named Jefferson - that sometime after probably in January 1822, Adam Waterford a colored man a resident of Tennessee desired to buy said boy - the price was agreed upon & the boy sold to Adam - the purchase money was nearly all paid down, deponent cannot say how much was left unpaid, he has no date of his own with him, but has in order to refresh his memory referred to a deposition given by him in 1836. By reference to said deposition his memory is somewhat strengthened he thinks the amount unpaid was between 90 and 100 dollars, but the precise sum he cannot say - the note was partly paid by [136] Isaac Baker, he sees by his deposition aforesaid \$41.25 at one time say March 1822, the balance he was some time in getting, he see by the said deposition that in May 1824, Baker paid another sum of \$26.30 and that afterwards the note was sent to Tennessee for collection from Waterford by Col. Snodgrass but who paid the balance or lifted the note he cannot say.

Question by defendant - Do You remember the conversation you had with

Adam Waterford at the time he told you Isaac Baker had assumed the payment of the note?

Answer - I do not, nor do I recollect that Adam ever told me so - I do not now remember how the payment of which I had written data as being made on the note by Isaac Baker when I gave the deposition above alluded came to be made by him.

And further this Deponent saith not.

Harold Smyth

The foregoing deposition was taken & sworn to before me a Justice of the peace in and for Washington County at the time and place mentioned in the caption. Given under my hand August 29th, 1839.

John M. Preston, J.P.

State of Tennessee  
Sullivan County

The 14th day of December 1839

I have this day proceeded to take the deposition of Col. William Snodgrass a Witness for [137] the defendant about the age of eighty years (in May next) at the Court house in Blountville, (at the request of the defendant there being no commission here) in the presense of the Defendant to be read as evidence in a suit now pending in the Court of the United States for the District of East Tennessee at Knoxville wherein David Waterford as Administrator of the Estate of Adam Waterford Decd. is plaintiff, and John Baker is defendant. The said Col. William Snodgrass after being sworn on the Holy Evangelists of Almighty God, to speak the truth, the whole truth, and nothing but the truth, concerning the matters and things in dispute between the sd. parties - deposes as follows.

Question by Deft. Did you ever hear the parties talk of the matter now in dispute between them, you yea please state all you may recollect-?

Answer by Deponent - I never heard them talk upon the subject of the dispute alluded to above (except defendt.)

Question by the same-

Did you ever understand that a proposition was made by the Plff. or any other person in his (the plffs. lifetime) to redeem the land now in dispute from the Defendant? if so please to state all you know.

Answer by Deponent - I understood that Matthew Rhea decd. had went to redeem the land from the Defendant, this deponent states, that he asked Matthew Rhea how they had [138] settled the business. Mr Rhea replied, to this Deponent, that he had offered to redeem the land provided the Defendant, would with Adam Waterford make the said Matthew Rhea a warranty deed, this the defendant refused to do - and Mr Rhea declined redeeming said land, upon the ground that the said land, might be encumbered by some other lein.

Question by the same. Were you present in the town of Abingdon VA. when David Campbell Esqr. as Trustee, sold a number of cattle, as the property of the plffs if so please state how the cattle sold as to prices?

Answer by deponent. I was present at the sale of two or three of the first lots of Cattles - and state that I could have bought cattle at home lower, the cattle were were poor and many of them small, tho amongst the first lots sold alluded to above, there were some cattle large and in tolerably large. Further this deponent saith not

William Snodgrass

I certify that the foregoing deposition is all in my own hand writing - that I am in no wise related to either of the parties, that the same was taken before me on the day at the place in the presense of the defendant set forth in the Caption. That it has not been out of my possession, or in any wise altered,

added to or changed since it was signed by the said Col. William Snodgrass-  
that I am not [139] of Counsel to either of the parties - or in any wise  
interested in the result of the suit, this 14th of December 1839-

David Shaver Jr.  
Justice of the Peace  
for Sullivan County  
Tennessee

Recvd. of the defendant \$1.00, my fee for taking the above deposition.

David Shaver, Jr.  
J. Peace.

Bill of Costs

|  |             |
|--|-------------|
| Mynatt - clerk - filing original Record & Papers                   | \$ 1.00     |
| filing Answer & affidavit 1.33%. filing cross bill & 1.33%         | 2.66%       |
| Copy of cross bill issd. 35½ Copy sheets at 33%-                   | 11.83       |
| Subsr.: to ans: 1.66% - order remanding cause to Rule dockt 53%    | 2.20        |
| Rule for Replication 33% - Judgmt pro. con: & set for hearing 2.00 | 2.33%       |
| Amended bill filed & 1.33% - 2 Subps. to ans: and two              | 1.33%       |
| Copies of amended bill issd. 72 co: sheets @ 33%¢                  | 27.33½      |
| filing ans: & affidant 1.33% Isc. Baker's death suggested 33%      | 1.66%       |
| leave to file a Bill of Revivor & same filed                       | 1.66%       |
| order reviving Bill and Cross Bill &c.                             | ".33%       |
| Bill and Cross bill set for hearing 33% leave to ans: .33%         | ".66%       |
| order remanding cause to rule Docket                               | ".53%       |
| filing ans: and affidavit 1.33%-                                   | 1.33%       |
| Death of Adam Waterford suggsted                                   | ".33%       |
| Leave to file a Bill of revivor                                    | ".33%       |
| filing same 1.33-5 continuances @ 53% - 2.66%                      | 4.00        |
| 3 Seperate affidavits @ 33%  | <u>1.00</u> |



|  |                        |          |
|--|------------------------|----------|
|  | Amount taken over      | \$60.56½ |
| [140]  |                        |          |
|  | Amount brought forward | \$60.56½ |
| Campbell - Clerk order reviving suit in the name<br>of the Administrators etc. | ".33½                  |          |
| Leave granted to take testimony  | ".33½                  |          |
| 4 continuancy @ 53¼¢   | 2.13                   |          |
| Leave granted to take further testimony  | ".33½                  |          |
| Interlocutory decree 1½ copy sheets  | ".56                   |          |
| Report on same \$1218.73 at 66% pr. hundred                                    | 8.12                   |          |
| Dedimus Pob: 66¢ Drawing final decree  | ".66                   |          |
| 9¼ Copy sheets @ 33¼¢  | 3.00                   |          |
| Judgmt. & taxing costs   | 2.66%                  |          |
| Appl & Bond  | 1.00                   |          |
| Transcript of Record 386 Copy sheets<br>at 33¼¢                                | 128.66%                |          |
| Seal and Certificate   | <u>".75</u>            | 148.55   |
| Costs in the Chancery (State) Court, see folio 21-                             |                        | 27.42½   |
| Bennett. Dep. Marshal - Serving one  |                        |          |
| Subp: to answer  | ".62½                  |          |
| travel 228 miles @ 5¢  | <u>11.40</u>           |          |
| 12.02½   |                        |          |
| Atto. tax fee  |                        | 12.50    |
| Sheriff - A. James, for copy of notice   | ".50                   | .50      |
| " - John K. Hughes Ditto   | ".50                   | .50      |
| " - Chas. W. White Ditto   | ".50                   | .50      |
| " - Milton Rite Ditto  | ".50                   | .50      |
| " - Chas. C. Gibson Ditto  | ".50                   | .50      |

|   |      |                  |
|---|------|------------------|
| " - Geo; S. Worley for copy of 2 Do.                                | 1.00 | 1.00             |
| " - Wm. Hamby Do. 1   | ".50 | .50              |
| Fees before Justice see folio 124                                   |      | 23.00            |
| " " Ditto " " 131 - (3.75)-<br>this amount (3.75) paid by Waterford |      | 3.75             |
|   |      | <u>\$291.81½</u> |
| [141]   |      |                  |
| Amt. ford. - - -  |      | \$291.81         |
| Justice - Jno. M. Preston 1 Deposition                              |      | 1."              |
| Witness - H. Smith 1 Day  |      | ".75             |
| Justice - Saml. Chastain 2 Depositions                              |      | 2.00             |
| Witness - Henry Richards 1 Day                                      |      | ".50             |
| Justice - J. Merchant 1 Depo.                                       |      | 1."              |
| " - Saml. Hensley 1 Depo.   |      | 1."              |
| Witness - James Head 1 Day  |      | ".50             |
| Justice - Shaver 1 Deposition (pd. by Waterford)                    |      | 1."              |
| Witness - W. Snodgrass 1 Day  |      | ".50             |
| Witness - Jas Orr 1 do.   |      | <u>".50</u>      |
|   |      | \$300.56         |

I, James W. Campbell, Clerk of the United States Court for the Eighth Judicial Circuit and District of East Tennessee do hereby certify that the foregoing is a full, true and perfect copy of the Record in the foregoing case remaining of record in my office. Given under my hand and the seal of said Court at office in Knoxville this sixth day of January 1841.

James W. Campbell, Clerk