

NEW JERSEY COURT OF ERRORS,

In the Last Resort in all Causes.

Between Elias L'Hommedieu and Joseph
E. Edsall, Appellants; } *On Appeal from the*
 AND } *Court of Chancery.*
The Hamburg Manufacturing Company,
and others, Respondents.

The Bill of Complaint filed by the Respondents in the Court below, January 28, 1842, is as follows:

To his Excellency, William Pennington, Governor and Chancellor of the State of New Jersey:

Humbly complaining, shew unto your Excellency, your Orators, "The Hamburg Manufacturing Company," an incorporation of the state of New Jersey, and Edward W. Pratt, and Joseph B. Nones, of the city and state of New York, and David Jones, and Elias Freeman, of the county of Essex, in the state of New Jersey, that your Orators, the Hamburg Manufacturing Company, were incorporated by the legislature of the state of New Jersey, by an act entitled "An Act incorporating the 'Hamburg Manufacturing Company,' in the county of Sussex, New Jersey," passed the tenth day of March, in the year of our Lord one thousand eight hundred and thirty-six, by which said act, among other things, it was enacted:

"That Joseph E. Edsall, Robert Hamilton and William Edsall, and such other persons as now are, or hereafter may be, associated with them, be ordained, constituted and declared to be a body politic and corporate, in fact and in name, by the name of 'The Hamburg Manufacturing Company,' in the county of Sussex, for the sole purpose of manufacturing all kinds of cast and wrought iron, cotton and wool, in Hamburg, in the county of Sussex, in this state, and carrying on the business incident to their said manufactory, in the county aforesaid, and by that name they and their successors and assigns to have continual succession, and be persons in law capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever; and that they and their successors might have a common seal, and

make, change and alter the same at pleasure; and that they and their successors, by the same name and style, to be capable of purchasing, holding, using and conveying, any estate, real or personal, for the use of the said corporation; *provided*, the said real estate so to be purchased and holden, should be such only as might be necessary for the purposes for which this incorporation was established, not exceeding in value the sum of fifty thousand dollars."

And by the said act it was further enacted:

10 "That the capital stock of the said corporation should be one hundred thousand dollars, divided into shares of fifty dollars each; but, nevertheless, it should be lawful for the said corporation, when twenty-five thousand dollars of the said stock should have been subscribed, and paid, to commence their said business, and with that capital to conduct and carry it on until they should find it expedient to extend their capital, which they were authorized to do, from time to time, to the amount before mentioned."

And it was further provided by the said charter:

20 "That Joseph E. Edsall, Joseph Linn, William Edsall, Elias L'Hommedieu and Francis Hamilton should be commissioners, whose duty it should be to open books for the subscription of the capital stock, and perform other duties enumerated in the said act; and that the directors of the said corporation should have power to make and prescribe such by-laws, rules and regulations as to them should appear needful and proper, respecting the management and disposition of the stock, property, estate and effects of the said corporation, the compensation of wages, and the duties, and powers, and conduct of the officers and workmen thereof, the election and meeting of directors, the transfer of shares, the management and conducting of the business of the said corporation, and all matters appertaining thereto; and such by-laws, rules and regulations at their discretion to repeal, alter or modify; *provided*, that such by-laws, rules or regulations should not be repugnant to the Constitution and laws of this state, or of the United States;" to which said act of incorporation, when produced, your Orators refer for the more particular contents thereof.

30

And your Orators further shew unto your Excellency, that the said commissioners in the said act named, did advertise the time and place when the books would be open to receive subscriptions for the capital stock of the said company; and that agreeable to the said notice, the said books of subscription were opened at Hamburg, 40 in the said county of Sussex, on or about the third day of January, in the year of our Lord one thousand eight hundred and thirty-seven, at which time and place two thousand shares of the capital stock of the said company were subscribed and distributed to the subscribers thereof; and that subsequently, to wit: on the sixteenth day of March, in the year last aforesaid, an election was held, and directors chosen for the management of the said company, since which time the organization of the said company has been kept up, and the business transacted in the name of the corporation, in order to preserve the charter right 50 and privileges thereof.

And your Orators further shew unto your Excellency, that your Orators, the Hamburg Manufacturing Company, did, under and by virtue of their said chartered privileges, become the purchasers and seized of several valuable tracts of land and premises, hereinafter particularly described; and that, on the seventeenth day of March, in the year of our Lord one thousand eight hundred and thirty-seven, one William Makepeace, junior, and Caroline Matilda, his wife, did, by their deed of bargain and sale, duly executed, and bearing date the day and year last aforesaid, bargain, sell, alien, enfeoff, assign, convey and confirm to your Orators, the Hamburg Manufacturing Company, their successors and assigns, forever, all those several tracts or parcels of land and premises, situate, lying and being in the townships of Hardyston and Vernon, in the county of Sussex, and state of New Jersey, butted and bounded as follows: first lot, beginning at a stone heap on the west side of the Wall Kill, a little above the head of Joseph E. Edsall's forge pond, it being the corner of a lot of land of about six acres and fifteen hundredths of an acre, conveyed by Samuel Fowler to David Long, by deed, which lot then belonged to David Ford, (boundaries omitted,) containing fifty acres, more or less; but after deducting about fourteen acres, being a part of a tract of forty-three acres and seventy-eight hundredths of an acre, returned to Joseph Sharp, on the ninth day of March, in the year of our Lord one thousand seven hundred and sixty-eight, and recorded at Perth Amboy, in Book S. 5. page 408, and then in possession of David Ford and Joseph E. Edsall, there remains thirty-six acres, more or less, excepting and reserving for the enjoyment of Joseph E. Edsall, his heirs and assigns, the right to raise the mill-dam of said Edsall, north of said lands, eighteen inches above its present height, and to flow all the lands above the said grist mill dam, that may be flowed in consequence of raising the said dam to the said height of eighteen inches; and also the fee simple of so much land as is covered by the waters of the present pond at the water level of the top of the said dam, the raising of the said dam to be as high, and no higher, than when a level of the said dam will reach a certain mark in the shape of the letter **L**, (marked upside down, on the northerly side of a rock in the westward side of said mill-pond, at about twenty-five feet from the dam, up the pond, and about four or five feet northerly from a large bunch of bass-wood sprouts); and it was further agreed, and expressly understood, by and between the parties to the said deed, that the said Hamburg Manufacturing Company, their successors or assigns, should not build or erect, or cause or permit to be erected, on the said premises, by the said deed conveyed, any mill or machinery for the grinding or flouring of grain; and in the event of such an erection being made, then such part of the said premises by the said deed conveyed, as should be covered by such erections, and all machinery pertaining thereto, should immediately inure to and become the property of the said William Makepeace, junior, his heirs and assigns, forever, in as full and ample a manner, as if the same were in the said deed absolutely and unconditionally reserved to him, and the said parties of the

first part to the said deed, did thereby convey the right to raise the forge dam on the above described lot, four feet above its present height, and to raise the water and flow the land to that additional height in the pond above said forge dam, so far as the said parties of the first part in the said deed had the power to convey the same; and further, to enter upon the lands on the west side of the Wall Kill, with the necessary teams and implements to dig, use and carry away any gravel, stone or other material for re-building or repairing said forge dam, and for the purpose of building a blast furnace stack, 10 the stones for said stack to be taken from the west bank of the Kill, below said forge dam, and the gravel for the repairing or use of said dam, to be taken from a place on the west end of the dam, most convenient thereto, being the same premises, with the appurtenances and advantages, mentioned and described in a certain deed made by Samuel Fowler, and Rebecca, his wife, to John F. Winslow, dated the first day of June, eighteen hundred and thirty-six, and recorded in Sussex county Clerk's office, in Book T. 3. of Deeds, folio 48, &c., as by reference thereto will fully appear.

20 Second lot beginning at a stake on the west side of the Paterson and Hamburg Turnpike, (boundaries omitted,) containing three acres and thirty-six hundredths of an acre, more or less, being a lot of land purchased by said Makepeace from John F. Winslow and wife, by deed, bearing date the twenty-second day of September, in the year of our Lord eighteen hundred and thirty-six, and the said Makepeace, by the said deed, conveyed all the land lying easterly of the fifth line and the said turnpike road, containing about one quarter of an acre, more or less.

30 The third lot, beginning on the north side of a hickory stump, near the ridge of the said forge pond, and at a corner of a fence between the lands of Joseph E. Edsall and David Ford, (boundaries omitted;) containing twelve acres and twenty-five hundredths of an acre, more or less, and the said William Makepeace junior, also conveys to the said Hamburg Manufacturing Company, their successors or assigns forever, a right of way and passage, over the said Joseph E. Edsall's land, commencing in the turnpike-road, above the blacksmith's shop, and running east of, and near to a cherry tree, standing near Joseph E. Edsall's barn, on the Woodhull lot, and thence to the second corner of the first lot, sold by the said Makepeace, to the said Hamburg Manufacturing Company, their successors or assigns, all and every 40 such right of flowing any and all such lands and premises, at the head of said forge pond, formerly owned by Denis Long, which said William Makepeace, junior, has a right to sell and convey, being the same premises with the appurtenances and advantages mentioned, and described in a certain deed made by John F. Winslow and Nancy, his wife, dated the twenty-second day of September, in the year of our Lord, one thousand eight hundred and thirty-five, and in a certain deed made by Joseph E. Edsall, and Esther his wife, and recorded in Sussex county Clerk's office, in Book T. 3, of Deeds, folio 55, and as by reference thereto, will appear.

50 The fourth lot, beginning at the second corner of Daniel Haines'

lot, (boundaries omitted,) containing one acre and fifty-six hundredths of an acre, more or less.

The last above described lot, being the same whereon, stands the "Old Sharp" store house, then occupied by said Makepeace; there is also upon said lot, a small shop, then occupied as a dwelling house; also, a barn on the south end of the same; reserving for Joseph E. Edsall, his heirs and assigns, and the public, the right of way across said lot, from the turnpike to the said mill road, three rods in width, on the south end of said store house, being the same premises with the appurtenances and advantages mentioned and described in a certain deed made by John C. Bunting, and Elizabeth his wife, to John F. Winslow, dated the first day of June, in the year of our Lord eighteen hundred and thirty-six, and recorded in Sussex county Clerk's office, in Book T. 3, of Deeds, folio 47 &c., as by reference thereto will appear; and by a certain deed, made by John F. Winslow, and Nancy his wife, to William Makepeace junior, dated the twenty-second day of September, in the year of our Lord, eighteen hundred and thirty-six. 10

The fifth lot, being a tract, situate in the township of Vernon, in Hardyston, (boundaries omitted,) containing one hundred and ten acres, and seventy-eight hundredths of an acre strict measure, within which bounds, are included the following parts, of tracts heretofore returned and recorded. (Description omitted.) 20

Second tract, situate in Vernon, (boundaries omitted,) containing one hundred and seventy-one acres, and forty-five hundredths of an acre.

Third tract, situate in the said township of Vernon, (boundaries omitted,) containing fifty-three acres, and thirty-six hundredths, being the same premises with the appurtenances and advantages mentioned and described, in a certain deed made by Joseph E. Edsall and wife, to John F. Winslow, dated the first day of June, in the year of our Lord, eighteen hundred and thirty-six, and recorded in Sussex county Clerk's office, in Book T. 3, of Deeds, folio 89 &c., as by reference thereto will appear, and conveyed by John F. Winslow and wife, to William Makepeace, junior, by deed dated the twenty-second day of September, in the year of our Lord, eighteen hundred and thirty-six. 30

Sixth lot, begins at the beginning corner of three hundred and fifteen hundredths of an acre, recorded at Perth Amboy, in the Surveyor General's office, in Book S. 19, page 422, the first day of September, eighteen hundred and thirty-two, (boundaries omitted,) containing one hundred and six acres, and twenty-eight hundredths of an acre, be the same more or less, being the same lot of land conveyed by Sidney P. Haines and wife, to John F. Winslow, by deed, dated the first day of July, in the year of our Lord, eighteen hundred and thirty-six, and conveyed by John F. Winslow and wife, to William Makepeace, junior, by deed dated the twenty-second day of September, in the year of our Lord, eighteen hundred and thirty-six. 40

Seventh lot, begins at a Chesnut tree standing on the edge of the line of Swamp Brook, which is a branch of Black Creek, being also the second corner of a tract of two hundred and ten acres, returned 50

to the heirs or assigns of Anthony, and recorded in Book S. 3, page 152, being the second survey in said return, said Chesnut tree, being also the beginning corner of a tract of seventeen hundred and sixty-nine acres, and forty-four hundredths of an acre, after deductions recorded, to Joseph Sharp, at Amboy, in Book S. 17, page 268, on the thirteenth day of November, in the year of our Lord, eighteen hundred and thirteen, this being part thereof, (boundaries omitted,) containing seventeen hundred and ninety acres, and forty-nine hundredths of an acre, but after deducting the following tracts, viz:

10 (description omitted,) there remains eight hundred and sixty-six acres, and fifty-nine hundredths of an acre, strict measure, being the same tract conveyed by Joseph Sharp to John F. Winslow, by deed, dated the eleventh day of July, in the year of our Lord, eighteen hundred and thirty-six, as by reference thereto will appear.

The eighth lot, being at the beginning corner of a lot of one hundred and fifty acres, conveyed by Nathan Smith to John F. Winslow, by deed, dated the twenty-fifth day of March, in the year of our Lord, eighteen hundred and thirty-six, (boundaries omitted,) containing forty acres, and forty-three hundredths of an acre, strict

20 measure, excepting and reserving nevertheless, to the Clinton Manufacturing Company, their successors and assigns, the right of way by the most convenient route, from the farm purchased of Nathaniel Witherell, junior, and William L. Ames, to the new road made by Francis Hamilton, for the accommodation of the Winslow Mine, in and over the last mentioned lot, free and clear from any obstruction by fence, gate or bars, or otherwise, excepting a gate at the South side of the said lot, subject nevertheless to an incumbrance of five thousand six hundred and seventeen dollars and thirty-nine cents, of the purchase money, secured by two several mortgages executed by

30 John F. Winslow, to Joseph E. Edsall, and dated June first, eighteen hundred and thirty-six, and by the further sum of about two thousand and eighty-four dollars and thirty-six cents, secured by mortgage to Joseph Sharp, on the seventh lot, dated July eleventh, eighteen hundred and thirty-six, which said deed is now in the possession of your Orators and ready to be produced, and to which, for greater certainty as to its contents, your Orators refer themselves.

And your Orators further shew, that the said tracts of land are very valuable, and suitable for the purpose of carrying on the business intended and contemplated by the said act of incorporation;

40 that they have on them a large number of dwelling houses and suitable out buildings, and are covered with extensive and valuable wood, and iron mines.

And your Orators further shew, that your Orator, Edward W. Pratt, previous to the fourth day of January, in the year of our Lord eighteen hundred and thirty-seven, having been engaged in the iron business, and at or about that time being a man of large property, and becoming acquainted with the property of the said Hamburg Manufacturing Company, and likewise the valuable property of the Clinton Manufacturing Company, hereafter mentioned, was applied

50 to by Abner Jones and Henry Wilkes, to become the purchaser of

the stock of your Orators, the said Hamburg Manufacturing Company, and the stock of the Clinton Manufacturing Company; and your Orator, Edward W. Pratt, being seized of several valuable lots in the town of Erie, in the state of Pennsylvania, which he valued at the sum of five hundred and three thousand five hundred dollars, and which he then considered worth that sum; the said Jones and Wilkes, and your Orator, Edward W. Pratt, did, on the said fourth day of January, in the year of our Lord eighteen hundred and thirty-seven, enter into written articles of agreement, by which your Orator, Edward W. Pratt, covenanted and agreed with the said Jones and Wilkes, that he would sell to the said Jones and Wilkes his said land and premises before mentioned, in the said town of Erie, and which said land and premises are particularly mentioned and described in the said agreement, and were agreed between the parties to the said agreement to be worth the said sum of five hundred and three thousand and five hundred dollars. And your Orator, Edward W. Pratt, further covenanted, that he, with his wife, would convey, or cause to be conveyed, to the said Jones and Wilkes, their heirs or assigns, or to such person or persons as they might appoint, all and singular the said premises, free of all incumbrances whatever, by deed of full covenant and warranty, on or before the twenty-fifth day of February, then next following; and the said Jones and Wilkes did covenant and agree to, and with your Orator, Edward W. Pratt, that your Orator, Edward W. Pratt, performing the covenants aforesaid on his part, that they, the said Jones and Wilkes, would transfer to your Orator, Edward W. Pratt, or to such person or persons as he should appoint, all and singular the following described property, in due form of law, to pass full and complete title, right and control thereto, viz:

All the shares of the capital in the Clinton Manufacturing Company, situate in Bergen and Sussex counties, in the state of New Jersey, and all property attached to or belonging to, or used in or about the same, of every name and nature, taken and valued, and understood to be worth the sum of three hundred and fifty thousand dollars; and that the said Abner Jones should, on or before the said twenty-fifth day of February, transfer to your Orator, Edward W. Pratt, or such person or persons as he should appoint, all the shares of the capital stock of the said Hamburg Manufacturing Company, and all the property attached, belonging to, or used in or about the said company, of every name and nature, taken and valued at and understood by and between your Orator, Edward W. Pratt, and the said Jones and Wilkes, to be worth the sum of one hundred and fifty-three thousand and five hundred dollars; and the said Jones and Wilkes did, in and by the said agreement, covenant and agree, that the said shares in the said company, and the said property so belonging to them, should be conveyed and transferred to your Orator, Edward W. Pratt, free and clear of all incumbrances, debts and liabilities, of every name and nature and description, except contracts for stock, wood and other property, contracted for by the said company, but not delivered, and to be paid for on delivery, and which

your Orator, Edward W. Pratt, did agree to assume and pay. And it was further agreed between your Orator, Edward W. Pratt, and the said Wilkes and Jones, that in case the said Wilkes and Jones should not be able to obtain more than two thousand four hundred shares of the stock of the said Clinton Manufacturing Company, and the three-fourths of the whole stock and property of the said Hamburg Manufacturing Company, on or before the said twenty-fifth day of February, in the year of our Lord eighteen hundred and thirty-seven, then that the said twenty-four hundred shares of the stock of the said Clinton Manufacturing Company, and the three-fourths of the stock of the Hamburg Manufacturing Company, should be transferred as aforesaid to your Orator, Edward W. Pratt, or to such person or persons as your Orator, Edward W. Pratt, should appoint; and the amount or value of one hundred shares of the stock of the said Clinton Manufacturing Company, and the fourth of the stock and property of the said Hamburg Manufacturing Company, should be abated from the amount of property which your Orator, Edward W. Pratt, was, by the said agreement, to convey to the said Wilkes and Jones; that is, your Orator, Edward W. Pratt, was to convey to the said Wilkes and Jones the said Erie property, less in value the amount of the said one-fourth the said Hamburg Manufacturing Company stock and property, and the one hundred shares of the said Clinton Manufacturing Company stock. And it was, by the said agreement, further understood and agreed, by and between your Orator, Edward W. Pratt, and the said Wilkes and Jones, that your Orator, Edward W. Pratt, should have the privilege of leaving upon part of the property so to be conveyed under the said agreement between your Orator, Edward W. Pratt, to the said Wilkes and Jones, mortgage incumbrance to the amount of thirty-five thousand dollars, payable in three equal annual instalments, providing your Orator, Edward W. Pratt, should give unto the said Wilkes and Jones security for the payment of the said mortgage incumbrance on the property by the said agreement agreed to be conveyed by the said Wilkes and Jones to your Orator, Edward W. Pratt, or upon such other property as they should approve.

And your Orators further shew to your Excellency, that the Clinton Manufacturing Company hereinbefore named, is a chartered company, and was incorporated by an act of the legislature of the state of New Jersey, for the purpose of manufacturing iron ore, and carrying on the business incident thereto, in the counties of Sussex and Bergen, in this state, and that previous to the time of making the before mentioned agreement, the said Clinton Manufacturing Company had been organized and certificates issued for twenty-five hundred shares of stock; and at the time of making the said agreement the said Clinton Manufacturing Company were seized of extensive and valuable tracts of land, suitable for furnishing the means of carrying on the business for which they were incorporated, and among other property, a tract of land on which there was an inexhaustible and valuable bed of iron ore, and from which said bed

of iron ore both the said companies, by an agreement between them, were raising and supplying themselves with ore for carrying on their respective iron works, and which is known by the name of Hemotite ore, that being the most valuable ore known, and it being the only bed of the kind yet discovered in the United States.

And your Orators further shew, that in the fulfilment of the agreement hereinbefore stated, your Orator, Edward W. Pratt, and Asenath H., his wife, did, by their deed of bargain and sale, bearing date on or about the twenty-fifth day of February, in the year of our Lord one thousand eight hundred and thirty-seven, convey to the said Wilkes and Jones, the said property in Erie, Pennsylvania, mentioned in the said agreement, a part of which said property was at the time of the said conveyance mortgaged for the sum of twenty-five thousand dollars; and that the said Wilkes and Jones did cause to be transferred to your Orator, Edward W. Pratt, soon after the time mentioned in said agreement as the time when the transfer was to be made, nineteen hundred and eighty shares, or thereabouts, of the stock of the Clinton Manufacturing Company, and fourteen hundred and ninety-four shares of the stock of the Hamburg Manufacturing Company, making of the Clinton stock five hundred and twenty shares less, and of the Hamburg stock four hundred and six shares less than by their agreement they had bound themselves to transfer and deliver to your Orator, Edward W. Pratt; and that the said ten hundred and twenty-six shares of the said stock of the said companies were valued by your Orator, Edward W. Pratt, and the said Wilkes and Jones, at a sum of money exceeding in value the twenty-five thousand dollars of mortgage, left on the said property so conveyed by your Orator, Edward W. Pratt, as aforesaid, and which difference of value the said Wilkes and Jones engaged to made good to your Orator, Edward W. Pratt.

* And your Orators further shew, that shortly after the transfer of the said stock so made to your Orator, Edward W. Pratt, as aforesaid, the directors of the said Hamburg Manufacturing Company, finding it necessary to raise funds to carry on the business of the said company, called in two additional instalments of six and a quarter dollars each on each share of the capital stock of said company, according to the provisions of said charter, and no instalments being paid in on any of the shares of the capital stock of the said company, except that held by your Orator, Edward W. Pratt, in his own name, and a few shares held by others in their names, but in trust for your Orator, Edward W. Pratt, the said shares on which there was a failure to pay the instalments so called in, were, by a resolution of the board of directors, according to the provisions of the said charter, declared forfeited; and your Orator, Edward W. Pratt, thereby became the owner of all the stock in the said Hamburg Manufacturing Company.

And your Orators further shew, that at the time of the transfer made to your Orator, Edward W. Pratt, of the stock of the said Hamburg Manufacturing Company, by the said Wilkes and Jones, your Orator, Edward W. Pratt, was made acquainted with the fact,

that the property of the said Hamburg Manufacturing Company was encumbered by several mortgages, amounting in all to about eleven thousand dollars, and which had been given to secure the purchase money for the real estate which was held by the said company; and your Orator, Edward W. Pratt, supposed that there was no other incumbrance on the property of the said company, and no other legal claims or demands against the said company, as he was so assured by the said Wilkes and Jones; but, to the great surprise of your Orator, Edward W. Pratt, soon after his said purchase, he
 10 found the said Hamburg Manufacturing Company were in debt over and above the said mortgages, about twelve thousand dollars, which said sum was due to various persons residing in the neighborhood of the property of the said company, for bonds, notes and mortgages, on books of account and otherwise; and that the said company had given notes to a large amount for debts contracted previous to the organization of the company, under the said charter as hereinbefore stated.

And your Orators further shew, that soon after your Orator, Edward W. Pratt, became the purchaser of the stock of the said companies as aforesaid, the creditors began to prosecute the said
 20 companies, and obtained judgments against them for the debts which were contracted prior to the said purchase of the stock by your Orator, Edward W. Pratt, and which were unknown to him at the time of the said purchase; and notwithstanding your Orators, the said Hamburg Manufacturing Company, after the purchase made by your Orator, Edward W. Pratt, as aforesaid, had paid off, through means furnished by your Orator, Edward W. Pratt, upwards of seven thousand dollars of the said debts against your Orators, the
 30 Hamburg Manufacturing Company, John Broderick, then sheriff of the said county of Sussex, had in his hands to be executed several executions out of the Supreme Court of the State of New Jersey, and the Courts of the county of Sussex, by virtue of which said executions he had levied on all the real estate, which is hereinbefore particularly described, of the said Hamburg Manufacturing Company, and had advertised the same for sale.

And your Orators further shew, that at the same time the said sheriff had in his hands to be executed, several executions against the Clinton Manufacturing Company, by virtue of which he had
 40 advertised for sale the tract of land and premises hereinafter particularly described, and on which is the valuable ore bed hereinbefore mentioned.

And your Orators further shew, that the moneys due on the executions aforesaid in the hands of the said sheriff, against the Hamburg Manufacturing Company, were about seven thousand dollars, and that the said sheriff sold, by virtue thereof, of the personal property of the said company, and raised from the said sale, about twenty-one hundred dollars, leaving due on the said executions in his hands a balance of about forty-nine hundred dollars; and that besides that sum, the said company owed to other creditors, on bonds
 50 secured by mortgage, judgments, notes, books of account and otherwise, about twelve thousand dollars.

And your Orators further shew, that the judgments on which the said executions against the said Hamburg Manufacturing Company, in the hands of the said sheriff, were issued, were obtained for debts, all of which had been contracted by the commissioners under the act of incorporation of the said company, or some of them, or persons connected with them, previous to the organization of the company, and with whom the said Joseph E. Edsall and Elias L'Hommedieu were associated, and had, by some means, been converted into debts of the company, previous to your Orator, Edward W. Pratt, obtaining a transfer of the stock as aforesaid; and that nearly the whole of the said sum of twelve thousand dollars was for debts similarly contracted and assumed. 10

And your Orators further shew, that your Orator, Edward W. Pratt, being desirous of raising the money to pay-off the said judgments, and the other debts of the Hamburg Manufacturing Company, had been endeavoring to effect a loan for that purpose, on a mortgage of the property of the said company; and in order to give your Orator, Edward W. Pratt, an opportunity to do so, the sale, under the said executions, had been adjourned, from time to time, and finally the said sale stood adjourned to the fifth day of December, eighteen hundred and thirty-eight; that your Orator, Edward W. Pratt, was then negotiating for a loan, for the purpose aforesaid, and had been procuring, at a great expense, the necessary searches of title, and also certificates of competent persons, as to the value of the said property; that as far as progress had been made in the said negotiation, it had been satisfactory to the person who proposed to advance the money. 20

And your Orator, Edward W. Pratt, then had assurances that the money would be raised in the course of three or four weeks; that under these circumstances, your Orator, Edward W. Pratt, became 30 anxious to get a further adjournment of the said sheriff's sale; and in order that he might better effect such adjournments, he had provided himself with the means to pay off several hundred dollars of the said executions, supposing that if he paid part of the said executions, the plaintiffs would be willing to consent to a short adjournment; but your Orator, Edward W. Pratt, apprehending that Joseph E. Edsall, who pretended that the company was largely indebted to him, from the disposition theretofore evinced by him towards your Orators, the said Hamburg Manufacturing Company, and Edward W. Pratt, might interfere and force a sale, and knowing the influence and management of the said Joseph E. Edsall, your Orator, Edward W. Pratt, thought it prudent that he should guard himself 40 against such an event, and he accordingly applied to some of his friends in the city of New York, who were acquainted with the imposition that had been practised upon him, in his purchase of the said property, and who felt disposed to aid him, and prevent a sacrifice of his property, and after stating to them the situation the said property was in, and the danger of the said sale being forced, they determined to send a person to attend the said sale, with your Orator, Edward W. Pratt, with authority to purchase the property so levied 50 on as aforesaid, if it became necessary.

And your Orators further shew, that your Orator, Edward W. Pratt, did accordingly go to Hamburg, on the said fifth day of December, eighteen hundred and thirty-eight, the day the said sale was advertised to take place, and that Aaron B. Nones, as agent of the friend beforementioned of your Orator, Edward W. Pratt, did accompany your Orator, Edward W. Pratt, with authority, and with the means to purchase the property, if no agreement could be made between your Orator, Edward W. Pratt, and the creditors of the said company, but with a desire on the part of the said friends of

10 your Orator, Edward W. Pratt, that an arrangement should be made, as it was inconvenient to advance the large amount of money that might probably be required, if they made the said purchase; that on the morning of the said fifth day of December, eighteen hundred and thirty-eight, and just previous to the hour of sale, Elias L'Hommedieu and Joseph E. Edsall, on the part and in behalf of the creditors of the said Hamburg Manufacturing Company, and most of whom were then present to attend the said sale, proposed to your Orator, Edward W. Pratt, that some arrangement should be made that would be mutually beneficial to all parties concerned, and to

20 effect such an arrangement, that they would undertake to raise money enough, by mortgage upon the property, to appropriate two thousand dollars for the purpose of carrying on the business of the company and to pay off all the creditors; that they had made inquiries respecting the said loan, and had had an interview with David Ryerson, Esq., the President of the Sussex Bank, and that he had offered to procure a loan of thirty thousand dollars, or whatever sum, not exceeding that amount, might be required for the purposes aforesaid; but that the said loan could only be obtained on condition that the property should be sold, and some person become the purchaser

30 of the said ore bed, and the property of the said Hamburg Manufacturing Company, and gave as a reason why this was the only way to effect the loan, because under the sale, the title could be better perfected, and rendered free from all question, or doubt, or incumbrances, and that, as soon as the said loan was perfected, that the property should be re-conveyed to the said Hamburg Manufacturing Company, or your Orator, Edward W. Pratt, and that in the meantime, proper instruments of writing should be executed, to secure the property for the aforesaid trust, in the hands of the purchaser thereof, and to continue the possession in the hands of your

40 Orator, Edward W. Pratt.

And your Orators further shew, that after this proposition was made as aforesaid, your Orator, Edward W. Pratt, did assent to the same, provided that he could have assurances that could be relied on, that the said loan would be made, and the property remain in his possession; your Orator, Edward W. Pratt, thinking if such an arrangement could be brought about, it would answer the same end he had in view in obtaining the loan hereinbefore spoken of, and save your Orator, Edward W. Pratt, a heavy premium which he was to pay for the said loan; and it was then proposed, in order to give

50 time for reflection, and satisfy your Orator, Edward W. Pratt, that

the said loan, as proposed, could be effected, to adjourn the sale for one day; and the said sale was accordingly adjourned, by consent of all parties, until the next day.

And your Orators further shew, that on the next morning a meeting of the said creditors with your Orator, Edward W. Pratt, took place, and the said David Ryerson was then present, and the said Joseph E. Edsall did, in the presence of all parties, state once again the terms of the proposed arrangement, and the said David Ryerson did then and there, in the presence of your Orator, Edward W. Pratt, and the said Joseph E. Edsall and Elias L'Homedieu, and the other creditors of the said Hamburg Manufacturing Company, state that he could procure the said loan, and that, as soon as the property was sold, the money should be advanced to the purchaser of the property, which money was to be secured by mortgage on the same, on condition that the creditors then present would execute an agreement, that, in proportion to their respective claims, that should be satisfied out of the moneys raised on the said mortgage, they would be responsible to the mortgagor for any loss that he might sustain on account of the said loans; to which conditions the said creditors did assent; your Orator, Edward W. Pratt, did then accept of the said proposition so made to him as aforesaid; and it was agreed that the property should be sold, under the said arrangement, and that the said Elias L'Homedieu should purchase the same, and become the trustee under the said agreement, and that, immediately after the said sale, in order to secure the possession to your Orator, Edward W. Pratt, and a re-conveyance of the said property, as soon as the said loan should be effected, that the said Elias L'Homedieu should execute a proper instrument for the re-conveyance to your Orator, Edward W. Pratt, of the said property, and also a lease for the same; and, by consent, the said sale was then further adjourned, to take place at Newton, on the seventh day of December then next ensuing.

And your Orators further shew, that on the said seventh day of December, articles of agreement were entered into by the creditors of the said Hamburg Manufacturing Company among themselves, in order and for the purpose of carrying out the arrangement before stated; and which said agreement is in the words or to the effect following, that is to say:

Articles of agreement, made the seventh day of December, in the year of our Lord eighteen hundred and thirty-eight, between the subscribers, creditors of the Hamburg Manufacturing Company, in the county of Sussex:

WHEREAS, the real estate of the said Hamburg Manufacturing Company is advertised to be sold at sheriff's sale, by virtue of divers executions in the hands of the sheriff of the county of Sussex; AND WHEREAS, we are in danger of losing our claims, or some part thereof, if the said property should be sold for less than seventeen thousand dollars; AND WHEREAS, for the purpose of endeavoring to secure ourselves, we deem it advisable to purchase the said real estate, and also certain real estate of the Clinton Manufacturing Company, situate in

the said county of Sussex, whereon is an ore bed advertised by the said sheriff—therefore we, the said subscribers, have, and by these presents do, severally covenant and agree each to the other, and to each of the others, in manner following, that we will unite in the purchase of the said real estates, and for that purpose we do hereby constitute Elias L'Hommedieu our agent and trustee, in his own name, and for his own and our behalf and use, to purchase the said properties, at any sum or sums of money which, together with the incumbrances, shall not exceed thirty-two thousand dollars.

- 10 Secondly. We do hereby authorize and instruct the said Elias L'Hommedieu to purchase and procure the assignment of certain incumbrances upon the said property, to wit: two several mortgages, given by John F. Winslow and wife to Joseph E. Edsall, about the first day of June, in the year of our Lord eighteen hundred and thirty-six, upon the said Hamburg Manufacturing Company's property, a part thereof, and a mortgage given by the said John F. Winslow and wife to Joseph Sharp, upon another part of the said property, and of such mortgages and vouchers as may be necessary further and better to secure the title in the said property; and also to
- 20 purchase and procure from Joseph E. Edsall, a mortgage executed by the Clinton Manufacturing Company to him, on the said Clinton Manufacturing Company's property, on which is the said ore mine, dated the tenth day of January, in the year of our Lord eighteen hundred and thirty-eight, for about four thousand dollars.

- Thirdly. And we do authorize and direct our said trustee to raise by bond and mortgage upon the said property, sufficient money to pay the purchase money thereof and the amount of the incumbrance above specified, and also the sum of two thousand dollars for the purpose hereinafter mentioned, and also such further sum of money
- 30 as may be necessary to pay the claims of such of us, the said creditors, as may desire the same, in writing, and to purchase the necessary teams and wagons and implements.

- Fourthly. That in the event of the said trustee becoming the purchaser, we authorize and direct him to lease the said premises to some suitable competent person, to conduct the furnace and works upon the said premises, for a term not exceeding three years, at a rent not less than ten per cent. on the whole costs of the property, with the privilege to the lessee to cut wood, at the rate of twenty-five cents per cord, and raise ore, at one dollar per ton, to be particularly specified in the lease, with suitable covenants and agreements securing
- 40 the same; and we authorize our said trustee to agree with the lessee, if he desires it, to sell to him the said premises, upon his securing to the said trustee the payment of the whole costs of the premises, including our respective claims, with interest, one-third part thereof to be paid, together with interest on the whole sum, within one year, and the residue at such times as may hereafter be agreed upon; and upon a compliance on the part of the lessee with the contract for agreement or sale, the said trustee to make a deed of release to him, his heirs or assigns.

- 50 Fifthly. We do further agree in manner aforesaid, that if the said

trustee shall succeed in raising money for that purpose, he shall appropriate the same in manner following: firstly, to the payment of the purchase money and expenses in procuring the title for the said premises; secondly, to the procuring the before mentioned incumbrances; thirdly, to retain the sum of two thousand dollars hereinbefore mentioned, for the purpose of putting the said furnace in blast; and, lastly, to the payment of the claims of such of us, respectively, as may have requested the raising of money for us in manner aforesaid; and if there be any deficiency in the money raised, then in proportion to the respective claims of the said creditors last mentioned. 10

Sixthly. And we do further agree in manner aforesaid, that upon the payment to us respectively of our claims, or any part thereof, raised upon the said premises, we will severally execute and deliver to the loaner of the said money a good and sufficient bond with satisfactory security conditioned, that the said property, on a lawful sale thereof, shall yield the amount that may be due thereon, with interest and costs; and that, in the event of any deficiency, we will respectively refund so much money as may be necessary to make up such deficiency, in proportion to the amount of money so paid to us aforesaid. 20

Seventhly. And we do further agree in manner aforesaid, that, for the purpose of ascertaining the amount due to us respectively, we will forthwith settle and arrange the same with the said Hamburg Manufacturing Company, and procure their certificates of the amount due; and in case of any dispute in the settlement of any of the above claims with the said company, the same shall be submitted to the determination of three indifferent persons, mutually chosen by the said differing creditors and the said company; and in case the said company, or any of the said creditors, neglect or omit to settle 30 the said claims, or choose three indifferent persons as aforesaid, then the said claims to be determined by three disinterested persons, to be chosen by a majority of the said creditors; the report of any two of the persons so chosen, made in writing, shall be final and conclusive; it being understood, that nothing herein contained shall prevent Joseph E. Edsall, one of the said creditors, from proceeding to the recovery of his incumbrances upon the said premises, in case the same are not procured and purchased of him by the said trustee in manner aforesaid; which said agreement was signed and executed the day and year first mentioned in the same, by Elias L'Homme- 40 dieu, for himself as creditor and trustee, and also as assignee of Charles Wade; Daniel Haines, for himself, and as assignee of Henry T. Darrah, and as attorney for Robert A. Linn; F. Hamilton, Joseph M. Brown, for himself, and for Robert Lewis; William Edsall, William Simpson, junior, Henry T. Simpson, Oakly & Davis, T. H. & J. S. Wallace, John Laforge, Broadhead & Stoll, John L. Adams and Jona. Whitaker, Joseph E. Edsall, for himself and William Riggs; Robert Hamilton, as attorney for James A. Hamilton; Thos. D. Edsall, for Vandegriff & Edsall; G. L. Dunning, for himself and Dunning and Ayres. 50

And your Orators further shew, that the creditors who executed the said agreement, executed it under the arrangement and agreement made as aforesaid between your Orator, Edward W. Pratt, and the said Elias L'Hommedieu and Joseph E. Edsall, and the other creditors, and for the purpose of carrying out the said arrangement, and with the expectation that the said sum of money would be immediately raised, as had been promised, and they paid their several and respective claims, and the property to be re-conveyed to your Orator, Edward W. Pratt, and with the understanding, that to secure
 10 the property and the possession thereof to your Orator, Edward W. Pratt, the agreement of sale, and the lease therein mentioned, were immediately after the sale to be executed to your Orator, Edward W. Pratt.

And your Orators further shew, that the mortgage mentioned in the said agreement of the said creditors, as held by the said Joseph E. Edsall on the said ore bed, was an incumbrance subsequent to that on which the said ore bed was advertised to be sold, and was sold, and would have been entirely cut off by the said sale, had not some provision have been made as that in the said agreement stated,
 20 to satisfy whatever, on a settlement, might be found due on the said mortgage.

And your Orators further shew, that on the said seventh day of December, in the year of our Lord eighteen hundred and thirty-eight, the said sheriff, by virtue of the executions so in his hands as aforesaid, offered for sale the tract of land of the Clinton Manufacturing Company, mentioned in the said agreement of the creditors to Elias L'Hommedieu, and that under the said agreement with your Orator, Edward W. Pratt, and the said creditors of the said Hamburg Manufacturing Company, the said Elias L'Hommedieu became the
 30 purchaser thereof, for the sum of four thousand and forty-one dollars; and on the said seventh day of December, the said John Broderick, esquire, then sheriff of the county of Sussex, did, by his deed of bargain and sale, as such sheriff, duly execute, bargain, sell and convey to the said Elias L'Hommedieu, and to his heirs and assigns, forever, all that tract of land and premises, situate, lying and being in the township of Vernon, in the county of Sussex, and state of New Jersey, butted and bounded as follows: beginning at a heap of stones, which is in a course of south sixty-five degrees and thirty-six minutes, east twenty links from a crotched red oak tree, formerly, now a stump,
 40 being the third corner of a lot of land containing four acres and fifty-three hundredths of an acre, then in possession of Conrad Welsh; thence running (first) north fifty-one degrees and nine minutes, east seven chains and twelve links to a white oak tree, marked, being a corner of land belonging to heirs of John Riggs, deceased, (second,) north sixty-two degrees, west eight chains and ninety-nine links, (third,) north forty-nine degrees, east forty-four chains and sixty-five links, (fourth,) north forty-seven degrees and six minutes, west twenty-six chains and twelve links, (fifth,) south forty-nine degrees and twenty-five minutes, west seventeen chains
 50 and ten links, (sixth,) south eighty-three degrees and fifty-four

minutes, west ten chains and fifty links, (seventh,) south thirty-eight degrees and nine minutes, west thirty-four chains and thirty links, (eighth,) south thirty-eight degrees and thirty-six minutes, east twenty-five chains, (ninth,) south sixty-five degrees and thirty-six minutes, east eleven chains and seventy links to the place of beginning, containing one hundred and fifty acres, it being the same tract of land that was conveyed by Nathan Smith to John F. Winslow, dated the twenty-fifth day of March, in the year of our Lord one thousand eight hundred and thirty-six; and that, on the fourteenth day of December, in the year of our Lord one thousand eight hundred and thirty-eight, the said sheriff offered for sale, by virtue of the several executions against your Orators, the said Hamburg Manufacturing Company, and that, under the said agreement with your Orator, Edward W. Pratt, and the creditors hereinbefore named, the said Elias L'Hommedieu became the purchaser thereof, for the sum of two hundred and eighty-five dollars, and on the twenty-fourth day of December, in the year of our Lord eighteen hundred and thirty-eight, the said John Broderick, esquire, sheriff of the county of Sussex, did, by his deed of bargain and sale, duly executed as such sheriff, and for and in consideration of the sum of two hundred and eighty-five dollars, sell and convey unto the said Elias L'Hommedieu, all those several tracts of land and premises hereinbefore particularly described, and conveyed to the said Hamburg Manufacturing Company by William Makepeace, junior, and wife, by deed, bearing date the seventeenth day of March, in the year of our Lord one thousand eight hundred and thirty-seven. 10 20

And your Orators further shew, that the property of the said Hamburg Manufacturing Company, and the said ore bed so advertised as aforesaid, and sold by the said sheriff, were worth, at a low cash valuation, the sum of one hundred thousand dollars; and that your Orators have now in their possession an appraisement, in the hand-writing of the said Joseph E. Edsall, in which he values the said ore mine at fifty thousand dollars; and likewise, an appraisement of the said ore mine in the hand-writing of the said Elias L'Hommedieu, and made by him, in which the said Elias L'Hommedieu estimates the same at fifty thousand dollars, and offers to become one of five purchasers to take it at that sum, both of which said appraisements were made in November, in the year of our Lord one thousand eight hundred and thirty-eight; and that, had the said property been sold by the said sheriff without any arrangement having been made by the parties interested as aforesaid, and upon suitable notice, it would have been sold for more money than would have been sufficient to pay off all the debts of the said Hamburg Manufacturing Company; and that at the time of the said sale, there were persons who had attended the same, and were then present to bid on the said property, and who were ready to bid a large amount of money, and particularly for the ore bed, and several thousand dollars more than the same were struck off at, but they were informed by the said Joseph E. Edsall and Elias L'Hommedieu, and others interested, the said sale was made under an arrangement between the 30 40 50

said company and the creditors, and in consequence of the said information, they were induced not to interfere with the said sale, and not to bid on the property.

And your Orators further shew, that the aggregate amount due to the said creditors from the said Hamburg Manufacturing Company, at the time of the execution of the said agreement, was about seventeen thousand dollars, as nearly as your Orators can ascertain; and of that sum, the said Elias L'Hommedieu was a creditor for one hundred and forty-four dollars, or thereabouts; that at that time the said

10 Joseph E. Edsall held two mortgage incumbrances on a part of the said real estate of the Hamburg Manufacturing Company hereinbefore described, and a mortgage incumbrance on the said ore bed or mine, which said mortgages had been made originally to secure the payment of about five thousand six hundred dollars, and are the same mortgages mentioned and referred to in the said agreement executed by the said creditors, and at the same time the said Joseph E. Edsall pretended to have a claim against your Orator, the Hamburg Manufacturing Company, for two or three thousand dollars, for expenses and services in procuring the charter of the said Hamburg

20 Manufacturing Company, for acting as one of the said Commissioners, and other expenses and services of like character, but the items of the said account the said Joseph E. Edsall would never furnish to the said company, or your Orator, Edward W. Pratt, and always insisted that the amount of the said claim should be allowed without the production by him of the bill of particulars for the same, but which your Orators, the said Hamburg Manufacturing Company, and Edward W. Pratt, always refused to do, or to admit the justness of any such amount as the said Joseph E. Edsall claimed to be due to him.

30 And your Orators further shew, that the said Joseph E. Edsall was a large dealer with your Orators, the Hamburg Manufacturing Company, and became largely indebted to them for ore and goods, wares and merchandize, and in other ways, and to an amount nearly, if not quite sufficient, to pay and satisfy the said mortgages, and any other just demands of the said Joseph E. Edsall against the said Hamburg Manufacturing Company; and that the amount of such indebtedness your Orators, the Hamburg Manufacturing Company, and Edward W. Pratt, always insisted was a fair, legal and equitable set off against the amount due on the said mortgages so held as afore-

40 said by the said Edsall, and any other just claim he might have against the said company; and your Orators now insist that the same are proper matters of set off, and ought to go to pay off the said mortgages and other just demands of the said Joseph E. Edsall.

And your Orators further shew, that of the creditors who executed the said agreement hereinbefore set forth, Charles Wade, Francis Hamilton, William Simpson, junior, Robert Lewis and William Riggs, all of the county of Sussex, in the state of New Jersey, have, as your Orators are informed and believe, sold their respective claims and demands against your Orators, the Hamburg Manufacturing Company, to the said Elias L'Hommedieu and Joseph E.

50

Edsall, or one of them; and that Joseph M. Brown, of Orange county, New York, who also executed the said agreement, has been satisfied his claim against your Orators, the Hamburg Manufacturing Company, by your Orators, Edward W. Pratt and Joseph B. Nones; and that the said Robert A. Linn, Jonathan Whitaker, William Edsall, Henry T. Simpson, James A. Hamilton, John Vandegriff and Thomas D. Edsall, composing the said firm of Vandegriff & Edsall, Gabriel L. Dunning, in his own right, and Gabriel L. Dunning and Elisha Ayres, composing the said firm of Dunning & Ayres, all of the said county of Sussex, and Jackson Oakley and Oliver Davis, composing the said firm of Oakley & Davis, of Orange county, in the state of New York, and John H. Wallace and James S. Wallace, composing the said firm of J. H. & J. S. Wallace, and John La Forge, of Milford, in the state of Pennsylvania, and John H. Broadhead, of Milford aforesaid, and James Stoll, of Sussex county aforesaid, composing the firm of Broadhead & Stoll, and Daniel Haines, in his own right, and as assignee of Henry T. Darrah and William Longwell, are still in whole or in part unpaid and unsatisfied their respective claims. 10

And your Orators further shew, that John L. Adams has departed 20 this life, leaving a last will and testament, and John Loomis and Thomas Teasdale the executors thereof; and that, on or about the fifth day of February, eighteen hundred and thirty-nine, the said John Loomis and Thomas Teasdale proved the said will and took out letters testamentary thereon, before the surrogate of the said county of Sussex; and that the said Robert A. Linn, Jonathan Whitaker, William Edsall, Henry T. Simpson, James A. Hamilton, John Vandegriff, Thomas D. Edsall, Gabriel L. Dunning, Elisha Ayres, Jackson Oakley, Oliver Davis, John H. Wallace, James S. Wallace, John La Forge, John H. Broadhead, James Stoll, Daniel Haines, in his 30 own right, and as assignee aforesaid, and John Loomis and Thomas Teasdale, the executors of the last will of John L. Adams, deceased, are made parties defendants to this Bill of complaint, in consequence of their having an interest in the said trust, property and fund produced therefrom.

And your Orators further shew, that at the time of the said sale, your Orators, the said Hamburg Manufacturing Company, were in possession of the said property belonging to the said Hamburg Manufacturing Company as hereinbefore stated, and were there at work charring wood, mining and drawing ore, and preparing for 40 blast; and that, immediately after the sale, your Orator, Edward W. Pratt, being desirous to secure the possession of the property, in order to carry on the business, and have the papers executed according to the aforesaid agreement, urged upon the said Elias L'Hommedieu and Joseph E. Edsall the immediate execution of the agreement to recovery, and also the said lease; and with that view, your Orator, Edward W. Pratt, had been settling, with the view of ascertaining the amount of the accounts of the respective creditors who had signed that agreement, and effected a settlement of their respective amounts with all, or most of, the said creditors, except the said Joseph E. Ed- 50

sall, which remains unascertained and unsettled as hereinafter stated; and the said Elias L'Hommedieu, notwithstanding the urgency on the part of your Orator, Edward W. Pratt, delayed from day to day executing the said papers, giving an excuse for the delay, that the settlement ought first to be made with the said Joseph E. Edsall of his account with the said Hamburg Manufacturing Company; but finally the said Elias L'Hommedieu, upon your Orator, Edward W. Pratt, insisting that there should be no further delay, consented to execute the said instrument of writing according to the said agreement; and accordingly, the said Elias L'Hommedieu and your Orator, Edward W. Pratt, did, on the day of the date thereof, under their respective hands and seals, enter into and duly execute a lease, in the words or to the effect following, viz:

10

This Indenture, made this thirty-first day of December, in the year of our Lord eighteen hundred and thirty-eight, between Elias L'Hommedieu, of Vernon, in the county of Sussex, and state of New Jersey, party of the first part, and Edward W. Pratt, of Brooklyn, in the state of New York, party of the second part, witnesseth:—

20

That for and in consideration of the rents, covenants, provisoes and agreements hereinafter reserved and contained, and which, on the part and behalf of the said party of the second part, his executors, administrators and assigns, are to be paid, done and performed, he, the said party of the first part, hath demised, set, and to farm let, and by these presents doth demise, set, and to farm let, to the said party of the second part, his executors, administrators and assigns, all those several lots or tracts of land and premises, situate in the township of Hardyston, in the said county of Sussex, now or late in the tenure or occupation of the Hamburg Manufacturing Company, adjoining lands of Joseph E. Edsall, Daniel Haines, and the heirs or

30

devises of David Ford, deceased, and whereon are the blast furnace and store house, together with all the dwelling houses, shops, barns, and other buildings and appurtenances whatsoever:

40

And, also, the farm or plantation, situate in the township of Vernon, in the said county of Sussex, which was conveyed by one Nathan Smith to one John F. Winslow, by deed, bearing date the twenty-fifth day of March, in the year of our Lord one thousand eight hundred and thirty-six, and therein particularly described, and usually called the Mine Farm, and containing the ore beds formerly belonging to the Clinton Manufacturing Company and to the Hamburg Manufacturing Company, with the appurtenances, excepting and reserving therefrom, all the right, title and privilege of Peter M. Ryerson to the same, as conveyed and granted to him by the Clinton Manufacturing Company, by deed, dated

50

and, also, the wood land belonging to the said premises, including the houses thereon, with the appurtenances thereunto belonging: To have and to hold, all and singular the premises, messuages and tenements hereby demised, with the appurtenances, unto the said party of the second part, his executors, administrators and assigns, from the first day of the present month, December, for and during the full end

and term of three years, thence next ensuing, and fully to be completed and ended; but either party to be at liberty to put an end to the said term, at the expiration of one year, by giving three months' notice thereof to the other party, yielding and paying therefor, yearly, on the first day of December of each year, to the said party of the first part, his heirs or assigns, the yearly rent of three thousand dollars; and the said party of the first part, doth hereby, for himself, his heirs, executors or assigns, covenant, promise and agree, to and with the said party of the second part, his executors, administrators or assigns, that he, the said party of the first part, will furnish and pay to the said party of the second part, the sum of fifteen hundred dollars, for the sole purpose of putting the furnace on the said premises into blast, to be paid by a negotiable note for two hundred and fifty dollars at ninety days, five hundred dollars at eight months, and seven hundred and fifty dollars at nine months, the two last mentioned sums to be paid to the order of the lessee, at such times after the said eight months and nine months, and in such sums, as may be actually required for the purpose of putting the said furnace into blast, to be refunded, one half out of the first iron made of the two-thirds belonging to the lessee, and the residue, with interest on the whole, to be paid on the first day of October next, in money or iron, at the option of the lessor, if not sooner paid or accounted for; but no order is to be accepted, until the sum of money previously advanced or accepted for, shall have been appropriated towards putting the furnace into blast; and also, to allow the said party of the second part the privilege of cutting wood for coaling, and for the necessary repairs and buildings, and for firewood, on said premises, only upon the woodlands hereinbefore demised, at and after the rate of twenty-five cents per cord, and to raise ore upon the said demised premises, at the rate of one dollar per ton, for the purpose of using only in the said furnace; and the further quantity of fifteen hundred tons of ore to be raised, without pay, until sold, and when sold, the one-third of the proceeds, from time to time, as it may be received, to be paid, on account of the teams, tools and waggons as hereinafter mentioned, and such further quantity of ore as can be safely sold, the said party of the second part paying therefor one dollar per ton out of the proceeds, as the same shall be sold; and to allow the said party of the second part to coal the wood now cut on said premises, at the price at which it was sold at sheriff's sale; the said wood, and the coal made therefrom, and the said ore, to be and remain the property of the said party of the first part, until the same is actually paid and accounted for as hereafter mentioned; and the said party of the first part agrees to furnish, with the said premises, one mule team, three ox teams, with the waggons, carts and implements, and one horse, and other articles sold at sheriff's sale, contained and valued in the schedule hereto annexed; and the said party of the second part doth, for himself, his heirs, executors, administrators and assigns, covenant and agree to and with the said party of the first part, his heirs and assigns, by these presents, in manner following, that is to say: that he, the said party of the se-

cond part, his executors, administrators and assigns, shall and will well and truly pay, or cause to be paid, unto the said party of the first part, his heirs and assigns, the said yearly rent of three thousand dollars in the manner hereinbefore limited and appointed, according to the reservation thereof, and according to the true intent and meaning of these presents; and that he and they, shall and will, at his and their, or some of their, own proper costs and charges, proceed forthwith, and with all reasonable diligence and despatch, to put into the said furnace, and before the next blast, a hot air blast, in
10 a good, substantial and workmanlike manner; and also, with the like diligence, to put the said furnace into blast, and to keep all the said premises in good tenantable repair, and to use the same, and every part thereof, in a good, prudent, careful and workmanlike manner, and to pay all the taxes and assessments thereon; and further, that of the wood cut, and to be cut and coaled, and of the ore raised as aforesaid for the said furnace, he and they will make good, merchantable pig iron, and deliver to the said party of the first part, his heirs or assigns, the equal one-third part thereof, at the furnace, from time to time, as it shall be made, until the net proceeds thereof,
20 exclusive of all expenses, shall pay the rent hereinbefore reserved, and the amount and price of the said wood and ore, and the money advanced by the said party of the first part as aforesaid, and the value of the said teams, waggons, tools and implements; the said fifteen hundred tons of ore to be sold, at a price not less than two dollars per ton, and the one-third of the price thereof to be paid to the said party of the first part, his heirs and assigns, until the wood now cut on the said premises, and the value of the said teams, waggons and tools, shall have been paid for, if not otherwise previously paid for, on which payment the said teams, waggons and tools are to become
30 the property of the said party of the second part, and not before; and, in the event of the same not being paid for, at the expiration of the first year, and remaining so unpaid for the space of sixty days thereafter, the said party of the first part may, at his option, take possession thereof, and any differences in the value of the same to be paid for by the said party of the second part; provided always, nevertheless, that if any of the terms and covenants hereinbefore contained shall not be kept and performed by the said party of the second part, his executors, administrators or assigns, according to the true intent and meaning thereof, or of the said party of the second
40 part, his executors or administrators, assign, transfer, underlet, or otherwise depart with this Indenture, or the premises hereby demised, or any part thereof, to any person or persons whatsoever, without the consent of the said party of the first part, his heirs or assigns, first had and obtained, in writing, under his or their hands and seals, for that purpose, then, in either of those cases, it shall and may be lawful, to and for the said party of the first part, his heirs or assigns, into the said premises hereby leased, or any part thereof, in the name of the whole, to re-enter, and the same to have again, retain, repossess and enjoy, as in his or their first and former estate, or estates, any-
50 thing herein contained to the contrary in any wise notwithstanding;

and provided, also, that nothing herein contained shall be taken or construed to prevent the said party of the first part from recovering the said rent by distress or otherwise, or from recovering the value of the said wood and ore, and the yearly value and deficiency of the said teams, waggons and tools, at and after the expiration of each year of the said term; and the said party of the second part doth further covenant and agree in manner aforesaid, that he, and they, at the expiration of the said term, or other sooner determination of this lease, shall and will quietly and peaceably yield up the said premises, and every part thereof, repaired and amended as aforesaid, 10
 unto the said party of the first part, his heirs and assigns; it being distinctly understood, that the said party of the second part is at liberty forthwith after the execution of this lease, at his own risk and expense, to take possession of all, or any part, of said demised premises, without any let or hindrance of the said party of the first part, or recourse to him for want of such possession; and further, each year of said term shall expire on the first day of December; and further, that in the event of the said party of the second part, his executors or assigns, being evicted of the said premises, or of any part thereof, before the determination of this lease, by virtue of 20
 any mortgage, or other legal claim or incumbrance, then he or they are not to hold the said party of the first part, his heirs or assigns, responsible for any damage sustained by reason thereof.

To which said lease or instrument, above recited and set forth, the said Elias L'Hommedieu and Edward W. Pratt did interchangeably set their hands and seals, on the day and year therein first written, and execute the same in due form.

And afterwards, to wit: on the first day of January, in the year of our Lord eighteen hundred and thirty-nine, the said Elias L'Hommedieu and your Orator, Edward W. Pratt, did, under their respective 30
 hands and seals, enter into and duly execute the following agreement, in the words or to the effect following, viz:

Articles of agreement, had, made and concluded, this first day of January, eighteen hundred and thirty-nine, between Elias L'Hommedieu, of Vernon, in the county of Sussex, and state of New Jersey, party of the first part, and Edward W. Pratt, of Brooklyn, in the state of New York, party of the second part:

First. The said party of the first part, in consideration of the sum of thirty thousand dollars, to be paid to him by the party of the second part as hereinafter mentioned, doth hereby, for himself, his 40
 heirs, executors and administrators, and every of them, covenant, promise and agree, to and with the said party of the second part, his heirs, executors and administrators, and every of them, by these presents, that he, the said party of the first part, shall and will well and sufficiently convey to the said Edward W. Pratt, his heirs or assigns, in fee simple, by deed of release, with the usual covenants, against his own acts, all those several tracts or lots of land and premises hereinafter particularly described, situate in the townships of Vernon and Hardyston, in the county of Sussex, and state of New Jersey, being the premises lately owned and occupied by the Ham- 50

burg Manufacturing Company, and whereon is the blast furnace, and the store house, and sundry dwelling houses and tenements, at or near Hamburg, in said county, and the woodlands formerly belonging to the said company, all of which were sold at sheriff's sale, and conveyed to the said party of the first part by John Broderick, esquire, sheriff of Sussex, by deed, dated the twenty-fourth day of December, in the year of our Lord eighteen hundred and thirty-eight, and therein more particularly described; also, all that farm or plantation, situate in the said township of Vernon, whereon are the
 10 ore beds formerly belonging to the said Hamburg Manufacturing Company and the Clinton Manufacturing Company, and which were sold and conveyed by one Nathan Smith to John F. Winslow, and by John Broderick, esquire, as sheriff of Sussex, to the said party of the first part, saving, nevertheless, the right and interest heretofore granted and conveyed by the said Clinton Manufacturing Company to Peter M. Ryerson, which said premises are the same that are now in the occupation of the said party of the second part, by virtue of a certain indenture of lease, executed to him, the said party of the second part, and dated the thirty-first day of December, in the year
 20 eighteen hundred and thirty-eight.

Second. The said party of the second part, himself, his heirs, executors and administrators, doth covenant, promise and agree, to and with the said party of the first part, his heirs, executors and administrators, by these presents, that he, the said party of the second part, his heirs, executors or administrators, or some of them, shall and will well and truly pay, or cause to be paid, to the said party of the first part, his heirs, executors or administrators, the said sum of thirty thousand dollars in manner following, that is to say: one third
 30 part thereof, together with the interest from the date hereof on the whole sum, on the first day of December next, and the residue in two equal payments, to be made on the first day of December of each of the next succeeding years, with interest on the whole sum due, payable on each of the said days, to be secured by bond and mortgage on the said premises, it being understood, that the rents, issues and profits of the said premises, which shall be actually realized, over and above all expenses, shall be taken and considered as a part of the said first payment.

Lastly. The deed for the said premises to be made and delivered at the store house on the said premises, on or before the first day of
 40 December next, and on the paying and securing the said purchase money in manner aforesaid: but it is expressly agreed and understood, that if the said purchase money shall not be paid and secured in manner aforesaid, at or before the said first day of December, and remains so unpaid and not secured for the space of thirty days thereafter, then this agreement to be wholly void and of none effect; and also, that this agreement shall not be taken or construed in any wise to change the relation, liabilities or rights of the said parties, their heirs or assigns, under the said indenture of lease.

It is also further understood and agreed, that a certain mortgage,
 50 made by John F. Winslow to Joseph Sharp, dated the eleventh day

of July, in the year of our Lord eighteen hundred and thirty-six, for the sum of two thousand and eighty-four dollars and thirty-six cents; and also, two several mortgages made by John F. Winslow to Joseph E. Edsall, dated the first day of June, in the year of our Lord eighteen hundred and thirty-six, for the aggregate sum of five thousand six hundred and seventeen dollars and thirty-nine cents, which are liens and incumbrances upon parts of the said premises, are to be paid and discharged from and out of the said purchase money; or that, if the said party of the second part shall take up and discharge the same, the amount of money, principal and interest, 10
paid thereon, is to be deducted from the said purchase money.

Which said instrument or indenture of lease, or a counterpart thereof, was signed, sealed and duly executed by the said Elias L'Hommedieu on the day and year therein first written, and which said instrument or indenture of lease, or a counterpart of the same, is now in the possession of your Orators, ready to be produced when and where this Honorable Court shall direct; reference being thereto had, if necessary, will fully and at large appear, and to which your Orators pray leave to refer.

And your Orators further shew, that the said sum of thirty thousand dollars mentioned in the said agreement executed by and between your Orator, Edward W. Pratt, and the said Elias L'Hommedieu as aforesaid, was a mere nominal sum, and named as being more than sufficient to cover the objects hereinbefore stated and contemplated by the said arrangement, to wit: to put your Orator, Edward W. Pratt, in funds, to the amount of two thousand dollars, to carry on the work, and pay off all the debts; and as the amount of the debts had not been fully ascertained, it was thought best to borrow the sum of thirty thousand dollars, and use enough out of it for the purposes aforesaid. 20
30

And your Orators further shew, that the said writings were executed in the manner and with the covenants therein contained, with the expectation, on the part of your Orator, Edward W. Pratt, that all the writings would, in a few days, be cancelled, as they were all based upon and entered into, on his part, relying upon the loan to be made by the said David Ryerson as hereinbefore stated; and with that expectation and understanding, the said creditors did, by their agreement, agree to execute to the loanor of the money their respective bonds as stated in their said agreement, and which was the same condition which was required when it was promised as aforesaid to procure the loan hereinbefore stated. 40

And your Orators further shew, that the agreement to advance fifteen hundred dollars, stipulated and covenanted for in the said lease from Elias L'Hommedieu to your Orator, Edward W. Pratt, to be advanced to your Orator, Edward W. Pratt, for the purpose of putting the said furnace into blast, was inserted in the said lease to meet the arrangement contemplated in the agreement of the said creditors, authorizing the said Elias L'Hommedieu to appropriate the sum of two thousand dollars for the same purpose, and was made five hundred dollars less, with the consent of your Orator, Edward W. Pratt. 50

And your Orators further shew unto your Excellency, that neither the said Elias L'Hommedieu, or any of the creditors aforesaid, or any person, on his or their behalf, advanced, by notes, money, or otherwise, anything under the said agreement or lease, or in any other way, to put the said furnace into blast; but your Orator, Edward W. Pratt, went on, with his own means, to get up the ore and put the said furnace into blast, and procured three thousand cords of wood, or thereabout, worth one dollar a cord, and two hundred and fifty tons of ore, or thereabout; and during that time, and while
 10 going on with the said work, your Orator, Edward W. Pratt, applied from time to time, and with much importunity, to the said Elias L'Hommedieu, Joseph E. Edsall and David Ryerson, for the final completion of the said arrangement, and the loan of money to effect it, and was for several months kept in daily suspense, and thereby greatly delayed and damaged to an amount of several thousand dollars, but was continually promised that the money should soon be advanced and every thing satisfactorily arranged, according to the understanding of the parties, until at length your Orator, Edward W. Pratt, saw the said David Ryerson, and insisted to know positively
 20 from him whether he intended to advance the money, when he was told by the said David Ryerson, that the money would not be advanced.

And your Orators further shew, that while your Orator, Edward W. Pratt, was proceeding as aforesaid, at great expense, to put the said furnace into blast, and after ascertaining to a certainty, that the arrangement made at the said sale would not be carried into effect, he found it necessary to raise money in some other way, in order to secure the said property and the profits of the business, and had made arrangements in the city of New York for money sufficient to pay
 30 off the creditors, for whom the said Elias L'Hommedieu held the said property in trust, and requested the said Elias L'Hommedieu to go with him to New York to have the papers executed; that while on his way to New York, which was on Saturday, in company with the said Elias L'Hommedieu, he was arrested and taken into custody, on a recognizance of bail, and confined at Newark, in the county of Essex, on the same.

And your Orators further shew, that, as they are informed and believe to be true, that while your Orator, Edward W. Pratt, was thus in confinement, the said Elias L'Hommedieu and Joseph E. Edsall called a meeting of the creditors who had executed the said
 40 agreement to Elias L'Hommedieu, and did propose to the said creditors that they should take possession of the said property conveyed to the said Elias L'Hommedieu and leased to your Orator, Edward W. Pratt, as hereinbefore stated, and themselves carry on the business of the said company; that all the creditors, except the said Elias L'Hommedieu and Joseph E. Edsall, declined doing so, and declared that they would not consent to take possession of the property under such circumstances, and they remonstrated against any such proceedings; but, notwithstanding such remonstrances and refusal on the part of the said creditors, the said Elias L'Hommedieu
 50 and Joseph E. Edsall determined themselves to take possession of

the said property; and on or about the tenth day of June, eighteen hundred and thirty-nine, carried that determination into execution, and went to the office, on the premises, where were kept all the books of the company, and the door of the said office being locked, they, or one of them, broke through the windows; they then went to the tenants who occupied the dwelling houses, about ten in number, and such of them as would not agree to become tenants under them, they turned their families and their furniture out of doors; and in this way the said Elias L'Hommedieu and Joseph E. Edsall took possession of the said premises. 40

And your Orators further shew, that at the time the said Elias L'Hommedieu and Joseph E. Edsall took possession of the said premises as aforesaid, there was a large quantity of charcoal, and of wood cut, and a large quantity of ore raised, besides other personal property of various kinds and descriptions, on the said premises, consisting of furniture belonging to the office, also mules, oxen, horses, waggons, carts, sleds, implements for raising ore, coal, cutting wood and working the blast, owned by your Orators, the said Hamburg Manufacturing Company, and Edward W. Pratt, or in their possession, under lease and agreement with the owners thereof, of the value of 20 upwards of dollars, of all of which said wood, iron ore and other property, the said Elias L'Hommedieu and Joseph E. Edsall took possession and converted and disposed of to their own use; and that ever since the said tenth day of June, eighteen hundred and thirty-nine, they have been in possession of the said property and the rents and profits thereof, and have cut and sold wood, and charred wood, got up and sold ore, and have made two blasts on the said premises, and the said rents and profits, wood and timber, charcoal, iron ore, and proceeds of the said blasts, have converted and disposed of to their own use, and are now in a third blast, and have 30 in their possession now, on the said premises, a large quantity of pig iron, iron ore, wood cut, charcoal, about thirty mules, about twenty oxen, twelve horses, five carts, fifteen waggons, twenty set of harness, and implements of all kinds for carrying on the said business, some of which said property is the same taken possession of as aforesaid by the said L'Hommedieu and Edsall, and the residue thereof been produced and purchased with the profits of the said business, and are now using for their own benefit and advantage.

And your Orators further shew, that as your Orators are informed and believe, the said Elias L'Hommedieu and Joseph E. Edsall, after 40 paying all the expenses thereof, cleared out of the first blast upwards of fifteen thousand dollars, and out of the second blast more than ten thousand dollars, together a sum more than sufficient to pay all the debts of the Hamburg Manufacturing Company.

And your Orators further shew, that they have caused diligent inquiries to be made, and your Orator, Edward W. Pratt, has himself personally made application lately to a number of the said creditors of the said Hamburg Manufacturing Company, for whom the said property was bought in trust by the said Elias L'Hommedieu, to ascertain whether the said defendants, or either of them, have 50

accounted to the said creditors, or any of them, for the proceeds, and rents and profits of the said property, or paid any of their claims. And your Orators have been informed and believe, and so they charge, that the said defendants have rendered no account, but have refused to do so, and that the claims of the said creditors are still unsatisfied, except a few hereinbefore named, which the said defendants have purchased at one-half, and some at one-quarter, of the amount of the said claims.

10 And your Orators further shew, that in the year eighteen hundred and thirty-nine, your Orator, Edward W. Pratt, having become involved and unable to meet his debts, and being arrested for debt and confined in the gaol of the county of Essex, did, on or about the ninth of July, eighteen hundred and thirty-nine, present his petition to the Judges of the Inferior Court of Common Pleas of the said county of Essex, praying for the benefit of the insolvent laws of the state of New Jersey, and that, on the twenty-second of August, eighteen hundred and thirty-nine, your Orator, Edward W. Pratt, was, by the Judges of the said Court, granted his discharge as an insolvent debtor, and did, on the day and year last aforesaid, by the
20 direction of the said Court, make and execute in due form of law, an assignment, bearing date the day and year last aforesaid, of all his property, real and personal, to your Orators, Elias Freeman and David Jones, for the benefit of his creditors.

And your Orators further shew, that your Orator, Edward W. Pratt, having become involved in his pecuniary circumstances, and unable to meet his engagements, by reason of being wrongfully deprived of his property by the said Elias L'Hommedieu and Joseph E. Edsall as hereinbefore stated, and being indebted to your Orator, Joseph B. Nones, in a large sum of money, your Orators, Edward
30 W. Pratt and Joseph B. Nones, did, under their respective hands and seals, execute an Indenture, bearing date the seventeenth day of July, eighteen hundred and forty-one, between your Orator, Edward W. Pratt, of the first part, and your Orator, Joseph B. Nones, of the second part, which, after reciting that your Orator, Edward W. Pratt, is largely indebted to various persons, which indebtedness from various unforeseen circumstances your Orator, Edward W. Pratt, was unable to pay, but being desirous that all his estate should be so disposed of as would be the most likely to discharge and pay his said indebtedness, or so much thereof as by good management it might
40 be made to pay, in consideration of the said premises and of one dollar, your Orator, Edward W. Pratt, granted, bargained, sold and assigned to your Orator, Joseph B. Nones, his heirs and assigns, all the estate, real and personal, of your Orator, Edward W. Pratt, wherever situated, and whether held in severalty or jointly, as joint tenants, tenant in common, or co-partner, and all the notes, books of account, rights in action, legal or equitable, choses in action, and all his rights of property, legal or equitable: To have and to hold the same, to your Orator, Joseph B. Nones, his heirs and assigns, forever, in trust, that your Orator, Joseph B. Nones, should convert,
50 as soon as possible, the estate thereby conveyed into money, by the

sale thereof, from time to time, as should be made conducive to the interest of the creditors of your Orator, Edward W. Pratt, and apply the money realized from such sale or sales first, to pay the legal costs and commissions of the making and executing the said assignment and its trusts; second, to pay your Orator, Joseph B. Nones, the sum of fifty thousand dollars, justly due and owing from your Orator, Edward W. Pratt, to your Orator, Joseph B. Nones; thirdly, to pay all the other creditors of your Orator, Edward W. Pratt, the amount which he owes them respectively, and if there should not be means enough to pay all the last mentioned creditors, then to pay them rateably in proportion to such entire indebtedness to them; and lastly, the balance, if any, remaining in the hands of your Orator, Joseph B. Nones, after the said payments as aforesaid, the same to pay to your Orator, Edward W. Pratt. 10

Which said Indenture is now in the possession of your Orators, Edward W. Pratt and Joseph B. Nones, and ready to be produced and proven as this Honorable Court shall direct.

And your Orators further shew, that by virtue of the said respective assignments to them, your Orators, Elias Freeman, David Jones and Joseph B. Nones, have an interest in the said property so held in trust by the said Elias L'Hommedieu as aforesaid, and by reason of such interest have become parties to this Bill of Complaint; and that your Orator, Edward W. Pratt, is entitled to the said surplus interest arising out of the said property, after fulfilling the objects and purposes of the said assignments, according to the respective tenor, effect and priority thereof. 20

And your Orators further shew, that they have frequently, through your Orator, Edward W. Pratt, applied to the said Elias L'Hommedieu and Joseph E. Edsall for an account of all the property they took possession of as aforesaid, and to come to a just and fair account with your Orators of such part or parts thereof as they have sold and disposed of, and to account, at a fair price and valuation, for the use of such as now remains in their hands undisposed of, and also for the wood and iron and ore sold or used by them, and the rents and profits of the said real estate, and the proceeds and profits of the said blasts, during the period they have had the possession of the said property, and the value of the proceeds of the furnace now in blast, and the said proceeds, rents and profits to appropriate to pay off the said creditors of the Hamburg Manufacturing Company, according to the agreement under which the said Elias L'Hommedieu purchased and took the said sheriff's deed, and the balance, if any, to pay over to your Orators, or one or some of them, and for the said Elias L'Hommedieu to re-convey the said lands and premises so conveyed to him by the said sheriff to your Orators, or some or one of them; your Orators offering, and now offering, if upon the taking of such accounts there should not be found funds sufficient in the said defendant's hands to pay off the said creditors their said respective claims, then your Orators will advance as much money as shall be required to make up any such deficiency. 30 40

And your Orators well hoped, that such their requests would 50

have been complied with: But now, so it is, may it please your Excellency, that the said Elias L'Hommedieu and Joseph E. Edsall, combining and confederating themselves together, and to and with the said Daniel Haines, Robert A. Linn, Jonathan Whitaker, William Edsall, Henry J. Simpson, James A. Hamilton, John Vandegriff, Thomas D. Edsall, Gabriel L. Dunning, Elisha Ayres, Jackson Oakley, Oliver Davis, John H. Wallace, James S. Wallace, John La Forge, John H. Broadhead, and John Loomis and Thomas Teasdale, executors of the last will of John L. Adams, deceased, and

10 other persons, at present unknown to your Orator, but whose names, when discovered, your Orators pray may be inserted, and they made parties defendants hereto, with proper and apt words to charge them how to injure and aggrieve your Orators in the premises, and defraud them out of their said property, upon various pretences absolutely refuse to give any account to your Orators of the manner in which they have disposed of the said property and of the rents, issues and profits thereof; at one time pretending that the purchase of the said land and premises by the said Elias L'Hommedieu, and the deed made to him by the said sheriff as hereinbefore stated, were

20 under, or liable, to no such trust as that hereinbefore particularly stated; and at another time the said defendants pretend, that the said Elias L'Hommedieu holds a mortgage of fifteen thousand dollars upon the said property, and which is an incumbrance thereon; whereas, your Orators charge, that the said mortgage was given by the said company to Abner Jones, to secure some of the same creditors hereinbefore named, and was assigned to the said Elias L'Hommedieu, and is held by him, to secure the same debts, to further secure which, he purchased the property of the sheriff as hereinbefore stated; then again they pretend, that the said trust upon which the

30 said purchase was made has been fully executed, and that the said Elias L'Hommedieu and Joseph E. Edsall have paid off all the creditors of the said Hamburg Manufacturing Company, who have released to them their title and interest in the said land, and that your Orators have no interest in the said property, and no right to call them to an account therefor, because your Orator, Edward W. Pratt, forfeited his interest therein, and his right to redeem the same under the said agreement so made and executed as hereinbefore set out between the said Elias L'Hommedieu and your Orator, Edward W. Pratt, by giving up the possession of the said property to

40 the said defendants, and in failing to pay the sum of thirty thousand dollars at the time and in the manner specified in the said agreement; whereas, your Orators charge, that the said Elias L'Hommedieu agreed to purchase, and did purchase, the said property and accept the said deed upon the said trust, and under that agreement and in fulfilment of that trust did execute the said agreement and the said lease with your Orator, Edward W. Pratt, as hereinbefore stated, and that the said trust has not been executed, and that the claims and just debts of the said creditors, or a large part of them, remain unpaid and unsatisfied.

50 And your Orators further charge, that the said defendants, Elias

L'Hommedieu and Joseph E. Edsall, fraudulently took possession of the said property, in violation of the agreement under which the said Elias L'Hommedieu held the said trust property, and in violation of the lease executed as hereinbefore stated, and without the consent of your Orators, the Hamburg Manufacturing Company, or the said Edward W. Pratt, and contrary to the express wish of the said creditors interested in the said trust; and that your Orator, Edward W. Pratt, has not forfeited his right to redeem the said property, because, as your Orators charge, the said defendants violated the agreement upon which the said trust was made and accepted, and by their own conduct, in not procuring the loan as hereinbefore stated, and also in taking possession of the said property, the said defendants prevented your Orator, Edward W. Pratt, from performing the said agreement according to the letter thereof, and are now attempting to take advantage of their own fraudulent acts, which the said defendants will sometimes admit, but then pretend that they have not realized sufficient from the said property to pay off the said creditors and their own debts against the said Hamburg Manufacturing Company, your Orators; the contrary whereof your Orators charge to be true; and that the personal estate and effects so taken possession of as aforesaid by the said defendants, and the rents and profits of the said real estate, are of very considerable value, and more than sufficient to pay off all the creditors of the said Hamburg Manufacturing Company, your Orators, for whose benefit the said Elias L'Hommedieu purchased the said property as hereinbefore stated; and so it would appear if the said defendants would set forth a full, true and particular account of the said personal estate, and of every part thereof, and the rents and profits of the said real estate, and how, and in what manner, to whom, and for what the same, and every part thereof, has been applied and disposed of, but which they refuse to do; all which actings, doings and pretences of the said confederates are contrary to equity and good conscience, and tend to the manifest wrong and injury of your Orators in the premises.

In consideration whereof, and for as much as your Orators are remediless in the premises by the strict rules of the common law, and cannot have adequate relief, except in a Court of Equity, where matters of this kind are properly cognizable and relievable, and where an injunction can be obtained, to restrain the defendants in their unlawful acts, and a receiver be appointed to take charge of the said real and personal estate to the end therefore, that the said defendants and their confederates when discovered, may, upon their several and respective oaths, according to the best and utmost of their several and respective knowledge, remembrance, information and belief, a full, true, direct and perfect answer, make to all and singular the matters aforesaid; and that, as fully as if the same were repeated, and they particularly interrogated thereto; and that the said defendants may set forth a full, true, and particular account of all, and every, the said estate and effects of your Orators, the Hamburg Manufacturing Company, and Edward W. Pratt, taken possession of by the said defendants, Elias L'Hommedieu and Joseph E. Edsall, as herein before stated, and all

the particulars whereof the same consisted, and the quantities, qualities, full, real and true values of all, and every such particulars, which have been possessed, or received by, or come to the hands of the said defendants, or of any other person or persons, by their or any of their order, or for their or either of their use; and of the rents, issues and profits of the said real estate, and how, and in what manner, and when and where, and by, and to whom, and for how much the same, and every part thereof, have been sold and disposed of, and what parts thereof, and to what value and amount now remain undisposed of,
10 and what parts thereof, and what has become thereof.

And that the said defendants may answer the premises, and that the said deed, to the said Elias L'Hommedieu, may be declared a trust deed, and established as such, and the trusts thereof performed and carried into execution, by and under the decree and directions of this Honorable Court, and the rights and interests of your Orators render the same, may be declared and secured, and that an account may be taken of the personal estate, so taken possession of as aforesaid, by the said Elias L'Hommedieu and Joseph E. Edsall, and of all other, the personal property being, the proceeds and profits
20 of the said real and personal estate, or purchased with the proceeds or profits thereof, and of the value of the timber and other trees which were growing upon the said land, and which have been cut down by the said Elias L'Hommedieu, and Joseph E. Edsall, as aforesaid, or by their, or either of their orders, or which has come to their uses or possession, or the use or possession of any other person or persons by their order, or on their account, and of the ore raised and sold by the said Elias L'Hommedieu, and Joseph E. Edsall, or either of them; and also, of the ore used for the said blasts, and of the value of the said blasts, and of the iron made and sold, and of the ore
30 sold by them, or either of them; or for their, or either of their benefit, and of the rents, profits and produce of the said real estate, which have been possessed or received by the said defendants, or either of them; or by any other person, or by any other person or persons, by their, or either of their order, or for their, or either of their use, or which, without his or their neglect and default, might have been received by the said Elias L'Hommedieu and Joseph E. Edsall, since they entered into possession of the said premises, and that in the taking of such accounts, the said defendants may respectively be charged with the interest for such balances, as shall appear to have
40 been in their hands from time to time, and that an account may be taken of the respective debts due from your Orators, the Hamburg Manufacturing Company, to the said defendants respectively, at the time of the execution of the said agreement, and interest which hath occurred thereon; and that the same may be paid under the direction of this Court, out of the said rents, issues and profits, so received or had by the said Elias L'Hommedieu and Joseph E. Edsall; and in case it shall appear, that the rents, issues, and profits, and other receipts of the said Elias L'Hommedieu and Joseph E. Edsall, exceed the said principal and interest; then, that the said Elias L'Hommedieu and
50 Joseph E. Edsall, or such one of them as may appear accountable

for the same, be directed to pay to your Orators such excess; your Orators being ready and willing, and hereby offering to pay to the said defendant's what, if any thing shall, on the balance of the said accounts appear to remain due them from the Hamburg Manufacturing Company, and that all proper accounts may be taken, and all necessary directions given for carrying the said trust into execution, and for the relief of your Orators, and that the said defendants Elias L'Hommedieu and Joseph E. Edsall, may be directed to surrender and deliver to your Orators, or some of them, such personal property as upon the taking of such accounts your Orators may appear entitled to, and may surrender and convey the said lands and premises unto your Orators, or such other person, as your Orators shall appoint, free and clear of all incumbrances, done by them or any person claiming by, from, or under them, or either of them, and may deliver up to your Orators, all title, deeds or writings, in their, or either of their custody or power, relating to the said land or premises; and that in the mean time, the said defendants, Elias L'Hommedieu and Joseph E. Edsall, may be restrained from selling, conveying away, mortgaging, or otherwise disposing of, or incumbering the said land and premises, by the injunction of this Honorable Court; from felling or cutting down any timber, or other trees, standing, growing, or being in and upon the premises in question, or any part thereof, and from raising any more ore, and from selling and disposing of any ore that has been raised on the said premises, and from selling or disposing of the proceeds or iron of the present blast, or the proceeds or iron of any previous blast now in the possession or under their control, and from selling or otherwise disposing of any of the personal property herein before particularly enumerated, and that some proper person may be appointed by this Honorable Court, to take possession and control of the said personal property, and of the said premises, and to receive the rents, profits and produce of the said real estate, and that your Orators may have such further relief, or such other relief in the premises, as to your Excellency may seem meet, as the circumstances of this case may require.

May it please your Excellency, the premises considered to grant unto your Orators the state's writ of injunction, enjoining and restraining the said Elias L'Hommedieu and Joseph E. Edsall, from selling, conveying away, mortgaging, or otherwise disposing of, or incumbering the said land and premises, so conveyed to the said Elias L'Hommedieu, as herein before set forth by the said John Broderick, and enjoining and restraining the said Elias L'Hommedieu and Joseph E. Edsall, their agents, workmen and servants, from cutting down any more of the wood and timber now standing or growing upon the said land and premises, or any part thereof, and from removing any of the wood which has been cut thereon, and is now upon the said premises, or elsewhere intended for market, or sale, or cut for any such purpose, and from committing any other waste, spoil, or destruction upon the said land and premises, and from raising any more iron ore from the said ore beds, and from selling or otherwise disposing of any ore that has been raised from the said ore beds, and from

selling or otherwise disposing of the proceeds or iron from the furnace now in blast, or the proceeds or iron of any previous blast, now in their possession, or under their control, or from selling or otherwise disposing of any of the personal property hereinbefore particularly enumerated, until the said defendants shall have answered this bill, or the further order of this Court; and also, the State's Writ of Subpœna, to be issued out of, and under the seal of this Court, to be directed to the said Élias L'Hommedieu, Joseph E. Edsall, Robert A. Linn, Jonathan Whitaker, William Edsall, Henry I. Simpson, James A. Hamilton, John Vandegriff, Thomas D. Edsall, Gabriel L. Dunning, Elisha Ayres, Jackson Oakley, Oliver Davis, John H. Wallace, James S. Wallace, John La Forge, John H. Broadhead, and John Loomis and Thomas Teasdale, executors of the last will of John L. Adams, deceased, and Daniel Haines in his own right, and as assignee of Henry T. Darrah, and William Longwell, commanding them, and each of them on a certain day and under a certain penalty to be inserted therein, personally to be and appear before your Excellency, then and there to answer the premises, and to stand to and abide such order and decree as to your Excellency shall seem meet, and agreeable to equity and good conscience.—And your Orators will ever pray, &c.

B. WILLIAMSON,

Solicitor and of Counsel with Complainants.

New Jersey, ss.

Edward W. Pratt, being duly sworn, on his oath says, that the facts, matters and things in the foregoing bill set forth as far as the same relate to the acts and deeds of this deponent, are true, and as far as the same relate to the acts and deeds of any other person or persons, this deponent believes them to be true. And this deponent further says, that he is now a director in the said Hamburg Manufacturing Company, one of the complainants in the foregoing Bill named, and has been a director since March, 1837, and is better acquainted with the facts stated in the foregoing Bill, than either of the other complainants, or the President of the said Company, or than any other person connected with the said Hamburg Manufacturing Company, and that this deponent is one of the complainants in the foregoing Bill of Complaint, named.

EDWARD W. PRATT.

Sworn and subscribed at Trenton, this twenty-seventh day of January, A. D., 1842, before me,

A. ARMSTRONG,

Master in Chancery.

40 The joint and several answer of Joseph E. Edsall and Elias L'Hommedieu, two of the Defendants to the Bill of Complaint of the Hamburg Manufacturing Company, Edward W. Pratt, and Joseph B. Nones, Complainants.

These Defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of benefit and advantage of exception to the many errors and insufficiencies in the Complainant's said Bill of Complaint contained, for answer thereunto, or unto

so much and such parts thereof as these Defendants are advised, is material for them to make answer unto, they answer and say :

That they admit that the said Hamburg Manufacturing Company were incorporated by an act of the legislature of New Jersey, on or about the time for the purposes and with the privileges in the said Bill of Complaint set forth, and that the said company were organized and went into operation as is therein stated ; and further, that the said company acquired, by purchase, a considerable amount of real estate in the townships of Hardyston and Vernon, in the county of Sussex, in said state, and that the said real estate consisted of lands which were valuable for the purpose of carrying on the business contemplated by the said corporation, and had on them dwelling houses, an iron mine, and wood, as in the said Bill is stated. 10

And these Defendants, further answering, say, that they have understood and believe, and therefore admit it may be true, that Edward W. Pratt, one of the other Complainants in the said Bill, did become the purchaser of a large amount of the stock of the said Hamburg Manufacturing Company, and of the stock of the Clinton Manufacturing Company, on or about the time and in some such manner as in the said Bill is alleged ; but as these are matters within the particular knowledge of the said Edward W. Pratt, these Defendants leave him to make such proof of the same as the nature of the case may require ; and they deny all knowledge or belief that the said Edward W. Pratt had been engaged in the iron business, or that he was at or about that time a man of large property ; but, on the contrary, from the information they have obtained, and from the declarations of the said Pratt himself, made to these Defendants, they believe, that previous to his coming to New Jersey, he was employed as the captain of a small steamboat plying on Lake Erie ; that he was a man of no real means ; that he had some water lots at Erie, in the state of Pennsylvania, which were incumbered to nearly, or quite, their full value ; and that, at the time he made the said purchase of stock, or exchanged lots for the same as stated in the said Bill, he was, in fact, insolvent to a very large amount. 20 30

And these Defendants, in further answering, say, that they admit it may be true that the said Edward W. Pratt, in making the said exchange, valued his lots in the town of Erie at five hundred and three thousand five hundred dollars ; and that the parties with whom he exchanged the same for stock, estimated the value of the shares of the Clinton Manufacturing Company, and all the property attached to, belonging to, or used in and about the same, at the sum of three hundred and fifty thousand dollars, and estimated the like stock and property of the Hamburg Manufacturing Company at one hundred and fifty-three thousand five hundred dollars ; but they insist, that if such a valuation was really attached, either to the said lots, or the said stock and property of either of the said companies, that such value was, to a great extent, fictitious and imaginary ; and that, so far as the stock and property of the Hamburg Manufacturing Company was concerned, it was not worth, at that time, one-fifth of the amount of the pretended estimate. 40 50

And these Defendants, in further answering, admit, that the Clinton Manufacturing Company was incorporated by the legislature of New Jersey for the purpose, and with the powers and privileges, in the Complainant's said Bill mentioned; and that the said company was organized and went into operation, and was possessed of real estate and property, as in the said Bill is alleged; and that there was a bed of iron ore on one of the tracts of land belonging to the said company, which is known by the name of Hemotite ore, and that the same is a valuable kind of ore, and that both the Hamburg and Clinton Companies may have supplied themselves with ore from that source, by some agreement between them, as stated in the said Bill; but they wholly deny that said bed is the only one of the kind yet discovered in the United States; on the contrary, they aver, that that description of ore exists, and has been discovered in great abundance in the states of Pennsylvania, New York, Connecticut, and other of the United States, and in other parts of the state of New Jersey, and that there is an ore bed of the precise kind and quality of ore, on the lands of William Edsall, nearer the furnace of the Hamburg Company, and which had been not only discovered, but worked for more than a year before the bed belonging to the Clinton Company was discovered, and that the said ore bed was known to exist by the said Pratt, and is now being worked.

And these Defendants admit, that it may be true that the said Edward W. Pratt became the owner of the amount of the capital stock in the said Clinton and Hamburg Companies set out in the Bill of Complaint, but this being a matter more particularly within his own knowledge, they leave him to make such proof thereof as he may be advised; and these Defendants believe it to be true, as stated in the Complainant's Bill, that shortly after the transfer of such stock to the said Edward W. Pratt, the directors of the said Hamburg Company called in two additional instalments of six and a quarter dollars each on each share of the capital stock of the said Hamburg Manufacturing Company; and these Defendants have understood, and believe it to be true, that no such instalments were paid on any of the stock of the said company, except what was owned by the said Edward W. Pratt in his own name, or held in trust for him, and that the said directors proceeded to forfeit all the stock held by others, for the non-payment of such instalments, but these Defendants do not know, and therefore neither admit nor deny, that the said Edward W. Pratt paid, or caused to be paid, the instalments, or either of them, upon the stock held by or in trust for himself, but leaves the said Pratt to prove the same, if he shall think it material so to do.

And this Defendant, Joseph E. Edsall, answering for himself, says, that he has understood, and believes, that the shares of stock so forfeited by the said directors belonged originally to Nathaniel Wetherill, junior, and William L. Ames, and that they were the only persons who had ever furnished any considerable amount of money for the purchase of the property and the carrying on of the business.

And this Defendant, Joseph E. Edsall, further answering for himself, says, that he does not admit that the said Edward W. Pratt was

deceived by the said Wilkes and Jones, of whom he purchased the property, in regard to the amount of debts and incumbrances due from the said company; but, on the contrary, this Defendant understood from the said parties, and from the said Pratt particularly, that, at the time he made the exchange for the said Hamburg Company property, the said Pratt united with the said Wilkes and Jones in some agreement or paper writing, by which the said Jones obligated himself to pay off debts and demands existing against the said Hamburg Manufacturing Company and their property, to an amount, in all, of between twenty and thirty thousand dollars; and that the said Pratt 10 must therefore have known of the existence of a far greater amount of indebtedness on the part of the company, than he pretends, in his Bill, he was apprised of.

And these Defendants, in further answering, admit, that soon after the said Edward W. Pratt became the owner of the said stock, prosecutions were commenced against the said companies, and judgments obtained; but, as to the allegation of the said Pratt, that he paid seven thousand dollars of the debts of the said Hamburg Company through his own means, these Defendants are ignorant, but they have always understood, and believe, that after he came into possession of 20 the property of the said companies, he contracted new debts considerably faster than he paid old ones, and to a greater amount.

And these Defendants further say, that very soon after the said purchase, the said Edward W. Pratt took charge of the business of the said Hamburg Manufacturing Company, and undertook to carry it on, and that he got a number of the creditors together and informed them that he had a large amount of money, which would be ready in a very short time, and be applied to the purpose of liquidating the debts of the company; and at other times he told them, or some of them, that he was a large holder of bank stock, that he owned 30 a bank in Rhode Island, which would soon be in operation, and that he would shortly have abundant means of satisfying their claims; and that by such means, and representations, and promises, he delayed the payment of the debts due to the creditors generally, until some time about the month of May, in the year of our Lord one thousand eight hundred and thirty-seven, when he left the said company's works, and was absent for a considerable time; and that during his said absence, the clerks and agents who he left in charge of the business of the company, becoming alarmed for the safety of the debts due them for salaries and wages in carrying on the business which had now nearly 40 ceased, sold and transferred to each other the principal part of the personal property and effects in the store belonging to the company and on the premises, and took the said property and effects away as their own; and that this movement caused a general alarm among the creditors of the said company, and having lost all confidence in the ability of the said Pratt to raise funds or secure them their said debts, a number of them commenced suits, and took out executions and placed them in the hands of the sheriff of the county of Sussex to be executed according to law; and that other of the creditors were about to apply to the Chancellor for an Injunction and the appoint- 50

ment of Receivers to take charge of the said company's remaining property and effects.

- And these Defendants, in further answering, say, that in order to quiet the alarm of the creditors of the said Hamburg Manufacturing Company, and to obtain time, the said Hamburg Manufacturing Company, by Edward W. Pratt, their President, made and executed to one Abner Jones, of the city of New York, a bond, bearing date the twenty-sixth day of June, in the year of our Lord one thousand eight hundred and thirty-seven, in the penal sum of thirty thousand dollars, conditioned for the payment to the said Abner Jones, or his certain attorney, executors, administrators or assigns, the sum of fifteen thousand dollars, one-fourth part to be paid on or before the twenty-sixth day of September then next, one-fourth part on or before the twenty-sixth day of December then next, one-fourth part on or before the twenty-sixth day of March then next, and one-fourth part on or before the twenty-sixth day of June then next, with interest from the date of the said bond; and with the further condition, that they, the said obligors, should forthwith proceed to put and continue in full and fair operation the furnace and other works of the said company, and use and apply all the wood, coal, materials and other personal property of the said company, to the sole and appropriate purpose of the said furnace, and the business of the said company; and with the further condition, that if the said furnace and works of the said company should not be put and continued in such full and fair operation, on or before the first day of September then next, or if any of the said wood, coal or other personal property should be used and applied to any other than its appropriate purposes in and about the works and business of the said company, that then and in that case the whole amount of money mentioned in the condition of the said bond, was to become immediately due and payable; and in order to secure the said bond, the said Hamburg Manufacturing Company, by the said Edward W. Pratt, their President, at the same time, made and executed to the said Abner Jones, a mortgage on all those eight several tracts, parts or parcels of lands and premises, situate, lying and being at and near Hamburg, in the townships of Hardyston and Vernon, in the county of Sussex, being all the lands of the said company, whereon was their furnace, saw mill, store and other buildings, and the water power and works connected with the said furnace, and also the mine lot and woodlands of the said company; which said mortgage was duly acknowledged and recorded according to law; and on the same twenty-sixth day of June, in the year aforesaid, the said Abner Jones, by a deed of assignment, duly made and executed, under his hand and seal, assigned and set over the said bond and mortgage to Elias L'Hommedieu, one of these Defendants, to and for the benefit and advantage of such of the creditors of the said Hamburg Manufacturing Company, (excepting the debts contracted in the city of New York,) by whatsoever name the said company, at the time of contracting the said debts, may have been called or known, as should, in a reasonable time thereafter, duly assign and transfer the said claims to the said Abner Jones, and empower him to sue

for and recover, or otherwise receive, the amount of the said several claims to his own use, but at his own costs and charges, and without any recourse to the said creditors, as by the said bond, mortgage and deed of assignment, now in the possession of this Defendant, Elias L'Hommedieu, and ready to be produced when and where this Honorable Court may direct, reference being thereto had, will more fully and at large appear.

And these defendants in further answering, say that upon the faith of the security of the said bond and mortgage, so assigned to the said Defendant, Elias L'Hommedieu, the creditors suspended further proceedings at the time, against the said company; and that the said Edward W. Pratt, proceeded to put the furnace in operation, but when the twenty-sixth day of September arrived, the day when the first instalment on the said bond secured by the said mortgage, so assigned, as aforesaid, the said Hamburg Manufacturing Company, made default, and did not pay the said instalment of one fourth part of the sum mentioned in the condition of the said bond, or any part thereof, and that in consequence of this renewed disappointment, several of the creditors of the said company, at the November Term of the Court of Common Pleas, of the said county of Sussex, obtained judgments, and were about to take out executions, when the said Edward W. Pratt, procured a meeting of a number of the principal creditors, and succeeded in inducing them to suspend immediate proceedings against the property of the company, by an offer to appropriate a large portion of the proceeds of the furnace then in blast, towards the payment of their claims; and that, in pursuance of the said arrangement, articles of agreement, bearing date on the twenty-ninth day of November, in the year of our Lord, one thousand eight hundred and thirty-seven, were drawn up, between the Hamburg Manufacturing Company of the first part, and the persons and co-partners named in the schedule to the said agreement, annexed of the second part; wherein it was agreed among other things, that the said Hamburg Manufacturing Company, should deliver to the said Elias L'Hommedieu, as the trustee of all concerned at the furnace of the said company, two thirds of all the pig iron made, and to be made, from the commencement of the then present blast, until the iron so delivered, should amount to ten thousand dollars, the same to be applied to the payment of the claims of the creditors, as contained in the said schedule: first, paying thereout the costs, counsel fees, and expenses in a Chancery suit, which had been commenced against the company, upon which an injunction had been granted, and the taxed costs in the several suits at law, which had been commenced; which said agreement was duly executed, and delivered to the said Elias L'Hommedieu, and is now in his possession, ready to be produced as this Honorable Court shall direct, and to which, reference being had, the above stated facts will more fully and particularly appear.

And these defendants, in further answering, say that the list of debts embraced in the schedule to the agreement above mentioned, amounted to between thirteen and fourteen thousand dollars, and that the said Hamburg Manufacturing Company, delivered to the said

Defendant Elias L'Hommedieu, pig iron under the said agreement, to the amount only of about five thousand dollars, which was appropriated to the payment of the costs, expenses and debts, according to the terms of the trust appointed, in and by the said agreement, by the said trustee, and that the residue of the iron, which, under, and by virtue of the said agreement, the said Hamburg Manufacturing Company had bound themselves to deliver over to the said trustee, for the use and benefit of the said creditors, they wholly neglected, and refused to deliver, but the same was otherwise disposed of by the said

10 Edward W. Pratt, for his own use and benefit, or the use and benefit of the said company, and that in the mean time, the said Edward W. Pratt, incurred other debts and liabilities; and other judgments were obtained against the said company, in the Supreme Court, and in the Circuit Court, of the county of Sussex, to a large amount, to wit: the amount of between three and four thousand dollars, upon which executions were issued, and which, with the executions issued on former judgments, amounted to from six to eight thousand dollars.

And these defendants admit, that by virtue of the executions aforesaid, placed in his hands, John Broderick, the then sheriff of the county of Sussex, levied on, advertised and sold, the personal property of the said Hamburg Manufacturing Company; but to the best of the knowledge and belief of these defendants, the proceeds of the said sale, amounted only to the sum of one thousand nine hundred and seventy-seven dollars and twenty-four cents, and not to the sum of about twenty-one hundred dollars, as the complainants in their said bill have alleged, and that the same was applied to the payment of the executions according to their priority by the said sheriff, as far as the same would extend.

And these Defendants, in further answering, deny that the said
 30 Hamburg Manufacturing Company owed, exclusive of the balance remaining due on the executions, so as aforesaid in the hands of the said sheriff, at that time to other creditors, on bonds secured by mortgage, judgments, notes, books of account, and otherwise, only about twelve thousand dollars, but on the contrary, they say, that the mortgage, judgment, and other debts due at that time, from the said company, amounted to a far greater sum, to wit: the sum of thirty thousand dollars, and upwards; that these debts consisted of three general classes; first the debts which had been contracted in the purchase of
 40 mortgages on the land; second, debts subsequently contracted, and which were intended to be secured by the mortgage, to Abner Jones, assigned to one of these Defendants, the said Elias L'Hommedieu, in trust for the said creditors; and third, the debts contracted by the said company, subsequent to the date of the said mortgage to Jones, or debts, which had been contracted out of the state, and had not been secured by said mortgage.

And these Defendants, further, in answering, deny, that the judgments upon which the said executions, against the said Hamburg Manufacturing Company, in the hands of the said sheriff were issued,
 50 were obtained for debts, all of which had been contracted by the com-

missioners under the act of incorporation of the said company, or some of them, or persons connected with them, previous to the organization of the company, and with whom the said Elias L'Homme-dieu and Joseph E. Edsall, these Defendants, were associated; and that nearly the whole of the said sum of twelve thousand dollars was for debts similarly contracted; but, on the contrary, these Defendants say, that the debts of the company had all been contracted by the agents and managers of the said Hamburg Manufacturing Company, or by the agents and managers of the property, and are distinctly recognized and provided for by the mortgage to the said Abner Jones, or were secured by liens upon the company's property previous to the said mortgage, or had otherwise been distinctly recognized as valid and existing debts by the said company and the said Edward W. Pratt; and that no part of the said debts had been contracted by the said commissioners, or by these Defendants, or by any person or persons associated with them, as set forth by the Complainants in their said Bill of Complaint. 10

And these Defendants, in further answering, admit, that the said Edward W. Pratt made various efforts to prevent a sale of the real estate of the said Hamburg Manufacturing Company, under and by virtue of the executions in the hands of the said sheriff of the county of Sussex, and that he procured adjournments of the said sale from time to time, and that he may have made efforts to negotiate a loan upon the said property to pay off the judgments and other debts against the company, and may have procured searches as to the title, and certificates of competent persons as to the value of the property, but what success the said Edward W. Pratt met with in his efforts, or what assurances he might have received, these Defendants are ignorant. 20

And this Defendant, Joseph E. Edsall, answering for himself, says, that he expressly denies that the said Edward W. Pratt, at that time, or at any other time, had any just grounds to apprehend, from any disposition this Defendant had theretofore evinced towards him, that he might interfere and force a sale of the said property; but, on the contrary, this Defendant says, that he had always entertained and evinced the kindest disposition towards the said Hamburg Manufacturing Company and the said Edward W. Pratt, that he had aided them, and extended to them facilities and means upon credit, when they could not procure them elsewhere; that he furnished them with wood, coal, grain, flour, feed, hay, pork, teams, waggons, and other property, and money, from the time said Pratt took possession of the property, to the time the same was sold, amounting to between ten and twelve thousand dollars; that he aided them, when other creditors were pressing their claims, by assumptions and endorsements, and, in one instance, became liable to one Benjamin Carpenter & Co., of Newburg, New York, as security for them, to the amount of five thousand dollars, upon a contract, in consequence of which the said company obtained an advance of two thousand dollars in money and bills receivable at short dates, and goods, and that without any manner of indemnity; and that this Defendant and the said Elias L'Hom- 30 40 50

medieu have since paid to the said Carpenter seven hundred dollars on that account; and that this Defendant at one time went with one of the agents of the said company to New York to endeavor to raise money for them on his own bonds and mortgages, but was not able to obtain it without paying usury, to which he objected; and that this Defendant did, at that time, raise five hundred dollars on his own credit, at Morristown, and loaned the same to the said company, and raised money, at other times, for them, upon his own credit, to a considerable amount; and this Defendant further says, that, so far from 10 being desirous, at any time, to force a sale of the said property, he was particularly instrumental in procuring the said sale to be repeatedly adjourned, and aided and assisted them in all their difficulties in every possible way, for which the said Edward W. Pratt repeatedly expressed to this Defendant, and to others, his gratitude and obligation.

And these Defendants, in further answering, say, that they believe it to be true, and therefore admit, that the real estate of the Hamburg Manufacturing Company, and also the real estate of the Clinton Company, on which was their mine, was advertised for sale by the 20 sheriff of the county of Sussex at the times, and was adjourned from time to time, as in the said Bill is stated; and that on the fifth of December, eighteen hundred and thirty-eight, the day the sale of the Clinton mine tract was to take place, the said Edward W. Pratt came to Hamburg, in company with the said Aaron B. Nones, but these Defendants are wholly ignorant whether the said Nones had authority or means to purchase the said property or not, and, if the facts were so, they were not disclosed by the said Nones or Pratt, either to these Defendants, or to any other persons, so far as these Defendants know and believe.

30 And these Defendants, in further answering, admit, that they, these Defendants, and a number of the other creditors of the Hamburg Manufacturing Company, were present, having assembled to attend the said sale and endeavor, as far as possible, to protect their interests in the same; but these Defendants deny, that upon that or any other occasion, they told the said Pratt that they would undertake to raise money enough, by mortgage upon the property, to appropriate two thousand dollars for the purpose of carrying on the business of the company and to pay off all the creditors, or that they had any assurances from David Ryerson, esquire, such as the Complainants 40 have represented in their Bill, that he would or could procure a loan of thirty thousand dollars, or whatever sum, not exceeding that amount, might be required for the purposes aforesaid, but that the said loan could only be obtained on condition that the property should be sold, and some person become the purchaser of the said ore bed and the property of the said Hamburg Manufacturing Company, or that, as soon as the said loan could be effected, the said property should be re-conveyed to the said Hamburg Manufacturing Company, or the said Pratt, or that, in the meantime, the said property should continue in the hands of the said Pratt, or that, at any other subse- 50 quent meeting of the said creditors, these Defendants, or any other

of the said creditors, to their knowledge, ever proposed any arrangement, or that any arrangement was, at any time, proposed, to the knowledge or belief of these Defendants, under and by virtue of which any trust whatever was to be created in any person or persons in favor of the said Pratt or the said Hamburg Manufacturing Company, or that the sale of the said Clinton mine tract was adjourned on the said fifth day of December, upon any such arrangement or understanding with the said Pratt, or that, on the next morning, the said David Ryerson stated in the presence of the said Pratt and these Defendants, and other creditors, that he could procure the said loan on the conditions in the said Bill mentioned, or on any other conditions, or that there was any assent of the creditors to any such conditions, or any agreement that a sale should be made under any such arrangement as the said Complainants have alleged, or that the said Elias L'Hommedieu should purchase, under or by virtue of any such agreement or arrangement, or should execute any re-conveyance or lease to the said Pratt, founded upon any such agreement or arrangement whatever. 10

And these Defendants, in further answering, say, that the sale of the Clinton mine tract, under and by virtue of executions in the hands of the said sheriff Broderick against the Clinton Manufacturing Company, having been adjourned, from time to time, until the said fifth day of December, and the whole of the real estate of the Hamburg Manufacturing Company being also advertised for sale, under and by virtue of executions in the hands of the said sheriff against the said Hamburg Manufacturing Company, and these Defendants, and the other creditors of the said last mentioned company, deeming it of importance to the security of their claims against the said company, that the said Clinton mine tract, from whence the Hamburg Company derived their principal supply of ore, should be purchased in for the benefit of the Hamburg furnace; and the creditors of the said company, despairing of the said Pratt's being able to raise any funds, or make any arrangement for the payment or security of their debts, and having large claims against the said Hamburg Manufacturing Company, some time in the month of November, and several weeks previous to the time appointed for the sale of the mine tract as aforesaid, held a meeting, for the purpose of consulting together as to the best means of securing their said debts, and that it was then agreed among the said creditors, that if the said mine tract and the real estate of the Hamburg Manufacturing Company should be sold upon the said executions, that they would appoint one of their number to purchase the same, for the benefit of such of the creditors as should become parties to the agreement, in case no person should, at such sale, offer a sufficient sum to pay the incumbrances and secure the creditors, and that, at that meeting, the said creditors settled upon most of the principles of the articles of agreement afterwards executed on the seventh of December, and which is set out in the Complainant's Bill; and these Defendants expressly say, that neither the said Pratt nor the said Hamburg Manufacturing Company were known in the said arrangement, or 50

had any part or interest in it whatever, but that it was an arrangement determined upon and entered into by these Defendants, and the other creditors who became parties to it, solely on their own account, and for their own protection and benefit, and induced wholly by the belief that the said company and the said Pratt were utterly insolvent; that the debts and incumbrances then existing against the Hamburg Manufacturing Company, according to the best of the knowledge and belief of these Defendants, exceeded thirty thousand dollars; and that the debts of the Clinton Manufacturing Company, which existed
 10 at the time as liens on the said mine tract, exceeded in amount the sum of ten thousand dollars, and that, as the principal value of the Hamburg property, and of the said mine tract, depended upon its being all kept together, and used for the purpose of manufacturing iron, it became a matter of the last importance to the creditors to prevent its being sold in separate parcels or for other purposes, inas-
 20 much as such an event must necessarily have resulted in a great sacrifice of the property, and consequently in a great and almost total loss to the creditors, the said Hamburg Company and the said Pratt being without any other means to meet and discharge the said debts,
 20 to the knowledge or belief of these Defendants.

And these Defendants, in further answering, say, that at some one or more of the meetings of the creditors of the said Hamburg Manufacturing Company, held previous to the sale, David Ryerson, esquire, was present, and was consulted by some of the said creditors as to the possibility, in case the property should be purchased for the benefit of the creditors by one of their number, of raising, by loan to be secured upon the same, an amount of money sufficient to pay and satisfy their claims, provided they would agree to indemnify the lender against all loss, should the property, upon a sale thereafter
 30 to be made, not bring the amount; that the said David Ryerson offered to make an effort to procure a loan of thirty thousand for that purpose, and expressed the hope that he should be able to effect such a loan, and did make efforts, as these Defendants believe, to do so, but wholly without effect; but these Defendants totally deny that he ever gave them, or the creditors, or the said Pratt, in their presence, or to their knowledge, any promise that he would, or assurance that he could, raise the said sum of money, or any other sum, upon the property and security aforesaid.

And these Defendants further, in answering, say, that they admit
 40 that such articles of agreement by and between the subscribers thereto, creditors of the Hamburg Manufacturing Company, as are set out in the Complainant's said Bill, was made and executed between them on the seventh day of December, in the year of our Lord eighteen hundred and thirty-eight, the day on which the same bears date; but they expressly deny that the said articles of agreement were made or executed under any agreement or arrangement whatever between them and the said Pratt, or for the purpose of carrying out any arrangement or agreement between them, or in the expectation that the said sum of money would be immediately raised, or with the
 50 understanding that the said property was to be re-conveyed to the

said Edward W. Pratt, or that a lease was to be executed to him immediately after the sale; but that, on the contrary, the meaning and intent of the said agreement is fully and entirely expressed in the said agreement and the several articles thereof, and that it expresses all that was understood between the parties, as far as the knowledge or belief of these Defendants extends.

And these Defendants, in further answering, admit, that on the eighth day of December, in the year last aforesaid, the said sheriff Broderick, sold the said Clinton mine tract, according to law, by virtue of the executions in his hands, against the Clinton Manufacturing Company, at which said sale, Elias L'Hommedieu, one of these defendants, became the purchaser thereof, for the sum of four thousand and forty-one dollars, subject to all prior incumbrances, and that on the fourteenth day of December, in the same year, the said sheriff, sold all the real estate of the said Hamburg Manufacturing Company according to law, by virtue of the executions in his hands against the said company, at which, said sale, the said Elias L'Hommedieu, one of these defendants aforesaid, became the purchaser thereof, for the sum of two hundred and eight-five dollars, subject to all prior incumbrances, and that deeds for the said property, so as aforesaid purchased, duly executed, and acknowledged by the said sheriff, according to law, were delivered to the said Elias L'Hommedieu, and are duly recorded, as by the said deeds now in the possession of the said defendant, Elias L'Hommedieu, and ready to be produced, will more fully appear.

And this Defendant, Elias L'Hommedieu, answering for himself, says, that he purchased the said Clinton mine tract, and the said Hamburg property, by virtue of the powers and instructions, and for the sole and exclusive purposes in the said agreement of the seventh of December, particularly contained and set forth, and for no other purpose whatever; that he acted as the agent or trustee of the creditors, as therein particularly named, and for none others; that there was not any understanding or agreement between himself and the said Pratt, or between himself and any other person or persons, that he was to hold the property, or any part of it in trust for the said Pratt, or the said Hamburg Manufacturing Company, or for their, or either of their use or benefit, in any way whatever, or for any other purposes, than those expressed in the said articles of agreement.

And these Defendants, in further answering, deny, that the property of the said Hamburg Manufacturing Company, and the said ore bed, so sold as aforesaid, were worth the sum of one hundred thousand dollars, or that there were any person or persons present at the sale or sales aforesaid, to the knowledge or belief of these defendants, who were ready to bid a large amount of money, either for the ore bed, or for the Hamburg Company property, and were prevented from bidding, in consequence of the information of the arrangement among the creditors, but on the contrary, these defendants say, that at the time of the said sales, many of the creditors, doubted the propriety of buying in the said property for the amount of the incumbrances, and considered its utmost value, as below thirty thousand dollars; and

that these Defendants, and the other creditors were then, and since, have been willing to sell the whole property, including the mine, for that sum.

And these Defendants have, since the said sale, offered the whole of it to the said Edward W. Pratt, for twenty-nine thousand dollars, although these Defendants had put valuable improvements upon it, had rebuilt the dam at an expense of upwards of two thousand dollars, and put up a new coal house at considerable expense, and these Defendants would be glad, now, to sell the whole property for thirty
10 thousand dollars; and they believe that the full value of the property subject to the incumbrances and debts, embraced in the agreement before referred to, was given for it; and as to the ore mine tract, they say in fact, that it was bid up to within one dollar of the amount, at which it was struck off, by one Joseph H. Pettis, the secretary of the Hamburg Manufacturing Company, at the time of the said sale, by the said sheriff, as aforesaid, as these Defendants believe.

And these Defendants, in further answering, admit, that some time previous to the sale of the Clinton mine tract, they did give some such certificates, as to the value of that tract, as the said complainants have
20 in their said bill charged; that the said Edward W. Pratt, called upon them on one occasion, when he was making efforts to borrow money upon the property, and represented to these Defendants, that he had had the ore bed on the said tract, examined by scientific miners, that they had bored the ridge throughout its whole extent, and found that the ore bed was inexhaustible, that the ore extended over and through the whole ridge, and to a most unlimited extent, and from these representations, not having much personal knowledge of the matter themselves, and supposing that the said Pratt, made a true representation of the extent of the ore, and knowing the ore could
30 then be raised from the mine at fifty cents a ton, they signed the certificates as aforesaid; and it was then their impression, that if the ore was as extensively deposited in the said bed, as said Pratt had represented, it would be worth that sum; but these Defendants, soon after ascertained, that said representations were untrue, that the said ore was far from being so extensive, and the same, is now so far exhausted, that for the ore they have recently procured from that mine, they have been obliged to pay at least, three dollars a ton.

And this Defendant, Joseph E. Edsall, in answering for himself, says, that at the time of the execution of the said agreement, he held
40 two mortgages on part of the real estate of the Hamburg Manufacturing Company, and a mortgage upon the said ore bed; that the mortgages upon the Hamburg property, with the interest, then amounted to about six thousand five hundred dollars, and that he had a claim against the company, amounting to about three thousand dollars, but he wholly denies that the said claim was for services and expenses in procuring the charter of the said company, or that he ever refused to furnish to said company, or to said Pratt, the particulars of said account; but on the contrary, he says, that the said claim was for coal, wood, and other goods and personal property, sold, and delivered by
50 him, to said company, and for work and labor done, and for money

advanced to, and for the use of the said company, at their instance and request; and that the same was expressly admitted by the said Pratt, in the agreement of the twenty-ninth of November, eighteen hundred and thirty-seven, as a valid and existing debt, due from the said company, and set down as such by the consent of the said Pratt, among the debts to be secured by the mortgage to Abner Jones; and this defendant, expressly denies that he ever was indebted to the said company, or that he ever bought any ore of the said company, or that they had, or have any just account, or demand against him, by way of offset, such as is alleged in the said Bill.

And these Defendants, admit it to be true, that they have purchased up, and taken an assignment of debts due, from said Hamburg Manufacturing Company, as stated in the said Bill, and that they now hold a large amount of claims against the said company, secured by the agreement of the creditors before referred to, made previous to the said sale of the Clinton mine lot, and the Hamburg Company property, that including the mortgages held by the said Defendant, Joseph E. Edsall, on one of which there was a foreclosure and sale of three of the said company's tracts, and a mortgage and decree in Chancery obtained by Joseph Sharp, and assigned to the said Defendants, and upon which, another of the said tracts was sold, the whole amount of the claims of these Defendants, existing at the time of the said agreement, and purchased since, by them, together with the purchase money, paid for the Clinton mine tract, amount to the sum of thirty-two thousand, four hundred and seventy-six dollars and fifty-one cents, as near as they can at present ascertain; and these Defendants, admit, that there are yet some out-standing claims, which are embraced in the provisions of the said agreement, the amount of which they do not precisely know, some small amount of which, may have been purchased up by the said Pratt, and Nones, but of this they leave the said complainants to make proof if it be deemed material for them so to do, they being matters peculiarly within the knowledge of the said Defendants.

And these Defendants, in further answering, admit, that at the time of the sale, the said Hamburg Manufacturing Company, were in possession of the property, belonging to the said company, but they deny that they were then at work preparing for a blast, but on the contrary, they had suspended their operations, and the whole property was lying idle, and nearly unoccupied, and had been so for months.

And this Defendant, Elias L'Hommedieu, answering for himself, denies, that he was under any obligation whatever, by virtue of any thing contained in the agreement of the creditors of the said Hamburg Manufacturing Company, under which he was appointed their trustee, or by virtue of any arrangement or understanding had with the said Edward W. Pratt previous thereto, or at the time of the execution of the said agreement, to make any lease or enter into any articles for the sale of the said property to the said Pratt, or that the said Pratt called upon him repeatedly to do so, as in the said Bill is stated; but he says, that upon a conference with the creditors, and at

the solicitation of the said Pratt, and under the influence of representations made by him, that he could yet raise money to carry on the works and to pay off the creditors of the company, a majority of the said creditors advised this Defendant to execute a lease for the property to the said Pratt, and to enter into a contract for the sale of the said premises to him for the sum of thirty thousand dollars, that a lease and contract were accordingly drawn up and delivered to him, and after considerable delay on his part, and several alterations, made upon his suggestion, the same were executed and delivered to the
 10 said Pratt, and are the same set out at large in the Complainant's Bill; and this Defendant expressly denies, that the said sum of thirty thousand dollars was a mere nominal sum, and named as being more than sufficient to cover the objects of starting the furnace and paying debts, as the Complainants allege; but, on the contrary, it was the sum for which the creditors and this Defendant were willing to sell the property to him, or any one else, though below the actual amount of the claims by about two thousand dollars.

And this Defendant, Elias L'Hommedieu, in further answering, denies, that the said lease and agreement were executed with the ex-
 20 pectation that they would be cancelled, or that they were based on any expectation of a loan to be effected by or through David Ryerson, esquire; but, on the contrary, this Defendant says, that at the time these writings were executed, it was distinctly known by the parties that a loan could not be obtained by or through him, but the said Pratt insisted, that if he could get such a lease and agreement, it would enable him to raise means to go on with the business, and finally complete the purchase; and the creditors not being willing themselves to attempt the experiment of carrying on the works on their own account, preferred any plan which appeared to promise
 30 success, and put the works in operation, to suffering them to go to ruin by abandonment, and the covenants binding the said Pratt to go on with the works with all diligence, under penalty of forfeiture, were inserted to secure that end.

And these Defendants further, in answering, say, that after the execution of the said lease and agreement, the said Pratt left Hamburg, and neither furnished any means to put the said furnace into operation or did anything towards that end, but suffered the property to lie idle and everything to go to ruin, that the furnace dam was swept away, and no efficient efforts or preparations made to repair
 40 it; and these Defendants deny that he applied to them, or either of them, for means to carry on the works, nor was he kept in suspense by these Defendants, nor did he get up any ore, or put the furnace in blast, or procure wood or ore, during any time after he received the said lease, as in his said Bill he pretends; but these Defendants say expressly, that the said pretences are all utterly unfounded.

And this Defendant, Elias L'Hommedieu, answering for himself, admits it to be true, that in the month of April, after the execution of the said lease and agreement, the said Edward W. Pratt being in Hamburg, and this Defendant being desirous of satisfying himself
 50 whether there was any probability that he would be able to go on

with the works or comply with the agreement, he started to go with the said Pratt to the city of New York, to see the persons who he alleged proposed or were willing to advance him money, and that, on the way down, the said Pratt was arrested on a recognizance of bail, and detained by the officer at Jersey City, until this Defendant went over to New York with a letter from him to his friends; that he, this Defendant, delivered the letter to the persons to whom it was addressed, one of whom, this Defendant thinks, was Abner Jones, but that they refused to do anything for the said Pratt, and he was taken to Newark gaol, where he remained until August following, when he was discharged as an insolvent debtor, having first made and executed an assignment of all his property of every description, according to law, to Elias Freeman and David Jones, and in which said assignment are embraced about six hundred shares of the stock of the Hamburg Manufacturing Company and the lease of the property hereinbefore referred to, and from six to twelve hundred shares of the stock of the Clinton Manufacturing Company. 10

And these Defendants, in further answering, say, that from the time the said Pratt obtained the lease, to the time of his arrest and confinement as aforesaid, the property was unoccupied, the dam was in the meantime mostly carried away by the freshets in the winter and spring, the saw mill had been undermined, the floom to the works was partly carried away, and the blow-house seriously injured, and the whole property was rapidly going to decay and ruin; that in this state of things, the creditors, and these Defendants with them, became seriously apprehensive that the whole works would be ruined; and at the instance of some of them, Daniel Haines, esquire, and Robert Hamilton, esquire, went, as these Defendants are informed and believe, to Newark, to see the said Pratt, and ascertain what his views were and what he expected to do; and that the said Pratt then informed them that he had given up all idea of being able to do anything with the property, that he relinquished all claim to the same, that the creditors might take possession, and might as well have taken possession of it before, as he had abandoned all idea of doing anything in the matter for some time previous. 20 30

And these Defendants, in further answering, say, that they admit that they called a meeting of the creditors after the said Pratt had been confined in Newark gaol, and that most of them met, and that it was proposed they should put the furnace and works in repair and go on with the business, but that the majority of them objected to engage in the undertaking as one of hazard and uncertainty, and many of them declared they would rather lose their claims than encounter the risk of the enterprize, and that it was then proposed that a few of the creditors should join and carry on the business, and it was finally agreed that some such arrangement should be effected, if it could be brought about; and these Defendants wholly deny that the creditors, except the said Defendants, were opposed to the possession of the said property being taken, out of regard to any supposed rights of the said Pratt, who had utterly forfeited all rights under his lease by neglecting to proceed to put the property in order and carry on the 40 50

work, and by abandoning the same to dilapidation and ruin, in express violation of the covenants in his lease.

And these Defendants, further answering, say, that it having been ascertained that all prospect of the said Pratt doing any thing as aforesaid was finally at an end, the said Defendant, Joseph E. Edsall, having a mortgage upon the furnace tract, and being a holder to a very large amount of the claims under which the property had been sold, entered into and took peaceable possession of the property, about the time in the said Bill for that purpose mentioned and set forth, in
 10 his own right as mortgagee of the premises; and the said Defendant, Elias L'Hommedieu, afterwards, as purchaser at the sheriff's sale, and trustee for the creditors, and as holder of the Jones' mortgage, entered into and took possession peaceably of the premises, not included in the mortgage of the said Edsall, and also of the Clinton mine lot; and that they, the said Defendants, afterwards agreed to unite in putting the property in repair and the furnace in blast, and in carrying on the business; and they deny that the creditors objected to their taking possession, but insist, that, as far as they know, they acted in conformity with the wishes and desires of the
 20 said creditors, and they utterly deny that they turned out any tenants of the said Pratt, or took any such forcible possession as is pretended and charged by the said Complainants in their Bill; but, on the contrary, they say that the premises were abandoned by the said Pratt, that his rights under the lease had been forfeited, and that he had expressly declared to the accredited agents of the creditors, that he relinquished all pretensions of claim to the property.

And these Defendants, in further answering, expressly deny, that at the time they took possession of the said premises, there was a large quantity of charcoal or wood, or ore, or personal property, of
 30 various kinds and descriptions, or mules, oxen, horses, carts, sleds, or implements for raising ore, cutting wood, or working the blasts belonging to the said complainants, or any of them, upon the same, but on the contrary, they say, that all the personal property which had belonged to the said Hamburg Manufacturing Company, had been previously sold by the sheriff, or constables, and that most of the teams, wagons and tools, and other property, had been purchased, by the said Defendant, Joseph E. Edsall, and since, they have been in possession, they have obtained their ore for the blasts from the mine, have cut some wood on the premises, but most of their wood and coal,
 40 they have procured from lands of the said Defendant, Joseph E. Edsall, or other of the furnace property, or of other persons; and they admit, that they have now on hand, some pig iron, coal, ore and wood, and a number of mules, horses, oxen, waggons, carts, and teams; but they expressly deny, that any of them belong to the said company, or to the said Pratt, or were procured with their means; and on the contrary, these Defendants say, that they have, ever since they entered into the possession of the said property, carried on the business wholly, with their own resources, and that at their own expense, they rebuilt the dam, at an expense of about twenty-five hundred dollars,
 50 put up a coal house, rebuilt part of the floom, made other extensive

erections and repairs, and bought all the necessary personal property, to enable them successfully to carry on the said works, and keep them in operation.

And these Defendants, in further answering, deny, that since they have been in possession of the said property, they have, after paying all the expenses thereof, cleared, out of the first^d blast upwards of fifteen thousand dollars, and out of the second blast, more than ten thousand dollars, but, on the contrary, they say that the proceeds of the business, have not, as yet, met the outlay and expenses of carrying it on, and paid a fair compensation to these Defendants, for their trouble and investments. 10

And these Defendants deny, that they have ever refused to account with the creditors of the Hamburg Manufacturing Company, or that they have ever been called on to account by them, but on the contrary, they say, that they are ready, and have been at all times ready, to account with the said creditors, under the said agreement of the seventh of December eighteen hundred and thirty-eight, and they deny, that the said Pratt, has frequently applied to them for an account, as the said complainants have stated in their said Bill, but they admit, that in the month of January last, the said Pratt, called on the Defendant, Joseph E. Edsall, and wanted him to exhibit an account of their business, as trustee and agent, of the said Pratt, or the said Hamburg Manufacturing Company; and, that the said Defendant, Joseph E. Edsall, told him, the said Pratt, that neither he nor the said Hamburg Company, had any thing to do with the property or business, or had any right to any account whatever; and the said Pratt, about the same time, called on the Defendant, Elias L'Hommedieu, and made some similar demand, but that said Defendant, being sick, referred him to the Defendant, Edsall. 20

And these Defendants, in further answering, say, that they utterly deny, that they took possession of the said property, fraudulently, or in violation of any agreement, or of any lease, or against the express wish of the creditors, and they further deny, that the said complainants have any interest in, or claim to the said property, or any part thereof. 30

And these Defendants deny, all unlawful combination and confederacy in said Bill charged, without that, that any other matter or thing material for these Defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed or avoided, traversed or denied, is true to the knowledge, or belief of these Defendants; all which matters and things, these Defendants are ready to aver, maintain and prove, as this Honorable Court shall direct, and humbly pray, that they may be hence dismissed, with their reasonable costs and charges, in this behalf most wrongfully sustained. 40

JOSEPH E. EDSALL,
ELIAS L'HOMMEDIEU.
ROBERT HAMILTON,
Solicitor of Defendants.
STACY G. POTTS,
Of Counsel with Defendants. 50

New Jersey, to wit:

Joseph E. Edsall and Elias L'Hommedieu, the above named Defendants, being duly sworn, upon their oaths, say, that the matters and things, set forth in the above answer, so far as they relate to their own acts, and deeds, are true, and so far, as they relate to the acts and deeds, of any other person or persons, they believe them to be true.

JOSEPH E. EDSALL,
ELIAS L'HOMMEDIU.

10 Sworn and subscribed before me, at Trenton, this first day of March, A. D., 1842.

JAMES EWING,
Master in Chancery.

The several answer of Daniel Haines, one of the Defendants to the Bill of Complaint of the Hamburg Manufacturing Company, Edward W. Pratt, Joseph B. Nones, and others, Complainants.

This Defendant, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the Complainant's said Bill of
20 Complaint contained, for answer thereto, or unto so much and such parts thereof as he is advised is material for him to make answer unto, he answers and says:

That he admits that the said Hamburg Manufacturing Company in the Complainant's said Bill of Complaint named, was duly incorporated and organized in the manner and at the time and for the purposes mentioned in the Complainant's said Bill of Complaint; and that the said Hamburg Manufacturing Company became the purchaser of the real estate mentioned in the said Bill of Complaint, at the time and in the manner therein mentioned.

30 And this Defendant further admits, that the Clinton Manufacturing Company in the said Bill of Complaint mentioned, was also duly incorporated and organized, and became the purchasers of the real estate mentioned in the said Bill of Complaint to have been so purchased by them.

And this Defendant, further answering, says, that he is informed and believes, and therefore admits, that the said Edward W. Pratt became the purchaser of the principal part of the stock of the said several companies; but of what particular part, or for what consideration, or when, or of whom, and in what manner he purchased the
40 same, or what means he had of paying therefor, this Defendant has no knowledge, and therefore cannot state.

And this Defendant further admits, that on the fourth day of January, in the year of our Lord eighteen hundred and thirty-seven, the real estate of the said Hamburg Manufacturing Company was incumbered by several mortgages given to secure the purchase money of the same, or some part thereof; and that the said company were indebted to divers persons residing in the neighborhood of the

place of business of the said company in divers large sums of money, some of which were contracted before the organization of the said company for moneys borrowed and for labor done and goods and materials purchased by the owners of the said real estate, under the name of "The Hamburg Association," in contemplation of the organization of the said company, and for the benefit of the said company when organized.

And this Defendant, further answering, says, that on or about the twenty-fifth day of June, in the year of our Lord eighteen hundred and thirty-seven, at the request of several of the creditors of the said Hamburg Manufacturing Company, this Defendant went to the city of New York, for the purpose of getting the claims of the said creditors and his own secured by bond and mortgage, or otherwise; and that the officers of the said company expressly admitted the liability of the said company to pay the said claims, but declined giving any security directly to the said creditors, lest, as they allege, they might thereby release their right to be indemnified against those claims by Abner Jones and Henry Wilkes, or some other person of whom the said Edward W. Pratt had purchased his shares of the capital stock of the said company.

But the directors of the said Hamburg Manufacturing Company, at a special meeting called for the purpose, by a resolution, regularly passed, ordered and directed their President and Secretary to execute a bond and mortgage upon all their real estate in the sum of fifteen thousand dollars, to the said Abner Jones, to enable him to discharge the claims of the said creditors; as in and by the said resolution, duly entered upon the book of minutes of the said Hamburg Manufacturing Company, or a copy thereof, and to which for greater certainty this Defendant begs leave to refer, when produced under the order of this Honorable Court, will more fully appear.

And this Defendant further says, that, pursuant to the said resolution, the said company, by the said Edward W. Pratt, their President, and Joseph H. Pettis, their Secretary, duly executed under their corporate seal, and delivered to the said Abner Jones, their bond or obligation, bearing date on the twenty-sixth day of June, in the year of our Lord eighteen hundred and thirty-seven, in the penal sum of thirty thousand dollars, conditioned, among other things, for the payment of fifteen thousand dollars, in four equal quarterly payments, to be made on the twenty-sixth day of the months of September, December, March and June then next, with interest; and did also execute and deliver to the said Abner Jones, in due form of law, their indenture of mortgage upon all the lands of the said company to secure the payment of the money mentioned in the said bond; and that the said Abner Jones, to secure the payment to the said creditors of their several debts, on the same day, and in the presence, and by the consent of the President of the said company and of some of the directors, executed an assignment of the said bond and mortgage in the words and figures following, that is to say:

"This Indenture," made the twenty-sixth day of June, eighteen hundred and thirty-seven, between Abner Jones, of the city of New 50

York, of the one part, and Elias L'Hommedieu, of Vernon, in the county of Sussex, and state of New Jersey, of the other part, witnesseth: That whereas, the Hamburg Manufacturing Company have this day executed and delivered to the said Abner Jones their bond or obligation, in the penal sum of thirty thousand dollars conditioned, to pay the sum of fifteen thousand dollars, in four equal payments, at three, six, twelve and nine months from the date thereof, with lawful interest, to be paid at the times of making the said several payments; and also, conditioned for the performance of certain other
 10 acts therein mentioned; AND WHEREAS, the said Hamburg Manufacturing Company have also this day executed and delivered to the said Abner Jones their certain indenture of mortgage upon all the real estate of the said company, to secure the performance of the condition of the said bond or obligation, as by reference to the said bond or obligation and the said indenture of mortgage will more fully appear.

"Now, therefore, this indenture witnesseth: That the said Abner Jones, for and in consideration of one dollar to him in hand paid, and also for divers other good causes and considerations, hath granted,
 20 bargained and sold, and by these presents doth grant, bargain, assign, transfer and set over unto the said Elias L'Hommedieu the said bond and mortgage, and all the moneys due or to become due thereon; and also, all and singular the lands and premises with the appurtenances therein mentioned and described; and also, all the estate, right, title, interest, property, claim and demand of the said Abner Jones, of, in and to the same, and of, in and to every part and parcel thereof, subject to the right and equity of redemption of the said lands and premises mentioned in the said mortgage: To have and to hold the same, to him, the said Elias L'Hommedieu, his heirs and
 30 assigns, to his and their sole use and behoof forever.

"In trust, nevertheless, and to and for the full benefit and advantage of such and so many of the creditors of the said Hamburg Manufacturing Company, (excepting the debts contracted in the city of New York,) by whatsoever name the said company at the time of contracting said debts may have been called or known, as shall and do, in a reasonable time hereafter, duly assign and transfer the said claims to the said Abner Jones, and empower him to sue for and recover, or otherwise receive, the amount of the said several claims to his own use, but at his own costs and charges, and without any
 40 course to the said creditors; he, the said Abner Jones, giving to the said creditor a bond of indemnity against any charge or expenses whatsoever that may arise or accrue by reason of the collecting the said claims, and against all damages that may be incurred by reason thereof.

"In witness whereof, I have hereunto set my hand and seal, this twenty-sixth day of June, eighteen hundred and thirty-seven."

Which said assignment the said Abner Jones did, on the day of the date thereof, duly sign, seal and deliver to this Defendant, with instructions to fill a space, left therein for the name of the assignee,
 50 with the name of such person as the said creditors might select, and

to deliver the said assignment, together with the said bond and mortgage, to the person so selected.

And this Defendant, further answering, says, that the said creditors afterwards selected the said Defendant, Elias L'Hommedieu, for the assignee of the said bond and mortgage; and this Defendant accordingly filled up the said blank in the said assignment with the name of the said Elias L'Hommedieu, and delivered the same, together with the said bond and mortgage, to him, as in and by the said bond or obligation, and the said indenture of mortgage, duly proved and recorded in the office of the Clerk of the said county of Sussex, in Book M. of mortgages, folio 482, and the said assignment, now in the custody of this Defendant, and ready to be produced as this Honorable Court shall direct, and to which, for greater certainty, he begs leave to refer, will more fully appear. 10

And this Defendant further states, that soon afterwards, that is to say: in the month of July, in the year last aforesaid, the said Abner Jones came to Hamburg aforesaid; and this Defendant, for himself and on behalf of those persons for whom he acted as attorney at law and in fact as hereinafter named, and of several other creditors of the said company, tendered to the said Abner Jones an assignment and transfer of their several claims, and requested him to deliver to them, respectively, a bond or indemnity against any charge or expense that might arise or accrue by reason of the collecting said claims, and against all damages that might be incurred by reason thereof; and that the said Abner Jones declined taking any such assignment or delivering any such bond of indemnity, giving as a reason, that he was not then prepared so to do, but that when he wished the assignment of any of the said claims he would call upon the said creditors for the same; by means whereof, this Defendant humbly submits, the said assignment of the said bond and mortgage by the said Abner Jones to the said Elias L'Hommedieu became absolute, and vested in him a good and valid lien upon the lands of the said company in trust for the payment of the said debts out of the said city of New York, and subject only to the right and equity of redemption of the said mortgagors therein. 20 30

And this Defendant, further answering, says, that no part of the said mortgage money having been paid, and several of the creditors of the said Hamburg Manufacturing Company having suits at law pending against the said company, and about to take judgments thereon, on or about the twenty-ninth day of November, in the year eighteen hundred and thirty-seven, the said Edward W. Pratt, then acting as President of the said Hamburg Company, by and on behalf of the said company, entered into an agreement with certain of the creditors of the said company, and thereby, in consideration of the said creditors staying their proceedings at law, the said Edward W. Pratt agreed to deliver to the said Elias L'Hommedieu, the trustee of the said creditors, one-third part of the pig iron made in the furnace of the said company, from time to time, as it should be made, the nett proceeds whereof were to be applied by the said trustee to the payment of the claims of the said creditors secured by the mortgage 40 50

aforesaid given to the said Abner Jones and assigned to the said Elias L'Hommedieu in trust as aforesaid, in the order in which the said debts were in the said agreement mentioned, whereby the said bond and mortgage to the said Abner Jones, and the assignment thereof, and the said debts contracted before the organization of the said company, were again expressly recognized, and the payment thereof assumed by the said Hamburg Manufacturing Company, among which said debts were the claims of this Defendant, and of others against the said company as hereinafter stated, as in and by
 10 the said agreement, now in the custody of this Defendant, and ready to be produced and proved under the order of this Honorable Court, and to which this Defendant, for greater certainty, refers, will more fully appear.

And in pursuance of the said agreement, the said Hamburg Company did deliver to the said trustee pig iron, at the said furnace, to the amount, as this Defendant is informed and believes, of two hundred and seventy-one tons fourteen hundredths and two quarters, the nett proceeds whereof amounting to the sum of about five thousand dollars, as this Defendant is informed and believes, was applied by the
 20 trustee to the payment of the said debts, in the order and according to the terms specified in the said agreement; but that the officers of the said company neglected and refused to deliver any more iron upon the said agreement, by means of which breach of the said agreement, the said creditors who were yet unpaid were at liberty to enforce their claims at law at their pleasure, as they might have done before the said agreement was executed.

And this Defendant, further answering, admits, that some of the said creditors received some part of their claims in trade at the store of the said company, which such payments so made, together with
 30 the amount of a blacksmith account, of a small amount, against this Defendant, are all the payments which, to the knowledge and recollection of this Defendant, were made by the said company; but, by whom the means were furnished for carrying on the said furnace and supplying the said store, at the time the said Edward W. Pratt had the control thereof, this Defendant has no knowledge; but he believes that most of the supplies for the said furnace and the goods for the said store were furnished upon credit, or with the proceeds of the iron made by the said company, or both.

And this Defendant, further answering, admits, that John Broderick, esquire, then sheriff of the said county of Sussex, had in his hands to be
 40 executed several executions issued out of the Supreme Court of the state of New Jersey, and the courts of the said county of Sussex, against the said company, and by virtue thereof had levied upon the personal and real estate of the said Hamburg Company, and had advertised the same for sale; and that the said sheriff, John Broderick, esquire, at the same time, had several executions against the Clinton Manufacturing Company, by virtue of which he had advertised the real estate of the said Clinton Manufacturing Company, in the said county of Sussex, upon which there was a valuable bed of
 50 Hemotite iron ore; but what particular executions the said sheriff had

against the said Clinton Company this Defendant does not know, except an execution issued out of the Court of Chancery of this state, at the suit of Nathan Smith, Complainant, against John F. Winslow and others, Defendants, for sale of the lands and premises conveyed by the said Nathan Smith to the said John F. Winslow, and upon which are the ore beds of the said several companies, and upon which the said John F. Winslow had executed to the said Nathan Smith a mortgage, to secure the sum of about two thousand dollars, part of the purchase money of the same; and an execution issued out of the Inferior Court of Common Pleas of the said county of Sussex, at the suit of Joseph M. Brown and Robert Lewis, against the said Clinton Manufacturing Company. 10

And this Defendant, further answering, admits, that the sale of the said lands levied on by virtue of the said writs of execution, was adjourned for several times, at the instance and request of the said Edward W. Pratt, who alleged that he was negotiating a loan for the purpose of paying off the amount due upon the said several writs of execution; and this Defendant states, that while the sale of the said real estate was advertised, some of the creditors of the said Hamburg Manufacturing Company became fearful that the said real estate might be sold to their prejudice and their claims lost, as some few of the larger creditors in amount might unite to the injury of the lesser creditors, and they suggested the expediency of all the creditors uniting in the purchase of the property for their common benefit. 20

To this proposition some of the creditors readily, and others reluctantly, assented, while some declined it, unless the property might be profitably occupied and the works carried on without their embarking in the business of making iron; it was then suggested, that the premises might be rented out, or, perhaps, sold at private sale, and prevent the loss of a large part of the claims; and while the matter was a subject of discussion and reflection among the creditors, some person, but who, this Defendant does not now distinctly recollect, but he thinks the said Joseph M. Brown and Robert Lewis, or one of them, came to the office of this Defendant, and stated that the said Edward W. Pratt, or some person whom he would appoint, would probably agree to become the lessee of the said premises, if the said creditors should purchase the same; and afterwards the said Complainant, Edward W. Pratt, or some person on his behalf, but who this Defendant does not now recollect, asked this Defendant if an arrangement could not be made, by which the creditors should purchase the property and lease it to the said Edward W. Pratt, to which this Defendant replied, that the matter had before been spoken of, and he thought it might be done; the sale, however, which had been advertised to be made about this time, was adjourned; but from these suggestions, the creditors, as this Defendant believes, and therefore states, pretty generally concluded that it would be to their advantage to purchase the said property, particularly as they considered that the value of the Hamburg property would be greatly increased by the addition of the Clinton ore bed, the Hamburg ore 50

bed being then esteemed of little value ; but the terms upon which they should become the purchasers, and what disposition should be made of the property, was left undetermined, and was the subject of conversation, from time to time, for several weeks before the day of sale.

And this Defendant, further answering, says, on the fifth day of December, in the year eighteen hundred and thirty-eight, the day to which the said sheriff had adjourned the sale of the said Clinton property, this Defendant was attending the courts of the said county
 10 at Newton, and, on being informed that the sale had been adjourned to the next day, the sixth day of December, and that some arrangement between the said creditors was likely to be made, and that his aid was desired therein, he left Newton and went to Hamburg, the place of sale ; the whole business was then discussed, and David Ryerson, esquire, who was then present, informed the creditors, in the hearing of this Defendant, that he had come there to aid the said creditors, most of whom were his friends, and that he would make the attempt to raise, by loan, what money might be wanted to purchase the said property and satisfy the liens upon it ; and the sum
 20 of thirty thousand dollars was estimated to be a sufficient sum for that purpose ; and this Defendant distinctly recollects hearing the said David Ryerson state openly to the creditors, and he believes in the hearing of the said Edward W. Pratt, or of some of the persons acting with him, that he did not know that he could raise all the money ; that he could perhaps furnish a part himself, and would go to the city of New York and see what he could do there, and it might be necessary for him to go to Pennsylvania for it, and probably he would be obliged to negotiate it in several places, and that he would do all in his power to effect a loan ; and it was then again suggested,
 30 that the said Edward W. Pratt, or some person to be nominated by him, would be willing to take a lease of the premises, to which the creditors generally assented, if they became the purchasers, and if they could agree upon the terms of the lease ; and this Defendant believes, and therefore states, that it was also then proposed that the said Edward W. Pratt should have the privilege of purchasing the said property, upon payment to the said creditors of the amount of their claims and expenses ; whereupon a negotiation was entered upon between some of the said creditors and the said Edward W. Pratt, respecting the terms upon which he would lease the said
 40 premises ; and to give time for due consideration and a proper understanding of the matter, the sale of the said Clinton property was further adjourned, to take place at Newton aforesaid, on the said seventh day of December then instant.

And this Defendant, further answering, says, that the said Edward W. Pratt and many of the said creditors then went to Newton, and the terms upon which the said creditors would become the purchasers of the said property, and how they should dispose of the same, was fully discussed among the said creditors, during which discussion a great variety of propositions were made by divers of the
 50 said creditors, and a great diversity of opinion prevailed among them,

to reconcile which occupied nearly the whole of that night, and until nearly twelve o'clock the next day, and required all the skill and industry and patience of Robert Hamilton, esquire, and of this Defendant, then acting as counsel of the said creditors; but the result of all this labor and discussion was the agreement between the said creditors, bearing date the seventh day of December, in the year of our Lord eighteen hundred and thirty-eight, and particularly set forth in the Complainant's said Bill of Complaint, but, for greater certainty, this Defendant begs leave to refer himself to the said agreement, when produced under the order of this Honorable Court. 10

And this Defendant further states, that the terms of the last said agreement were settled by the said creditors by and among themselves, and not by and between them and the said Edward W. Pratt; and that the said Edward W. Pratt was not, to the knowledge and recollection of this Defendant, present with the said creditors during the said negotiation between themselves; and that some of the said creditors expressly refused to enter into any agreement or stipulation with him respecting the said property; but this Defendant admits, that it was generally expected and believed by the creditors, that the said Edward W. Pratt would become the lessee 20 of the said premises, if the creditors became the purchasers, or, as one of the said creditors expressed it, "Captain Pratt was to have the refusal of the lease," upon the terms agreed upon by the said agreement among the said creditors; and in that expectation, the said Edward W. Pratt was occasionally consulted about the terms of the said agreement between the said creditors, which was to contain and limit the terms of any future lease; and that he made several suggestions in relation to it, by the advice, as this Defendant believes, of his counsel, who, with him, occupied another room in the same house. 30

And this Defendant, further answering, states, that the said agreement was signed by him for himself, as a creditor of the said Hamburg Manufacturing Company, to the amount then of about one hundred and thirteen dollars, being a balance remaining due to him for lands which he had before sold and procured to be conveyed to the said John F. Winslow, for the said Hamburg Manufacturing Company, being part of the land in the said Bill of Complaint mentioned, and also for a balance of an unsettled account running between him and the said company, which said balance for lands, and balance of unsettled account, were subsequently reduced by the said company by goods sold and work and labor in the blacksmith shop and elsewhere, for this Defendant, to the sum of forty dollars and four cents, upon an account stated between them, on the fourth day of January, in the year eighteen hundred and thirty-nine. 40

And this Defendant further states, that the said company were indebted to him, at the time of executing the said agreement, in the further sum of eighty-five dollars and forty-nine cents, being a credit upon their books to William Longwell, assigned to this Defendant, before the execution of the bond and mortgage to the said Abner Jones; and also in the further sum of one hundred and twenty-six 50

dollars and twenty cents, being the amount of a claim of Henry T. Darrah against the said company, assigned to this Defendant before the execution of the said bond and mortgage, all of which amounts and dates are stated according to the best of the knowledge and belief of this Defendant, which said claims were repeatedly recognized by the said company and by their said President.

And this Defendant further states, that he was also acting as the attorney at law and in fact of Oakley & Davis, of Newburg, in the state of New York, of J. H. & J. S. Wallace, of Milford, in the state
10 of Pennsylvania, of John Laforge and Broadhead & Stoll, of the same place, of John L. Adams, since deceased, and of Jonathan Whitaker, of the said county of Sussex, and that, as such attorney, he signed the said agreement for and on their behalf, and thereby this Defendant, and the said persons for whom he so acted, became interested in the said real estate afterwards purchased by the said Elias L'Hommedieu, under the authority and instructions of the said agreement.

And this Defendant admits, that the other parties signed the said agreement as in the said Bill of Complaint is set forth, and thereby
20 also became interested in the said real estate purchased by the said Elias L'Hommedieu as aforesaid.

And this Defendant further states, that he does not know what was the expectation of the said creditors about the money being raised immediately and their debts paid, but for himself, as well as he can now recollect, he may have hoped that the money would soon be raised, but he did not expect that more would be raised than to pay off the purchase money and incumbrances upon the said property.

And this Defendant admits, that, pursuant to the terms of the said
30 agreement, the said Elias L'Hommedieu, as the trustee of the said creditors, and not of the said Edward W. Pratt, purchased the said Clinton property, in the said county of Sussex, for the sum of four thousand and forty-one dollars, or thereabouts; and that the same was afterwards conveyed to him by the said sheriff, as in the said Bill of Complaint is set forth.

And this Defendant admits, that a person with whom he was not then acquainted, but who was called Mr. Nones, and whom he afterwards learned was Aaron B. Nones, was present at the sale, but for
40 what purpose he came, or how much money he had with him, or whether he or any other person would have bid more money for the said property, under any circumstances, or whether any person was deterred or hindered, by persuasion, threats, or otherwise, from bidding, by any person or persons, this Defendant does not know, and cannot state; but he further states, that at the said sale, some two or more persons, besides the said Elias L'Hommedieu, bid upon the said property, but no one bid so much as the said Elias L'Hommedieu.

And this Defendant, further answering, admits, that the said Elias L'Hommedieu, as such trustee of the said creditors, and under the said
50 agreement, subsequently purchased at sheriff's sale, the real estate of

the said Hamburg Manufacturing Company, and that the same was conveyed to him by John Broderick, esquire, sheriff as aforesaid, as is in the said Bill of Complaint set forth, but for greater certainty, he begs leave to refer himself to the said deed of conveyance, when the same shall be produced under the order of this Honorable Court.

And this Defendant, further answering, admits, that the property so purchased at the said sale by the said Elias L'Hommedieu, was, and is very valuable, and affords great facilities in making pig iron; but as its value for that purpose greatly depends upon the extent of the ore beds upon it and upon many adventitious circumstances, any attempt to fix a certain value upon it, may be regarded as matter of speculation; but this defendant at the time of entering into the said contract by and between said creditors, was, and ever since has been, and still is willing to relinquish all his interest in and claim to said property, upon the payment of his said claim, and he believes that most if not all the said creditors were like minded. 10

And this Defendant, further answering, says, that he does not know, and he has no certain means of ascertaining the amount of debts due from the said Hamburg Manufacturing Company; but, it was understood by and among the said creditors, and he thinks by the officers of the said company, that the debts of the said Hamburg Manufacturing Company, together with the purchase money of the said Clinton property, and the prior incumbrances outstanding against both properties in said county of Sussex, would amount to a sum between twenty-eight and thirty thousand dollars; and he has since seen a statement which was supposed to be accurate, in which the amount exceeded thirty-two thousand dollars. 20

And this Defendant, further answering, says, that after the sale of the said premises as hereinbefore stated, and as soon as conveniently could be, this Defendant, at the request of the said Elias L'Hommedieu, prepared a lease of the said premises to the said Edward W. Pratt, the terms of which were intended to be in conformity with the agreement of the said creditors and instructions therein to the said Elias L'Hommedieu; and that in so doing, there was not to his recollection and belief, any unnecessary delay; but he recollects that on one occasion, and perhaps more, some of the creditors having urged the settlement and liquidation of all the claims, and particularly that of the said Joseph E. Edsall, before any lease should be executed, he, this Defendant, stated that to the said Edward W. Pratt, and urged the speedy settlement of all the accounts, and that of the said Joseph E. Edsall among the rest; and he admits that the said Edward W. Pratt called upon him several times respecting the said lease, and perhaps urged its execution; but he thinks the said Edward W. Pratt called upon him rather for the purpose of settling the terms of the said lease, and the articles of the sale of the said premises, than of urging their execution; and that the said Edward W. Pratt saw and knew that the trustee, the said Elias L'Hommedieu, was obliged frequently to confer with the said creditors about the terms of the said lease and agreement, and that much time was necessarily consumed in the preparation of them; and this Defendant thinks, that after the 50

drafts of the said lease and agreement for sale were completed, that one or both of them were taken by the said Edward W. Pratt to submit to his counsel, and that he subsequently returned the same with some written observations and suggestions upon them, by James Spear, Esq., of Paterson, who, this Defendant is informed, was consulted by the said Edward W. Pratt.

10 And this Defendant admits the said lease and articles of sale to be the same as set forth in the said bill of complaint, and that they were executed as therein stated, but for greater certainty, he begs leave to refer to the said lease and articles of agreement, or to the counter-
parts thereof, when the same shall be produced under the order of this Honorable Court.

And this Defendant admits that the said Edward W. Pratt, or some person with or under him, made the necessary arrangements to carry on the said works, but upon what funds or whose credit, he has no knowledge and cannot state, nor has he any knowledge of what advances, or whether any were made by the said Elias L'Hommedieu, under the said agreement.

20 And this Defendant was informed and believes, and therefore admits that no money was raised by the said David Ryerson upon the said property; but he was informed by the said David Ryerson, and believes that he, the said David Ryerson, went to New York and made very great exertions to raise the amount of money proposed in the said agreement, but failed in the effort; and this Defendant, at the request of the said trustee and some of the creditors, applied to several persons who were known to be capitalists, and usually loan large sums of money, and endeavored to negotiate a loan, but they all declined making a loan of any part of the amount required; and
30 this Defendant believes that every reasonable effort was made to raise the said sum of money without success; and he also admits that the said Elias L'Hommedieu and the said Edward W. Pratt did set out to go to New York to make some arrangement about the said property, and he was afterwards informed and believes that the said Edward W. Pratt, on his way to New York, was arrested for debt, and confined in the debtors jail of the county of Essex; and this defendant admits that he was present at a meeting of some of the creditors at Hamburg, but by whom called, he does not know, to consider of what disposition should be made of the said real estate, the said Edward W. Pratt, having as they believed, failed to fulfil the terms of the said lease, and
40 had forfeited the same; and the dam and works on the said premises being in a state of dilapidation, and exposed to great danger; and some one then proposed that the creditors should take possession of the property and put the works in operation, to which proposition others of the creditors objected, upon some on one ground and some upon others; but all the creditors except a few, objected to involve themselves in the hazards of that kind of business, and some said they would prefer to lose their claims; and this defendant thinks the said defendant, Joseph E. Edsall said that all the creditors would make too great a number to conduct the business, but that, with some four or
50 five men he could name, the business might be driven with advantage.

And this Defendant further states, that he himself stated to the said creditors that whatever might be their right to the possession of the said premises, it would not be acting liberally towards the said Edward W. Pratt, in his then unhappy situation ; and the said creditors thereupon requested this defendant, who was then shortly about to go to Trenton to attend the May term of the Supreme Court, to go or return by the way of Newark, and call on the said Edward W. Pratt, and ascertain his views and prospects in relation to the performing his contracts for the said property ; and this Defendant, on his return from Trenton, did stop at Newark, and being in company with Robert Hamilton, Esq., he invited him to walk up to the debtors prison to see the said Edward W. Pratt ; and they accordingly went and had an interview with the said Edward W. Pratt, and this Defendant stated to him that the creditors were anxious to know what he meant to do with the said property, and what expectation he had of doing any thing with it, and that it was in a state of dilapidation and needed immediate attention, and that some of the said creditors had been proposing to take possession, and carry on the works ; to which the said Edward W. Pratt replied, that he was perfectly willing that the creditors should take possession of the property and wished they had done so long before, and that he had given up all hope of doing any thing with it, and that he freely gave up all his right to it, and hoped the creditors would be able to make their money out of it, or words to that effect ; and this Defendant, on his return to Hamburg, informed the creditors there, of the result of his interview with the said Edward W. Pratt, but he does not now recollect of any further proposition being made to take possession of the property, but about that time or a few days after, he heard that the said Joseph E. Edsall, was in possession of the whole or some part of it, claiming it as a mortgagee in possession ; and soon afterwards he was informed that the said Defendant Elias L'Hommedieu had entered into partnership with the said Defendant, Joseph E. Edsall ; and he afterwards inquired the truth of the information, and was told by the said Defendant, Elias L'Hommedieu, that it was so ; and this Defendant then reminded the said Defendant, Elias L'Hommedieu, that he was the trustee of the creditors, and might, and perhaps would be held responsible for the use of the property, and suggested to him the propriety of so keeping his books and accounts as to be able to render a correct and satisfactory account, if required ; and this Defendant further states, that he has no knowledge of the manner or precise time in which the said Joseph E. Edsall and Elias L'Hommedieu, or either of them took possession of the said premises, or any part thereof, nor of what personal property there was thereon, nor by whom or by whose authority any of it was taken or used, nor has he any knowledge of what profits have been realized from the said furnace, except that during the first blast made by the said Defendants L'Hommedieu and Edsall, he has heard them say that their business was very profitable, and he has since heard them say that the second blast was not profitable.

And this Defendant, further answering, says, that he has no knowledge of any assignment or transfer by the said Edward W. Pratt to

the said Joseph B. Nones, as set forth in the said bill of complaint, and therefore refers to such legal proof thereof as may be produced upon that subject before this Honorable Court; but, he further says, that any such assignment and transfer could have been of no use or validity, inasmuch as any interest he, the said Edward W. Pratt, might have had in the said real estate was transferred to his assignees, David Jones and Elias B. Freeman, under the law passed for the relief of persons imprisoned for debt.

And this Defendant further states, that he verily believes that the
 10 said Edward W. Pratt, after the said sheriff's sale, had no interest whatsoever in the said property, except by virtue of the said lease and articles of sale, and that he rescinded the contracts contained therein, as well by his language herein before stated as by his conduct before and after his said imprisonment; and this Defendant says, that after the said Edward W. Pratt was liberated from confinement, he came several times to Hamburg, with divers persons, who he alleged were desirous of purchasing the said premises and works, and on those occasions the creditors, or such of them as could conveniently be assembled, were called together, and propositions made by the said Edward W.
 20 Pratt for the purchase of the said property, and on some or all of those occasions, the said creditors so assembled, have stated to the said Edward W. Pratt, that they would ask no more than to be paid their debts and expenses, and that if he would negotiate a sale, he could have the benefit of all he could get over the said debts and expenses; and at other times the creditors, or some of them, have offered to make for his benefit, a liberal discount from their several claims, if he could effect a sale; and in all such negotiations, the said Edward W. Pratt did not, to the knowledge or belief of this Defendant, assert any right or interest in the said premise; and this Defendant then thought, and
 30 still thinks he relied entirely upon the good will and liberality of the said creditors.

And this Defendant denies all unlawful combination and confederacy in the said Bill charged; without that, that any other matter or thing material for this Defendant to make answer unto, and not herein or hereby confessed, or avoided, traversed or denied, is true to the knowledge or belief of this Defendant.

All which matters and things, this Defendant is ready to aver, maintain and prove, as this Honorable Court shall direct; and he humbly submits himself to the judgment of this Honorable Court, and
 40 prays that if from the facts and circumstances of the whole case, a trust in the said Elias L'Hommedieu, for the use and benefit of the said Edward W. Pratt, shall result and be decreed, he prays that an account may be taken of the several and respective claims against the said Hamburg Manufacturing Company, and that the said Defendant Elias L'Hommedieu, as trustee of the said creditors, may be decreed to account for the rents, issues, and profits of the said furnace, and works, and real estate, and to pay over to the said creditors the amounts found to be due to them severally, by a short day to be limited by this Honorable Court, or in default thereof, that the said premises may
 50 be sold, and of the proceeds of such sale, the several claims against

the said company may be satisfied and paid, in the order of preference to which they are entitled.

But, if in the opinion of this Honorable Court, no such trust for the use of the said Edward W. Pratt shall result, this Defendant prays to be hence discharged with reasonable costs and charges by him, in this behalf most wrongfully sustained.

DANIEL HAINES,
Pro se.

New Jersey, ss :

Daniel Haines, the Defendant above named, being duly sworn 10 according to law, doth upon his oath, depose and say, that the matters and things set forth in the above answer, so far as they relate to his own acts, are true, and so far as they relate to the acts of others, he believes them to be true.

DANIEL HAINES.

Sworn to and subscribed, the 12th day of April, A. D., 1843, before me.

ROBERT HAMILTON,
Master, &c.

The Common Replications were put in. 20

Jan. 20, 1843, Decree pro confesso, was entered against all the Defendants except Elias L'Hommedieu, Joseph E. Edsall and Daniel Haines.

Depositions of Witnesses :

April 4, 1842.

Aaron B. Nones, of the city of New York, a witness produced on the part of the Complainants, being duly sworn, deposeth and saith : I have seen Joseph E. Edsall's handwriting, and think I have seen him write ; I should think from that knowledge, I would recognize his handwriting if I were to see it : witness being shown a paper marked 30 exhibit A., on the part of the Complainants, says, I believe that to be Joseph E. Edsall's handwriting ; said exhibit purports to be a letter from Joseph E. Edsall to Edward W. Pratt : witness being shown a paper purporting to be an affidavit of J. E. Edsall, before William T. Anderson, on the 19th August, 1837 ; says, he believes the signature of J. E. Edsall thereto, is in his own proper handwriting ; said affidavit is marked exhibit B., on part of Complainants : witness being shown another affidavit, dated August 22d, 1837, says, the name of J. E. Edsall thereto, is his own proper handwriting ; said affidavit is marked exhibit C., on part of Complainants ; a paper marked exhibit 40 D., on part of Complainants, is admitted by J. E. Edsall, to be certified in the proper handwriting of Elias L'Hommedieu, and the sig-

nature to the certificate is his signature; Joseph B. Nones, one of the Complainants, is a brother of witness: witness knows the works of the Hamburg Manufacturing Company, in the county of Sussex; knows the Hemotite ore bed, in the county of Sussex, from which said company was supplied with ore; was present when the sheriff sold that ore bed, and also when the said company's real estate was sold: witness thinks it was in the early part of December, in the year 1838, that said sales took place: witness then resided in the city of New York; the sales took place in Sussex county, and on different

10 days: witness went from New York to Sussex county for the purpose of attending those sales; went in company with Edward W. Pratt; went for the purpose of purchasing the property if it became necessary; believes the ore bed was advertised to be sold on the fifth of December, 1838; Joseph E. Edsall and Elias L'Hommedieu were present on that day; Edward W. Pratt was also there; also Daniel Haines; also Robert A. Linn; also Robert Lewis and Joseph M. Brown; the sale did not take place on that day, but was adjourned for a day or two; witness understood from J. E. Edsall, and Elias L'Hommedieu, and several other creditors, that the sale was adjourned in consequence of

20 an arrangement entered into between the creditors and Edward W. Pratt, respecting the sale of the property: witness does not recollect mentioning to J. E. Edsall or Elias L'Hommedieu particularly, why he went up; but witness made no secret of why he did go: witness says it was generally known and understood there, why he did go; he was asked by several if he came to purchase the property, and answered "yes"; there was, on the day the sale was advertised to take place, a meeting of persons, said to be the creditors of the Hamburg Company, and Mr. Pratt, of considerable duration; Mr. Edsall and L'Hommedieu were present with the creditors; during that meet-

30 ing, witness and others were waiting in expectation of the sale: witness was not where the meeting was held; he understood it to be a meeting confined to Edward W. Pratt and the creditors; immediately after that meeting broke up, Edward W. Pratt submitted to witness a proposition in writing, said to have been made to him at that meeting. [*The above evidence was objected to by Mr. Hamilton on the part of Defendants.*] Witness saw Edward W. Pratt come out of the room where the meeting was held, with the paper in his hand; after the meeting broke up, witness had a conversation with Mr. Edsall, L'Hommedieu, and several of the other creditors, respecting what

40 took place at that meeting; Mr. Edsall and L'Hommedieu told witness that they had an understanding with Edward W. Pratt respecting the sale of the property; they told witness the sale had been adjourned for a day or two, to give Mr. Pratt an opportunity of reflecting upon the proposition: witness thinks the paper Mr. Pratt handed to him, was in the handwriting of Daniel Haines: witness does not know what has become of that paper; he took a copy of it on the same day: witness being shown a paper marked exhibit E., on part of Complainants, says, that is an exact copy of the original paper handed to him by Mr. Pratt; it is in witness' handwriting:

50 witness had a conversation with Mr. Edsall, L'Hommedieu, and

several others, respecting the contents of that paper: witness stated prior to the sale, and it was known, that if an arrangement was made between the creditors and Mr. Pratt, witness would not bid at the sale: witness thinks it was two days after that meeting of the creditors, that the ore bed was sold; this meeting of the creditors was at Hamburg, and the sale was adjourned to Newton; before the sale of the mine tract, or ore bed, witness distinctly understood that an arrangement had been entered into between Edward W. Pratt and the creditors, by which a certain person was to purchase the ore bed or mine tract; Elias L'Hommedieu was to be the purchaser: witness 10 understood this from Mr. Edsall, L'Hommedieu, and others; it was in consequence of that arrangement, that witness did not bid on the property; before the sale, witness had been to the ore bed and examined it, with a view to ascertain its value, and had satisfied himself on that subject; at the time of the sale, witness from information he had obtained, estimated the property to be worth one hundred thousand dollars: witness had conversed with Mr. Edsall and L'Hommedieu respecting its value; and in making the estimate, relied more particularly upon what Mr. Edsall told him, than what any one else told him; when the sheriff sold the ore bed, Joseph H. Pettis, of New 20 York was present, and witness thinks bid upon the ore bed: witness does not know why Pettis commenced bidding; but while he was bidding, witness went to him and told him it was foolish for him to bid, for an arrangement had been made with the creditors, and he, Pettis, knew what the arrangement was. (*Conversation objected to*)

Witness interfered and Pettis stopped bidding: witness recollects the fact of Capt. Pratt's calling Mr. Pettis out and speaking to him respecting his bidding, and witness thinks Mr. Edsall and L'Hommedieu were present, that is witness' impression; the amount of what Pratt said, was that Pettis knew what the arrangement was, and 30 Pettis' bidding was only hurting Pratt; at a subsequent day of the same month, the Hamburg property was sold; and all was sold under the same understanding: witness recollects while he was up there, hearing about a loan for thirty thousand dollars, to be made on the property: witness understood distinctly, from Mr. Edsall, L'Hommedieu, and others, that the property was to be sold, and Mr. L'Hommedieu was to buy it, in order to perfect the title and enable him to make a mortgage; the sum stated to witness was thirty thousand dollars, which sum, it was said, would be sufficient to pay off the debts of the company, and to give Capt. Pratt two thousand dollars, 40 with which to carry on the works; the property was to remain in possession of Pratt, and after the debts were paid, the property was to be re-conveyed to Capt. Pratt: witness saw David Ryerson there, and heard him speak about this loan; but does not remember that it was in the presence of Edsall and L'Hommedieu: witness heard Ryerson speak of it the same afternoon the arrangement was made between the creditors and Pratt; there was a meeting of creditors at Hamburg the next day after the first meeting at Hamburg, and it was on one of those days, that witness heard Ryerson speak of that loan, at Hamburg; Mr. Ryerson confirmed to witness, what witness had 50

heard from others, that Mr. Ryerson was either to loan, or procure a loan of thirty thousand dollars. (*Objected to what Mr. Ryerson told witness respecting the loan.*)

Witness has had conversation with Mr. Edsall since the time above spoken of; the amount of which was, that Edsall referred to the agreement, and regretted it had not been executed: witness understood Edsall then, as he had always understood him, that when Capt. Pratt complied with the lease, the property was to revert to him: witness recollects distinctly of having heard from Mr. Haines, Edsall, and several other of the creditors, that the reason why the clause for the lease to Capt. Pratt was not inserted in the agreement, was because it would show a collusion between Pratt and the creditors to the agreement, and vitiate the sale: witness knows that Capt. Pratt requested them to execute an agreement to give him a lease and the right of redemption, prior to the sale; and they declined for the reasons witness has stated.

Cross examination on part of the Defendants.—When witness went to attend the sale, he had about eleven or twelve thousand dollars with him, and authority to draw for as much more as he wanted:

20 witness don't know that he could state the amount nearer than he has stated it: witness don't know whether Capt. Pratt owed witness' brother any thing at that time; believes Pratt owes his brother since that time: witness don't know the precise amount of money Pratt owes witness' brother, understands it is a large amount; the debt arose at different periods; can't say how long since, nor how lately; witness can't tell how the debt arose, nor the transactions on which it is founded; neither Pratt nor witness' brother have told him how the debt originated: witness is acquainted with such of his brother's affairs as he tells him of; and with such as he does not tell

30 him of, witness is not acquainted with; he frequently tells witness some of his pecuniary matters: witness was not in the room at the meeting of the creditors of the Hamburg Company: witness can't name who asked him what his object was in coming to Hamburg, as witness was a stranger there; but several of them were pointed out, as creditors of the company, to witness; I presume the reason why Edsall and L'Hommedieu stated to me the object of adjourning the sale at Hamburg, was because they as well as others, had heard and knew the object of my being there; as it was talked of, I believe, in the room among the creditors, they each stated it to wit-

40 ness, but whether they were both together at the time, witness can't say; others also stated to witness what had been agreed upon at that meeting: witness thinks Mr. Haines told him the same thing; there were others; the creditors generally told witness; heard it from Mr. Brown also; thinks Mr. Holcombe told him the same thing; in conversation with Mr. Edsall and L'Hommedieu, and Mr. Holcombe and several other creditors, whose names witness did not know, who said it was a first rate arrangement for Pratt, witness said he would not bid: witness had conversations with Edsall and L'Hommedieu, both at Hamburg and Newton: at the times witness had the above

50 conversations, he don't know whether Edsall and L'Hommedieu

were together or not, or whether he had the conversations with them separately; at Newton witness recollects speaking with Col. Edsall alone; at these conversations there were other persons present; at Hamburg the room was full, but the conversation was had apart; Capt. Pratt was present at some of the conversations: witness did not know L'Hommedieu before he went there to attend the sale; nor did he know Col. Edsall; Pettis bid on the property, but whether to an amount exceeding the executions, witness cannot say; witnesses impression is, he did not; but cannot say of his own knowledge: witness thinks Pettis did not make the bid next to the last on the property: 10
 witness does not know who made the bid next to the last; at the sale, Pratt called Pettis apart from the place where they were selling; at that time L'Hommedieu was near enough to make a bid: witness believes that Pratt did not call L'Hommedieu and Edsall aside with Pettis; we were all within a few feet of each other, and I suppose Edsall and L'Hommedieu heard what Pratt said to Pettis, as witness heard it; after the adjournment of the meeting of creditors at Hamburg Edsall and L'Hommedieu stated the particulars of the loan, and again at Newton, Mr. David Ryerson told witness about the loan; Mr. Pratt was present at the time; witness don't remember whether 20
 any one else was or not; thinks not: witness had had an introduction to Ryerson, by Pratt, at that time: witness don't know of Pratt's being in negotiation with L'Hommedieu and Edsall for the purchase of the property since then: witness saw Col. Edsall write at Newton, at the time of the sale; witness won't be positive, but thinks he has seen him write at Hamburg: witness saw Edsall go to the desk and write; has also seen his signature to official documents, as clerk of the county of Sussex; Edsall wrote upon some business connected with the matter in hand, when he wrote at the desk: witness did not look over his shoulder to see; it was not upon any business with wit- 30
 ness: witness has seen certificates of searches of titles to property, with Edsall's signature thereto: witness should be extremely sorry if he did not believe in a state of future rewards and punishments: witness would scarcely think that was a question to be asked him.

Direct examination.—Witness distinctly understood at the time, that L'Hommedieu was to purchase the property for the benefit of Pratt and the creditors, and to perfect the title in L'Hommedieu; witness was prevented from purchasing the property on account of that understanding; and should have purchased it if it had not been for that understanding.

Franklin Holcombe, a witness called on the part of the Complain- 40
 ants, being duly sworn, deposeth and saith: Witness was employed and connected with the Hamburg Manufacturing Company, in Sussex county, a portion of the year 1838, as agent for the company; was living at Hamburg in 1838, when the sheriff advertised the ore bed for sale; and was present at the public house where the property was advertised to be sold, when the meeting of the creditors was held there; and saw Capt. Pratt there, Aaron B. Nones, Elias L'Hommedieu, Joseph E. Edsall, Brown, and other creditors of the company; recollects the fact that the sale was adjourned from Ham- 50

burg to Newton for a day or two; witness understood Nones had come there to be a bidder at the sale; so far as witness understood, it seemed to be known that Nones was there for that purpose; witness understood Pratt and the creditors were about effecting an arrangement, and that was why the sale was postponed; at the time witness understood what the arrangement was; at the time of the adjournment to Newton, witness understood that a loan was to be obtained on the property, and a lease was to be given to Pratt; understood Pratt was to have a right of redemption to the property, to be inserted in an article; understood Doc't. L'Hommedieu was to be the purchaser; the amount of loan talked of was to be in its extent thirty thousand dollars, or so much less as the debts of the company should prove to be; witness understood L'Hommedieu was to purchase the property in trust, for the purposes mentioned: the facts witness has mentioned were generally talked of among the creditors, Mr. Brown, Robert Lewis, Mr. Pratt, Col. Edsall, Henry J. Simpson, Wm. Simpson, Francis Hamilton: witness had no conversations direct with L'Hommedieu on the subject, but heard him make some statements on the subject; Doc't. L'Hommedieu stated he had agreed to give a lease to Edward W. Pratt for the property; witness has no strong, distinct recollection of it, but his impression is, he saw Col. Edsall in conversation with Mr. Nones; witness was present at the sale at Newton a day or two afterwards, and understood the sale took place on the terms witness had heard of at Hamburg; had no conversation with Doc't. L'Hommedieu on the subject, but had considerable conversation with Col. Edsall at Newton; at which Col. Edsall stated to witness the understanding under which the property was to be sold; Colonel Edsall stated to witness that Pratt had consented to the sale on the terms talked of; Col. Edsall stated, that he and some of the creditors preferred giving the lease to witness, because he was practically better acquainted with the business than Pratt was; Edsall afterwards said, that on consultation with the creditors, his, Edsall's proposition, was rejected, and Pratt's name put in the lease; witness understood the principal object had in view in selling, was to secure their claims, by uniting and perfecting the two titles in one person; witness means by the two titles, the Hamburg and Clinton Companies; the ore bed belonged to the Clinton Company, but the Hamburg Company derived their ore from it; witness don't know that he had any distinct conversation with Edsall as to who was to make the loan, but that was a matter generally understood; witness understood the loan was promised; a certain gentleman said, in witness' presence, he would undertake to procure the loan, if the title could be perfected in one person; David Ryerson was the person; he said the money was to be secured by bond and mortgage on the property; the creditors were to unite, in proportion to their shares, in that bond, to guarantee the payment of the money; witness understood this arrangement prevented Nones from bidding at the sale; it was considered, that if there was any written agreement between Pratt and the creditors, prior to the sale, it would vitiate the sale; it was pressed, on the part of Pratt, to have the

agreement executed previous to the sale; witness supposes Pratt to have relied on their verbal promises, and on their honor; Pratt requested witness a very few minutes before the sale, to go and get from the creditors a renewal of their promises; and they began crying the sale before witness had seen them all; witness spoke to Joseph M. Brown and William Simpson, when they commenced crying the sale, and witness desisted going to any more; Mr. Brown said the agreement with Capt. Pratt should certainly be carried into effect; it was the understanding the Hamburg Company should go on and settle with the creditors, in order to ascertain the amount of the 10
 respective debts; at that time witness had a commission of agency from the company, which had not expired or been in any way annulled; witness and Pratt went on with several of the creditors to ascertain the amount of the respective debts; witness believes that Capt. Pratt, in the company's office, in the presence of witness, did call on Col. Edsall for his account; there was considerable talk about Edsall's account; he said Horace, his son, was making it out; he never rendered his account to witness' knowledge; he said Horace had made it out up to some particular date, and he wanted it examined and passed upon up to that date; witness thinks Pratt waited 20
 at Hamburg some days for the purpose of getting Edsall's account; witness thinks the clerk of the company was sent to Edsall to get his account, but cannot say how often; the Hamburg Company had a store on their premises, where they sold dry goods, groceries, &c.; Colonel Edsall had a running account with the company for two or three years; he purchased a pretty considerable quantity of iron from the company; also a pretty good account for store goods; he was in the habit of giving orders on the store; on one of the company ledgers the account against Edsall, witness thinks, was something like a thousand dollars; on another ledger there should be an account 30
 for a boat load of iron, twenty-five or twenty-seven tons; the iron must have been worth about thirty dollars per ton; there were other charges against him on that ledger; there was another account for iron against Edsall, which should be upon that ledger, for about seventy or eighty tons; Edsall had other iron, at one time about fifty-three or fifty-five tons; knows the fact of Edsall and L'Hommedieu taking possession of the property of the Hamburg Company; witness recollects Mr. Pettis' bidding at Newton for the ore bed; did not hear L'Hommedieu and Edsall say anything to Pettis about his bidding; but Edsall requested witness to go to Pettis, and stop 40
 his bidding; and also requested Pratt to go to Pettis, and Pratt did go and stop his bidding.

Cross Examination—Witness' impression is, Pettis bid the property up to an amount exceeding the two executions; the property had been set up some weeks previous, and adjourned upon a bid, and, according to recollection of witness, it was Richard R. Morris' bid; witness is under the impression there were but two bidders, Pettis and L'Hommedieu; and witness' impression is, Pettis bid next to the last; from information, witness should say Col. Edsall furnished the principal supply of coal for the first blast the company made; fur- 50

nished some wood ; has heard it said, he furnished the company with one team and one waggon, a three horse team ; the company got grain, and flour, and feed at his mill ; the company never made out their account in full against Edsall, to witness' knowledge.

Direct Examination—At Newton, the evening before the sale, Col. Edsall proposed an arrangement to have L'Hommedieu bid off the property without any arrangement at all as to the said sale, and to have three or four join in the arrangement, and requested witness to communicate it to Capt. Pratt, and see if he would go into it ; said
10 the object was to transfer the property and cut off all the other claims ; Capt. Pratt was to come in for a share ; the arrangement was to be effected by breaking up the other arrangement ; L'Hommedieu called witness aside, and asked him if Edsall had made a certain proposition to him, that he thought very well of the proposition and he was willing to go into the arrangement ; witness started to communicate it to Capt. Pratt, and found he had gone to Lawyer Thomson's ; and witness placed himself in a situation by which he supposed he should see him ; but witness missed him ; and soon after saw Edsall, who said to witness, "I thought you said you'd see Capt. Pratt ; I
20 have seen him, and spoken to him, supposing you had communicated to him ;" the Captain said he'd think of it ; but that the Captain did not receive the proposition very favorably.

April 5, 1842.

Cross Examination resumed—The proposition of Col. Edsall was substantially, that four were to join in the purchase ; on the 24th September, 1838, there was a sale of the personal property of the Hamburg Company, consisting of teams, waggons, wood, charcoal, &c., necessary to carry on the furnace, the furnace then being in full blast ; Col. Edsall purchased most of this personal property, and told
30 witness he had made arrangements with the other purchasers, so that he had control of pretty much all the personal property ; Col. Edsall made a verbal arrangement with Pettis and witness, by which they were to have the stock, wood and coal, teams and tools, to carry forward the blast ; and that half of the iron made, from day to day, was to be delivered to Col. Edsall, until the amount of iron received should equal the amount that he had bought the personal property in for ; when the balance of all that personal property was to be set over to witness individually ; we proceeded to use the stock and to deliver iron from day to day ; afterwards a written consent was
40 given by witness, that the iron Edsall had received, and should receive under that verbal contract, might be applied by him to the credit of the Hamburg Company ; witness consented that the iron that had been received by Col. Edsall under the verbal agreement, and should be received under the written agreement, should go, as far as it would, to satisfy the claims of Edsall against the Hamburg Company ; the iron spoken of, as delivered under these agreements, witness supposes, amounted to seventy or eighty tons, and which is the same parcel of iron above spoken of by witness ; the written agreement spoken of by witness, was brought to witness by Mr.
50 Edsall and Hamilton, and that was a consent on witness' part that

Edsall might apply the iron as above described ; the paper was presented to witness at the back office in Hamburg ; witness went into the front office and signed it, and Hamilton signed it as a witness ; witness had never talked the matter over before with Col. Edsall ; it was perfectly new to him ; there was nothing said between witness and Edsall at that time as to how Edsall was to get his pay for the coal used at the furnace ; witness' recollection is not distinct enough to say the contrary that the whole proceeds of iron received by Edsall were to go to defray his claims against the Hamburg Company ; a part of the avails of the fifty-five tons of iron the Hamburg Company had the benefit of ; but witness cannot give any very definite idea about the proportion ; witness has no recollection of hearing the agents of the company state that Edsall was security to the company for five thousand dollars to Carpenter, or for any such amount ; witness was present at the office of the company when Carpenter made a claim upon Edsall for some securityship for the company ; the witness and Col. Edsall have not been on sociable terms formerly ; he had a suit against me ; witness and Edsall are now on good terms ; witness is not sensible of any feelings that would influence his testimony against Edsall.

Joseph M. Brown, of Newburg, and state of New York, a witness called on part of the Complainants, being duly sworn, deposeth and saith : In December, 1838, witness was one of the firm of Brown & Lewis ; that firm was creditor of the Hamburg Manufacturing Company, and also of the Clinton Manufacturing Company, at that time ; the firm was one of the party to an agreement between the creditors of the Hamburg Manufacturing Company ; thinks it was in December, 1838 ; witness has seen Elias L'Hommedieu write, and knows his signature ; the signature to a paper, marked exhibit F., on part of Complainants, is his ; witness has not seen the agreement since its execution ; witness was present at a meeting of the creditors at Hamburg, in December, 1838 ; and recollects that the property was advertised for sale at Hamburg in 1838 ; the creditors had a meeting on that day, at which witness was present ; Edward W. Pratt was there ; before the property was sold, there was an agreement that it should be set up and sold under an execution which Brown & Lewis had against the Clinton Company ; the written agreement was drawn up at Mr. Haines' office in Hamburg, and it strikes him very forcibly it was signed there ; previous to the sale by the sheriff, there was no written agreement with Mr. Pratt by the creditors ; but as far as witness understood, Capt. Pratt had the right to redeem the property if he complied with an agreement which was to be executed after the sale ; the firm of Brown & Lewis had a judgment against the Clinton Company, and under that judgment an execution was issued, and under that execution the ore bed was advertised to be sold ; witness saw Mr. Pratt in New York ; Mr. Pratt wished witness to adjourn the sale ; witness replied that witness was only one of the firm of Brown & Lewis, and could not adjourn it without Lewis' consent ; but if witness could adjourn it, he would be willing to do so, provided he could be satisfied the money

would be paid; Mr. Pratt then wished witness to go up to Hamburg with him; and witness consented to do so, after Pratt had referred him to Morris Robinson, and Silas M. Stillwell, and W. C. Boardman, who gave witness the strongest assurances the money would be raised by a loan; and Mr. Boardman said the loan would come from the Bank of the United States; witness went to Hamburg with Mr. Pratt in company with Mr. Nones; when witness got there, inquiries were made of witness respecting the prospects of raising the money; witness replied that Pratt had failed to raise the money,
 10 and wanted a still further adjournment, if it could be obtained; some of the creditors told witness it would be all folly to wait any longer, as the sale had been adjourned two or three times already; about this time the proposition of Mr. Ryerson was made; Mr. Ryerson proposed that, if the property could be so arranged as to be security to him, he would undertake to raise the money; it was then suggested, either by some of the creditors, or by Mr. Ryerson or Mr. Haines, that the property should be sold and bought in by Mr. L'Hommedieu, for the purpose of perfecting the title in L'Hommedieu, in order that he might make a legal incumbrance on it as
 20 security to Mr. Ryerson; witness then suggested, that in case it was sold, Mr. Nones might buy it in; witness thinks about this time he was asked by some of the creditors if he knew Nones, who he was, and what he was, and whether he had anything to buy it in with or not; witness replied, as near as witness recollects, that he knew little or nothing about Mr. Nones, except that witness had seen him at his, Nones' brother's office a few times; and that when about leaving the office to go to Hamburg, Mr. Pratt and witness stood near the door of the hall, when witness inquired of Mr. Pratt what they were waiting for; who replied that Mr. Nones was waiting
 30 for his brother to get some money; Mr. J. B. Nones came in and gave his brother some money, but what amount witness does not know, and then Mr. Pratt replied they were ready to go.

It was talked over then among the creditors, that it might be Nones had the money to buy it; and then Haines suggested it should be made known to Captain Pratt in some way what Mr. Ryerson had proposed to do, and why it was advisable to have the property sold; this was to prevent Mr. Nones' buying the property and frustrating the arrangement; these matters were communicated to Mr. Pratt; witness don't know whether Pratt interfered to prevent Nones
 40 from bidding; but Pratt and Nones were talking together; the sale was then adjourned for a day or two to Newton; witness supposed the adjournment was made to give the creditors time to perfect the arrangement, because there was but little time left, and it was feared Nones would buy it in; witness did not understand that Mr. Pratt was to remain in possession of the property; Doct. L'Hommedieu was to become the purchaser, and take the title and possession of the property, and then he was to make a bond and mortgage to David Ryerson to secure the payment of a loan; and Mr. L'Hommedieu was to give Capt. Pratt a lease of the property; witness understood
 50 Pratt was to have the right of redeeming the property, on complying

with that lease; witness had not, and presumes no creditor had, any object in view except to secure their debts; this understanding was had previous to the sale, and to keep Mr. Nones from bidding; when speaking of the creditors, witness includes among them Mr. Edsall and L'Hommedieu; Robert A. Linn was one of the creditors, whom witness thinks had no judgment and execution; it was understood that L'Hommedieu was to act as trustee for the creditors.

When the property came to be sold, witness supposed it would all be sold together; but, contrary to that expectation, only part of the property was sold; the part set off by the Clinton Company to the Hamburg Company, upon which Robert A. Linn, brother-in-law of David Ryerson, had a judgment or mortgage, was not sold; (witness is now speaking of the first sale;) witness thinks it would all have been sold, but for the judgment or mortgage of Robert A. Linn; witness thinks it would all have been sold if any person but Linn had held that claim; by the way the thing was managed, by selling only a part, which left Mr. Linn's claim the first lien, witness thinks was the reason Mr. Ryerson made no effort to make the loan.

A paper, marked exhibit G., on part of Complainants, being shewn to witness, he says he thinks it is in the hand-writing of Elias L'Hommedieu; witness understood that if Capt. Pratt had effected his loan in New York, the title would have been in Pratt in fee simple, with no incumbrance but the mortgage upon it; but as it was, L'Hommedieu would hold the property, to be deeded back by L'Hommedieu to Pratt, when Pratt complied with the agreement entered into by Pratt with L'Hommedieu; Mr. Edsall and L'Hommedieu have both told witness they were in possession of the property; L'Hommedieu has never rendered any account of his trust, and never offered to do so to witness; witness called upon L'Hommedieu two or three times to bring the matter to a close; Mr. L'Hommedieu offered to buy witness' claim, and offered him fifty cents; and Mr. Edsall also offered to buy at fifty cents; two years ago this summer, Mr. Edsall met witness in Broadway, and offered him twenty-five cents for his claim; at first, witness, when in Broadway, offered to take fifty cents, and Edsall offered twenty-five; at the time of the sale of the property, witness had an opinion as to the value of the property; witness thought if the ore bed turned out as it was expected, it would be worth twenty thousand dollars; witness formed his opinion from Mr. Fowler's opinion, who thought if it held out as it looked, it would be worth ten or fifteen thousand dollars.

Cross Examination on part of the Defendants.—The execution of Brown & Lewis was upon the same property that Robert A. Linn's mortgage was; the Clinton Company, as witness thinks, had not sold part of the mine property to the Hamburg Company before Brown & Lewis obtained judgment; witness thinks the sale of the mine tract was not made also at that time, upon an execution of Nathan Smith's; Smith's execution was on a foreclosure of mortgage, and was larger than Brown & Lewis'; witness recollects Smith was applied to, and refused further to adjourn the sale; he had twice adjourned it on his execution; the creditors of the Hamburg Company

had two or three meetings some time previous to the sale, at which meetings it was talked of buying the property in, and of appointing an agent to do so, and to carry on the works; these meetings were held previous to the fifth of December; witness understood that L'Hommedieu was trustee in holding a mortgage for all the Hamburg creditors; thinks it was a mortgage given by the Hamburg Company to Abner Jones, and by him assigned to L'Hommedieu, as trustee; the agreement, as witness understood it, was that L'Hommedieu was to buy in the property, as trustee for the creditors, and to raise
 10 money upon it, if he could, sufficient to pay off the creditors; and witness felt sanguine, from what Mr. Ryerson said, that the money would be raised, without any if's or and's about it; witness understood Mr. Ryerson to say, that if a legal incumbrance could be given on the property, he had no hesitation in saying, a loan of that kind could be raised; and Mr. Ryerson said, he had about six thousand dollars in his hands, and had no doubt he could raise the rest through his friends in New York; Mr. Ryerson expressed his surprise that Pratt had not been able to make the loan; the whole agreement and understanding of the creditors was reduced to writing after the sale; but witness does not wish to be too positive about
 20 that; he is sure it was the same day; the impression of witness now is, the agreement was signed in the morning before sale; witness recollects that the majority of the creditors refused to give Mr. Pratt the refusal of the lease in the contract drawn up, and signed by the creditors.

When witness called upon Mr. L'Hommedieu, he wished L'Hommedieu to show him a statement of what he had done in relation to settling up the affairs of the Hamburg Company; L'Hommedieu said they would have to call upon the creditors for an assessment,
 30 to pay up some debts against the property; witness told L'Hommedieu he wanted him to make out his statement and bring the matter to a close, and witness was ready and willing to pay his share, in proportion to the debts witness held against the company; witness don't know that the creditors or company had any objections against L'Hommedieu and Edsall's taking possession of the property and putting it into operation.

Direct Examination resumed.—Mr. Haines, as counsel for some of the creditors, objected to its being put into this agreement, that Capt. Pratt should have the refusal of the lease, because, he said, it would
 40 show an agreement between the creditors who executed the lease and Capt. Pratt, and let in the New York creditors through the Court of Chancery; by the New York creditors, was generally understood those who resided in New York, some of whom had judgments and some had not.

Both Mr. Edsall and Mr. L'Hommedieu have told witness that they have purchased out several of the creditors; they did not state any sum less than fifty cents on a dollar as having been given to buy out the creditors; witness' claim and interest amounted to nine hundred and twelve dollars, or somewhere thereabouts; witness bought
 50 part of his claim at fifty cents on the dollar; bought about a hundred and twenty-one dollars of claim at fifty cents on the dollar.

Cross Examination resumed.—Mr. Edsall offered to sell witness claims at forty cents on the dollar; witness thinks there were other creditors present when Mr. Haines gave his reasons, but cannot recollect who; thinks it was to the creditors generally the reasons were given; thinks some of the creditors there stated that they preferred giving a lease to Franklin Holcombe; Mr. Pratt agreed to compensate witness if he would get the adjournment, and witness was acting as the friend of Capt. Pratt in procuring the adjournment; Capt. Pratt never paid witness; witness has now his note for fifty six dollars, which is unpaid, and which was given to defray witness' actual expenses to Hamburg; witness had no other friendly relations with Pratt, except what are above stated; Capt. Pratt paid witnesses' expenses twice before for going up, and this note was for attending the sale. 10

April 5, 1842.

Robert Hamilton, of Newton, in the county of Sussex, a witness produced on the part of the above named Defendants, being duly sworn, deposed and saith: I am acquainted with Edward W. Pratt, one of the Complainants above named, and have been since about the time he became connected with the Hamburg Manufacturing Company above named; I have done business as an attorney both for and against the said company, and became familiar with their affairs while they were carrying on operations at Hamburg, in the county of Sussex; I am also acquainted with the Defendants above named, and with most of the other Defendants in the said cause; after the said Edward W. Pratt became concerned in the Clinton Manufacturing Company, I acted as attorney for them, and became familiarly acquainted with their business and affairs; at the instance of the said Pratt, and other persons interested in said companies, I entered appearances for them in mostly all the suits brought against them respectively, in all to which they appeared, except in the suits brought against the said Hamburg Manufacturing Company by Joseph E. Edsall and John Givans, in which cases I was employed for the plaintiffs; soon after the said Pratt became interested in the said companies, many suits were brought against them, in which judgments were afterwards obtained and executions issued to a considerable amount, and by virtue of which the sheriff of the county of Sussex advertised the property of the said companies in the county of Sussex to be sold; the property of the said Clinton Manufacturing Company, in the county of Sussex, being a tract called the mine farm, which was adjourned for several months, until the seventh day of December, eighteen hundred and thirty-eight, at the instance of the said Pratt, to enable the said company, if possible, to meet the demands against them, or make some arrangement; that the real estate of the Hamburg Manufacturing Company was advertised to be sold on the fourteenth day of December, eighteen hundred and thirty-eight; and certain creditors of the said Hamburg Manufacturing Company, (for some of whom I acted as attorney,) having large demands against said company, and believing that the said real estate of the said companies would be sold by the sheriff, to pre- 50

vent a sacrifice of the property, and to endeavor to secure their claims against said Hamburg Manufacturing Company, entered into an agreement among themselves to buy in the property of the said company, and also the said mine tract of the Clinton Manufacturing Company aforesaid, in order to supply the furnace on the said Hamburg Company property with ore; which agreement was finally concluded by the said creditors, and reduced to writing, by me, at their request, and signed by the parties thereto, on the seventh day of December, eighteen hundred and thirty-eight, a copy of which is

10 set forth in the Complainant's Bill of Complaint in this cause; I was present when the object and terms of the said agreement were talked over and agreed upon, and signed the agreement, as attorney for one of the creditors; and, so far as my knowledge and belief extends, the said agreement was not entered into in pursuance of any arrangement or agreement with the said Pratt, nor had he any part or interest in the same, either in his own behalf or the said company; nor was there any offer or engagement on the part of Mr. David Ryerson to procure a loan: Mr. Ryerson told the creditors, (who doubted their ability to raise money to effect the purchase and carry

20 on the business,) that he would aid them in endeavoring to raise money for that purpose; the creditors mostly were averse to carrying on the furnace themselves, and therefore authorized their trustee, in the agreement, to lease the same, and to make sale of the same also, if possible, for an amount sufficient to secure their debts; I recollect at the time, that the said Pratt made propositions as to how he would lease the premises, and wanted the creditors, in case they became the purchasers, to give him the refusal of the same; but the majority of the creditors expressly refused to give him the refusal of the lease, and were at that time opposed to his having the same, believing, as

30 they said, that they could get the premises in the hands of a more efficient man.

After the property had been bought in by the trustee of the creditors some little time, the said Pratt assured them, that if they would give him a lease of the premises and contract for sale, for thirty thousand dollars, that he had friends in New York who would assist him, and he would be able to raise the money; the creditors, not knowing what better to do with the premises, they gave him the lease and contract for sale mentioned and set forth in the Complainant's Bill in this cause; from this time on, until the said L'Homme-

40 dieu and Edsall entered into possession of the premises, they were mostly unused and unoccupied; in the month of January, eighteen hundred and thirty-nine, part of the dam at the premises gave way, and the waters carried away part of the floom or trunk leading to the water wheel, and otherwise injured the premises, and left them much exposed to freshets; the creditors felt alarmed for the safety of the property, but forbore to act in the matter until the month of May then following, when the said Pratt was confined in Newark jail; Daniel Haines, esquire, and myself, on behalf of the creditors, went to the said jail and saw him about the middle of May, and inquired

50 of him what he expected to do, and whether he had any objections to

the creditors taking possession of the premises; and the said Pratt then stated to us, that he had given up all idea of doing anything with the property, and that he relinquished all claim to the same, and said that the creditors might have taken possession before then, for he had relinquished the idea of doing anything with the property, for some time previous; that afterwards, in the month of June following, none of the other creditors being desirous or willing to carry on the furnace, L'Hommedieu and Edsall, the Defendants above named, by the consent of the other creditors, as I have always understood, and believe, commenced putting the furnace in blast, and bought 10 teams, waggons and other necessary personal property, rebuilt the dam, repaired the premises, and have been in possession ever since: since they have been in possession, I have been present at one conversation between the said Pratt and Joseph E. Edsall, in which the said Pratt was negotiating for the re-purchase of the property.

August 3, 1843.

William W. Gilman, of the city of New York, a witness produced on the part of the Complainants, being duly sworn according to law, on his oath says: That he is acquainted with Joseph E. Edsall, one of the above Defendants, and has seen and is acquainted with the 20 iron works in Sussex county, called the Hamburg Manufacturing Company; witness was there in the fall of 1839; the object of the witness in visiting them was to purchase the same, and he had an interview with Joseph E. Edsall at that time in relation to purchasing the same, and had also another interview with him in the city of New York, in August, 1841, in reference to the same object; Mr. Edsall called upon the witness at that time; the witness had written to Mr. L'Hommedieu previous to that time in relation to the situation and condition of the property, and he presumes, that it was in consequence of that letter that Mr. Edsall called upon him; witness 30 understood from Mr. Edsall at that time, and also when he was at the works in the fall of 1839, that the said works were in the possession of Mr. L'Hommedieu and Mr. Edsall: in the interview between witness and Mr. Edsall in New York, above alluded to, a conversation took place between them, as to the condition of the works and value of the property, and witness took a memorandum at that time of the estimate of the property, and has examined that memorandum this day for the purpose of refreshing his memory, and states, that the estimate Mr. Edsall then made of the property was thirty thousand dollars, embracing Hemotite ore bed, furnace, water power and woodland; 40 the personal property, Mr. Edsall stated, consisted of thirty mules, valued at one hundred dollars each, ten yoke of oxen, waggons, coal and wood, the whole of the personal property valued at fifteen thousand dollars; Mr. Edsall stated that the works had been in operation during that blast seven months, and that the average produce was four tons per day, and the average value of the iron in New York was thirty-three dollars per ton; the cost of turning the iron out of the furnace was eighteen dollars per ton on the ground, and the cost of transporting it to New York was four dollars and a half per ton; Mr. Edsall stated in this interview that the works could 50

be kept in operation ten months during the year, allowing two months for repairs, and that they had produced the above amount of iron during the seven months they had been in operation; witness obtained this information from Mr. Edsall to ascertain the value of the works, and with a view of purchasing the same; witness had no further interview with Mr. Edsall on the subject.

Cross Examination on the part of Joseph E. Edsall and Elias L'Hommedieu.—Witness was at the works, he thinks, in October, 1839; at the time of the interview, in August, 1841, witness understood that the second blast had been in operation seven months; there had been, according to his impression, one previous; witness did not intend to purchase the works merely from the representations of Mr. Edsall; he wished to procure the representations of Mr. Edsall for the benefit of himself and of those to be interested in the purchase with him; the names of the persons who were to have an interest in the purchase with witness, were Mr. Mackay, formerly of the firm of Mackay, Oakley & Jennison, as witness understood, and Mr. James L. Curtis; the witness is not aware that these persons, at the time, were insolvent, or were reputed so to be; witness says that he was and is now unacquainted with the circumstances of Mr. Mackay; that James L. Curtis has taken the benefit of the bankrupt act; but that he knows nothing of the firm of Mackay, Oakley & Jennison, whether they have failed or not, or whether they are now in existence; he only knows that Mackay was a partner in that firm; witness says that he is not aware that Joseph B. Nones had any knowledge of his intended purchase, and that he did not know, until this day, that he was at all interested in the said works; that Edward W. Pratt, in the fall of 1839, accompanied this deponent when he went to view the works; that Pratt was not present at the interview between witness and Mr. Edsall in New York, and had no knowledge of it; witness thinks that Mr. Edsall over-valued the real estate, and it was witness' impression, that he could have purchased the same for fifteen thousand dollars; witness never made any offer for the property subsequently to his visit to the mines; prior to the fall of 1389, the dam had been carried away, and Mr. Edsall and Mr. L'Hommedieu had commenced re-building it; Mr. Edsall did not inform witness that he had made any improvements on the property, except that at the time he was there, they were preparing the new furnace for blasting, and had commenced re-building the dam; nothing was said by Mr. Edsall at the interview between him and witness in New York, as to any other improvements made by Mr. Edsall and L'Hommedieu; does not recollect of his having stated that the property cost thirty thousand dollars, and does not think any such statement was made; witness thought that Edsall was desirous of disposing of the property, although he does not recollect that he so stated; Mr. Edsall and L'Hommedieu stated, that if witness really wished to purchase the property, they were willing to enter into negotiations with him respecting it; and he stated, in a letter to Mr. L'Hommedieu, that such was his intention, when Mr. Edsall called upon him, as before mentioned; witness does not recollect of having

any further interview with Mr. Edsall in regard to the property; Mr. Pratt was to have no interest in the intended purchase as he knows of; witness was acting independently for himself; Mr. Edsall did not state that there were other expenses for agencies, clerks, &c.; but, on the contrary, said, that the amount above mentioned included every expense for getting out the iron; Mr. Edsall detailed the different expenses for that purpose, but witness does not recollect them; witness cannot tell the cost of the ore and coal for making a ton of iron, as stated by Mr. Edsall, nor of the labor, nor of any one of the particular items making the amount, the aggregate was eighteen dollars per ton; no statement in writing was given to witness by Mr. Edsall, but witness took the different items down as detailed by Mr. Edsall; witness then took down the result from those items; he has not the memorandum of the items with him; he left it at his office. 10

Re-examined—Question propounded to witness: How did you get the impression that the property could be purchased for fifteen thousand dollars? Answer. Witness got the impression from Mr. Curtis that the property could be bought for fifteen thousand dollars, as it was somewhat involved, provided Mr. Pratt's consent could be obtained, which witness thought might be done. Question. What did you understand by the property being involved? Answer. Witness says that he understood that the property was in the possession of other persons, and that Mr. Pratt had a claim upon it, and unless his consent was obtained, there might be some trouble about it, and he might become involved in a law suit. 20

Re-cross examined.—Witness offered twelve thousand dollars for the property, although he thought it was worth much more; his impression was, that it was worth from twenty-five to thirty thousand dollars; one offer was only made by the witness; he thinks that they offered it to him for thirty thousand dollars, and for no less sum; witness supposed that they had an asking price and a taking price. 30

August 15, 1843.

Carlos J. Huntington, a witness produced on the part of the Complainants, a resident of Richfield, in the county of Otsego, in the state of New York, being duly sworn according to law, on his oath saith: That he was formerly employed by the Hamburg Manufacturing Company as clerk; he thinks that it was in the years 1837 and 1838; and he resided at Hamburg during the time he was a clerk in said company, and became acquainted with Elias L'Hommedieu and Joseph E. Edsall during that time; knows that the property of the said company was advertised to be sold, and he was in Hamburg at the time of the sale; soon after the sale of the property, he had conversations with Elias L'Hommedieu (say between the time of the sale, which was in December, and the next ensuing June,) at Hamburg, about the property; in the conversations referred to, L'Hommedieu stated, that he was agent for the company and the creditors, and that he had bought the property in trust for the company and the creditors of the said company, and that one of the objects of the sale was to secure a loan of twenty or thirty thousand dollars; what originated the conversation was, that witness had a claim of about 40

one hundred dollars against the company, and he called upon L'Hommedieu respecting it, who stated that he knew nothing about it, that he was a trustee for the company and the creditors only; no names were mentioned except the creditors and the company's; witness proposed to sell his claim to him, and thinks he offered it to him for ten dollars; does not know that he ever heard Edsall or L'Hommedieu put any estimate upon the company property; witness was engaged as clerk in the company's store; had the principal charge of it, and came down to the city and bought goods; is no judge of the value
 10 of the ore beds, or of the other property belonging to the company.

Cross examined on the part of Joseph E. Edsall and Elias L'Hommedieu.—His claim against the company was for a note given by them to him, for the balance of his account against them for services as clerk; he made no memorandum of the conversations above spoken of; the words above detailed, were those used by L'Hommedieu, as far as witness remembered; witness is positive that L'Hommedieu stated that he was acting as trustee for the company and the creditors of the company, as the property, he said, was to go
 20 back to the company, if the arrangement between it and the creditors thereof was carried out; witness cannot say what that arrangement was; witness understood that Capt. Pratt had or was to have a lease of it; L'Hommedieu stated, that it was not their object to take advantage of the company, but merely to secure the claims of its creditors; witness understood from this conversation, that the company was to have the property back, if they complied with certain conditions which were made under the arrangement then in contemplation to be executed; witness states that the loan referred to by him,
 30 was twenty or thirty thousand dollars, which was to have been obtained from Mr. David Ryerson, of Sussex; the loan, witness supposed, was to pay the debts of the company; though he does not know that L'Hommedieu so stated it; witness believes the company was largely in debt, although he does not know to what extent.

Alexander W. Bradford, of the city of New York, a witness produced on the part of the Complainants, being duly sworn according to law, on his oath says: That he is attorney and counsellor at law in the city of New York, and visited Hamburg for the purpose of viewing the works of the Hamburg Manufacturing Company, in the month of April, 1841; at that time witness saw Mr. L'Hommedieu and Edsall, as he thinks, at the hotel in Hamburg; Capt. Pratt was
 40 in company, as also Mr. Curtis, of New York; witness visited the works and the mines with either Mr. L'Hommedieu or Mr. Edsall, or at least one of them visited the mine with him, although he cannot say that he did the works; witness impression is, that he understood from them, that either Mr. L'Hommedieu or Mr. Edsall held the title for the property, he thinks Mr. L'Hommedieu, but for what purpose witness cannot say; witness understood that they were willing to transfer the property, provided the debts, liabilities or responsibilities against the concern were settled; they set no value upon the property, as witness remembers; they had several conversations
 50 about the property, and the mine was considered valuable; they all seemed to agree upon that.

September 19, 1843.

David Ryerson, of Newton, in the county of Sussex, a witness offered on the part of the Defendants, being conscientiously scrupulous of taking an oath, was duly affirmed, and thereupon did declare and say: I recollect being at Hamburg, at one time, when the property was advertised for sale, and several of the creditors of the Hamburg Manufacturing Company were present, or persons who I understood were creditors; I think it was in the fall of the year; I think in November; but I am not certain as to the year; it was, however, the day before the mine property was sold at Newton; I went to Hamburg for the purpose of attending the sale; the sale did not take place that day, but was adjourned over until the next day, at Newton, at the house of Mr. J. Warbasse, innkeeper, at Newton; my object in attending the sale was to aid, if I could, in any way, the creditors, to get them secured; several of the creditors about Hamburg I was well acquainted with; they were particular friends of mine, and I know some of them were very large creditors. 10

I supposed that their claims were in danger, and that they might sustain loss; I understood that some arrangements were made amongst the creditors, for the purpose of protecting themselves from loss; and I understood that Doc't. L'Hommedieu was to purchase the property in trust for the benefit of the creditors; and I understood, or was under the impression, that Capt. Pratt was also consulted on the occasion, and understood the arrangements that were made; he was there, and I saw him conversing with Col. Edsall, and I supposed about the arrangements; I understood the adjournment was made for the purpose of enabling the creditors to perfect their arrangements. 20

I know that the creditors talked of making a loan, for the purpose of paying off the debts of the company, and I told them that I would try and assist them in making the loan; and I think I went so far as to tell some of them, that I thought a loan might be obtained; I am not certain now as to the amount that was required to be raised by that loan; it was a large sum, however; I think somewhere about thirty thousand dollars; the loan was wanted for the purpose of paying debts or demands against the property; when I made the proposition, or suggested the probability of their obtaining a loan, I told the creditors there, that I supposed it would be absolutely necessary for them to pledge their own personal responsibility for the amount that would be required, and that they would have to make satisfactory security to the person who should loan the money; I think I never stated, in the presence of Joseph E. Edsall or Captain Pratt, or of any of the creditors, that I would procure the loan for them, or that the money should be advanced as soon as the property was sold; I don't know that I would have advanced that amount upon the property, if I had had it; but I had not any such amount to advance, if I had had a desire to do it; I never made that as a condition if the property should be sold; I think I never did agree to advance the money to the purchaser of the property, to be secured by a mortgage upon the same, upon the condition that the creditors 50

would execute an agreement to be responsible to the mortgagee for any loss that might be sustained on account of the loan, in proportion to their several claims.

I am not acquainted with Aaron B. Nones, but I think there was a person of that name at Mr. Ward's hotel, at Hamburg, at the time spoken of, and I think I saw the same gentleman here at Warbasse's tavern, the next day at the sale; I have no recollection of having had any conversation with him, at any time, about this business.

September 20, 1843.

- 10 To my recollection, I never told Mr. Aaron B. Nones that I was to loan, or was to procure a loan of thirty thousand dollars; I think I never have told him so; I am very confident I never could have told him that I was going to loan the thirty thousand dollars myself, for I had no such sum at my command.

I have no recollection of ever having any conversation with Mr. Nones upon the subject; I certainly never told him that I would make such loan myself, for I had no such sum to loan; I think I stated publicly, in the presence of the creditors and others, and I think it is probable that Mr. Nones was present, that such a loan might possibly be procured, and that I would endeavor to aid them in procuring such a loan; I had no knowledge, at that time, of any money that could be got for that purpose; I did afterwards, at the request of the creditors, make some efforts to get this loan; I went to New York, and spent some time there for the purpose of ascertaining whether the money could be had or not.

- Upon reflection, I think, when the subject of procuring the loan was mentioned, it was understood that Captain Pratt was to receive a portion of it, for the purpose of putting the furnace in blast; I think this was the understanding between the creditors and Captain Pratt;
- 30 I think some of the principal creditors so informed me.

The agreement that the creditors had upon the subject was reduced to writing; I am not certain that I saw the writing, but think I did; and I think the adjournment was made for the purpose of getting time to prepare the writing: I did afterwards myself loan to Doc't. L'Hom-medieu three thousand dollars, to pay on account of the purchase of the property made by him.

- On cross examination, the witness saith: In reference to this business, the matters are not strongly impressed upon my memory, for, at the time, I did not suppose I should be called to testify about it,
- 40 and I find that my memory is not now as good as it formerly was; at the time spoken of, there appeared to be a perfect understanding between the creditors and Captain Pratt, but as to the particulars, I cannot speak; I think, however, that it was understood, that a part of the money to be procured was to go to Capt. Pratt, or some other person, for the purpose of carrying on the works, and by that means enable them to pay the debts due from the company; my impression is, that part of the money to be loaned was to be applied for the purpose of carrying on the works, and it was the insistent of Captain Pratt, that he was to have the management of it; and after some conversation apart, between Col. Edsall and Capt. Pratt, I think Capt.
- 50

Pratt insisted or desired, that there should be some memorandum of the agreement between them made, and that it should not rest in mere parole, to which I think Col. Edsall replied, that he would have to abide by it, as it then was, or something to that effect; I don't recollect that any reason was given by Col. Edsall at the time; I cannot now undertake to give the language that was used on that occasion, but only the idea.

At the time of the sale, I understood that Doc't. L'Horumedieu purchased the property for the benefit of the creditors, and was to hold it in trust for them until the debts and claims against the company were liquidated and settled; I know nothing of any reversionary interest in Captain Pratt or any one else; I understand that there was a written agreement between Doc't. L'Horumedieu and the creditors upon this subject; but whether Capt. Pratt is a party to it or not, I do not know; I do not know or recollect of any reason being given at that time why Capt. Pratt was not made a party to that agreement, if any was stated, I do not recollect it; I believe that the conversation spoken of by me above, as having taken place between Col. Edsall and Capt. Pratt, was before anything was said in reference to getting up the loan or carrying on the works; I do not know what was the subject of their conversation when they conversed apart.

In chief.—I believe that a principal part of the creditors were without any liens upon the property, and would have been in danger of losing their debts upon a sale of the property being made: the creditors thought it a matter of importance to secure the mine property as an appendage to the furnace, and to be connected therewith; it was my impression, that it would add much to the value of the furnace property, for the creditors to secure the mine property; the company owned a part of the hill where the mine was located, but the whole was under a mortgage to Mr. Nathan Smith, which was an older lien, and if the mine property had been sold under that mortgage, it might have deprived the company from the advantages of getting their ore from that mine, and in that way have operated to the serious injury of the furnace property.

At the time of the sale, I believe many of the claims against the company were considered as very doubtful of recovery: I have heard at that time, or since, that several persons having debts due from the company, sold, or offered to sell, their claims against the company, at fifty cents on the dollar; the property was advertised to be sold, and was sold, as I believe, upon an execution in favor of Nathan Smith, upon the foreclosure of his mortgage in the Court of Chancery.

Robert Hamilton, esquire, of Newton, in the county of Sussex, being produced as a witness on the part of the Defendants, and being duly sworn, did depose and say: This witness being shewn an agreement between the Hamburg Manufacturing Company, of the one part, and certain creditors of the said company, of the other part, bearing date the twenty-ninth of November, eighteen hundred and thirty-seven, and marked by me exhibit C., on the part of the De-

10 defendants, saith, I had some little acquaintance with Charles H. J. Williams, about the time of the date of said agreement, who is the subscribing witness to the same; that the said Williams then resided in the city of New York, and still resides there, as I believe; I am acquainted with the handwriting of the parties to said agreement, to wit: of Edward W. Pratt, Daniel Haines, Joseph E. Edsall, Matthias H. Ogden, and that their signatures to the said agreement are severally their own proper handwritings. (*This paper, marked exhibit C., and also these papers, marked exhibits D., E., F. and G., objected to on the part of the Complainants.*)

The Defendants here make exhibit of a mortgage made by John F. Winslow and wife, to Joseph E. Edsall, dated the first day of June, 1836, and marked by me exhibit D., also three bonds of said John F. Winslow to said Joseph E. Edsall, accompanying said mortgage, and of like date, and marked by me exhibits E., F. and G.; this mortgage being shewn to the witness, he says, I am acquainted with the lands contained in this mortgage and know that they are the same lands that were afterwards conveyed to the Hamburg Manufacturing Company, upon which stands the furnace and water works
 20 lately owned by said company; the Defendants also here make exhibit of another mortgage from John F. Winslow and his wife to Joseph E. Edsall, bearing date the first day of June, 1836, and given to secure the sum of seven hundred and seventeen dollars and thirty-nine cents, marked by me exhibit H., and also a bond accompanying the same, of even date, for the same sum, referred to in said mortgage, and marked by me exhibit I.; this mortgage being shewn to the witness, he says, this mortgage contains other lands which were afterwards conveyed to the Hamburg Manufacturing Company, and afterwards sold, by the foreclosure of the mortgage, and purchased
 30 by said Joseph E. Edsall.

The Defendants also make exhibit of another mortgage made by the Clinton Manufacturing Company to Joseph E. Edsall, dated the 10th of January, 1838, upon lands in Sussex county, including the ore mine, marked by me exhibit K., also a bond accompanying the same, and referred to in said mortgage, of even date therewith, which bond is marked exhibit L.; the witness saith, this mortgage covers the land on which is situated the ore bed; the witness says, I am a subscribing witness to the assignment on said bond and mortgage last mentioned, and was present at the execution of the said
 40 assignment by said Joseph E. Edsall, and saw the same executed by him.

The Defendants next make exhibit of a mortgage made by John F. Winslow to Joseph Sharp, dated the 11th day of July, 1836, and marked by me exhibit M., also a bond accompanying the same, of same date, and referred to in said mortgage, and marked by me exhibit N., witness saith, this mortgage conveys certain mountain lands, which were afterwards conveyed to the Hamburg Manufacturing Company, and which have since been sold, upon a foreclosure of that mortgage, and bought by L'Hommedieu and Edsall on that sale.

50 The Defendants also make exhibit of an assignment of the last

mentioned bond and mortgage, and the decree in Chancery thereof, from Joseph Sharp to L'Hommedieu and Edsall, dated the 13th day of December, 1839, marked by me exhibit O., witness saith, I am acquainted with the handwriting of Daniel Haines, a subscribing witness to said assignment, and also with the handwriting of Joseph Sharp, the assignor, and believe the signatures respectively to be their proper handwriting.

The Defendants also make exhibit of a mortgage from William Makepeace, junior, to Robert A. Linn, dated the 10th of December, 1836, marked by me exhibit P., which contains lands afterwards conveyed by said William Makepeace, junior, to the Hamburg Manufacturing Company, also a bond accompanying said mortgage, and referred to therein, of even date therewith, from said Makepeace to said Linn, and marked by me exhibit Q. 10

The Defendants also make exhibit of three promissory notes, with protests of the same annexed, drawn by William Makepeace, junior, to the order of Robert A. Linn, at the Sussex Bank, payable for one thousand dollars each, one being dated the 12th of December, 1836, and marked by me exhibit R., one dated the 26th of December, 1836, and marked by me exhibit S., and one dated the 2d of January, 1837, and marked by me exhibit T., witness says, I am acquainted with the handwriting of said William Makepeace, junior, and believe these notes severally were signed by him; I am also acquainted with the handwriting of Robert A. Linn, and believe the said notes were severally endorsed by him. 20

The Defendants also here make exhibit of a bill of exchange, dated November the 9th, 1836, drawn by the Hamburg Manufacturing Company, by William Makepeace, junior, as their agent, for one thousand and forty-six dollars, endorsed by William Makepeace, junior, and after him by Robert A. Linn, and marked by me exhibit U.; also, another bill of exchange, dated February the 7th, 1837, for one thousand dollars, from John Lovejoy to Abner Jones, witness says, this is endorsed by said William Makepeace, junior, as agent of the Hamburg Manufacturing Company, and after him by Robert A. Linn, marked by me exhibit V. 30

Also, an assignment from Robert A. Linn to L'Hommedieu and Edsall, of the last mentioned bond and mortgage, and claim of said Robert A. Linn, against said William Makepeace, junior, bearing date the 21st day of December, 1840, and marked by me exhibit W.; the witness says, this assignment is subscribed by Daniel Haines, esquire, as a witness; and is also signed by said Robert A. Linn; also offer as an exhibit, a mortgage from the Hamburg Manufacturing Company to Abner Jones, dated the 26th of June, 1837, upon lands conveyed to the company by William Makepeace junior; marked by me as exhibit X.; and also a bond accompanying the same, and referred to in said mortgage of even date therewith, and marked exhibit Y.; also, an assignment of said bond and mortgage, of the same date, from said Abner Jones to said Elias L'Hommedieu, and marked by me exhibit Z.; the witness says, this assignment is subscribed by Daniel Haines, as a witness, and also by 40 50

Samuel S. Kyle; I am not acquainted with Samuel S. Kyle; I know no such person in New Jersey; I have always understood that this paper was subscribed in New York, and I suppose that said Kyle resides in New York.

- Defendants also make exhibit of a paper, purporting to be an assignment from Nathan Smith to Joseph E. Edsall, of a judgment in favor of said Nathan Smith, against the Hamburg Manufacturing Company, bearing date the twenty-fifth of September, 1838, marked exhibit A., 2., by me; this assignment, the witness saith, is subscribed by Daniel Haines, esquire, as a witness thereto; also exhibit a Sheriff's deed, from John Broderick, sheriff of Sussex county, to Elias L'Hommedieu, for the mine farm, so called, dated 7th December, 1838, and marked by me, exhibit B., 2.; also a deed from John Broderick, sheriff, to Elias L'Hommedieu, dated 24th December, 1838, for the Hamburg Company, lands in Sussex, and marked by me C., 2.; exhibit C., 2.; also offer as exhibit, a paper purporting to be an agreement between the creditors of the Hamburg Manufacturing Company, in the county of Sussex, bearing date, the 7th of December, 1838, marked by me exhibit D., 2.; witness saith, I was present at the execution of this instrument by the parties, and saw them sign it; I signed it, as attorney for one of the creditors, who had a very small demand; also make exhibit of a paper, purporting to be a lease from Elias L'Hommedieu to Edward W. Pratt, dated the 31st December, 1838, and subscribed by Daniel Haines, esquire, as a witness; and the same is signed by Elias L'Hommedieu and Edward W. Pratt, in their own proper handwriting, marked by me, exhibit E., 2.; also exhibit a paper, purporting to be an article of agreement between Elias L'Hommedieu and Edward W. Pratt, dated the 1st day of January, 1839; subscribed by Daniel Haines, esquire, as a witness; marked by me, exhibit F., 2. (*The Complainants here, by their counsel object to all the foregoing exhibits made on the part of the Defendants.*)

On cross examination.—This witness saith, I do not know where Charles H. J. Williams, before mentioned, now resides; I cannot say that I am acquainted with his handwriting; he is reputed to reside in the city of New York.

- John Black*, of Stanhope, in the county of Sussex, a witness produced on the part of the Complainants, being duly sworn, deposed and saith: I now reside at Stanhope, in the county of Sussex, and am employed there, having charge of a blast furnace, in making of pig iron; I am acquainted with Joseph E. Edsall, Elias L'Hommedieu and Edward W. Pratt; I have worked for L'Hommedieu and Edsall since they had the Hamburg furnace, about nine months and a half; I commenced in the fall of the year eighteen hundred and thirty-nine; I think that was the time I began; I had charge of the blast furnace there at Hamburg; I had a conversation with Doct. L'Hommedieu, before I began to work there for him and Mr. Edsall; I carried my claim in to Doct. L'Hommedieu, against the Hamburg Company, to know when he could give me some money upon it; I cannot say in how long a time he said it would be before he could give me some money upon it; it was but a short time that he took; he said he

expected to receive some money from Mr. Ryerson ; I called three or four times, but did not get any money from him ; at one time my family was a good ways from here, and I called on him for some, as I calculated to go home, and he said he had not raised the money on the Hamburg property that he expected ; I asked him if Mr. Ryerson did not agree, or was not to advance money to pay on the debt, or the debts ; I did not understand whether all or a part of the debts were to be paid ; he said that was the understanding, that Mr. Ryerson was to raise some money, or advance some money, but had not done it ; I then asked him if he had not the Hamburg property in hand for the purpose of raising money on it ; he said he held it as trustee for Captain Pratt and the creditors ; he spoke of it being hard times, and wished to know from me, if I could tell him where he could find a man that would loan money on the property ; I told him I was sure I could not tell him who he could get the money of ; I think this was pretty much all that was said at that time ; I think I have heard Col. Edsall say, since he has had the furnace, he could make iron there for fourteen dollars a ton ; I have heard him say this while I was at work there for him and L'Hommedieu ; I think I have heard him say, that sixty dollars a day the furnace cleared when in blast ; I never heard Col. Edsall say what the blasts cleared ; I have memorandums, kept by me, of the amount of the iron made while I was there ; I have not got these memorandums with me now, but I think the amount of the iron made while I was there, was about nine hundred and fifty tons ; I was at Hamburg once when Mr. Ryerson was there, and heard him say he would advance money to assist in paying the debts ; it was at Ward's hotel ; there was a meeting of the creditors of the company, but can't say whether it was the day the property was advertised to be sold or not ; Mr. Ryerson stated as a reason why he would interfere in the matter, was that there were a number of poor persons there who had labored for the company, and who ought to have their pay ; I had a conversation with William Edsall, one of the creditors, who stated that the debts amounted to about thirty thousand dollars, and that the property would be security for twenty thousand, and the creditors were to give their refunding bond for ten thousand dollars ; and if the property should be sold, and did not bring the amount of the loan, thirty thousand dollars, then what he called the refunding bond, the creditors were to pay their proportion of it back ; Mr. Ryerson said he would advance the money, but I think he said nothing to bind him ; I never have had any conversation with Joseph E. Edsall as to how the property was held, and I don't know that I can name any other creditor with whom I have conversed upon that subject ; I think I have had conversations with some of the creditors ; I was told by the person, whoever it was, that they had no more right there than he or I had, or any other person ; I mean by they, L'Hommedieu and Edsall ; I don't know that it was said by the person, in what manner or way they held it ; I cannot say how much iron the furnace would make during one blast, nor the average amount per day, as I have no calculations to

ascertain the exact amount; she did make from three to five or to five and a half tons a day, and some days she might go under three.

On cross examination, the witness says: When I speak of the amount of iron made at the furnace while I was there; the nine hundred and fifty tons; I speak from my recollection of my memorandum, from what it was at the time, and having had it in my mind since; I have not the memorandum now, I left in the hands of a man at Hamburg; I left it in the hands of Robert A. Linn; I can't tell the time when I left it with him, it can't be far from three years
10 from this time, I think; I don't remember that I saw it since I left it there; I cannot say certainly that I have not seen it since then, and I speak of my recollection of it from that time.

The reason that Mr. Ryerson gave for his advancing the money, was for the benefit of the inhabitants in that neighborhood who had claims on the company, and for poor men who had worked for the company, he said he wanted to see them paid; it was not in consequence of what I heard Mr. Ryerson say about advancing the money altogether, that I called upon Doct. L'Hommedieu for my pay; the reason principally was, that it was generally understood that was the
20 course that was to be taken; I don't know how far I was, or how far I was not a party to the agreement with the creditors to purchase the property; I don't think I signed the agreement; my claim at that time against the company was about one thousand dollars; nothing has been paid to me upon it; I think I can say that with safety; they owed me for my services in taking charge of the furnace night and day, and some for board; whether Captain Pratt succeeds in this case or not, I have not settled in my mind whether I am to get my claims or not; I cannot say that I am certain my claim will be in a better situation if Capt. Pratt succeeds in this suit, than it is at present; I
30 have not seen Capt. Pratt very frequently since this suit has been commenced; but when I have seen him we have spoke about the Hamburg affairs; and he has spoken about his rights or claims to the property, and I think I have told him what I knew about it; and what I could testify to; Capt. Pratt has not told me that if he succeeded in this suit that I would get my claim, or a part of it secured, nor any thing like it that I know of, and I have no assurance or expectation, from any thing that has been said, that I should get my claim secured, any more than I ever have had; I don't remember that I have ever told any person since this suit was commenced, that I
40 expected to get my pay, or any thing to that effect; I have said, and always have said that I had hopes some day that I would get my pay, but I did not know, and I do not know now that I shall ever get the first cent; the conversation that I had with Doct. L'Hommedieu, when I called on him for my pay, was I think, in the month of May after the sale of the property; he did not explain to me how he held the property for Capt. Pratt, he only said he held it as trustee; before this, he told me that Capt. Pratt was going to put the furnace in operation; before this conversation, I had understood that Doct. L'Hommedieu had given a lease to Capt. Pratt to put the furnace in
50 operation and go on with the works, but I did not hear this from

him ; I don't know that I ever heard there was an agreement on the part of Doct. L'Hommedieu, to convey the property back to Captain Pratt ; I left there on the 9th of May 1839, for the west, and returned in July following ; at the time I left, I believe there was nothing doing at the works ; the dam was then partly down, and some stones ta'ken out from one corner of the blow-house ; I don't recollect if the floom was down or not ; and when I came back L'Hommedieu and Edsall were building up the dam ; I can't say how much they did to the dam ; I don't know that I can tell who was present when Col. Edsall was telling of making iron at fourteen dollars a ton ; I think I heard him say so about the furnace ; I think it was said some time during the blast, while I was there ; I don't know that he mentioned any one of the items, except the cost of the coal ; I think he said he could get coal delivered there at four dollars the hundred bushels ; I don't know, nor I do not recollect of hearing it said by them, that they were paying about that time, five dollars and a half, or five dollars a load for coal, or any other price ; I have no recollection of Backster's bringing any coal there ; I remember that a man by the name of Grantman brought some coal there, and I think Paddick brought some ; but don't know what was paid for it. 10

I have no recollection of any offer made by me to them, to make iron for them by the ton, but if I had offered, I should have asked them more than seven dollars a ton for the work at the furnace ; I cannot tell what the work would be worth to make a ton of iron, at the furnace, without making a calculation ; I cannot tell what it would cost ; sometimes it would take more stock, and sometimes less ; sometimes it would take 50 or 100 bushel of coal more than another ; I think I have made a ton of pig iron, with two tons and a quarter of ore ; I think I have done this at Clinton and at Hamburg, and I should think it likely I have taken more than that quantity sometimes to make a ton ; I don't know what the cost would be of keeping the tools and implements used about the furnace, in order. 20

There have been new hearths put in at that furnace after a blast was out, while I was there, and it was always deemed necessary to put in a new hearth after the blast was out, before the furnace was put in blast again ; and sometimes new linings are necessary to be put in ; when L'Hommedieu and Edsall commenced, a new lining was partly put in ; the old one was broke in one place, a large hole, and it was mended by them ; it is attended with some expense to mend these linings ; I think a new hearth could not be put in for less than three hundred dollars, and it would likely go over that ; the expense of making iron depends some upon circumstances ; a good run of the furnace, that is when she is making four or five tons of iron a day, that is what is called a good run ; and then, when she will only make two and a half or three tons, it is not so good a run ; sometimes with the same attention from the hands employed, there will be a difference of a ton or two, or more, a day, arising from lean ore and poor coal ; sometimes it depends upon the blast, and various other circumstances. 40

I did not continue with L'Hommedieu and Edsall that blast out ; I think they did not discharge me ; Col. Edsall did not tell me that he had been informed that I had purloined his property, and that he had no confidence in me, and therefore desired me to go away peaceably, or nothing like that ; I quit, because I agreed to quit with Col. Edsall, upon his promising to do certain things, and to settle with me fairly and honestly ; another reason why I quit was, that the blast did not begin perhaps by two months as soon as it was contemplated, and continued longer than I expected it would, and I was anxious to
 10 return to my family, who lived out west, several hundred miles ; my family was sick.

Col. Edsall did not request me to leave ; he first asked me if I did not want to go home to my family ; I told him no ; he said the blast had continued longer than he had expected ; and that he knew that I had talked of going back to my family.

Questions put to the witness.—Do you know whether Col. Edsall wanted you to quit his employment at the time spoken of?

Answer.—I believe if he thought he could get along with a man there by the name of Bunace as well, and save my wages, he would
 20 be willing that I should leave.

Question.—Did he not tell you that he would be obliged to discharge you unless you came into an agreement to quit ; or something like that, or to that effect ?

Answer.—No.

Question.—Did he not tell you that he was dissatisfied with you, previous to your leaving ?

Answer.—I can't say that he ever told me so ; I don't remember that he ever said so.

Question.—Did not Col. Edsall and you have some dispute or ill
 30 feeling just before your leaving ?

Answer.—There was some dispute between us three or four months before I left ; I felt myself abused, and I suppose he felt himself abused.

Question.—Was not Col. Edsall the cause, and did he not occasion you to quit the employment at the time you did ?

Answer.—He was not wholly, but in part, and myself also, in making the arrangement, so that we were both satisfied.

Question.—Did you not desire him to keep secret your being discharged ?

Answer.—I never did, for I was not discharged.

Question.—Was there not a dispute and ill feeling between you after you quit ; in your settlement, or other matters ?

Answer.—I don't think there was any dispute in regard to the settlement, but I think there was about some other matters, after I came back from the west.

Question.—Have you not been on bad terms ever since ?

Answer.—I have no bad or wilful feelings against Col. Edsall, I wish him no wrong in any shape, that I know of.

Question.—Have you since then been on good and friendly terms ?

50 *Answer.*—We have not met often since, and sometimes we spoke,

and sometimes we did not; but spoke as often as we did before we had any difficulty.

In chief:

! *Question.*—Have you any ill feelings, or feelings of revenge towards Col. Edsall that would influence your testimony in this cause?

Answer.—I have not.

September 26, 1843.

Robert A. Linn, esquire, of Hamburg, in said county, a witness offered on the part of the Defendants, being duly sworn, saith: I reside near the property lately belonging to the Hamburg Manufacturing Company; I was acquainted with the company, and transacted business with them when they were engaged in carrying on the works here. *(This witness is objected to by the Complainants, as being a party to this suit.)* They were involved whilst carrying on the business; at a meeting had by their creditors, at one time I think it was estimated that the company owed to the amount of thirty thousand dollars; this was some time before the sale of their property; some three or four months perhaps; there were several adjournments after the meeting and before the sales, I think; when the creditors met, they concluded if they could not get the benefit of the mine property, that the property of the company would not be sufficient to secure the debts, and therefore they appointed Doct. L'Hommedieu as their agent, to buy the mine property. 10 20

This thing was talked of, I think, at the first meeting of the creditors, and it was there suggested that the Doctor should be appointed for the purpose of purchasing the mine property; a part of the mine farm was owned by the Clinton Company, and part by the Hamburg Company; the Clinton Company had opened the mine upon their part, and there was no certainty that there was ore or sufficiency of ore, on the part which was claimed by the Hamburg Company; the whole was to be sold under the mortgage of Nathan Smith, and it was therefore thought advisable that Doct. L'Hommedieu should purchase the whole for the benefit of the creditors of the Hamburg Company; there was an agreement, as I understood, finally concluded amongst the creditors of the Hamburg Company, that Doct. L'Hommedieu should purchase the mine property for their use, and also the Hamburg property; I was one of the creditors, and one of the parties to that agreement; the object of purchasing in that property, was to have the control of it, so as to save their debts; the sales of the property were adjourned several times; and as I understood, at the request of Captain Pratt, who it was said had proposed or suggested that he could procure means that would save the necessity of the sale; I don't know that I heard Captain Pratt say this, but at one of the adjournments, I did hear Captain Pratt say that he had seventeen thousand dollars in escrow, which would be forthcoming in a little time; the expression or term used, was a novel one to me, and I did not exactly understand what it meant, as I had never heard the term used before; before the sale, I presume from conversations I had with the creditors, they had despaired of raising the money through Capt. 30 40 50

Pratt, or by any other means, and only expected to be able to raise the money by purchasing in the property ; this is what I supposed ; I think I was present at Ward's hotel the day before the sale was made at Newton, and I was present the next day at the sale made at Newton ; the property was purchased by Doct. L'Hommedieu, for the benefit of the creditors, I did not understand that it was for the benefit of Captain Pratt ; I understood at the time, from some persons here, that if the property was purchased in for the use of the creditors, and the title could be made secure, that David Ryerson had said 10 that he would aid and assist, or do what he could to assist them in procuring a loan for the purpose ; I think I did not hear Mr. Ryerson say any thing myself on the subject ; the loan, as I understood, was to be for the amount of the debts, which were about thirty thousand dollars ; I don't know that I heard Mr. Ryerson say that the personal responsibility of the creditors would be required to obtain the loan, but that was said by somebody ; but I made up my mind that I would not give my joint responsibility, but would give my own responsibility for the amount I might receive.

The object of procuring the loan was, as I understood it, to pay the 20 claims of the creditors ; I think I understood there was a lease of the property made to Captain Pratt by Doct. L'Hommedieu, and a contract for a sale to him, for the premises ; I don't know that I ever saw it, but think it probable I have ; I think I saw the lease ; I think I was present when the lease was made, and there was some difficulty about it ; I understood that Captain Pratt wanted more of the proceeds resulting from the blast or the works to enable him to carry them on, and less of them to be applied towards liquidating the debts.

I recollect at one time it was proposed by some one, that a lease 30 should be made of the property to Joseph H. Pettis, or to Franklin Holcombe, but to this Capt. Pratt objected, stating that they were his hirelings, and he would not consent to it ; but whether this was said at the time above stated, or at another time, I cannot say.

I don't know who were Capt. Pratt's agents after he took the lease, there were several persons there who said they were his agents, but I don't know that they were ; there was a Mr. Abraham Walker there, who said he was an agent ; I never heard Capt. Pratt say who his agents were.

It must have been several months after the lease was made to 40 Capt. Pratt, before L'Hommedieu and Edsall took possession of the works ; during that time they were idle ; I cannot speak as to dates ; I recollect the dam was carried away by the winter freshet, and the works laid idle from that time until L'Hommedieu and Edsall took possession, which I think was in the summer following.

While the works were thus idle, Col. Edsall proposed to me, that as we were two of the largest creditors, that we should put the works in operation, but I declined having any thing to do with it, as I considered it a losing business ; our claims were more in amount, than one half of the whole debts due from the company. I think as I was at 50 the works two or three times after the dam was down, before L'Hom-

medieu and Edsall began to make the repairs; one end of the dam was carried away, the forge was gone, and part of the floom, and I rather think the blow house was injured, but am not certain; I don't know that the creditors had any consultation what to do with the property after the dam was carried away.

The day before Mr. Walker went away, but when that was I do not recollect, but I think before the dam was swept away, he, Walker, called on me, at my store in Hamburg, and said that he could carry on the works no longer, that Captain Pratt had sent no funds, said "I shall abandon the works to you," meaning, as I supposed 10 the creditors; I told him he must go to Dr. L'Hommedieu, who was the agent of the creditors generally, and that I was not; and he would know how to act; I said that I was only an individual creditor, and that he must not address himself to me personally; Mr. Walker left the works the next day and went to New York, where he had lived, as I understood; L'Hommedieu and Edsall, when they put the furnace in blast, did so with their own means, as I believe, I know nothing to the contrary. A paper purporting to be an assignment of a judgment to L'Hommedieu and Edsall, by the witness, in favor of the witness, against the Hamburg Manufacturing Company, being 20 shewn to the witness, he says he executed the same; the paper is here exhibited by the Defendants, and marked by me, exhibit G., 2. on the part of the Defendants; the amount of this judgment, with interest and costs, was due to me from the company, at the time I assigned it to them, as aforesaid; they paid me the full amount of the claim; the paper heretofore marked by me exhibit W., on part of Defendants, being shewn to the witness, he says, the amount mentioned in this assignment, was due to me on the said bond and mortgage, and was paid to me by the said L'Hommedieu and Edsall. (To this evidence, as to the conversation with Mr. Walker by the witness, 30 the Complainants object.)

On cross examination on part of Complainants, the witness says: I have no written memorandum of the facts stated by me in reference to the sale of the property, but depend upon my memory altogether in regard to them; I am hard of hearing; cannot hear conversations carried on in the ordinary tone of voice; I don't suppose that I heard half that was said at the time of the sales; I have detailed what was told to me; I think my memory is as good as common people's; what relates to my own business, I can remember very well; to my knowledge, Mr. Ryerson lent three thousand dol- 40 lars to pay on Smith's mortgage and sale thereon of the mine property; there was a note given for the amount to Mr. Ryerson, signed by Doct. L'Hommedieu, Daniel Haines, esquire, and myself; the money was advanced by Mr. Ryerson to Doct. L'Hommedieu; this note was afterwards transferred to me by Mr. David Ryerson, and I received from L'Hommedieu and Edsall their note for the amount, and endorsed a receipt on the back of this note to that effect; L'Hommedieu and Edsall's note I still hold, and they have paid me the interest upon it up to April last; the note of L'Hom- 50 medieu and Edsall has been due for some time, and remains unpaid

in my hands; I am still a creditor of the Hamburg Manufacturing Company to the amount of about one hundred and eighty dollars, with interest since 1838; the way in which the amount of the debts of the company were ascertained, was by estimates made at the time by the creditors themselves or their attorneys; no vouchers were produced, as I recollect; I have no knowledge that any part of the loan of thirty thousand dollars spoken of, was to go to Captain Pratt, for any purpose; if it was so, I have forgotten it.

The first I heard of a lease to be made to Captain Pratt, I think 10 was when it was suggested or proposed that the lease should be made to Mr. Pettis or Mr. Holcombe, as stated before; but whether this was before or after the sale, I cannot say.

In chief.—Captain Pratt did not state to me the amount of the debts of the company, nor ever showed me a statement of them, as I recollect; Mr. Makepeace, about the time that Capt. Pratt came here, (as I think,) showed me a statement of the debts, which, I think, amounted to between twenty-eight and thirty thousand dollars; this was after I let him have the money for which I held his bond and mortgage, and which I afterwards assigned to L'Hommedieu and 20 Edsall; Makepeace was here, in possession of the property, and had the management of it, and professed himself to be the owner of about half of it; my own decided opinion was averse to carrying on the works by the creditors; I preferred leasing it; but what the opinion of the other creditors was, I do not know, as I don't now recollect hearing any of them express their opinion about it.

The witness being shewn the papers marked exhibits R., S., T., U. and V., on the part of the Defendants, in this cause, says, the notes and bills there mentioned, constituted the consideration of the bond and mortgage made by William Makepeace, junior, to me, 30 and by me assigned to L'Hommedieu and Edsall, I having paid for Mr. Makepeace, the amount of the same, having endorsed them, at his request, previously.

Samuel Fowler, junior, esquire, of Hardyston, in the county of Sussex, a witness produced on the part of the Defendants, being duly sworn, saith: I have resided near the property lately owned by the Hamburg Manufacturing Company, and now live within a few miles of it; until lately, I lived in the immediate neighborhood of it; I am and was acquainted with it, and with the mine property purchased by Doct. L'Hommedieu; I was acquainted with the property when 40 the works were carried on by the Hamburg Manufacturing Company; it was the general understanding in the country, that the company was largely involved; I know that the creditors of the company, in this neighborhood, manifested a great anxiety about their debts; I know of several creditors who sold their claims at fifty per cent. discount, if I recollect right; many of the debts were considered in a doubtful situation; I recollect of the property being advertised for sale by virtue of executions; while the property was under advertisement for sale, I recollect of there being a meeting of the creditors, the object of which was to secure their debts; I understood 50 there was an arrangement made to purchase in the property by the

creditors; I do not recollect the precise time of the meeting of the creditors; my recollection is, that the result of the meeting was the appointment of Doct. L'Hommedieu as trustee or agent for the creditors, and as such, that he purchased the property; I now recollect of two or three meetings of the creditors being appointed, and I recollect of being present at one of them, for I came with one of the creditors, Mr. Charles Wade.

I was in Mr. Haines' office, at Hamburg, when an agreement was drawn up between Doct. L'Hommedieu, as trustee of the creditors, and Edward W. Pratt; I entered Mr. Haines' office as a student of law, in 1838; the first of November, 1838; I recollect also of a lease being talked of, but don't remember of its being drawn up; it was from Doct. L'Hommedieu to Capt. Pratt; I recollect of seeing Capt. Pratt and several of the creditors in the office; I have seen them there together conversing upon the subject, and also separately; it was my understanding, that there was considerable difficulty among them about the terms of the agreement and lease; during the winter and spring previous to L'Hommedieu and Edsall going into possession, the premises were much out of order; a portion of the dam had been washed away, the works and property were idle and unoccupied; I recollect a meeting of the creditors, to determine what should be done with the property, in the spring, and some short time before L'Hommedieu and Edsall took the possession; I do not know what the conclusion was that the creditors came to at that time; I understood that the creditors talked at one time of carrying on the works themselves; after L'Hommedieu and Edsall had the property in possession, I recollect that Captain Pratt was here, and some gentleman with him from New York, and it was said generally, that he came for the purpose of purchasing the property; not that he, Capt. Pratt, was going to purchase, but that some monied man or men of New York, were going to purchase it; my impression is, that I heard Capt. Pratt speak of it himself, that some person or persons in New York talked of purchasing the property, and that he was endeavoring to negotiate for it in their behalf; I know of his being here several times on that business.

Until about the time of the commencement of this suit, I never heard that he had any claim, or pretence of claim, or interest in the property; I was not aware of any such thing; I understood the claims against the property were about thirty thousand dollars; but I did not consider it worth that sum then, and I would not give that for it now, although it is worth more now than it was then, as it is now built up and in good order, and although the mine was considered then to be worth more than it now is, as it is now ascertained that there is not as large a body of ore there as was supposed at that time; I am a little engaged in mining business at present myself; I have, from my own observation, considered that Messrs. L'Hommedieu and Edsall have conducted and carried on those works, since they have had the possession, in a very economical and judicious manner, and have driven them on with less expense than our furnaces generally are driven on, and if money was to be made by it, they

could make it; they devote much personal attention to it; I have understood from the persons who are driving on the Franklin furnace, that they have sunk money by the manufacturing of pig iron in their blast furnace. (*Objected to by Complainants*)

10 *On cross examination.*—I have been on intimate terms with Capt. Pratt since I first became acquainted with him; the Captain is a sociable and friendly sort of man; I have not been in the habit of communicating my private affairs to Capt. Pratt or any one else, and Capt. Pratt has not been in the habit of communicating his
 20 private affairs or business to me, and what he has said to me in relation to the business mentioned, was not said privately, but openly and publicly, in the bar room, or elsewhere, where we happened to meet and speak of it; the way in which I became more particularly acquainted with the business of L'Hommedieu and Edsall, was by being near their works and boarding in the family of the son-in-law of Col. Edsall, who was a clerk of L'Hommedieu and Edsall, and being frequently in their store; I have never examined their books particularly, but have assisted occasionally in posting them; the way
 30 in which I derived my information as to their carrying on their business, is from my own observation as to the mode and manner in which they conduct it, the number of hands they employ, and the attentions which they give to it themselves personally; since I was old enough to understand anything about such business, I have had opportunities of seeing how such business was conducted, my father having been pretty constantly engaged in it; at the time I speak of as having observed how L'Hommedieu and Edsall conducted their business, I was about twenty-two years of age; I have no recollection of ever having heard either Mr. L'Hommedieu or Edsall state what the expense of making a ton of iron was; I have no recollection
 40 of ever having heard either L'Hommedieu or Edsall say that they had made money by driving on that furnace, but I have heard Col. Edsall often complain of it as a losing business, and vexatious, and that he would willingly sell it for less than the property cost him.

I have lately purchased an interest in the old Ogden mine, and am engaged in the mining business at present, and intend to carry it on if I find it profitable, and shall quit it as soon as I ascertain that it will not pay.

September 27, 1843.

40 *Henry Ingham*, of Amity, Orange county, and state of New York, a witness produced on the part of the Defendants, being duly sworn, saith: I am manager for L'Hommedieu and Edsall at their mine, in getting out ore; I can't speak as to the blast, but I took charge of the mine seventh of August, 1839, and continued to work for them from that time till the first of April, 1840; I quit there at that time, and went to work for them again on the 12th of November, 1840, and continued from that time till the first of April, 1842; during these periods I had charge of the mine; during the time I had the charge of the mine I cannot say certainly or positively what the expense of raising the ore would be, owing to a great many circumstances connected with the excavating, &c., but my opinion would
 50

be, that the expense would be from eighteen to twenty shillings a ton; I kept the time of the hands, and an account of the expenses, and returned the account to L'Hommedieu and Edsall; there are two places from which the ore was got at the old mine; we made excavations and experiments over the hill, for the purpose of ascertaining whether ore could be got or not, but without success; at what we called the upper place of the mine, we quit attempting to get ore, on account of the great depth of the water, and the difficulty of getting out the ore, as it would cost more than it was worth; at the lower place of the mine, when I commenced working there first, we got out 40 or 50 tons; we then came to the conclusion of driving up a level; we drove that up, but on the base of the bed of ore, it had been tunnelled in different directions; that did not afford much ore; we got to the end of the cut or excavation, which afforded a better chance to get ore; the vein varied there from eleven to four or five feet; it dipped down towards the base of the hill; I imagine when I left the works, it was within five or six feet of the base of the hill and the level low lands; it was then attended with difficulty and expense to keep the water out; before I went to work at the mine, I worked three or four weeks for L'Hommedieu and Edsall while they were fixing up the dam; I commenced working for them about the 12th of July, 1839; the works at that time were idle; Mr. Edsall was just commencing to get the works in operation; there was a good deal of work done at the dam; according to my observation and judgment, and in my opinion, L'Hommedieu and Edsall have conducted and managed the works with the greatest economy. 10

On cross examination, the witness says: In estimating the expense of raising the ore, I include the general expenses of the hands making the excavations, searching for ore, sinking the shafts, &c.; there were a considerable number of excavations made and shafts sunk, for the purpose of discovering ore, whilst I was there; we raised the water, in the first start, with a windlass and barrels, after that, part of the time we raised the water with elevators; the level was not driven up to carry off the water whilst I was there; the expense of raising the ore, after you get to the bed, would vary a great deal, owing to the mother or fuller's earth which covers the ore much deeper and thicker in some places than others; I would not engage to raise the ore, after the earth was removed, for less than fifty cents a ton, and when I left, not for a dollar, on account of the water; I had not been engaged in the mining business before I began there; I was then a green hand. 20

In chief.—The mere expense of the raising of the ore itself, after the earth was removed, was but a trifle, compared with the whole expense; I recollect at one time, while engaged in the work of getting ore, that an apprehension was entertained, that the vein we were at work upon had run out at one end, and in consequence, we went to work and made other excavations and sunk some shafts, for the purpose of finding ore, but without success; and we then returned to the vein, and by removing a great deal of earth and water, we found 50

where the vein was, continued, and raised ore again from there; in raising the water by elevators, we used horse power; the level carried up to take off the water, since I left, must have been attended with a good deal of expense.

John F. Comings, of Hamburg, in the county of Sussex, a witness produced on the part of the Defendants, being duly sworn, saith: I live in the neighborhood of the Hamburg furnace property, and have for some time past; I was here during the winter and spring of 1839; after Capt. Pratt got the lease of the property, the works were
 10 lying still, from the time the dam broke away until L'Hommedieu and Edsall took possession of it; part of the dam was carried away, the forge and part of the floom also, and the blow-house was also injured and nearly carried away; they built up the dam and floom, and put the works in operation; they built one new coal house, I believe; I am acquainted with John Black; I have heard bad talk about him; have heard folks say his character was not good; Black told me that Col. Edsall had discharged him from his service. (*This part of the evidence was objected to by the Complainant's counsel.*) I
 20 heard Col. Edsall tell Black one day that before he would have him there any longer, he would blow the furnace out; as far as I have observed, L'Hommedieu and Edsall managed the property very well.

On cross examination, the witness saith: I am now, and have been for some time past, in the employ of L'Hommedieu and Edsall as founder; I was at work for them at the time John Black was there; when Black told me Col. Edsall had discharged him, he said that some one had been telling them lies, and they would not have him any longer; he said he did not care anything about it, for that he had to go home, and if he staid until the furnace blew out, it would
 30 take him so much longer; I don't think he said that he had consented to go away, but I think he did not want to go away; the folks I have heard speak of Black's character being bad, are Albert Beeman and Harman Beeman; I don't know that I can now recollect any others; I am not certain whether it was the same day or the day before Black quit, that I heard Col. Edsall tell him what I have stated before; I know that these Beemans and Black had had a quarrel; the coal house mentioned as having been built by L'Hommedieu and Edsall was a new one; there was none on that spot before.

40 There were some of the timbers, I believe, got out for that coal house before they went there; I saw some timbers lying there, but I am not certain whether these timbers were got out for the coal house or for a blacksmith's shop.

In chief.—I have heard others about the furnace talk about Black's bad character, but I can't recollect who; I have known Black for some time; from my knowledge of Black's general character, I think if he gets angry at a man, he would injure him, if he could; he is as much like an Indian in disposition, as anybody I ever saw; after he was discharged, he manifested a good deal of enmity towards
 50 Col. Edsall, and I believe has manifested that disposition towards him ever since.

Cross examination.—About the same time, Col. Edsall also manifested a good deal of enmity towards Black, and I have seen them meet since without speaking to each other.

Albert Beeman, of Hamburg, in the county of Sussex, a witness produced on the part of the Defendants, being duly sworn, saith: I have lived in the neighborhood of the Hamburg furnace property for some years past, and was for some time in the employ of L'Hommedieu and Edsall at the furnace; all of the time whilst I was at work at the furnace, I was founder, with the exception of a few days; I am not in their employ at this time; I know that the property, during the winter and spring before they went in there, was unoccupied; while I was at the furnace, I know that we were sometimes pretty well pinched for ore; had very little on hand; at the commencement of the second blast, I recollect there was a difficulty about ore; they were all ready to start, but did not, on account of not having ore; I understood they had difficulty in getting ore at the mine. 10

When I was at the furnace, I recollect of Capt. Pratt coming up there several times and talking with Col. Edsall, but can't say what they talked about; I am acquainted with John Black, and was acquainted with him in Connecticut, before he came to Hamburg; he was not very well liked by a good many persons; had a good many enemies; his general reputation as a man of truth and veracity was not very good; I was present at the Hamburg furnace just before Black quit there, and heard a conversation between him and Col. Edsall; they were talking when I came into the furnace—loud words—were disputing; Mr. Edsall told him he would discharge him; Black said he could not until the furnace blew out; Edsall told him he would blow out the furnace, before he would have him any longer, or something like it; I had heard Edsall tell him so before that, two or three times; Black quit shortly after the last conversation; it was not a great while after; I can't tell exactly how long; I think Mr. Comings was in the furnace at that time. 20 30

On cross examination, witness saith: John Black and I had a dispute after he quit the furnace; we had some few words before he quit, but no great; the biggest quarrel we had was here, at this house; we talked about matters a good deal.

I came in as founder after John Black quit, and worked there as such; I had worked in the furnace before this as fire tender; I never heard Mr. L'Hommedieu or Edsall say, whilst I had the care of that blast, they had made fifty or sixty dollars a day by that blast; but I heard Col. Edsall say they had made money by the first blast, but how much I did not hear him say; I don't recollect that I ever told any one that I had heard L'Hommedieu or Edsall say they had made fifty or sixty dollars a day by that blast; I don't recollect that I ever heard Col. Edsall say what it cost them to make a ton of iron. 40

In chief.—Whilst I was at the furnace, I recollect of hearing Col. Edsall say they had sunk money by the second blast, but I don't know that he said this at the time that he said they had made money by the first blast; I have also frequently heard Col. Edsall say that they had sunk money, and would be glad to get clear of the property 50

for less than cost; but I can't say that I heard him say this at the time he spoke of making money by the first blast; I think they managed the business with a great deal of care and discretion, and gave much of their personal attention to it.

William Simpson, junior, of Vernon township, in the county of Sussex, a witness called on the part of the Defendants, being duly sworn, deposes and saith: I reside in the neighborhood of the Hamburg furnace property, and have for years past; I had knowledge of and dealings with the Hamburg Manufacturing Company; it became involved, as I think, in debt, and was so said; they were indebted to me at one time: the witness being shewn a paper, he says, it was executed by me; that's my signature; the company was indebted to me in the amount mentioned in this paper, at the time I executed the paper; this paper purports to be an assignment by witness of his claim against the company, to Doct. L'Hommedieu, and is marked by me exhibit H., 2., on the part of the Defendants; the witness being shewn another paper by the Defendant's counsel, marked by me exhibit I., 2., purporting to be a statement of the account of the witness against the Hamburg Manufacturing Company, which witness says was furnished to him by Mr. William Makepeace, junior, said to be the agent of the company, and which statement the witness says he delivered to Doct. L'Hommedieu at the time he assigned to him his said claim against the company, witness saith: I think Mr. Makepeace was the agent of the company at that time, and, as I understood, was then, and had been for some time previous, a part owner of the property; it was talked amongst the creditors, that the company was so much involved, that it was thought doubtful whether we would ever get our debts that were due from them; some time before the property was sold, and I think the same year, there was a great deal of anxiety and talk amongst the creditors, respecting the danger of losing their demands against the company; I think this was during the time that Captain Pratt professed to be the owner of the property; I don't know that I ever heard Capt. Pratt make any promises about raising money to pay the debts. (*Objected to.*) But I heard others who then were in possession and carrying on the works, say that Capt. Pratt would raise money to pay off the debts; times were set, several times were set, when it was said that the money would be raised by Capt. Pratt for that purpose; about this time it was talked about, that Capt. Pratt had the control of some bank, and it was expected he would get the money for us, but I can't state the particulars.

Some time before the sale, the creditors began to think, as these promises had all failed, they would not get their money; the creditors, before the sale, had several meetings to concert some measures by which to secure their debts; there was finally an arrangement made by them to buy in the property at the sheriff's sale; the arrangement made was to buy in the mine property with the furnace property, and that it should remain here; I think the talk was, that it was deemed of importance to have that bought in with the other to secure their money, and they appointed Doct. L'Hommedieu as their trustee, to

buy in the property for them ; I was at Hamburg the day before the property was sold at Newton, and I was also at Newton the next day, when the property was sold ; Doct. L'Hommedieu was appointed trustee to purchase the property solely for the creditors ; I never understood that Capt. Pratt was to have any interest in the purchase, or any other person, except the creditors, to my knowing ; the debts against the company, at the time of the sale, was a large sum of money, but I cannot say how much ; the understanding was, at the time, that if the creditors purchased in the property, they would endeavor to raise money upon the property to pay the debts ; I recollect that David Ryerson was here at Hamburg the day before the sale, and said that if the creditors would purchase in the property, he would endeavor to assist them in raising the money, and he spoke of one or two places where he thought the money might be obtained ; they, the creditors, failed to raise the money ; I recollect that Mr. Ryerson said that it would be necessary for the creditors to give their own responsibility, to enable them to raise the money. 10

After Doct. L'Hommedieu purchased the property, I recollect something about a lease and contract being made out from him to Capt. Pratt ; I, as one of the creditors, was consulted about the terms of it ; there were a number of the creditors together on that occasion and consulted upon the subject ; I recollect there was something said about the prices of the wood and ore that he was to pay, and there was a difficulty also about some money that Capt. Pratt wanted the creditors to raise for him, to help him along with the works ; there was also a difficulty about some money required by Capt. Pratt to be raised by the creditors for him, to aid him in putting the works in operation ; at first the creditors refused to raise any money for him, but afterwards we agreed to advance some, but a difficulty then arose as to the way in which it should be paid in ; the creditors were willing only to pay in in small sums, as he went along with the works, and not to pay in the whole amount required by him ; it was finally settled, however, and a lease, I think, was made to him by Doct. L'Hommedieu ; there was difficulty also, I think, about the amount of the yearly payments that were to be made by Capt. Pratt, but I can't state what the difficulty was exactly ; there were a good many of the creditors then opposed to driving on the works by themselves ; I think after Capt. Pratt got the lease there were some stones drawn there by some of his hands, for the purpose of repairs, but nothing more was done, and the property laid idle through the course of that winter and spring, until L'Hommedieu and Edsall took the possession ; I think I heard a conversation amongst the creditors, that Capt. Pratt had said that he could get a man in New York that would furnish money or drive on the works, (I am not certain which,) if the lease could be assigned to such person ; I think that Doct. L'Hommedieu talked with me upon that subject. (*Objected to by the Counsel of Complainants.*) I never heard this from Capt. Pratt ; I think I was generally consulted on these occasions, in relation to the property ; I think the creditors were willing that Capt. Pratt should make such arrangement with the person spoken of in New York and I think 50

that Doct. L'Hommedieu, according to the wishes of the creditors, started to go to New York with Capt. Pratt, to see what could be done in regard to that arrangement; it was said that Capt. Pratt was arrested on the way, and taken to Newark jail; after Capt. Pratt was put in jail, the creditors, I think, had a meeting here, to consult what to do with the property; it was talked over amongst them, how the property should be managed, and who should do it, provided they could get at it, that is, if they could come to a conclusion about it.

- 10 Most of the creditors were unwilling to embark in the business; they were willing that any of them that would, might take hold of the property; I think the property, at that time, was in a dangerous situation, and going to waste; I think L'Hommedieu and Edsall entered into the possession of the property soon after that, built up the dam, and put the works in operation, upon their own means, as I expect; I know nothing to the contrary: I thought the property was a doubtful security for the debts; it was that kind of property that many people would not want; I think many of the creditors were of the same opinion, by their discourse; some of them sold their
- 20 claims below par; as low as fifty cents on the dollar; I have thought, as far as I have observed, that L'Hommedieu and Edsall since they have had the property, have managed it very carefully and to the best advantage to make money out of it, as I think; they have attended very strictly to it, in person very much so, more than I should have liked to have done.

- On cross examination.*—Doct. L'Hommedieu paid me fifty cents on the dollar on the amount of my claim; he gave me his note for it; I have received a part of it from him; it is all due; I don't recollect whether there was anything said about a lease to Captain Pratt on
- 30 the day before the sale here at Hamburg; I think there was something said about it at Newton, on the day of the sale; it was understood at that time that Pratt was to have a lease of the property; it was so talked among the creditors; I don't recollect of any reason being given at that time why the agreement was not then executed; I don't recollect that Capt. Pratt was desirous this should be done before the sale; I don't know that he was, or was not; I don't think I remember all that took place amongst the creditors at that time, nor the one half of it; I think that Mr. Ryerson spoke also at Newton of assisting to raise the money; I don't know but what it was talked
- 40 at Newton about raising money for Capt. Pratt, to enable him to carry on the works; I think all these arrangements were talked over at Newton on the day of the sale; I understood the object of raising that loan was to assist Capt. Pratt, so as to enable him to put the works in order; I understood that the creditors were to assist in raising for Capt. Pratt the money required to put the works in operation; each one was to pay his proportion; I think fifteen hundred dollars was the sum that Capt. Pratt named as the sum that he wanted; the money spoken of to be raised by the assistance of Mr. Ryerson, was to go to pay off our claims, as I understood; that also was talked
- 50 of at Newton; it was understood, that if this loan was obtained, that

the lease over then ; I almost forget about it ; I supposed that the lease and contract spoken of was all one and the same thing ; I may be mistaken about hearing the lease read over at Newton ; it might have been the contract that I heard read there ; the paper heretofore marked by me as exhibit E., 2., on the part of the Defendants, being shewn to the witness, and parts of it read over to him, he says, he is satisfied that it is the lease executed by Doct. L'Hommedieu to Capt. Pratt for the furnace property, and I think by the agreements read over from it, it sounds like the same that was read over in

10 Mr. Haines' office at the time mentioned by me when the creditors met there ; I am now satisfied that the lease was made out at Mr. Haines' office after the sale, and that it was the contract that I heard read over at Newton, and not the lease.

September 29, 1843.

John Vandegriff, esquire, of Vernon, in the said county, a witness produced on the part of the Complainants, being duly sworn, did depose and say : I was present at a meeting of the creditors of the Hamburg Manufacturing Company at Hamburg village, a day or two before the property was sold ; it was not long at any rate before

20 the property was sold ; I recollect seeing Mr. David Ryerson here at the same time ; I heard nothing said by him about raising a loan for the company ; there was a conversation at the time among the creditors that Mr. Ryerson would, or was about to raise a loan, to assist Capt. Pratt ; I understood it so ; the way I understood it, and the way it was talked here, that Mr. Ryerson was about to raise a sum of money for Mr. Pratt, and it was to be paid, so much of it, as I understood it, to the creditors of Mr. Pratt, but I don't recollect the amount, and he, Mr. Ryerson, was to advance some of it to Capt. Pratt, to enable him to go on with the works and keep the furnace

30 in operation ; I understood that the real estate was to be set up and sold, but Mr. Pratt was to have it restored back after the sale, or something to that effect ; I can't recollect distinctly the express terms ; I heard it talked of about the door, among the creditors ; I did not understand who was to buy the property ; I was at that time a creditor of the company to a considerable amount ; I have no interest in it now, none at all.

At that time, I came here for the purpose of looking after my rights ; I was not at Newton the next day, or the day of the sale of the property ; I can't tell who was to keep the possession of the

40 property ; I knew then, but can't say now who it was.

I am acquainted with John Black ; I was acquainted with him at the time he was here at the furnace ; I had a store here at that time ; his general character for truth and veracity was good ; I never heard anything against it.

On cross examination, the witness says : I did not reside here at that time ; I lived about six miles from this place then ; I had a partner here who managed the store, Thomas D. Edsall ; I was not familiarly acquainted with Black or his character ; I saw him frequently at the furnace, and at the store, and at this house ; I don't

50 know as to his being very often out ; I saw him frequently at the

store; the company were indebted to the firm of which I was a partner, but not to me individually; I don't know the amount of the indebtedness, it was considerable; I think the debt due to our firm is not paid, but I have assigned away my interest to William Edsall; at the time of the meeting spoken of, the claims of the creditors were thought by some to be very doubtful; I don't recollect what the claims against the company were estimated at; I did not, at that time, consider my claim as doubtful of recovery; afterwards I did; some time after, perhaps a month or two, I did; I did not part with my interest for less than the amount; I owed Mr. William Edsall and transferred my claim to him, that is, my share of the claim for the full amount that belonged to me. 10

In chief.—I understood that the property was to be sold at Newton on the day to which the adjournment was made, and that Capt. Pratt was to go on with the works; that was the talk here the day the creditors met here as mentioned by me; I was not present at any meeting of the creditors, before the day of their meeting here, that I know of.

Samuel Truex, esquire, of Vernon, in said county, a witness produced on the part of the Complainants, being duly sworn, saith: I believe I was here at this house in Hamburg at the time the property of the Hamburg Manufacturing Company was advertised for sale; I think Mr. David Ryerson was here that day also; I think Joseph E. Edsall was also here; there was a meeting of the creditors of the company here that day; I think the sale was adjourned that day; it is so long ago, I have almost forgot about the matter, but my understanding was at the time, that Mr. Ryerson was to raise a large sum of money; I have almost forgot, but I think it was thirty thousand dollars, for the purpose of paying the debts of the company, to pay the creditors; my understanding was, if Mr. Ryerson raised the loan, the property was to be sold, and the understanding at the time was, that Doct. L'Hommedieu was to purchase it, as trustee, I took it, between the creditors and the company; that was the general report amongst the creditors; Robert Lewis, I think, was the one who told me what the arrangement was at the time; my understanding at the time was, if Mr. Ryerson raised the money, and the property was sold, the company was to carry the works on; I understood the object of the adjournment to Newton was to ascertain whether Mr. Ryerson would be able to effect this loan; I don't recollect that the company was to have any part of this money, to enable them to carry on the works; I resided at Hamburg at that time; Robert Lewis was a creditor of the company at the time, as he said; I was acquainted with John Black at that time; I have not seen him for a year past; I think I have been acquainted with him for seven years; I have never heard anything against his general character; his character for truth and veracity is good, as far as I have ever heard. 30 40

On cross examination, this witness saith: At the time spoken of by me, the debts of the company were estimated, it appears to me, at about twenty-eight thousand dollars; I had been shortly before employed by the company as clerk for them, and as an agent for them 50

- so far that I sold goods for them and had a superintendence over their works; Mr. Howard was the principal agent; I think I commenced there about the 12th of January, 1838, and continued until about the 12th of August then next; I made contracts of purchases for them, and managed their business here; the creditors of the company about then manifested a good deal of anxiety about the safety of their claims; a good many of them considered their money very doubtful; I heard a number of them so express themselves; I have known several meetings of the creditors here at this house,
- 10 previous to the time above mentioned, upon the subject of their claims against the company; I don't recollect now of the creditors being anxious to secure the mine property, as I was not in their meetings; I had no interest in any of the meetings of the creditors, and took no part in them, none at all; I don't think I can recollect all I heard on the subject at that time; as far as I have stated, I think my recollection is distinct; but I may be mistaken; after the sale of the property, I think Capt. Pratt told me he had a lease of the property from Doct. L'Hommedieu; I don't recollect whether he told me he had a contract for the sale of it to him, with L'Hommedieu; after Capt.
- 20 Pratt had the lease, I think I heard it from some quarter, but I don't recollect that I heard it from Capt. Pratt, that he, Capt. Pratt, was to get some man in New York to purchase the property, and I understood that Capt. Pratt and Doct. L'Hommedieu had gone to New York for that purpose. (*Objected to by the Counsel of the Complainants.*) I think the balance that was coming to me from the company was about forty-four dollars; one day I saw Doct. L'Hommedieu at the store, and he offered me fifty cents on the dollar for my claim, and I told him I would take it; he then said he had not the money by him, but would pay me in a short time; I
- 30 never have made a transfer of the claim to the Doctor; I think I have heard it talked of among the small creditors of the company, that they were afraid of losing their claims entirely, by reason of the many larger claims, which, I understood, many of them were liens by mortgages, and therefore they were anxious to have the property purchased in, for the common benefit of all; my understanding was, that the smaller creditors were fearful of losing their claims, if a sale of the property was made without some such arrangement; John Black was foreman in the furnace, and attended closely to his business, and was very little out.
- 40 *Joseph Sharp, esquire*, of Vernon, in said county, a witness produced on the part of the Complainants, alleging himself conscientiously scrupulous of taking an oath, was duly affirmed, and thereupon did declare and say: I was here at this house at the time there was a meeting of the creditors of the Hamburg Manufacturing Company, when the property was under advertisement for sale, and was also present when some part of it was sold here; Mr. David Ryerson was here the first day, but not the second, as I recollect; I had a mortgage at that time on a part of the property, a wood-lot in the mountains, which was the cause of my coming here; there was a
- 50 good deal of talk among the creditors at the time; I went into the

room, and Mr. Ryerson, Col. Edsall, Doct. L'Hommedieu and Capt. Pratt were all in there together; a little while after Capt. Pratt came out, and there was a general talk out in the other room amongst the creditors, and, as I was concerned, I was talking with them; and it was talked of making an arrangement with Mr. Ryerson for a loan, as I understood, of about thirty thousand dollars; four thousand dollars of the sum was to go to Mr. Pratt to carry on the business; and the same time, as I understood it, the money was to go to pay off the general creditors; this is the chief or amount of what happened the first day that came under my notice; it appears there was an adjournment, and something was to be done at Newton at the day to which the adjournment was made. 10

At the time of the sale, which was afterwards, at this place, I attended again; at the time of the sale, and whilst the sale was going on, I went out on the stoop, and I was told by the creditors, that it was agreed that Doct. L'Hommedieu should buy the property, for the benefit of the creditors and the company; he was to buy the property, as I understood, as trustee.

I had an intention to buy it myself; this mountain lot that was subject to my mortgage, the reason I did not buy it was, because I understood it was to be bought in for the benefit of Capt. Pratt and the rest of the creditors, and because he was to have four thousand dollars, as I understood, to go on with, and I was willing he should have it; my chief conversation with the creditors was with Mr. Robert Lewis, Joseph M. Brown and William Edsall, on the subject; after the sales were gone through with, in the after part of the day, I then called on Mr. L'Hommedieu, being the purchaser, Joseph E. Edsall, Mr. Brown, Mr. Lewis, Mr. Pratt and Mr. Haines were present; I there informed them, that I had employed Mr. Haines to bring an Injunction to stop them from moving the wood that was on this mortgaged property, as I had been on the ground and had taken up the wood; and Mr. Haines said, if I remember right, that he had drawn the injunction or was about drawing it, and that I would not stop it unless they would pay the costs; I think I asked Mr. Haines what the costs would be, but am not sure; Mr. L'Hommedieu said the costs should be paid, if I would stop it, and Mr. Pratt also said, "I will see it paid;" I then mentioned that I wished to know when they would pay the money; Col. Edsall then mentioned that they would pay the money by the first of March; I think that was the time; I further mentioned to them, that there was no more wood to be cut on it until that time, or until the money was paid; and on those conditions they promised they would cut no more; I then ordered Mr. Haines to proceed no further; I think I also told them, that I would give them further time than the time that was first fixed, and whether that was the first of March or not, I cannot now distinctly say; but at the time that was fixed for the payment, I called on them; I had some little trouble to get them together; we met up here at the store, and there they informed me that they had failed in getting the money by the way of Ryerson; and I then wanted them to fix another time when they would do it, and they said they could not 50

do it; I then informed them they had gone beyond their promise, and had begun to cut more wood on the premises, and that they must stop.

I stated what the agreement was that had been made between us, and Col. Edsall denied it, and I told them I would refer them to Mr. Haines, and they must stop; I understood the arrangement was amongst the creditors, with regard to the money to be loaned, that it was to go to pay the creditors their debts, and four thousand dollars of it was to go to Capt. Pratt, to carry on the works; and after the
 10 debts were paid, I understood that the property was to go to Capt. Pratt; and the debts were to be bought in as cheap as they could be, for the benefit of Capt. Pratt; I understood also, this was the talk, that if he went on, he was to let them have metal as he made it, which was to go on account of the four thousand dollars which he was to receive; I understood it that way.

On cross examination, this witness saith: At the time of the meeting of the creditors spoken of, I had no interest in the mine property, nor any claims upon it, nor any interest in the sheriff's sales of it; nor do
 20 I know when the sale of it took place; I understood that it was sold at Newton; I speak of no understanding or arrangement among the creditors about the mine property; I don't recollect that this property was brought into question, at the times spoken of by me; my attention was directed to the property here, of the Hamburg Manufacturing Company; I expected that all the property was advertised for sale at that time; my claim was by a mortgage on the property, given to secure the purchase money; I felt some doubt about my debt at the time of the sale, because they were cutting off the wood, and lessening the security; I was going to get an injunction against
 30 the Hamburg Manufacturing Company; nothing had been paid on the mortgage to me at that time; two payments were then due, and all the interest; I called on the company, and their agents, for my money, several times without obtaining any; and I told them that I should proceed against them, which I afterwards did; I had no interest in the purchasing in of the property by the creditors, further than my mortgage; I was not called in as a creditor, to consult with them on the subject; before this, I did not hear much about it, but afterwards, I heard several of the creditors say they did not believe they would ever get much, for it had got into bad hands; if I tell my own
 40 opinion of it, I doubt all these iron works; I heard William Edsall say that it had got into bad hands; other persons were by, when he said it; Isaac Sharp was one; this conversation was had at the time the sheriff was selling the property upon the foreclosure of my mortgage; I don't know anything about any arrangements made by the creditors, about the mine property; I know nothing about it; if there was any, I know nothing about it.

Question.—Did you ever hear Capt. Pratt say, shortly after the sale of the property, that he had obtained a lease, or contract for a resale of the property, from Doct. L'Hommedieu, after he had purchased it?

Answer.—Yes, I did hear him say that he had such an article, and
 50 that Mr Thompson had written it; I understood it was from Doct. L'Hommedieu.

The witness says : I understood that the money that was to be raised by the loan, was to go to pay the creditors who were willing to come in and sign a certain article amongst them, to contribute their share of the sum that was to be advanced, to enable the works to go on ; this I understood from Joseph E. Edsall ; the claims of all the creditors generally, were to be bought up as cheap as they could be ; L'Hommedieu and Edsall, I understood were to buy them up ; I don't know whose funds were to be used for the purpose of buying up these claims ; I understood that the benefit the company was to derive from the sale of the property to Doct. L'Hommedieu was the buying up of the out- 10
standing debts at a discount ; I did not understand, nor did I hear a word mentioned amongst the creditors, on the day of the sale, that Capt. Pratt was to have a lease of the property ; I did not hear any thing said about a lease ; nor did I understand at that time that L'Hommedieu and Edsall were to drive on the property ; I understood that Pratt was to do it ; Capt. Pratt did not pay the costs of the injunction ; L'Hommedieu and Edsall, I believe, settled the costs with Mr. Haines, I think he took them for it, at the time they bought my claim, when I assigned my judgment and mortgage over to them ; L'Hommedieu and Edsall have paid me the full amount of my judg- 20
ment, and interest, and settled all the costs with Mr. Haines, as before stated ; the time that was fixed for the payment of the money to me, by L'Hommedieu and Edsall, as before mentioned, and called the first of March ; the conversation had between us on that subject, was at the store of L'Hommedieu and Edsall, at Hamburg ; they were then in possession of the works, for they had been cutting wood on the mortgaged lot.

I was not present at Newton at the sale made there of the property ; I did not know there had been any sale there, until I heard it here to-day ; I did not understand, nor did I ask the question how 30
the money was to be obtained, or where it was to come from, with which Dr. L'Hommedieu was to purchase in the property ; I did not understand how the sheriff was paid the amount of the purchase money at the sale ; the reason why I intended to buy the mountain wood lot that was subject to my mortgage, was, that I thought if I could get it for a trifle, it would save me the necessity and expense of foreclosing my mortgage ; it had been cut upon considerably then, and before L'Hommedieu and Edsall bought it of me ; there might have been a dower right in the property, in Winslow's wife, without a foreclosure, I suppose ; John F. Winslow gave the mortgage and had my 40
deed for the property ; his wife did not sign the mortgage which was given for the purchase money.

In chief.—Having stopped the proceeding first commenced upon the foreclosure of my mortgage, and the money not being paid to me, I was about to commence proceedings a second time, but before I did so, I went to Robert Lewis to consult with him ; I told him that I considered him as one of the creditors of the company, and that I was about to proceed to foreclose my mortgage ; and my impression is, that he told me that he had sold out his claim, and had no further interest in the matter ; and this is all the consultation I recollect to 50
have had with any of the creditors.

At the same time that Capt. Pratt told me that he had an article with Doct. L'Hommedieu, he told me that Mr. Haines had told him it ought not to have been drawn or signed until after the sale, as it would invalidate the transaction, and he said that he had seen Mr. Thompson afterwards, and that he said it would made no odds; I understood that Capt. Pratt said that the article was signed at Newton, though I am not certain about it; I am positive he said there was such an article.

10 *Cross examined.*—L'Hommedieu and Edsall have trespassed upon me, and I have prosecuted them; but that would have no effect upon the evidence I give on this occasion; I am not on friendly terms with them, but wish them no personal harm; you can't be on friendly terms with a man who has trespassed upon you; I have not taken any interest in this suit in favor of Capt. Pratt, within my recollection; I have frequently asked Mr. Holcombe, Franklin Holcombe, how they were coming on with the suit; I have always thought he was a friend of Capt. Pratt, and has acted as his agent in serving subpoenas for him; I can't recollect now, of having said that Capt. Pratt ought to succeed in this cause, nor expressed an opinion that he would
20 succeed.

Henry Carley, of Hamburg, in the county aforesaid, a witness produced on the part of the Complainants, being duly sworn, saith: I am acquainted with John Black, I have known him since 1827; I knew him in Connecticut, have worked with him there, and also in this state; his general character for truth and veracity is good, has always stood good in Connecticut, and previous to some disputes between him and Col. Edsall, I never heard any thing against him; and I then heard Col. Edsall call him a vagabond; never heard anything
30 against him before that; I have had some acquaintance with Albert Beeman since I have been in this state, I had seen him in Connecticut; I was sent there to hire him, by John Black, to come here to work.

Beeman and I have had lately, some conversation about the furnace; and he said he thought Capt. Pratt would get it again, but it was not as good by two thousand dollars, as it was when L'Hommedieu and Edsall first took it, by reason of the damage done to it; and I asked him what damage they had done to it, and he said that they had blowed it without the lining, or after the lining was burnt out and destroyed, and thereby had injured the stack or out walls.

40 (*Objected to by the counsel of the Defendants.*)

On cross examination, this witness saith: I have heard Beeman talk pretty hard against Col. Edsall, and should think they are not on very good terms; I never heard Beeman say that Col. Edsall had discharged him, but I have understood so from several others; I have also understood that he has gone to work again in the furnace this afternoon; I do not know that he has been employed as a substitute, or in what way; Black's brother married my sister.

William H. Woods, of Hamburg, in the county aforesaid, a witness produced on the part of the Complainants, being duly sworn,
50 saith: I was acquainted with John Black during the whole time he

was at work here, pretty much; and saw him several times since. I never heard any thing against his character for truth and veracity, when under oath; I don't know that I ever heard any thing against him on that point.

On cross examination.—When not under oath: I don't know that he is worse than common men; I never understood that he was; I think I have understood both from him and Col. Edsall, that they had a falling out, and he had quit; this I understood from Black, after he quit, and I think the same day that he did quit; he and I were intimate friends, and he told me this very soon after he quit, and it might have been the same day; he complained of Col. Edsall, but I don't recollect that he told me that Col. Edsall had discharged him. 10

October 13th, 1843. 11

Abner Jones, of the city of New York, a witness produced on the part of the Complainants, being duly sworn, deposeseth and saith: That he is acquainted with the Hamburg Manufacturing Company, and with Joseph B. Nones, and Edward W. Pratt; is acquainted with Joseph E. Edsall, and believes that he has seen Elias L'Hommedieu once, but will not say positively; witness says that a bond and mortgage were given by the said company to him, bearing date the 26th June, 1837, to secure the payment of fifteen thousand dollars, in several yearly instalments; and he says that he had no interest in the mortgage personally; the bond and mortgage were transferred the same day they were given to Elias L'Hommedieu, one of the above Defendants; the object for which the mortgage and bond were given, was to secure certain creditors of the said company; at the time the mortgage and bond were assigned, witness did not know many of the creditors, but Daniel Haines, esquire, came over to the city of New York, where the whole business was transacted; the said company were owing divers individuals in the State of New Jersey, whose claims were due, or about becoming due, and they were willing to give a longer time for payment provided the above arrangement was entered into; several suits had been commenced against the said company, but were discontinued or suspended in consequence of the said bond and mortgage being given for the above purpose; the object of the giving of the bond and mortgage was, that the creditors of the company living in New Jersey, should be paid pro rata, as regarded their respective claims; and it was agreed that if the debts against the said company did not amount to the sum for which the bond and mortgage were given, the same should be cancelled, after paying the debts of those who applied; and that the said bond and mortgage were given merely as a security for those debts to deponent, and that he had no personal interest whatever, in the same; the bond and mortgage were assigned by witness to Elias L'Hommedieu, on the same conditions that he, the witness, received the same, and it was expressly so understood at the time; Daniel Haines was considered by witness, as the agent of the creditors of the said company; the creditors of the company were willing to abandon their individual claims against the company, by their giving the said bond and mortgage, and witness acted as the medium by which the above arrangement was made; the creditors were to be paid under 20
30
40
50

that, according to their respective claims; the idea was, witness says, that the creditors were willing to swap securities; witness understood that the bulk of the said creditors were willing to come in under this arrangement; those creditors who chose to take the bond and mortgage as their security, were to assign to witness their individual claims against the said company, and he, witness, was to assign the same to Edward W. Pratt, the president of the company at that time; witness understood at the time of the agreement between him and Mr. Haines, that a majority of the creditors in New Jersey would accept of the same; and provided they did not, that the said bond and mortgage were to be cancelled; no claims whatever, under that arrangement, have been assigned to witness; the understanding was, that the said bond and mortgage were to be valid, as regarded the claims of those individual creditors of the said company, who were willing to come in under this arrangement, and abandon their individual claims to the extent of the same.

Cross examined on the part of the Defendants.—Witness says, that at the time the bond and mortgage were given, the creditors were fearful of losing the debts due from the said company; witness means by creditors, those whom the bond and mortgage were intended to secure; some of the creditors had already been secured. According to the books of the company, they were indebted at the time the bond and mortgage were given, in the amount of about thirty thousand dollars, or upwards, and the amount of which indebtedness, was about three quarters, or more, in New Jersey. (*Objected to on the part of the Complainants.*) A statement from the books was shown to witness by Benjamin C. Howard, who had something to do with the books, but whether he was their agent or not, witness cannot say; he had something to do with the company; does not recollect that Mr. Haines gave notice to him that he was willing, or that he was ready to assign to him any individual accounts due from the company; witness has seen Mr. Haines two or three times since the above arrangement was made, and Mr. Haines never offered to transfer and assign any accounts of the said company to him, and witness never asked him so to do; witness, at the above mentioned times, had conversations with the said Daniel Haines about the affairs of the said company, but nothing was said at those times, about the transferring of any individual debts due from the said company; witness thinks there was a written agreement between witness and Mr. Haines at the time the bond and mortgage were given, and also between Edward W. Pratt and witness in regard to the transaction.

Re-examined.—Witness says that the written agreement between Daniel Haines and himself, he cannot find; he has searched among his papers, and is unable so to do.

December 8, 1843.

John H. Simpson, of the township of Newton, in the county of Sussex, a witness produced on the part of the aforesaid Complainants, being duly sworn, deposeth and saith: I am not a native of this county, but have lived here twenty-two years; I was in the employ of the Hamburg Manufacturing Company when they were doing business

here; I commenced working for them on the 4th day of April, 1838, and continued on the premises and property till the spring of 1840; I worked for the company till the month of November or December, 1838; I lived on the mine lot; after I closed working for the company I worked for Mr. L'Hommedieu and Edsall, some in raising ore in the mine, and in fixing tools for the mine; I recollect of hearing of the sale of the mine farm, made by the sheriff of Sussex, but I was not present at the sale, but was once present when the sale was adjourned by sheriff Broderick, at Hamburg; I was then a creditor of this company, they owed me three hundred and sixteen dollars, for work and labor for the company, and several of their hands; a balance was struck in the fall of 1839, or spring of 1840; I was present at two or three meetings of the creditors of the Hamburg Manufacturing Company, in reference to the settlement of the debts, and the sale of the property of the company; Doct. L'Hommedieu and Col. Edsall were both present at some of these meetings, and sometimes one of them; consulting; I heard Col. Edsall say he was a creditor to a large amount; I don't recollect of hearing Doct. L'Hommedieu say he was; this ore bed I worked for Doct. L'Hommedieu and Col. Edsall, was the same I worked for the company; I have understood from both of them, that they owned the ore bed; I have heard both of them say that Doct. L'Hommedieu had bought the property as a trustee for the company, and the creditors and concern, so as to make title.

The Doct. was a general agent for the company and creditors, as I considered; I understood from them that Capt. Pratt was to have a redemption in some way, in case he should fulfil certain contracts; these contracts were to raise some certain payments for certain persons; preferred creditors; I don't know that they ever carried it on for any other persons than themselves, when they carried on the works; they never said any thing like that to me, as I recollect; there was an abundance of ore at this mine when I worked there; I did not see any appearance while I worked there, of the ore giving out; the further we got down the more ore there appeared to be, and better; the ore was then easy to be got, and within three or four feet of the surface; and we then had to go four or six feet through a mixture, or streaks of clay and ore, then we came to clear ore again; I heard a general talk at a meeting of the general creditors, at which Doct. L'Hommedieu and Col. Edsall were present, about their making a loan of David Ryerson, of thirty thousand dollars.

Hiram Cummings, of the township of Hardyston, in the county of Sussex, a witness produced on the part of the Complainants, being duly sworn, deposes and saith: I am acquainted with the ore beds formerly belonging to the Hamburg Manufacturing Company, and now in possession of Doct. L'Hommedieu and Col. Edsall; I have mined them; the last I raised, for the Franklin Company, was three years ago this last fall; I worked there, off and on, two or three years; I profess to be well acquainted with the mining business; I have seen these mines and examined them this afternoon, for the first time since I left; the prospect as to the quantity of ore in the bed, is

better than I expected to find it, although I always thought it good; north of the old mine, the prospect as to the quantity of ore, is better than it was when I was there; there is now a better opportunity of judging than there was then, as the mine is more opened; as the mine is opened, the bed of ore widens as you go towards the water, and if it runs down to the water, there is no doubt there is an inexhaustible bed of ore there; I mean by that, they go down to the hill as they open, and if the bed extends so low as to go down to the lower ground, that the bed is inexhaustible; my opinion is, that there is ore
 10 enough in that north place to serve the furnace a great many years; if the appearance continues as it is now, there is enough there to run a furnace as many years as you want to run it.

Cross examined by Mr. Hamilton.—This kind of ore is sometimes found in bunches, and does not always run in veins, and therefore may run out; some bunches on this lot, and particularly the old mine, run out in that way; there are two openings in the hill that I looked in, and I found the ore they are now to work in; these openings are six rods apart; I should judge that the place where they are now working, is connected with the one I opened, because the hole
 20 is continued, from the appearance of the ore as it lies in the ground; when I was digging for the Franklin Company, or when I was digging for myself, I found a deposit of a small vein east of the main body, that ran out in the same old opening; in the north part they have dug deeper than I dug, and found ore; they could run further north, or dig deeper down and find ore; it is much more expensive getting ore there now than when I got it out; they have dug lower than I dug, and if they have dug twenty-five or thirty feet lower than I dug, then they have got down to the surface of the lower ground; this is as near as I can judge; I have not measured it; it appears as if there had
 30 been a drain dug from the brook below up to the bed of ore; I don't know whether this drain is level or slanting; L'Hommedieu and Edsall have made this drain since they had it; after you get to the surface of the lower ground, it will cost double to get ore below that; I should think it might be done by a shaft, pump, and horse-power; where the men were to work to-day it was dry, and I saw no pump there; I don't know whether they have been obliged to pump in the mine; the low lands at the base of the hill, have a natural outlet to the north or north east, through the hollow; I don't know of any time when the works were nearly run out for want of ore.

40 On the east side, where they are digging, I should think the ore was not far from eight feet wide, and on the west side, I should think was six feet wide; these two beds or veins were distant from each other about fifteen feet, measuring from inside to inside; the depth where they were to work, when I was there to-day, was about five or six feet; they wanted me at one time to raise it by the ton, and I would not raise it at their price; this bed they are now digging, is in the same mine of clay as the old bed; but, I think, is not in the same state as the old one was, because this runs down the hill towards the water, which generally makes an inexhaustible mine, and the
 50 old one runs up the hill, and is more likely to run out; and because

also the new one grew wider as we went into it; the old one commenced by a small vein, like your finger, and grew longer, till it got into the main body, and then swelled out to a width of six feet, and continued on so for some distance and then got out; the widest bed that I ever saw or knew there was thirty feet wide, and that was the old bed; this is as near as I can judge of the width; this wide part was taken out by Mr. Booth before I went there, for the Clinton and Hamburg Companies, as I was told; this was done while these companies were carrying on the business, as I was informed.

December 21, 1843.

William Burns, a witness produced, sworn and examined on the part of the Defendants, on his oath saith: I reside in the township of Vernon, in the county of Sussex; I have worked in the ore bed now worked by L'Hommedieu and Edsall mostly since it started; I have worked in the mine every year since it started, except last year; I worked in it when the Hamburg Manufacturing Company got ore there; the appearance of the mine and ore at that time was very good, as to its quantity and extent, better than I have ever seen it; to get the ore was very easy then; the ore was found then in a large bed near the surface; it did not appear in some places to be more than ten feet below the surface of the ground; there was supposed to be at that time a large quantity of ore there, and it was the talk of some people that season, that it extended pretty much over the hill at that place; this was generally the opinion of those at work there at that time; there was a better opinion of it then than has been since; since L'Hommedieu and Edsall have been at work at the mine we have found some good ore, but we had a great deal more dirt to remove; we worked veins which they did not think worth while to trouble themselves with when the company worked the mine, and it took a great deal more expenses to work them; I think L'Hommedieu and Edsall have been obliged to go deeper to raise the ore than the company did; they have been obliged to raise a great deal of dirt out of the mine; I think that when John H. Simpson raised ore for the Hamburg Company, they could raise thirty tons of ore with as little expense as we can raise five tons now; the appearance of the mine, as to the quantity and extent of ore, where we are at work now, is not as good as when the company worked it; it is mixed a great deal more with dirt; I have seen places where they have worked in other places over the hill, at great expense, and no signs of ore there, where they have worked for the purpose of trying to find the ore; I don't know of any other mine of ore in the hill, except the string of ore which we are working in at the present time; to the best of my knowledge, I do not believe there is any other.

Thomas D. Edsall, a witness produced, sworn and examined, on the part of the Defendants, on his oath says: I am in the employ of L'Hommedieu and Edsall, and have been since they commenced working the furnace at Hamburg, formerly carried on by the Hamburg Manufacturing Company; I have had the keeping and charge of their books and accounts most of the time, and have a knowledge of their business, accounts and affairs; I was their book-keeper until

last spring ; since that, Horace V. Edsall has been their book-keeper ; I have made an estimate of their receipts and expenditures connected with their driving on the works and making of iron ; I made out the personal property of the firm insufficient to pay their debts and liabilities over fifteen thousand dollars ; I made an estimate of all their effects of every kind ; I find a balance against the firm, estimating all their stock and effects on hand at full value, of rising fifteen thousand dollars ; this estimate was made up to about the twenty-sixth day of September last ; I did not include in this estimate any payments on the real estate, or any incumbrances thereon ; I think we included in this estimate the expenses of building the dam and coal house ; I did not include in it the services of either L'Hommedieu or Edsall ; I did include the hire of agents and clerks ; I know that L'Hommedieu and Edsall paid William Longwell for all the timber brought by him on the premises, including part of the timber put into the coal house ; part of the timber for the coal house was on the premises at the time they went there, and a part they carted themselves ; I was a creditor of the company at the time of the sale of the mine property, as one of the firm of Vandegriff & Edsall ; we made an assignment of this claim, and I have no interest in it now ; I was at Newton at the time of the sale of the Hamburg property ; I signed the agreement among the creditors at Newton ; I had no knowledge at the time of the purchase of the property, of any other object or purpose for the purchase than is mentioned in that agreement ; it was my understanding, that the written agreement embraced all the objects and purposes that the creditors had in view at the time ; I was present at several meetings of the creditors after the sale, to consult and determine what disposition to make of the property, as Capt. Pratt did not comply with the lease ; these meetings were after Capt. Pratt had failed to comply with the article and lease given to him by the trustee.

Capt. Pratt did not do anything about the premises towards putting them in operation after he got the lease ; the dam, or a part of it, had, in the meantime, gone away, and the property was unoccupied ; it was while the property was in this situation, that the creditors had these meetings which I have spoken of ; they had some difficulty to determine what to do with the property ; the creditors were mostly all of them opposed to embarking in the business of driving the furnace ; they were not favorable to that kind of business ; some of them considered the iron business a losing business ; I heard several of them intimate that they would rather lose their debt than have anything to do with driving the furnace ; it was a business they did not like or believe in ; there was a meeting of the creditors just before L'Hommedieu and Edsall took possession ; I think I heard it reported by Mr. Haines or some one else at that meeting, that he had seen Capt. Pratt, and that he had given up all hope of doing anything ; I understood that Mr. Haines had been requested by the creditors to see Capt. Pratt ; at the last meeting of the creditors, before L'Hommedieu and Edsall took possession of the property, the creditors were desirous that they should do so, and appeared to be

very anxious that they should go on; when they commenced to drive the works they furnished and provided everything with their own means, and have done so ever since.

The principal part of the first year, from the month of June until January, was spent in making preparations, putting the works in order before they got into operation; it was January before they got into blast; from the situation of the furnace at that time, they were obliged to incur great expense to put the works in operation, the dam being gone, and being obliged to get wood cut in the summer season, which costs more than in winter; the dam, I think, was not finished until about the last of November; I recollect of their doing some gravelling to the dam after the furnace had got in operation, in the month of January; I heard Mr. Abram Walker, who was the agent of Capt. Pratt, say the day before he left the furnace, and after Capt. Pratt had got the lease, and in the month of February or March, that he was going to abandon the concern, as there was not any prospect of Capt. Pratt's doing anything; Mr. Walker shewed me a letter from Capt. Pratt declaring him his agent; Mr. Walker went from here to New York; I think I recollect of Capt. Pratt's representing about the time he got a lease for the property, that he had a man in New York who would buy the property; the creditors were kept in suspense for some time by these representations of Capt. Pratt that he was making efforts to sell the property and raise money; he fixed time after time when it would be accomplished, every week or every two weeks that somebody would be up, according to his talk; I recollect of Doct. L'Hommedieu starting to go to New York with Capt. Pratt, to see what could be done; this was after considerable delay; I understood that the Doctor went as far as Paterson, where Pratt was arrested and locked up; Messrs. L'Hommedieu and Edsall have given pretty close attention to the business of driving on these works; Col. Edsall in particular has devoted all his time to this business; at one time, while L'Hommedieu and Edsall have been driving on these works, they had a considerable difficulty in procuring ore; they were obliged several times to stop up the furnace and wait, for the want of ore; at the commencement of one blast, they delayed, I think, two months in starting the furnace, from the doubt whether the mine would be able to supply them; I recollect of Capt. Pratt's coming to Col. Edsall's, since L'Hommedieu and Edsall have been driving the works, and trying to buy the property; he was up at two different times; I think this was the second year after they had been in possession of these works; the first time he came, one of the firm of Mackay, Oakley, & Jennison was along, and they wanted Mr. L'Hommedieu to make an estimate of the lowest price they would take for these works; I recollect the second time, of Capt. Pratt's coming into the office, and inquiring if the Colonel was at home; and then he went on to talk about buying the property; he wanted to turn in some houses and lots in New York; he said if he could turn in some houses and lots in New York, he could make things work and buy it; Messrs. Edsall and L'Hommedieu have always manifested a desire to sell this property,

alleging that they would take much less than cost ; when they made an estimate for Capt. Pratt, they offered to take less than cost ; I never heard Capt. Pratt pretend that he had any claim to this property until about the commencement of this suit ; have frequently heard him talk about buying it ; my salary as clerk and agent for L'Hommedieu and Edsall has been six hundred dollars a year ; Horace V. Edsall's, since he commenced, has been three hundred dollars a year ; these are much below the prices usually paid to clerks and agents for the like services ; not more than half what they paid when the
 10 Hamburg Manufacturing Company were carrying on the works.

Horace V. Edsall, a witness produced, sworn and examined, on the part of the Defendants, on his oath says: I am in the employ of L'Hommedieu and Edsall at the Hamburg furnace and works ; I am a son of Joseph E. Edsall ; I have had the charge of their books since some time last winter ; I have been in their employ since I became of age ; I have had a knowledge and acquaintance with their business since they commenced carrying on these works ; I assisted Thomas D. Edsall in making an estimate of their business operations ; I heard his testimony upon the subject of this estimate ; we made
 20 this statement together, and the result was as stated by him ; we used their books and had reference to all their affairs, and made a statement of all their liabilities and assets ; after L'Hommedieu and Edsall had commenced making iron, I recollect Capt. Pratt coming there to make a bargain to buy the property ; I recollect of his coming more than once ; I heard conversations between him and my father about it, at my father's house ; my recollection about the first time he called is not so distinct ; I recollect of his calling with some one with him, and that he wanted to purchase ; the second time he came, a short time before the commencement of this suit, to my father's
 30 house, and they entered into conversation ; my father told him he was anxious to sell the property ; wished to get clear of it, and for the sake of selling, he would make a deduction on what he had before offered to take ; he told Mr. Pratt, that if he would make the money secure, he would take twenty-eight thousand dollars for the real estate, including the furnace, and all the out lands and the mine ; Capt. Pratt said he could do it ; he either had some one who could raise the money, or he could raise the money himself ; he could make the payments so that they would be satisfactory ; he said he had some houses and lots in New York, which he offered ; Capt. Pratt wanted
 40 him to take the houses and lots at a valuation made by some person, but my father declined agreeing to a valuation made by any one else, but said, that if they could agree about their value, he was willing to take them ; Capt. Pratt said he would take the property at that price ; I know of Abram Walker having charge of the property after Capt. Pratt got the lease ; I saw a letter from Capt. Pratt to Abram Walker, appointing him his agent, which Mr. Walker gave to me to make a copy ; he said at the time he quit the property, I think it was early in the spring, that Mr. Pratt had abandoned the property, and he offered the key of the office to me, but I did not take it ; I never
 50 knew of anything being done with the property after Capt. Pratt

got the lease ; I was often about the property, but I never saw anything done.

William L. Ames, a witness produced, sworn, and examined, on the part of the Defendants, on his oath, says : I reside at Franklin, in the county of Sussex, and have the management of the Franklin Furnace, manufacturing pig iron ; I have been engaged for some years past, in the iron business ; and have what practical knowledge in this business, four years experience would give me ; it would be attended with a good deal of disadvantage and loss to commence putting a furnace in blast in summer, cutting the wood at that season, and so forth ; I am acquainted to some extent, with the furnace at Hamburg, and the mine property now occupied by L'Hommedieu and Edsall ; I had at one time, an interest in the property, in the original purchase ; the property occupied by L'Hommedieu and Edsall, including the furnace and mine property, with thirteen hundred acres of land mostly cut off, I suppose to be worth twenty thousand dollars ; it is questionable whether it would bring that ; I think from my knowledge of the business of making iron, that it would hardly afford much profit to make iron at the Hamburg furnace, during the time which I have been engaged in the business, the last four years ; the profits must be small, judging from what I know of the prices obtained for the iron ; from my knowledge of the quality of iron made at the Hamburg furnace, and the prices obtained for the iron for the last four or five years, I should not think that any money could be made at the business, taking into consideration the necessary expenses attending the business ; I think that L'Hommedieu and Edsall have managed the property and business judiciously, so far as I have any knowledge of the business ; I obtained some ore from this mine that they work, for our furnace ; there was a considerable amount of money sunk in driving the Franklin furnace before I went there ; it was carried on at a considerable loss ; I think the loss at that furnace, on the business of making iron, would reach thirty thousand dollars, in a little over three years time ; we procure ore for the Franklin furnace, from the William Edsall mine ; I think the ore was first discovered in this mine before the Hamburg mine ; we are able to make a better quality of iron, that will sell better, from the ore of the William Edsall mine, than that from the Hamburg mine ; I should consider the difference in the value of iron from these ores, to be from five to ten dollars per ton ; I should think it would make a difference of two thousand dollars in putting a furnace in blast in the summer season, and having the winter season to prepare in.

Robert Lewis, a witness produced, sworn, and examined, on the part of the Defendants, on his oath, says : I resided at Hamburg while the Hamburg Manufacturing Company were carrying on business ; I was a creditor of the company, as one of the firm of Brown & Lewis ; they owed us at the close of their company concerns, between twelve and thirteen hundred dollars ; at the time I made an assignment of my part of the claim to Dr. L'Hommedieu, the whole debt was upwards of thirteen hundred dollars : on witness being shewn a paper marked by me exhibit L, 2., on the part of the Defendants,

he says, this is the assignment made by me, and executed by me to Elias L'Hommedieu; I considered the Hamburg Manufacturing Company to be considerably involved; their property, and the mine property was advertised for sale at one time, I believe in the fall of eighteen hundred and thirty-eight; I recollect a meeting of the creditors at Ward's tavern, in Hamburg, about the time the mine property was advertised to be sold; the sale of their property was adjourned from time to time; the claims against the company, were, I believe, generally considered very doubtful at that time; I think the

10

debts of the company were estimated at that time, to be over thirty thousand dollars; this estimate did not include the city debts, but was made up out of the debts in the country; this estimate was made with the assistance of Capt. Pratt, or some of the agents of the company.

One of the executions, by virtue of which the mine property was sold, was, I believe, in favor of Brown and Lewis; the creditors were desirous of purchasing in the mine farm in connection with the furnace, so as to make them more valuable, and secure their debts; for the purpose of buying in that property, Doct. L'Hommedieu was appointed the trustee of the creditors, as I understood it; after the sale

20

of the property, when the lease was about to be made out to Capt. Pratt, I was consulted as one of the creditors, about the terms of the lease; there was also a contract of purchase given to Capt. Pratt, as I believe: on the lease and article of agreement, being exhibits E., 2., and F., 2., on the part of the Defendants, being shewn to witness, he says, I believe them to be the same made out at the time; I recollect seeing them in Mr. Haines' office; I don't think that Capt. Pratt did any thing at the furnace after he got the lease, the dam went away shortly after; I recollect of his professing that he was about to raise money on the property, after he got the lease; I have understood from

30

him that he had a man in New York, from whom he could raise the money; Capt. Pratt kept the creditors in suspense during the winter and spring, under the expectation that he would raise money on this property for the creditors; I recollect of Doct. L'Hommedieu starting to go to New York with Capt. Pratt, to aid him in effecting this arrangement; on his return, Doct. L'Hommedieu reported to the creditors, that Mr. Pratt was arrested and confined in jail; the creditors met several times afterwards, to consult what to do with the property; the majority of the creditors were averse to embarking in the business of carrying on the works; I was strongly opposed to it; I

40

stated at the time, that I should prefer losing my debt rather than for the creditors to embark in the business and spend any more money on the property, and I should be of the same opinion now; there was a proposition made at the time for the creditors to join and carry on the works; I never heard any objections to any one who pleased, taking the works and going on with them, I myself had none; at this time I should not value this property, including the mine occupied by Messrs. Edsall and L'Hommedieu, at more than twenty thousand dollars; I should think it would not sell for as much as that at this time; I have never considered this property, since the

50

failure of the company, or at the time of the sale, worth thirty thou-

sand dollars ; I have resided at Hamburg during the time that Messrs. L'Hommedieu and Edsall have carried on these works, until last spring ; I believe I had during that time an opportunity of observing the manner of their carrying on the business ; I have considered that they managed the business in a very judicious manner, and with as much economy as could be done, probably, by any two other men in the state ; I presume that any understanding which the creditors had with Capt. Pratt, was carried out with him in the contract and lease made with him, and that they gave him every indulgence, as long as there was any hope of his doing any thing.

William Mullery, a witness produced, sworn, and examined, on the part of the Defendants, on his oath, saith : I am a miner, and follow that business for a living ; I am acquainted with the ore bed and mine, now worked in by L'Hommedieu and Edsall ; I knew this mine when the Hamburg Manufacturing Company got their ore there ; I then worked at the same place, for Peter M. Ryerson ; at that time, the appearance of the extent of that mine was very great, and the ore very easily obtained ; this was in the spring and summer of eighteen hundred and thirty-eight ; it was generally supposed at that time, that the hill was a body of ore, and that there was no end to it ; the bed they were working in, was mostly all worked out in two or three years ; we had to quit the south end of the mine for the want of ore and the dirt coming in ; it has been a great deal more difficult to obtain ore since ; we never got a good vein of ore after we left that mine ; the ore obtained since, has been a great deal leaner ; the indications of ore are not as good as they were then, the ore appears almost run out ; the situation of the ore is such now, that it is much more expensive to obtain it now than it was then ; I should imagine that in eighteen hundred and thirty-eight they could raise ten tons of ore at the same expense that they could raise one ton now, and for three years past ; Messrs. L'Hommedieu and Edsall have been at the expense of a machine to raise the ore by horse power, and to bring up a water level to clear the mine ; this was done at great expense ; I think the water level would cost a thousand dollars ; this level was necessary, in order to obtain the ore ; I believe there is not any other ore in that hill, except the string which we are working ; they have sunk shafts on the north and south ends of this hill, on the east and west sides of this vein, to find ore, but never succeeded in finding ore ; I have sunk shafts on the north end of this vein, and it was tried in different places on the south end without finding ore ; I am now at work in this mine, and have worked there pretty much all the time for four years past, for L'Hommedieu and Edsall.

Benjamin Hamilton, a witness produced, sworn, and examined, on the part of the Defendants, on his oath, says : I reside at Hamburg ; I had some knowledge of the Hamburg Manufacturing Company when they were doing business here ; that company became much involved in debt, as I understood from them ; I knew of their real estate and premises being advertised for sale ; this was continued by adjournments for some length of time ; the creditors in this neighborhood were alarmed about the recovery of their debts ; I know of the

creditors meeting together at different times, to devise means of securing themselves; I recollect of the mine property belonging to the Clinton Company, being advertised for sale; I heard Capt. Pratt say that he had got a lease for the property, and a contract after it was sold to Doct. L'Hommedieu; I was then, and am still, familiarly acquainted with Capt. Pratt; I assisted the company in several of their suits; after Capt. Pratt got the lease and contract for the premises, I know of his making representations here, from time to time, that he was about making arrangements to raise the whole money, and satisfy all the creditors; after Capt. Pratt got the lease, they drew some timber on the ground, I think for the dam, and made some preparation for the dam; I know of nothing else in particular being done; Abram Walker had the works in charge at that time, as I understood; I think Mr. Walker was agent for Capt. Pratt, it appears to me I have heard Capt. Pratt say so; I knew of Mr. Walker abandoning the premises in the spring, I heard him say that Mr. Pratt did not furnish means, that he had disappointed him a number of times, he would give the whole thing up, and L'Hommedieu and Edsall might go on and do what they pleased with it.

20 Since L'Hommedieu and Edsall have carried on the business at the furnace, I have had knowledge and observation of their manner of conducting it; I think they could not be beat by any one, in conducting the business; I should doubt whether this property was at the time of the sale, or now, good security for thirty thousand dollars.

Exhibit J., 2., on the part of the Defendants, marked by me, purporting to be an assignment from Robert Lewis to Elias L'Hommedieu, offered in evidence.

December 30, 1843.

Alpheus R. Turner, of the city of Brooklyn, in the state of New York, a witness produced on the part of the Complainants, being duly sworn according to law, on his oath saith: That he formerly resided at Hamburg, in Sussex county, and that he left there on or about the 1st of January, 1839; was acquainted with Elias L'Hommedieu and Joseph E. Edsall, two of the Defendants in the above suit; has frequently conversed with Col. Edsall respecting the affairs of the Hamburg Manufacturing Company; on two or three occasions subsequent to the sale, had conversations with him about the sale of the property of the company, and the conditions of it; from the conversations with Col. Edsall, witness gathered that the sale of the works took place, and Elias L'Hommedieu bought them, for the purpose of perfecting the title, and obtaining a loan on the property; the loan was to be made, according to Col. Edsall's statement, for the purpose of paying off certain debts of the company, and the residue was to go to Mr. Pratt, to enable him to carry on the business of the company, and Mr. Pratt had a time to redeem it in; the witness supposes that it was the condition of the loan; the property was to go, as witness supposed, to Mr. Pratt or the company; they were to have the reversion after the creditors were paid off; never had any conversation with Doct. L'Hommedieu; was present at the time the creditors of the company were assembled, and the sale of the said works was

going on; witness heard, previous to the sale of the said works, and at the time thereof, that it was a common conversation, and it was then stated, that the property was to be sold, as Col. Edsall had before represented to me, and as I before stated, and that Mr. David Ryerson, the President of the Newton Bank, in Sussex county, would obtain, or endeavor to obtain, a loan of thirty thousand dollars on the said works; and that, in consequence of that arrangement, persons interested in the property consented to the sale; witness understood that there was a mutual arrangement between the parties interested; witness does know that this arrangement prevented any competition at the sale; witness saw Capt. Pratt there; there was apparently a good deal of interest felt in the sale of the property; there were a great many persons there; there was a general understanding at the time of the sale, that there was a negotiation going on between Capt. Pratt and the creditors of the company, respecting the sale of the said property; (witness, at the time he lived in Hamburg, was acquainted with Albert Beemen, of Hamburg; witness' impression is, that as regards his general character as a man, he did not think much of him.) (*The above was objected to on the part of the Defendants.*) witness is also acquainted with John Black; so far as witness had dealings with Black, and from his general character, he stood well; a paper marked exhibit A B., on the part of the Complainants, being shewn to witness, he says, that the name, John Black, subscribed thereto, is in the handwriting of John Black, that he has seen the said John Black frequently write, and is satisfied thereof; witness says, that he is acquainted with the handwriting of Daniel Haines, having frequently saw him write, and that a paper marked exhibit A C., being shewn to him, he says, that the name, Daniel Haines, subscribed thereto, is in the proper handwriting of the said Daniel Haines; exhibit A D., is admitted to be in the handwriting of Elias L'Hommedieu by Col. Edsall, but that the same was signed without his, Col. Edsall's, knowledge or authority.

Cross examination on the part of the Defendants.—Witness says, that after the real estate of the said company was sold, he had two or three conversations, he thinks, with Col. Edsall in relation to the same; cannot fix the dates; one place witness distinctly recollects; at his store in Hamburg a conversation took place; he thinks Mr. Huntington was present; witness says, that after the sale took place, certain papers passed between Capt. Pratt and Doct. L'Hommedieu, as witness' impression and understanding was, although he never saw any pass; Capt. Pratt, witness thinks, informed him so; previous and at the sale of the property it was witness' impression, and he believes that it was the impression of the creditors generally, and he was a creditor, that the property of the company was not sufficient to pay them; the reason that the witness came to that conclusion was not on account of the intrinsic value of the property, but on account of the bad management of the property, and the want of means properly to carry on the business; after the sale, in consequence of the loan not having been obtained, there was some uneasiness among the creditors about their debts; witness understood, that

the creditors were obliged to give a guarantee, in case the loan should be obtained, and provided they received their debts, if the property of the said company should not be sufficient to extinguish the said loan, that they should be individually responsible; witness thinks that he obtained his information from Col. Edsall, and perhaps from other sources; witness' impression was, at the time he lived in Hamburg, and after he became acquainted with the affairs of the said company, that the property of the company was not sufficient to pay the debts of the said company; had a full opportunity to become acquainted with the affairs of the company.

Re-examined.—The mine or beds were considered very valuable; at the time witness expressed his opinion as regards the company not being able to pay their debts, the said ore bed did not belong to the company; when witness spoke, on his cross examination, about the company not being able to pay their debts, he did not include the ore bed; the ore bed, witness thought, if properly managed, was worth more than the whole of the company property.

Franklin Holcomb, of Hamburg, in the county of Sussex, a witness produced on the part of the Complainants, being duly sworn according to law, on his oath saith: That a paper marked exhibit A E., on the part of the Complainants, being shewn to him, that he is a subscribing witness to said paper, and that his name subscribed thereto, is in his own proper handwriting, and that John H. Simpson executed the said paper in his presence.

Witness being shewn exhibit A B., says, that he is the subscribing witness thereto, and that his name, attached thereto, as such, is in his own proper handwriting, and that he was present at the execution thereof by John Black; witness has lately been over the ore bed at Hamburg, and has examined it; the ore bed now, from late openings, has exhibited appearances of more ore than was apparent before, or ever appeared before.

The examination of Franklin Holcomb was objected to on the part of the Defendants, on the ground that the said witness was examined before in the cause, and no objection was made until after the exhibits marked A E., and A B., now proved by him.

Joseph M. Brown, of Newburg, in the state of New York, a witness produced on the part of the Complainants, being duly sworn according to law, on his oath saith: That a paper marked exhibit A F., being shewn to witness, he says, that the said paper, signed Joseph M. Brown, is in his own handwriting, and that he executed the same for the uses and purposes therein mentioned.

Cross examined.—Witness says: That he was familiar with some of the debts of the company, and some he was not familiar with; not long before the sale, witness recollects that he met with the creditors of the company at Daniel Haines, esquire's office; and then, from the best evidence that was adduced, the debts of the said company were supposed to amount to between thirty and thirty-three thousand dollars; witness thinks it was upwards of thirty-two thousand dollars, according to the claims then presented; this was the sum claimed to be due to the creditors for whom Doct. L'Hommedieu was to

purchase; some of the claims above referred to were disputed by Capt. Pratt, and it was to be left to arbitrators to determine the same.

Re-examined.—Witness says: That at the request of Mr. Haines and other of the creditors, at the time the sale was to take place, he went to Capt. Pratt, to get him to consent to a sale of the property, without any agreement in writing, as regarded the terms; witness went accordingly, and Capt. Pratt declined doing anything then, as he wished to consult Mr. Thompson, of Newton, before he did anything on the subject, expressing his fears that the creditors of the company might overreach him; the sale of the property of the company was then adjourned, to enable Capt. Pratt and the creditors to carry out the arrangement. 10

Re-cross examination.—Witness considered himself in the confidence of Capt. Pratt and of the creditors, at the time of the sale of the property of the said company; witness says, that he was acting as the friend of Mr. Pratt and of the creditors of the company, at the time.

February 21, 1844.

Joseph H. Pettis, of the city of New York, a witness produced on the part of the Complainants, being duly affirmed according to law, on his affirmation, saith: That a paper marked exhibit A G., purporting to be a letter, dated, Hamburg, November 3d, 1838, signed by Joseph E. Edsall, and directed to Capt. Edward W. Pratt, being shewn to witness, he says, that the name, Joseph E. Edsall, subscribed thereto, is in the proper handwriting of the said Joseph E. Edsall; that witness is acquainted with his handwriting, having frequently seen him write; another paper, marked exhibit A H., on the part of the Complainants, purporting to be a letter from the said Joseph E. Edsall, dated, Hamburg, Sussex county, 19th July, 1838, signed by Joseph E. Edsall, and directed to Capt. E. W. Pratt, being shewn to witness, he says, that the name, Jos. E. Edsall, subscribed thereto, is in the proper handwriting of the said Joseph E. Edsall; two papers attached to each other, marked exhibit A I., on the part of the Complainants, the one purporting to be a stock certificate of the Hamburg Manufacturing Company, bearing date, June 28, 1838, and marked No. 23., and the other purporting to be a power of attorney, bearing date the 30th of October, 1841, given by Franklin Holcomb to Joseph B. Nones, for the transfer of the stock contained in the said certificate, being shewn to witness, he says, that the name, Edward W. Pratt, subscribed to the said certificate, as President, is in the proper handwriting of Edward W. Pratt, one of the Complainants, the witness being acquainted with his handwriting, having frequently seen him write, and that the name, J. H. Pettis, subscribed thereto, as Secretary, is in his, the witness' own proper handwriting; and the name, F. Holcomb, subscribed to the said power of attorney, is in the proper handwriting of the said Franklin Holcombe, he, the witness, being acquainted with his handwriting, having frequently seen him write; and that the name, A. B. Nones, subscribed to the said power of attorney, is in the proper handwriting of Aaron B. Nones, witness being acquainted with the same, having frequently seen him write; and that the said A. B. Nones is out of the jurisdiction of the 50

State of New Jersey, residing as the witness believes, in the State of New York; witness says that he is acquainted with Joseph B. Nones, Edward W. Pratt, and the Hamburg Manufacturing Company, Complainants in this cause, and also with Joseph E. Edsall and Elias L'Hommedieu, two of the Defendants therein; and that he first became associated with the said company in the year 1837; that a book marked exhibit A L., on the part of the Complainants, being shown to witness, he says, that it was the minute and transfer book of the said Hamburg Manufacturing Company; that his name, signed J. H. Pettis, 10 as a subscribing witness, to five of the transfers of stock of said company, one given by William Makepeace, junior, to Abner Jones, for nine hundred and ninety-two shares of stock of said company, another given by Abner Jones to Edward W. Pratt, for the same number of shares; another given to the said Edward W. Pratt by Henry Iffotson, for one hundred and twenty-four shares; all which transfers, bear date the 3d day of April, 1837; another given by Thomas W. Harvey to the said Edward W. Pratt, for one hundred and twenty-four shares, bearing date the 5th day of April, 1837, and another given by William Edsall, and Joseph E. Edsall, and Robert Hamilton, by their attorney, William Makepeace, junior, is in his, the witness', own proper handwriting, and that he saw the above mentioned 20 persons sign, seal, and deliver the said transfers of stock to the persons named therein; and at the time of the said signing, sealing, and delivering thereof, he subscribed his name as an instrumental witness thereto; a paper, marked exhibit A M., being shewn to witness, on the part of the Complainants, he says, that the name of J. H. Pettis, subscribed to the proceedings of the said company, is in his own proper handwriting; and that the name, F. Holcomb, subscribed thereto, as one of the inspectors, is in the proper handwriting of the said 30 Francis Holcomb; and that he is unacquainted with the handwriting of Samuel Truax, another of the said inspectors, subscribed thereto; a paper marked exhibit A N., on the part of the Complainants, purporting to be a power of attorney, bearing date the 22d of April, 1837, given by Abner Jones to Edward W. Pratt, for the transfer of twelve shares of stock of said company, being shewn to witness, he says, that his name, Jos. H. Pettis, subscribed thereto, as an instrumental witness, is in his own proper hand, and that he saw the said Abner Jones sign, seal, and deliver the said power of attorney, as his act and deed, and that he, at the time it bears date, subscribed his name 40 thereto as an instrumental witness; a book, marked exhibit A O., on the part of the Complainants, purporting to be the stock ledger of the Hamburg Manufacturing Company, being shown to witness, he says, that all the writing contained therein, is in his own proper handwriting; that the witness was the secretary of the said company, from March, 1837, till some time in the year 1840; witness says, that the Hamburg Manufacturing Company was advertised for sale under an execution, by sheriff Broderick, of Sussex county; that he was not present at the sale of the personal estate, but witness' impression is, that Joseph E. Edsall informed him that it was sold; was present at 50 the sale of that portion of the real estate of said company's pro-

perty, called the mine property, at Newton ; which sale of said pro-
 perty, was first advertised to take place at Hamburg, and afterwards
 adjourned to Newton ; witness thinks it took place in 1838 or 1839,
 but he cannot say which ; the reason why the sale of the said pro-
 perty was adjourned from Hamburg to Newton, was, that at Ham-
 burg, on the day the sale was to take place, the creditors and
 and persons interested in the sale, agreed to adjourn it till the next
 day ; there was a good deal of negotiation between the creditors and
 the company ; there was a meeting on that day between the creditors
 and Capt. Pratt, at the tavern in Hamburg ; Mr. David Ryerson was 10
 there ; witness understood from the parties interested, that provided
 the sale of the said property was adjourned over to take place at
 Newton, he, Mr. Ryerson, thought he should be able to procure a
 loan of some thirty thousand dollars, upon certain conditions ; which
 conditions were, that the said money should be paid to the creditors of
 the company, with the exception of from two thousand dollars to four
 thousand dollars, which was to be paid to Capt. Pratt, for the purpose
 of enabling him to carry on the works of the said company ; in pur-
 suance of this arrangement, the sale was adjourned to Newton, and
 Mr. Ryerson informed the parties that he could not effect the loan ; 20
 and then further negotiations on the subject took place ; the sale was
 adjourned there once or twice ; and witness says that it was his un-
 derstanding, that it was agreed that Mr. L'Hommedieu should pur-
 chase the property ; but in what capacity, whether as trustee or not,
 he cannot say, only it is his impression that Capt. Pratt was to have
 a lease of the property back ; witness was anxious, as one of the par-
 ties interested, to have Mr. Holcomb's name inserted in the lease
 with Capt. Pratt ; at the time the sale was to take place, witness asked
 Mr. L'Hommedieu whether the lease was to be made to Mr. Hol-
 comb, or to Capt. Pratt and Mr. Holcomb ; and witness being in- 30
 formed that it was to be given to Capt. Pratt alone, he informed Mr.
 L'Hommedieu that he should then bid on the property ; and witness
 accordingly made two or three bids on it ; he was then taken out by
 some of the parties interested, who stated to him that he was injuring
 himself and his interests, and from their representations he ceased bid-
 ding ; he cannot recollect who it was that spoke to him ; witness under-
 stood that Mr. L'Hommedieu was to buy the property, as well for the
 benefit of the company as for the creditors, and that Capt. Pratt was
 to have a lease of the same ; at the time these negotiations were going
 on, a question arose whether an agreement to execute a lease to any 40
 person, before a sale took place, would be valid, and there was some
 disagreement on the subject ; the lease however, witness thinks, was ex-
 ecuted after the sale ; it was a part of the arrangement at Hamburg, that
 Mr. L'Hommedieu should buy the property in order that Mr. Ryer-
 son should obtain a loan on it, as above alluded to ; witness' impres-
 sion is, that during the negotiations at Hamburg and Newton, it
 was understood that Mr. L'Hommedieu was to buy the property for
 the benefit of the company and the creditors of the company, and that
 he was to act in a capacity for the benefit of both ; and witness is
 confirmed in that belief from the circumstance, that on former occa- 50

sions Mr. L'Hommedieu had acted in that capacity ; witness understood at the time, that after the debts of the company were paid, the property was to revert to the company ; witness' impression is, that such was the general understanding among all the parties interested, both the creditors and the company ; at the time the furnace was running, Col. Edsall informed witness that he thought a ton of iron ought to be made for from fifteen dollars to seventeen dollars per ton ; the sale was made, witness thinks, at Newton, in consequence of a similar arrangement as that entered into at Hamburg, but Mr. Ryerson not being able to make the loan, the property was sold at Newton, to L'Hommedieu, both for the benefit of the creditors and the company ; witness cannot state any thing further on the subject than as above set forth, and thinks he has stated the main points ; the desire appeared among all to be, that the creditors should be paid, and that the company should go on.

Cross examined by Col. Edsall.—At the time the sale took place at Newton, witness thinks that he made a proposition to Col. Edsall, to join him in the purchase of the property, which Col. Edsall declined ; immediately after which the property was set up, and witness bid as above mentioned ; witness does not think that Col. Edsall made any objections to his bidding on it ; he thinks that Col. Edsall, during some part of the time the negotiations were going on, stated to him that he had no confidence in Pratt, and was unwilling that the lease should be made to him, for if it was, the creditors would get nothing ; but that he was perfectly willing the lease should be made to Holcomb ; witness is perfectly satisfied that Col. Edsall and himself wished the lease of the property to be made to Holcomb instead of Pratt ; but they were overruled by the creditors and the company ; the two thousand dollars and four thousand dollars above spoken, which Capt. Pratt was to have received from the loan of David Ryerson, of thirty thousand dollars, was to be lent to Capt. Pratt by the creditors, for the purpose of carrying on the works ; and which said money was to be paid in the same way as the rest of the thirty thousand dollars, from the proceeds of the property ; understood that, at the sale at Newton, a lease was made out to Capt. Pratt, according to the understanding before mentioned, but whether it was before or after the sale, he cannot say ; witness thinks that their mortgage indebtedness, and the debts they owed around the works, independent of the New York creditors, amounted to rising twenty thousand dollars ; the Newburg creditors came in under the arrangements ; the creditors at Hamburg and Newton, that witness speaks of, were represented by themselves or their attorneys ; Col. Edsall became responsible for the delivery of a certain quantity of iron to Mr. Carpenter, at Newburg ; and that the company received a quantity of goods and acceptances from Mr. Carpenter, for which Col. Edsall became responsible ; the difference in value between the iron delivered and the goods received, witness cannot precisely say, but he thinks it was between one hundred or two hundred dollars, perhaps more, perhaps less ; Col. Edsall furnished the company with a great many goods, and lent his name to them to aid them along ; the company borrowed

money of Col. Edsall several times; witness thinks, that without assistance from Col. Edsall or some one else, the company would not have been able to have got along; the company at one time got essential aid from Col. Edsall; witness thinks that the company sunk money when they ought to have made it, owing to the fact that, being in bad credit, they were obliged to pay higher prices for articles than they otherwise would have done, and to the additional fact that the business was new to all the parties who had the management of it; but witness has no personal knowledge that the money was sunk by them, as the books have never been balanced, but his impression is, that they sunk money; Capt. Pratt was dissatisfied with witness for the course he pursued, both at Hamburg and Newton, in this business; he has no recollection of any of the creditors being dissatisfied with him for the course he pursued there, either at Hamburg or Newton, during the negotiations and sales. (*Objected to on the part of the Complainants.*) 10

Witness recollects that the first time Col. Edsall spoke to him on the subject of iron having been made for from fifteen dollars to seventeen dollars per ton, was when he called at his house on the subject of the papers having been served respecting an injunction that had been issued against the company, and that during the continuance of that injunction he made several times the same observations respecting the price for which iron could be manufactured. (To a question asked by Col. Edsall of the witness, whether he had had any conversation with Capt. Pratt after the sale, he answered that he had not; but on reflection, thinks that Capt. Pratt, whether before the commencement of this suit or not, he cannot say, stated to him, that he thought the creditors of the company had not fulfilled their contract respecting the lease, at the time of the sale, meaning the lease; Col. Edsall objects to this answer, as he intended to have asked him whether immediately after the sale, Capt. Pratt had not any conversation with witness, and withdrew his question, and stated that the fact above mentioned ought to have come out on a re-examination. I however, thought it my duty to put down answers to all questions asked, if at all relevant, and they might be objected to.) Witness says that he is not interested in this matter in any way whatever. 20

The Complainants offered the following papers in evidence: 1st. A paper purporting to be an indenture, bearing date the 17th day of March, 1837, between William Makepeace, junior, and Caroline Matilda, his wife, parties of the first part, and the Hamburg Manufacturing Company, parties of the second part, and which I have marked A P., on the part of the Complainants. 40

2d. A paper, purporting to be an instrument in writing, under seal, made by John F. Winslow, in favor of the said William Makepeace, junior, and bearing date the 22d of September, 1836, and which I have marked exhibit A., 2., on the part of the Complainants.

3d. A paper, purporting to be an indenture, bearing date the 12th of December, 1836, made between Francis Hamilton, of the first part, and the Clinton Manufacturing Company and the Hamburg Manufacturing Company, of the second part, and which I have marked exhibit A R., on the part of the Complainants. 50

4th. A paper, purporting to be a release of certain mortgaged premises therein mentioned, bearing date the 11th day of June, 1836, made between Isaac Bronson, of the first part, and John F. Winslow, of the second part, and which I have marked exhibit A S., on the part of the Complainants.

5th. A paper, purporting to be a certain indenture, bearing date the 1st day of June, 1836, made between Samuel Fowler and Rebecca, his wife, parties of the first part, and John F. Winslow, party of the second part, and which I have marked exhibit A T., on the
10 part of the Complainants.

6th. A paper, purporting to be a deed from John Broderick, Esq., sheriff of the county of Sussex, to Elias L'Hommedieu, for certain property therein mentioned, bearing date the 7th day of December, 1838, and which I have marked exhibit A U., on the part of the Complainants.

7th. A paper, purporting to be another deed from the said John Broderick, esquire, sheriff as aforesaid, to the said Elias L'Hommedieu, for certain property therein mentioned, bearing date the 24th day of December, 1838, and which paper I have marked exhibit
20 A V., on the part of the Complainants.

8th. A paper, purporting to be a certain indenture, bearing date the 9th day of May, 1836, made between John F. Winslow and Nancy, his wife, parties of the one part, and Nathaniel Wetherell, junior, and William L. Ames, parties of the other part, and which I have marked exhibit A W., on the part of the Complainants.

9th. A paper, purporting to be a certain indenture, bearing date the 25th day of May, 1836, made between Nathaniel Wetherell, junior, and William L. Ames, parties of the first part, and the Clinton Manufacturing Company, parties of the second part, and which I have
30 marked exhibit A Y., on the part of the Complainants.

10th. A paper, purporting to be an indenture, bearing date the 1st of June, 1836, made between John C. Bunting and Elizabeth, his wife, of the one part, and John F. Winslow, of the other part, and which I have marked exhibit A X., on the part of the Complainants.

February 19, 1844.

Nathaniel Wetherell, junior, a witness produced on the part of the Complainants, being conscientiously scrupulous of taking an oath, being duly affirmed according to law, on his affirmation saith: Being shewn a transfer and minute book of the Hamburg Manufacturing
40 Company, marked exhibit A L., that the copy of the advertisement of the commissioners of the Hamburg Manufacturing Company in the Sussex Register, being a notice to open the books of subscription of said company, and commencing in said exhibit, at the end of the charter in said book, is in the handwriting of the witness, also the notice and resolution relative to the opening of the books of the said company, are in his handwriting, excepting the signatures of Joseph E. Edsall, William Edsall, Elias L'Hommedieu and Francis Hamilton, Commissioners, being the original signatures of the said Commissioners, and known to the witness to be such; that the subscrip-
50 tion list to the stock of the said company also, in said exhibit A L.,

is in the handwriting of the said witness, except the names of William Makepeace, junior, Joseph E. Edsall, William Edsall, Robert Hamilton, by Joseph E. Edsall, attorney, they being in the proper handwriting of each of the said individuals; the signature of Wetherell, Ames & Co, for five hundred and nine shares of the stock of said company, being in the handwriting of the witness, he being one of the partners of the said firm; the signatures of Thomas W. Harvey, Charles Starr, Henry Ibbitson, by witness, as attorney for each of the said parties; all the rest and residue of said document, except as above specified, are in the handwriting of witness; witness further says, that the notice in the said exhibit A L., of closing the books of the said company, is in the handwriting of said witness, except the signatures affixed to said notice by Joseph E. Edsall, William Edsall, Elias L'Hommedieu and F. Hamilton, which are in the proper handwriting of the said individuals, and known to the witness to be such; the witness further says, that the certificate of the Commissioners of said company, dated 3d January, 1837, purporting to be a certificate of said Commissioners that they have received twenty-five per cent. of the subscription to the capital stock of said company, is in his handwriting, except the signatures of the said Commissioners, Joseph E. Edsall, William Edsall, Elias L'Hommedieu and F. Hamilton, which are the original handwriting of the said Commissioners respectively; witness further says, that the signatures of William Edsall, Elias L'Hommedieu and Francis Hamilton, are in the proper handwriting of each of the said persons respectively, as attached to a writing, purporting to be a notice of a meeting of the Commissioners of the said company, and dated March 16th, 1837, which notice witness believes to be in the handwriting of Elias L'Hommedieu, one of said Commissioners; on the page succeeding the one on which last notice is written, are three signatures of William Makepeace, junior, as secretary to three several meetings of the directors of said company, which signatures are in the proper handwriting of the said William Makepeace, junior; the witness being shewn a paper writing, marked exhibit O K., on the part of the Complainants, says, that the signature of Elias L'Hommedieu, attached to said exhibit, is in the proper handwriting of the said Elias L'Hommedieu; the witness being shewn a paper writing, marked exhibit O L., on the part of the said Complainants, says, that the names of L'Hommedieu and Edsall, attached to said paper, are in the proper handwriting of Doct. L'Hommedieu.

Abner Jones, esquire, of the city of New York, a witness produced on the part of the Complainants, being duly sworn according to law, upon his oath saith: Being shewn a paper writing, marked exhibit O M., on the part of the Complainants, purporting to be an assignment from the witness, Abner Jones, to Edward W. Pratt, dated 26th day of January, eighteen hundred and thirty-seven, is sealed and executed by witness in his proper handwriting; a paper writing, marked exhibit O N., on the part of the Complainants, being shewn to witness, purporting to be an assignment by William Makepeace, junior, to witness, Abner Jones, and dated 24th January, 1837, that

the name of William Makepeace, junior, subscribed to said exhibit, is in the proper handwriting of the said William Makepeace, junior, and known to witness to be such; that William Judson, whose name is subscribed as a subscribing witness to said exhibit, resides in the state of New York, so far as witness knows, and the last time witness saw said Judson, was in New York, and the subsequent assignment on the same document by witness, Abner Jones, to Edward W. Pratt, of the same conveyance, is signed by witness in his proper handwriting; a paper writing, marked exhibit O P., on the part of
 10 the Complainant, purporting to be a receipt and agreement, dated 26th day of June, 1837, which receipt and agreement are between Abner Jones, the witness, and the Hamburg Manufacturing Company, witness says, that the name of Abner Jones, subscribed to said document, is in the proper handwriting of witness.

Aaron B. Nones, a witness produced on the part of the Complainants, being duly sworn according to law, on his oath saith: Being shewn a paper writing, purporting to be an assignment from Thomas W. Harvey to Edward W. Pratt, dated the twenty-ninth day of March, eighteen hundred and thirty-seven, and marked exhibit O. 2.,
 20 witness says, the name of Thomas W. Harvey, subscribed to said paper writing, is in the proper handwriting of the said Thomas W. Harvey; witness also knows the signature of Richard Goodman, a subscribing witness thereto, and that the said Goodman resides in the city of New York.

February 21, 1844.

Edward W. Pratt, one of the Complainants, being duly sworn according to law, to prove the loss of an agreement between the said Edward W. Pratt, and Abner Jones, and Henry Wilkes, says: Being shewn a paper, purporting to be a copy of the said agreement,
 30 and marked exhibit O R., that the original paper, of which the said exhibit purports to be a copy, is lost, it was in the custody of the said Edward W. Pratt, that he has made diligent search for the said agreement, and has not been able to find the same, which is dated the fourth day of January, eighteen hundred and thirty-seven; the said Edward W. Pratt further says, that the paper marked exhibit O R., is a true copy of the original, having been carefully compared by him therewith.

Aaron B. Nones, a witness on the part of the Complainants, being re-called, to prove a paper writing, purporting to be an assignment
 40 made by Edward W. Pratt to Joseph B. Nones, and dated the seventeenth day of July, eighteen hundred and forty-one, and marked exhibit O S., being shewn said writing, witness says, he is acquainted with the handwriting of Edward W. Pratt and J. B. Nones, signed to the said exhibit, and also the handwriting of C. McVean, signed as a witness to the execution of the said paper, and also the handwriting of Francis O. Door, subscribed thereto, as commissioner, and of William H. Burns, deputy register, subscribed to said paper, that the several names subscribed to the said paper, are in the proper handwriting of each of the said persons, that C. McVean, the attest-
 50 ing witness to the said paper, is the surrogate of the city and county

of New York, and resides in the said city; the said witness being also shewn a paper writing, purporting to be a copy of an agreement above referred to, between Edward W. Pratt, and Abner Jones, and Henry Wilkes, and dated the fourth day of January, eighteen hundred and thirty-seven, and marked exhibit O R., says, that it is the copy of the paper referred to by Mr. Pratt as being lost, that he compared the original with the said copy at the time the said copy was made, and found it to be a true copy of the original.

In Chancery of New Jersey.

Between the Hamburg Manufacturing
Company and others, Complainants;

AND

Elias L'Hommedieu, Joseph E. Ed-
sall and others, Defendants,

} *Interlocutory Decree.*

10

This cause coming on to be heard, in the presence of the respective counsel of the Complainants and the Defendants, and the bill, answer, replication, proofs and exhibits having been read, and the arguments of the respective counsel having been heard, and the Chancellor having taken time to consider the same: It is declared, that the said Complainants are not entitled to the relief prayed for by them, as to the property in the said Bill particularly described, and conveyed to the Defendant, Elias L'Hommedieu, as the property of the Clinton Manufacturing Company, the Chancellor being of opinion, that the said sale was fraudulent and void as against the creditors of the said Clinton company, the same having been effected under a fraudulent agreement between the said Edward W. Pratt and the said Defendants: It is further declared, that as to the property of the Complainant, "The Hamburg Manufacturing Company," and which was conveyed to the said Elias L'Hommedieu by John Broderick, sheriff of the county of Sussex, on the 4th day of December, 1838, that the same was purchased and conveyed to the said Elias L'Hommedieu upon the trust and for the purposes in the said Bill mentioned, to wit: to pay off all legal incumbrances upon the said property, and to pay and satisfy the said Defendants, respectively, all just and legal claims due from the said "The Hamburg Manufacturing Company," to them as creditors of the said company, and that after the payment of the said incumbrances and debts, then in trust for the said company: It is further declared, that the said Complainants are interested in the said trust, and are entitled to have the accounts taken, as prayed for against the said Elias L'Hommedieu and the said Joseph E. Edsall, of the income and proceeds of the personal property of the said "The Hamburg Manufacturing Company," as well as the rents, issues and profits of the said real estate taken possession of by them on the 10th day of June, A. D. 1839. 20 30 40

It is now, on this thirtieth day of June, eighteen hundred and forty-six, ordered, that it be referred to Archer Gifford, esquire, one

of the Masters of this Court, to take an account of the said personal property taken possession of by the said Elias L'Hommedieu and Joseph E. Edsall under the said trust, and of all other the personal property, being the proceeds and profits of the said real estate and personal estate, or purchased with the proceeds or profits thereof, and of the rents, issues, profits and produce of the said real estate which have been possessed or received by the said Defendants, Elias L'Hommedieu and Joseph E. Edsall, or either of them, or by any other person or persons, by their, or either of their order, or for
10 their, or either of their use.

And that the said Master also take an account of the respective debts due from the said "The Hamburg Manufacturing Company," to the Defendants, respectively, at the time of the said conveyance to the said Elias L'Hommedieu, and the interest which hath accrued thereon, and the amount, if any, paid to them, respectively, upon their said claims, and that, if anything is now due on their said respective claims, and the said Master is at liberty, if he shall see fit, to examine the parties, under oath, and to compel them to produce, before him, all books of account and papers in their possession or power, and
20 all further direction are reserved until the coming in of the Master's report.

O. S. HALSTED, C.

A true copy.

SAM'L R. GUMMERE, Clerk.

Court of Errors and Appeals in the Last Resort in all Causes.

Between Elias L'Hommedieu and Joseph E. Edsall, Appellants; AND The Hamburg Manufacturing Company, and al. Appellees.	}	<i>On Bill, &c.</i> <i>Petition of Appeal.</i>
---	---	---

30 *To the Honorable, the Court of Errors and Appeals in the Last Resort in all Causes:*

The humble petition of Elias L'Hommedieu and Joseph E. Edsall, the appellants in the above stated cause, respectfully shows, that your petitioners find themselves aggrieved by an Interlocutory Decree, made in the Court of Chancery, by His Honor, Oliver S. Halsted, Chancellor of New Jersey, bearing date the thirtieth day of June, A. D. eighteen hundred and forty-six, and filed in the office of the Clerk of the Court of Chancery, on the thirty-first day of December, eighteen hundred and forty-six; wherein the said, The Ham-
40 burg Manufacturing Company and others were Complainants, and your petitioners and others were Defendants, in these respects, *to wit*:

1. That the said Decree adjudges that the sale of the property in the Bill described as the property of the Clinton Manufacturing Company, to the Defendant, Elias L'Hommedieu, was fraudulent and void as against the creditors of the said Clinton Company, and that the same was effected under a fraudulent agreement between Edward W. Pratt and the Defendants.

2. That the said decree adjudges that the property of the Complainants, "The Hamburg Manufacturing Company," was sold and conveyed to Elias L'Hommedieu, upon the trust and for the purpose to pay off all legal incumbrances upon the said property, and to pay and satisfy to the Defendants respectively, all just and legal claims due from the said Hamburg Manufacturing Company, to them as creditors of said company, and that after the payment of the said incumbrances and debts, then in trust for said company.

3. That the said decree adjudges that the said Complainants are interested in the said trusts, and are entitled to have the accounts taken, as prayed for against the said Elias L'Hommedieu and the said Joseph E. Edsall, of the income and proceeds of the personal property of the said "The Hamburg Manufacturing Company," and the rents, issues, and profits of the said real estate, taken possession of by them, on the tenth day of June, eighteen hundred and thirty-nine. 19

4. That the said decree orders that it be referred to Archer Gifford, esquire, one of the Masters of the Court, to take an account of the said personal property taken possession of by the said Elias L'Hommedieu and Joseph E. Edsall under the said trust, and of all the other personal property being the proceeds and profits of the said real estate and personal estate, or purchased with the proceeds or profits thereof, and of the rents, issues, profits, and produce of the said real estate, which have been possessed or received by the said Defendants, or either of them, or by any other person or persons, by their or either of their order, or for their or either of their use; and also, to take an account of the respective debts due from the said "The Hamburg Manufacturing Company," to the Defendants respectively, at the time of the said conveyance to the said Elias L'Hommedieu, and the interest which hath accrued thereon, and the amount, if any, paid to them respectively, upon their said claims, and what, if any thing, is now due, on their said respective claims, &c. 20 30

And your Petitioners humbly appeal from the said several parts of the said decree of the Chancellor, which decrees as aforesaid, upon the ground that the same is erroneous, for that the said sale and conveyance of the property of the Clinton Manufacturing Company to the said Elias L'Hommedieu, was not fraudulent and void as against the creditors of the said company, and for that there was no such charge in the said Bill, nor was the validity or bona fides of said sale put in issue in the pleadings in said cause, nor made a question between the parties in the Court below; and for that the property of the Hamburg Manufacturing Company was not purchased by, or conveyed to, the said Elias L'Hommedieu upon the trusts in the said decree mentioned; and for that the said Complainants are not interested in the trust under which the property of the Clinton Manufacturing Company, or of the Hamburg Manufacturing Company was purchased, nor entitled to have the account taken, as decreed by the said Court. 40

ROBERT HAMILTON,

Solicitor for, and of Counsel with Appellants.

STACY G. POTTS, Of Counsel, &c. 50

Dated, January 18, 1847.

In the Court of Errors and Appeals, in the Last Resort in all Causes of Law.

The answer of the Hamburg Manufacturing Company, and others, Respondents, to the petition of appeal of Joseph E. Edsall and Elias L'Hommedieu, Appellants.

These Respondents, not confessing or acknowledging all or any of the matters and things to be true, as in and by the said petition of appeal are contained and set forth, for answer thereto, say, that they believe it to be true, that such final decree as is complained of by the 10 Appellants, was made in the Court of Chancery, as in the petition is set forth, but as to the date, substance and contents thereof, these Respondents crave leave to refer thereto, when the same shall be produced; and these Respondents are advised and believe, that the said decree is agreeable to equity and justice, and they, therefore, humbly pray that the same may be affirmed, and that the said petition of appeal may be dismissed from this Honorable Court, with costs, to be adjudged to these Respondents.

B. WILLIAMSON,
Solicitor, and of Counsel with Respondents.

ROBERT HAMILTON,
Solicitor and of Counsel for Appellants.
STACY & POTTS, Of Counsel for Respondents.
Date, January 18, 1847.