

## NEW - J E R S E Y

### COURT OF ERRORS AND APPEALS.

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JOHN DEN, Ex-demise of Albert H. Osborn and Adeline his wife, and others, Plaintiffs in error, and JOHN TUNIS and Seneca White, Defendants in error.	} In error to the Supreme Court.
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E. W. Whelpley, Att'y for Plaintiffs in error.

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Theo. Little, Att'y for Defendants in error.

This was an action of Ejectment, brought by declaration of ejectment and notice to appear on the first Tuesday of June, 1853, for lands described in the consent rule entered into in this cause, as being one tract of land in the township of Morris and county of Morris, containing 52 acres, and the undivided half of two other tracts, containing—the one, forty-seven acres, one rood and thirty-seven perches of land, and the other lot containing 76 acres of land. 20

SENECA WHITE was in possession as tenant when the suit was brought. He was admitted to defend as such, and John Tunis as landlord and owner of the fee.

The cause was tried at the Morris circuit, May term, 1854, and a verdict rendered for defendant. Final judgment on that verdict was entered in the Supreme Court,

November term, 1854. The writ of error was returnable November term, 1854. At the trial the following bills of exception were sealed :

NEW-JERSEY SUPREME COURT.

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MORRIS CIRCUIT, MAY TERM, 1854.

JOHN DEN, Ex. dem. Albert H. Osborn and Adeline his wife, James H. Hutchins and Anna Maria his wife, and William L. Boyle, vs. JOHN TUNIS and Seneca White	}	In Ejectment.
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20 Be it remembered, that at a circuit held at Morristown, in and for the County of Morris, on the Tuesday of May, in the year of our Lord eighteen hundred and fifty-four, before the Honorable Daniel Haines, one of the Justices of the Supreme Court of Judicature of the state of New Jersey, the above named cause came on to be heard and tried before a jury duly empanced and sworn to try the said cause, in the presence of the parties and their respective attornies, upon the issue made upon the pleadings in said cause *pro ut* the same.

30 Whereupon the said defendants being called upon, confessed lease, entry and ouster of the premises described in the said pleadings, and which said premises consist of one tract of land of fifty-two acres and the equal undivided half part of two other tracts, the one containing forty-seven acres, one rood and thirty-seven perches, and the other containing seventy-six acres, situate in the township and County of Morris, *pro ut* the consent, rule, &c.

40 The plaintiffs in support of the issue joined on their part, among other witnesses and proof offered and read in evidence, a certain mortgage given by Solomon Boyle, Senr., to the Commissioners of the Loan office of the County of Morris upon the said lot of fifty-two acres, and bearing date the sixth of September, seventeen hundred and eighty-six, which said mortgage is contained in a certain book of mortgages taken and kept by the said Commissioners, under and by virtue of an act entitled "An act for striking and making current one hundred thousand pounds in bills of credit to be let out on loan, and directing the mode of sinking the same as *pro ut* the said books of mortgages or a copy of the said mortgage.

Also, a certain deed from John Mills and Joseph Lewis, Commissioners of said loan office, to William Boyle for the said lot of land of fifty-two acres so mortgaged as aforesaid, bearing date the fifth day of March, 1799, and recorded January seventh, 1802, in Morris County Record of Deeds, Liber G., folios 47, as *pro ut* said record or a certified copy thereof; to the admission of which deed and mortgage the defendants objected, but the court admitted the same in evidence.

The plaintiff also offered and read in evidence the record of a certain bill and decree in Chancery, made November 18th, 1800, in a suit wherein Peter Mackie and John Buchanan, executors, &c., of William Luce, deceased, were complainants, and Solomon Boyle, senior, and Solomon Boyle, junior, were defendants, *pro ut* a certified copy of said decree hereto attached. 10

Also, a deed from John Buchanan, executor, to Solomon Boyle and William Boyle, bearing date the first day of December, 1801, and recorded January 9th, 1802, in Morris County Register of Deeds, Liber G., folio 44, *pro ut* said deed or a certified copy thereof. 20

To the admission of which decree and deed the defendants objected, but the Court admitted the same in evidence.

JOSEPH BOYLE, witness, sworn on the part of the plaintiffs, being shown a paper purporting to be a demand of possession, *pro ut* the same marked F, says: I served a copy upon the defendants, White and Tunis, on the 19th April, 1853. The defendant, White, then lived on the farm in dispute. I know the fifty-two acre lot; White had the three lots in possession. I am acquainted with Mrs. Osborn and Mrs. Hutchins; they were the daughters of Doctor William Boyle: he had three children, William L. Boyle; Anna Maria, who married James H. Hutchins; and Adeline, who married Albert H. Osborn. The lands described in deed from John Buchanan, &c., to Solomon and William Boyle (as above read in evidence), are two of the lots in dispute, and were in possession of White, the defendant. Witness, being shown a map of the premises, says it is generally correct; the roads are laid down correctly; the farm in dispute was said to contain the three tracts. 30

WILLIAM BOYLE, sworn on the part of the plaintiffs, says: That he lived on Long Hill, adjoining the property in dispute, ever since he was born, which was in 1782; knew Solomon Boyle, senior; he was my uncle; he lived 40

and died on the property in dispute; worked it as his own; he died, thinks, as much as sixty years ago; he left two sons, Col. Solomon Boyle and Dr. William Boyle, and three daughters, Jane, Ann and Agnes; one of the daughters married Simpson and one Wilson. Knew Dr. William Boyle; he died, I think, in 1827, in May or June; he left three children, Anna Maria, William L. and Adeline. Anna Maria married Hutchins; he lives in Brooklyn. Adeline married Mr. Osborn; he also resides in Brooklyn. After the death of their father William made his home with the Colonel; he and the Colonel and his sisters lived together on the farm in the old homestead; neither of them was married at that time. The line fence on the farm, between it and my father's farm, was divided between my father, William and Solomon Boyle. William was to make along the fifty-two acre lot; this division was made by the Township Committee, the 10th July, 1804; I drew the return; Smith & Doty went and viewed the land and made it. I now own the land adjoining the fifty-two acre lot; the line fences have ever since been made and kept up in the same way. The Doctor raised some corn there on the place; it was in the upper end of the fifty-two acre lot; it was above the piece of wood; I can't tell how far the fifty-two acres goes up. The Doctor went to Canada about that time; I think it was after he returned from Canada that he raised the corn. After the Doctor married he went to live with his mother-in-law, about one mile from the Boyle place; he followed his profession as doctor. The Colonel and the Doctor undertook to settle about the land and personal estate, and chose my father and Stafford Wilson to settle the matter between them; their sisters also had some claim, which was also to be settled. The Doctor was willing to give his sisters some part of the land; the Colonel objected, got mad, and broke up the settlement.

This attempt at settlement was some time before my father's death; he died in 1829. I think the Doctor then lived with his mother-in-law. I understood at the time they wanted to settle that there was a dispute among them in the family, and wanted to have the matter settled between them. Colonel Boyle married first; I think the Doctor did not live on the Boyle place long after the Colonel was married; the Doctor and his sister took a small house on the hill; they did not like the Colonel's getting married, and went off and rented the house on the hill. After the Doctor married, he made his home on his wife's property, and remained there until his house burned down; then he went and lived either

at the Colonel's, or moved to New York, I am not certain which. The Doctor built a new house on his wife's farm after the old one was burned down, and lived there till he died. I think he went to Canada before his father's death. I think he raised the corn on the fifty-two acre lot after he and his sister lived in the rented house; can't say that it was after his marriage, it was before he went to New York; he never worked on the farm himself; he was lame, and could not work on this or any other land; he had a couple of black men who belonged to his mother-in-law, who used to go to the farm and work; can't say who sent them; I saw them there at the Colonel's; can't say now what they did. Elias Coriell and one of the Bairds owned on the east side of the fifty-two acre lot. The Colonel and the Doctor kept their business very close; can't say how poor the Doctor was. The corn the Doctor raised adjoined the wood; was above it on the fifty-two acre lot; I have no recollection of seeing him do anything on the farm after his marriage, or after the Colonel's marriage, nor anything after his father's death, unless it was to raise the corn. Did not see the colored men at work. I did not see him till the corn, or plant it, or do anything towards it; I understood he raised it; I don't know what was done with the corn when ripe.

JOHN WORTH, produced and sworn on the part of the plaintiff, says: I knew Solomon Boyle, senior; he died fifty years ago and upwards. I am in my eightieth year. He left two sons, Solomon and William. After their father's death they lived together on the old place till Solomon got married; never heard them say how they farmed the place. The Doctor lived there after he came back from Canada; he lived there till after he got married, in 1808; he then went to live on his wife's place.

SAMUEL S. DOTY, produced and sworn on the part of the plaintiffs, says: I knew Doctor William Boyle; he married in 1808; he was shot in 1810, while sitting in his house on his wife's farm. In 1813, I lived at Colonel Boyle's a short time—boarded there at that time; William L. Boyle, son of the Doctor, was a small boy; can't tell his age, but at the time his father was shot he was a child in the cradle; I saw him at that time. His sister, Anna Maria, was not born in 1813, when I lived at the Colonel's. Adeline was not born at that time, and is, as I think, now thirty-seven years of age. Anna Maria is about two years younger than her sister. Doctor Boyle's gene-

ral health was very feeble ; before he was shot he did a good deal of professional labor ; his knee was injured, and had a running sore in the joint. William Boyle died in 1827, May or June.

*Being cross-examined*—Dr. Boyle I understood went to Canada at one time ; this was before I recollect him ; he was shot while sitting in his house in 1810 ; the next year his house was burned ; he then went to New York, remained there about two years. After his marriage, he  
 10 lived on his wife's property, called the "Lafferty" place ; he may have lived a short time at the Colonel's after his house was burned and before he went to New York. After he returned from New York, he lived a short time at the Colonel's ; had the upper rooms in the house ; lived there until he built his new house, then went back to the "Lafferty place ;" lived there till 1822, when he moved to the "Lee house" in Baskingridge ; lived there three years, then moved back to the "Lafferty place," where he died ; he followed his profession till his death.

20 JACOB WILSON, produced and sworn on the part of the plaintiffs, being shown a paper purporting to be a notice, &c., bearing date, 22d June, 1824, *pro ut* the same marked G, says : That the signature to said notice is that of Colonel Solomon Boyle ; this paper was served upon me ; can't say by whom ; I was then Sheriff of the County of Morris ; I had an execution in my hands in favor of  
 Lord, against William and Solomon Boyle, upon which I made a levy on a lot of 50 acres, as mentioned in the levy ; Solomon Boyle gave me the levy ; I  
 30 did not see the land myself ; William Boyle at that time lived in the County of Somerset.

The above execution and levy was here produced and shown to the witness, and also read in evidence, *pro ut* the same or a copy thereof, marked H. The witness further testified, that the levy as it now appears on the execution, is not as I have it in my docket. The words interlined on the levy are not in my docket. The witness here produced a copy of the levy as in his docket, *pro ut* the same marked ; the levy as in my docket is, I  
 40 think, as Solomon Boyle gave it to me.

DANIEL HEATH, produced and sworn on the part of the plaintiffs, says : He was seventy years old ; was acquainted with the family of Solomon Boyle, senior ; I married his grand-daughter in 1802, a niece of Colonel and William Boyle. The Colonel and the Doctor lived on the old place in 1802 and 1803 ; they lived in the Mansion House as one family ; I heard them speak of their crops raised on

the place, they called them their crops whenever they spoke of them; I heard this from both William and Solomon; They lived together as one family; I saw the Doctor on the farm frequently; I never heard any thing from them, nor did I know the manner in which they held the property; I was frequently there during the years 1802 and 1803, and since; my wife's mother lived near by. The Colonel married within a year after his father's death; there was a difficulty in the family about his marriage; the Doctor and his sister left, and moved to a little house on the hill, which was a small house and garden; they remained there about a year; then moved back to the old place, and they all lived there again as one family. It was after this that I heard them speak of their crops. They lived in this way together, till the Doctor got married; can't say how long. The Doctor then went to live on his wife's farm, called the "Lafferty place;" his wife's mother died before his marriage. I saw the Doctor frequently on the old Boyle place, out in the fields; did not see him do any work; he could not labor; he appeared to be walking and looking over the place. The Doctor's wife had a couple of negro men; I saw them frequently on the old Boyle place working with the Colonel's hands at farming work; saw them there, at different times, in different years after the Doctor's marriage. I recollect the building of the house on the Boyle Farm; The Doctor lived there then; it was before his marriage. The house was built in 1807, 1808 or 1809. The Doctor found the frame for this house at his own expense. I worked at the house. The Doctor was there. I can't say that he took any supervision. No one has paid me in full for the work I did there; the Colonel employed me. About the time I married into the family, I heard them speak about their interest in the place; heard them converse about it frequently; heard Jane say that the Doctor claimed the fifty-two acre lot; she also claimed a lot; said the Doctor owned the fifty acre lot. The witness also said that the lands described in the levy aforesaid, embraces the fifty acre lot.

*Being cross-examined*—Witness says: Frame of the house was got out of the great swamp; I was told at the time by the carpenter, and by the Doctor also, that the Doctor got the frame; John Oakley was the carpenter; the frame was got off the Logan tract. Colonel Boyle married in 1801. The Doctor talked about the crops as though he was the owner of them; can't say what he said; he spoke of the crops as theirs—as ours; they all spoke of them in the same way. I don't know as I ever

heard the Doctor say anything more about the crops than might be well said by a person boarding in the family; the black men or boys I spoke of were big enough to plough; they were fifteen or sixteen years old; saw them working on the farm with the Colonel's men. There was about one hundred acres in the farm which the Doctor got by his wife; he worked it in rather a poor manner. The Colonel some times helped him get hay there; saw the negroes at work on the farm also. I was married in 10 1806, on the 4th October: I then lived at Baskingridge; I was at the Boyle place frequently before I was married, courting my wife; after I was married I often called there; my courtship lasted two or three years.

*Being re-examined*—Witness says: Colonel Boyle and the widow acted as administrator to his brother, Doctor Boyle. After the death of the Doctor, his widow and children went to live at Brooklyn with Mr. Osborn.

20 *Re-cross-examined*—The Colonel used to keep hired men on his farm, sometimes four or five. The Colonel's hands sometimes worked for the Doctor on his wife's farm; they sometimes worked through one another.

JACOB ANDERSON, witness, produced and sworn on the part of the plaintiff, says: I knew Doctor Boyle; his son William L. Boyle and I were boys together and play-fellows; used to go to see him. I have seen the Doctor frequently on the Boyle place, walking over the farm; saw his black boys there; they were at work on the place; saw them there several times, mostly in one year. I was 30 born in 1806. William is a few years younger than I am; the girls are younger than William. I live a mile and a half from the Boyle place.

*Being cross-examined*—Says: William L. Boyle and I were school fellows together; when a boy, I used to go to the mill near the Colonel's, and while waiting for the grist I went up to see William; we were about a eleven or twelve years old. It was at these times I saw the Doctor and the boys on the place. William L. Boyle married my sister.

40 The plaintiffs further offered and read in evidence a certified copy of the last will and testament of William Luce, deceased, the proof thereof and the letters testamentary thereon, which said will bears date the 13th day of August, A. D. 1793, and was proven by and before the Surrogate in and for the city and county of New York, on the 21st day of October, 1793, as *pro ut* the

said will, a certified copy of the said will, proof and letters testamentary.

Which papers were objected to by the defendants, but were admitted by the Court.

Also a bond and mortgage given by Solomon Boyle, senior, to William Luce, bearing date the 6th day of June, 1791, and which said mortgage was recorded July 16th, 1791, in the Morris County Record of Mortgages, Book C, folio 386, *pro ut* said bond and mortgage.

ALBERT H. OSBORN, one of the lessors of the plaintiff, 10  
was sworn, to prove where the bond and mortgage last above offered was found, and who had the custody thereof, says: That he found said bond and mortgage in a chest which belonged to his wife's mother, the widow of Doctor William Boyle; that he had examined the papers in the chest at the request of Mrs. Boyle before her death; she said that the papers belonged to her husband. After her death he again examined the papers in the chest, and 20  
found the bond and mortgage there; that they have been in his possession ever since until he delivered them to his counsel; that Mrs. Boyle brought the chest and papers with her when she came to live with him, after the death of her husband.

JOHN A. DALRYMPLE, a witness, produced and sworn on the part of the plaintiff, says: That he is Clerk of the Board of Chosen Freeholders of the county of Morris, and has the custody of the books and papers belonging to the Board. The witness being shown a book, purporting to be the minutes or record of the proceedings of said Board, 30  
says that it is the book of minutes of the said Board; that the said books, with all the papers belonging to the said Board, were delivered to him by his predecessor in office, and have since been kept by him as clerk of the said Board. (The witness being also shown a book, purporting to be a book of mortgages, taken by the Commissioners of the Loan Office for the county of Morris, *pro ut* the books offered in evidence by the plaintiffs,) says: That he found the said books in the Morris County Clerk's Office, among other books and papers belonging to the 40  
Board of Chosen Freeholders.

The said plaintiffs then offered in evidence the said books and minutes, and read therefrom certain entries *pro ut* the same, or copies therefrom, marked

Here the plaintiffs rested.

The defendants, in support of the issue on their part offered to read in evidence a deed from Joseph Boyle and wife, to Solomon Boyle, junior, dated January 29th, 1800, and recorded August 14th, 1801, in Morris County Register of Deeds, Book D, folio 431, *pro ut* said deed, or a certified copy thereof, whereupon the said plaintiffs, by their counsel, objected and interfered to the said deed being given in evidence upon the issue aforesaid, upon the ground, among other things, that the said deed was the same mentioned and set forth in the said bill and decree in Chancery, between the executors of William Luce and Solomon Boyle, senior, and Solomon Boyle, junior, read in evidence in this cause as hereinbefore stated, and insisted that the said deed could not be set up by the said defendants, who claim title to the premises in dispute in this action, under the said Solomon Boyle, junior, as a good and subsisting deed, and that the said deed was not good and admissible evidence upon the issue aforesaid.

But the said Justice overruled the objection of the said plaintiffs, and held and affirmed that the said deed so offered was good and admissible evidence in law. And, thereupon, the said defendants read in evidence to the Jury the said deed. To which holding and opinion of the Court the said plaintiffs excepted, and prayed a bill of exceptions, and it was allowed and sealed accordingly.

[L. s.]

And the said defendants further offered in evidence a certain bond and mortgage given by Solomon Boyle to William Boyle, bearing date and acknowledged on the 13th day of August, 1801, recorded in Morris County Record of Mortgages in Liber. E. folio 289, on the 13th August, 1801; also a bond accompanying said mortgage and of even date therewith with several assignments endorsed upon said bond and mortgage *pro ut* said bond and mortgage and the several assignments thereon.

Whereupon said plaintiffs by their counsel interposed and insisted that the said bond and mortgage so offered to be given in evidence by the said defendant to the jury aforesaid, were not good nor admissible evidence in law upon the issue aforesaid for the purpose of proving title to the said premises in dispute, for which purpose the same were offered by the said defendants. But the said court overruled the objections of the said plaintiffs, and held and affirmed that the said bond and mortgage were good and admissible evidence in law; and thereupon the said defendants read in evidence to the jury the said bond

and mortgage, to which holding and opinion of the court the said plaintiffs excepted and prayed a bill of exceptions, and it was allowed and sealed accordingly.

[L. s.]

LUDLOW SQUIRES, a witness produced and sworn on the part of the defendant, says: I was seventy-one years old on the 7th May last; lived in Morris County till 1829, at Long Hill, adjoining the lands in dispute on the west side; I owned the Baird farm; I saw no one farm the Boyle farm but the Colonel; he did not do anything himself, he hired it done. Knew Doctor Boyle; he followed his practice; made his home with the Colonel till he got married; the house on the Boyle place was built before the Doctor got married; I do not know where the timber for the house came from; I saw Colonel Boyle draw timber from his lot about the time of the building of the house near the Passaic river; I lived there from 1805 to 1829. The Colonel had some Irish and some colored boys to work on the place; he cultivated the whole of the farm; I never heard him say he was the owner of the farm; have heard him call it his farm; I never saw any act of ownership or occupancy on the part of William Boyle

*Cross-examined*—I don't know about the different lots. I think the Luce mortgage read embraces the whole farm; the Colonel's house and mine were a mile apart; when I first knew the Doctor, in 1805, he lived at the homestead on the old farm; he lived there till he got married; I can't tell how many years, I suppose about a dozen. I never heard of any claim of William's, therefore I thought it was the Colonel's; he kept his horse on the place; sometimes rode the Colonel's horses while engaged in his practice. Colonel Boyle married I think after I moved there in 1805; he never had but one wife, she left him a short time after he brought her home and went to her mother's; staid away about a year; when she came back there was a difficulty in the family about her. The Doctor lived with the Colonel while his wife was away; when she came back the Doctor and his sister Jane left, and went to live in the Smith house on the hill; lived there about a year until the Colonel's wife died; Jane Boyle has always since lived at the house with the Colonel. The timber I spoke of was got off a lot which the Colonel purchased of Manning; he got the timber about three years after he bought the lot; I do not know that he used the timber for the house; I saw him cart it up to the farm; do not know what he did with it.

*Re-examined in chief.*—After the Doctor's house was burned he moved back to the Colonel's and lived there a short time.

JAMES LEWIS, a witness produced on part of the defendants, says: I was sixty-three years old last October; lived near the Lafferty farm till 1800; my father lived on the next farm to it; lived there till I was twenty-six or twenty-seven years old; knew the Boyle farm and its boundaries; I have seen the Colonel and his hands working the place; seen no one else; never saw the Doctor do any work on the farm or directing it to be done; heard the Colonel call the cattle and things on the place his; the Colonel got stones of my brother and built the barn. The Doctor was married about 1807, and moved in with his wife on the farm; he moved there in September, about a year after he was married; his son William could not have been a year old; he was a suckling child; he was born about a year after they were married. About four years after the Doctor's house was burned he built his new house. He went to New York and lived there about two years; after his house was burnt lived in Baskingridge three years, 1818, 1819 and 1820. The Colonel occupied the Boyle farm, used and disposed of the crops as long as I knew anything about it.

*Cross-examined*—I worked for the Doctor after he was shot. The large house on the Boyle place was built first and a kitchen annexed afterwards; it was two or three years before the kitchen was built, perhaps longer. When the Doctor lived on the place with the Colonel he practised medicine. Do not know whether he received any share of the crops on the farm or not; never heard the Colonel say that the Doctor had no right there.

DANIEL RUNYON, a witness produced on the part of the defendants, says: I am seventy-eight years old; live at Long Hill; have lived there seventy years, one and a half miles from the Boyle place; knew the Colonel and William Boyle; the Colonel followed farming, and William was a Doctor; knew the farm; was there often; saw the Colonel and Doctor there. From 1800 to his death, I never knew any one to occupy the place but the Colonel; I never knew the Doctor to have any thing to do with the farm, or receive any part of the produce of it. I have dealt with the Colonel; sold him a yoke of oxen; I let him have a horse once; never got much for them; got his note for the oxen; never knew the Doctor to get any thing off the farm; I know but little about their affairs;

don't know where the doctor lived ; heard that he lived on the Lafferty place.

*Cross-examined.*—All I know, is that the Colonel lived there and the Doctor followed his practice. Jane Boyle owned the farm at one time ; while she owned it, the Colonel carried it on the same as before in some way—no odds how. The Colonel I understood bought it back again somehow.

DOCTOR SAMUEL S. DOTY, produced on the part of the defendant, says: In 1813, I lived in the family of Colonel Boyle ; after then lived in Baskingridge. Colonel Boyle then carried on the farm. William Boyle came back from New York in the spring of 1813, and lived a short time in the upper part of the Colonel's house ; lived there till his own house was built on the Lafferty place ; It was then being built. Colonel had work hands on the place ; John Oakey also some of the Lacey's. The Colonel had some black men ; the Doctor had a black boy, a lad quite small, five or six years old ; Mrs. Lafferty had several blacks ; one was sold by the executors, one ran away ; one other, Brister, he worked at Cooper's. I have heard the Colonel speak of his farm as other people speak of their farms. He called it his farm, his cattle, his sheep, &c. The Doctor went to New York in 1810 or 1811, and was gone about two years. The Colonel acted as William's administrator, with the widow. I heard nothing about how the estate was held between the Colonel and Doctor ; they kept their matters to themselves ; the two brothers were very much attached to each other ; they were both of them very careless in their business. After the sale of the farm, as it was said to Jane, the Colonel lived there just as he did before. Jane lived on the place with the Colonel when I was there in 1813, and lives there still ; no change. I never heard the fifty-two acre tract spoken of as William's, though I was intimate with both of them. I was the Colonel's Physician, and often there ; never heard William give any directions to workmen, or exercise any control over them.

ABRAHAM DUNN, a witness produced and sworn on the part of the defendants, says: I live from two to three hundred yards from the Boyle farm ; moved there twenty-three years ago ; Colonel Boyle then had possession of the property, and remained there till his death ; William Boyle was dead when I went there ; never heard the Colonel speak of the place as to ownership. He died two years ago this last spring ; he used the farm as other

people used their lands. I know nothing about ownership, he kept his matters to himself.

And the said defendants also offered in evidence the records of three several judgments entered by confession in the Inferior Court of Common Pleas in and for the County of Morris, to wit :

- |    |                       |   |
|----|-----------------------|---|
|    | HENRY A. FORD,        | } In case. Entered April 29th, 1824, for<br>\$142 39 damages. Costs \$18 35.  |
|    | vs.<br>SOLOMON BOYLE. |   |
| 10 | MEHITABLE BOYLE,      | } In case. Entered 25th April, 1854, for<br>\$459 56 damages. Costs \$19 35.  |
|    | vs.<br>SOLOMON BOYLE. |   |
|    | JANE BOYLE,           | } In case. Entered 29th April, 1824, for<br>\$2269 08 damages. Costs \$19 35. |
|    | vs.<br>SOLOMON BOYLE. |   |

Also the executions issued on said judgments and the levy thereon, as *pro ut* the records of said judgments and executions and service.

- 20 And the said defendants further offered in evidence a deed from Elijah Ward, sheriff, &c., to Jane Boyle, dated the 4th day of September, 1844, and recorded 19th October, 1852, in Morris County record of Deeds, Liber Z 4, folio 526 as *pro ut* said deed or a certified copy thereof.

The said defendants also offered and read in evidence a deed from Jane Boyle to Solomon Boyle, dated June 18th, 1845, and recorded in Morris County Record of Deeds, April 10th, 1852, Book Y 4, page 143, as *pro ut* said deed or a certified copy thereof.

- 30 And said defendants further offered in evidence a certain mortgage given by Solomon Boyle to Matthias Williamson to secure the sum of two hundred and fifty dollars, bearing date the second day of November, 1801, acknowledged and recorded on the said second day of November, A. D. 1801, in Morris County Record of mortgages, Book E, folio 280.

- 40 The said defendants offered and read in evidence a certain writing or agreement, written and endorsed in the said last mentioned mortgage, and signed by William Boyle, bearing date the 2d day of November, A.D. 1801. Also a certain other writing or agreement signed by the said William Boyle, written and endorsed upon said mortgage, and bearing date the 7th day of November, A.D. 1801, as *pro ut* the said two agreements endorsed upon said mortgage.

And the said defendants further offered to give in evidence a certain letter or writing, written and endorsed upon the said last mentioned mortgage, purporting to be signed by one Caleb Russell, which said writing is in the words and figures following, to wit:

“ Mr. Williamson: The land herein mortgaged is mortgaged to William Boyle for seven hundred and fifty dollars, dated the thirteenth day of August, 1801. The mortgage to Chetwood and Blanchard, trustees of Hampton, is not cancelled on record, nor the mortgage to William Luce, although I believe they have been settled, except this money he wants of you to pay the latter, the one to William Boyle his brother, as I am informed, was to raise the money to discharge Luce as far as it went. Mr. Boyle says the money is not due on the first until May, A.D. 1803. 10

Yours,

CALEB RUSSELL.”

And the said defendants having proved that the signature of Caleb Russell to said writing was in the proper hand writing of the said Caleb Russell, offered to read in evidence to the jury the writing above set forth. Whereupon the counsel of the said plaintiffs interposed and insisted that the said letter, there being no proof given or offered to be given that said letter had been written by and with the knowledge and consent of the said William Boyle, was not, under the proof given to the court, good or admissible evidence in law to be given to the jury upon the issue abovesaid 20

But the said court overruled the objection of the said plaintiffs, and held and affirmed that the said writing upon the proof given by said defendants, was good and admissible evidence in law; and thereupon the said defendants read in evidence to the said jury the said writing above set forth. 30

To which opinion and holding of the said court the said plaintiffs excepted and prayed a bill of exceptions and it was allowed and sealed accordingly.

[L. s.]

STEPHEN THOMPSON, produced and sworn on the part of the defendants, says: I am eighty years old. Knew Solomon Boyle, junior. (Being shown the bond and mortgage given by Solomon Boyle to William Boyle,) says: he once owned the bond and mortgage; it was paid to him by Solomon Boyle, in the year 1846; it was paid by 40

a joint note, given by Colonel Boyle and John Tunis; I afterwards sued the note and collected the money. Colonel Boyle was in possession of the farm when I held the mortgage.

JOHN TUNIS, one of the defendants, was sworn to prove where he found the mortgage from Colonel Boyle to Williamson, above offered in evidence by the defendants, says: That he found said mortgage among Colonel Boyle's papers after his death: that he had searched among  
10 the papers for the old deed from Joseph Boyle to Solomon Boyle, but could not find it.

The evidence was here closed; and after argument by the counsel of the respective parties—

The Court charged the Jury as follows:

This is an action of ejectment, brought to try the title to, and to recover possession of, a part of a farm of about 175 acres in the township of Morris, in this county.

The defendants, being in the peaceable possession, cannot be disturbed until the plaintiffs show affirmatively,  
20 and to your satisfaction, that at the time the action was commenced—to wit: February Term, 1853—he had a title to the premises.

The lessors of the plaintiffs claim as the children and heirs-at-law of William Boyle, the whole of a lot of 52 acres, and the undivided half of two lots of 76 and 47 acres, and the question before us is, Whether they have made sufficient proof of their title?

That William Boyle, who is called Doctor Boyle, died leaving a son, William L. Boyle, and daughters, Anna  
30 Maria, the wife of James H. Hutchins, and Adeline, the wife of Albert H. Osborn, is not disputed.

Solomon Boyle, senior, was in possession of the whole premises as early at least as 1786, and continued till the time of his death, which was after 10th May, 1800, when a subpoena in Chancery was served upon him.

In 1786, December 6th, he executed a mortgage on the fifty-two acre tract to the Commissioners of Loans for Morris County, under the act of 26th May, 1786, for striking and making current £100,000 to secure £78. By this  
40 act it was provided, that on the non-payment of the mortgage moneys, the fee of the land mortgaged vested in the Commissioners, and they were authorized to sell it in a manner and at a time directed by the act.

There being a balance of the mortgage money, £8.8.6, due the Commissioners on 5th March, 1799, conveyed the premises for the consideration of £8.8.6, to Dr. Boyle. This deed was recorded on 7th January, 1802.

There is no proof of the fulfilment of the requisites of the act, as to the manner of sale. But the act gives the form of the deed, in which the advertisement and manner of sale is not recited. And after a lapse of fifty years, the law presumes that those officers, acting on behalf of the State, complied with those requisites.

10

It would not be reasonable at this time to require parol proof of putting up advertisements, and the sale, &c. The deed is therefore properly in evidence, and *prima facie* conveyed the land to him.

It at least gives color of title, and if William obtained it in good faith, and under it took possession of the lot, believing that he had acquired a good title, and continued in such possession for twenty years, he acquired title to it. But if the deed was not made in good faith, and for the benefit of William—if he got it by fraud, or for the use of some other person for whom he became the trustee, or for any other purpose than for himself; or if he never entered upon the lot, and had the possession of it under that deed, it cannot avail the plaintiffs now.

20

The consideration expressed in a deed is no evidence of fraud, nor of inadequacy of price. It is usual to express only a nominal consideration, even when more and a full price has been paid. If it be a valuable consideration it is sufficient, and that can be expressed as well by £8.8.6, or by ten cents, as by a larger sum.

30

You may consider, however, the balance due on the mortgage at the time of sale as the extent of the consideration paid, in connection with other facts, to guide your judgment, and to enable you to determine whether the deed was obtained in good faith, and for his own benefit or not. If there were other incumbrances, or the title of Solomon Boyle, senior, was doubtful, the £8 and expenses may have been the full value of that interest.

On the question of William's taking possession, I need only refer you to the testimony that he was residing there on the farm with his brother at the time, and to what has been said about the division of the partition fences in 1804, in which William was to make a part and Solomon a part.

40

The act of the township officers, in making division of the fences, cannot affect the title. But it is of import-

ance as evidence of who claimed or possessed at that time. If the Colonel was there assenting to it, their act and his assent was an admission of William's possession.

If William made or kept up the fence set off to him, it is evidence of continued possession.

There is also evidence of his having raised corn on the lot. Whether the witness (William Boyle) speaks from his own knowledge or from information, or whether he recollects accurately, you must judge.

10 There is also some evidence of his having furnished hands to work on the farm, whether that was upon this lot, or on some other part of the farm, you must determine. If on this, and for him, it is evidence of possession. But whether the Doctor had hands, the negro boys to work there, and whether they worked for him in raising grain, or cultivating the land, or whether he lent or hired them to the Colonel, you must gather if you can, from the evidence of Dr. Doty and Daniel Heath, and the other witnesses who spoke on that subject.

20 II. To the tracts of 76 and 47 acres, the plaintiffs claim title to the undivided half, through a mortgage made by Solomon Boyle, senior, to William Luce, on all the three tracts, on 6th June, 1791. On 6th May, 1800, William Luce died, leaving a will, by which he gave all his bonds and mortgages to his daughter, the wife of John Buchanan, and appointed Peter Mackie and John Buchanan his executors. These executors filed their bill in Chancery, on the 18th November, 1800, obtained a decree of absolute foreclosure of the equity of redemption, by which Solomon  
30 Boyle, senior, and his heirs and subsequent grantees were divested of the land mortgaged. Whether the effect of this decree was to invest the executors with the title to the land, or not, is of no consequence now. That question, if necessary, can be better determined elsewhere. The executors assuming that they had the right to convey the land, on the 1st of December, 1801, conveyed the lots of 47 and 76 acres, to Solomon and William Boyle.

40 I say that the executors conveyed, although but one of them executed the deed, assuming for the purpose of this issue, that one executor had the power to act for both.

This deed conveyed the property to Solomon and William in equal undivided portions, as tenants in common. And if Solomon permitted William to occupy those lots in common with him, under that conveyance, neither he nor his heirs can now deny the right, nor question the validity of it. And if William has acquired a right, and

has done nothing since to divest himself of the title, and the right has not been barred by the Statute of Limitations, the plaintiffs have the right to recover.

It becomes important then for you to enquire :

1st. Whether Solomon permitted William to enter upon and occupy those two lots under that conveyance, if so :—

10

2d. And whether William has done any thing to divest himself of the title so acquired, or whether he and those who claim under him, have suffered their right of entry to become barred by the Statute of Limitations.

1st. In showing the occupation by William, it is not necessary to prove that he in terms, or by his express declaration, occupied the undivided half, or as tenant in common. If he occupied the lots claimed in right or in virtue of a right conferred by the deed, it is sufficient, and the law will imply that having a legal right, his occupation was in accordance with it. But the mere fact of his living at the house of his brother on the farm, or of his walking over it, or even speaking of the crops, is not sufficient, for that might have been done by a stranger. But if he was then claiming to be owner, in whole or in part, contributing to the expense or the labor of cultivating it, or to the expense of building or repairing, or partook of the profits, or acting in short, as an owner of land actually acts, it is evidence of occupation.

20

Of this you must determine from the testimony. The language he used about the farm ; the labor of the negro boys, if any was done ; the expense of the frame of the house, &c. ; the effect of the notice to Sheriff Wilson in 1824, directing sale of land belonging to both defendants.

30

2d. Had William by any act or omission of his, divested himself of his right ? The defendants say, that if he ever had a claim, he became divested by his own acts.

1st. The deed of Joseph Boyle to Solomon Boyle, jun'r, 29th January, 1800, recorded 14th August, 1801, could not countervail the right acquired under the mortgage of Solomon Boyle, senior. The right, if any accrued under the mortgage to Luce, takes date from the time of its execution, 6th June, 1791. That deed is therefore to be laid out of the question.

40

2d. On the 13th August, 1801, William Boyle received of his brother Solomon, a mortgage on the whole farm,

called therein 200 acres, to secure \$750; and on the 15th of same month, he assigned it to William Steele, and he by his executors, to Stephen Thompson in 1824; and the mortgage money has since been paid by the representatives of Solomon, 1846, according to Stephen Thompson's testimony. This mortgage raises a presumption in law, that William, at the time of its execution, had no title to the premises described in it.

10 If he or his assignees had obtained possession of the mortgage premises, as they might have done, after default in payment of the mortgage moneys, the mortgagor and his representatives would have had the right, on the payment of the mortgage money, to redeem the premises and to have the possession re-delivered. In a suit for redemption, William Boyle would be estopped from setting up a title in himself, outside of the mortgage.

20 This is the presumption of law, either that William never had any right to the property, or that he had released it. Such presumption may be overcome by evidence explaining the transaction, and showing its propriety. If there is any evidence of that kind you will give the plaintiffs the benefit of it.

III. Again, Solomon Boyle, on 2d November, 1801, executed a mortgage to Matthias Williamson upon one lot of 188½ acres, including the seventy-six acre lot.

2d. On 47 acres, 1 rood and 13 rods. On the same day William Boyle executed a covenant, endorsed on the mortgage, to pay the mortgage money; and on the 7th November a further covenant, giving that mortgage priority over the mortgage of Solomon to him.

30 If the mortgage covered the land in question or any of it, then its execution, and the execution of the covenants upon it, is competent evidence, and may aid you in determining whether William ever acquired any right to the property, or if he did acquire a right, whether at the time of the execution of that mortgage, November 2, 1801, he had not relinquished it.

40 If he owned the land, and suffered Solomon to give a mortgage upon it to a third person, it was a fraud upon that person, and a court of equity would so declare it, and charge the mortgage money upon the premises, whether owned by William or Solomon.

The letter of Caleb Russell to Matthias Williamson has only the effect of a written declaration made by the knowledge of William Boyle; and before you can give it any

consideration you must be satisfied that William saw it, and had an opportunity of denying its statements. Of this you must judge from the circumstances which the counsel have remarked upon.

If William saw and assented to it, you must determine how far it is an admission that the money proposed to be raised on the Williamson mortgage was intended to discharge the balance due on the Luce mortgage, and that the money raised by the mortgage from Solomon to William was used to pay off, so far as it went, the Luce mortgage. 10

If those moneys were so raised and applied, then you may be better able to determine whether William acquired a *bona fide* title under the deed from the executors of Luce, or whether he only meant to take the formal title, for the benefit of Solomon.

The presumption arising from this may also be explained. 20

IV. If, on the full consideration of all these matters, you are satisfied that William did acquire title to the fifty-two acre lot, or the other lots or either of them, then you will proceed to enquire whether such right has been barred by the Statute of Limitations.

1st. As to the lots said to be held in co-tenancy :

The general rule of law is that the possession of one tenant is the possession of both.

No adverse possession can be set up by one of them until an actual ouster or turning out be proved. 30

The actual ouster may be shown either by an actual turning out or keeping out of the co-tenant, or it may be inferred from circumstances.

The refusal to account for the rents and profits; the exclusive occupation and receiving the rents, or reaping the profits for such a length of time as will raise the presumption of an exclusive right to the land.

What length of time is required to bar an entry by the mere pernamcy of the profits is not very definitely determined. In the case cited of *Doe vs. Prosser*, 1 Campbell, the profits had been received for thirty-six years, and the Court held that to be sufficient; but it is not declared how much if any less time will answer. 40

However that may be, if the tenant in actual occupation deny the right of his co-tenant, or do any act from

which such denial can be fairly inferred, and continued in the exclusive possession, receiving the profits of the farm for the term of twenty years thereafter, the statute bars the right of recovery.

When the Statute of Limitations begins to run, it runs over all subsequent disabilities. If it began to run in the lifetime of William, before his death in 1827, it continued to run, notwithstanding the minority of his children; if not in the father's lifetime, it does not run against the lessors, as they were minors until 1833 or 1834, and twenty years have not since elapsed.

Was there an ouster during the lifetime of William?

In examining the question you will look at the evidence of William's leaving the farm and going to his wife's property. His removing to New York and then to Baskingridge, and his living in an upper room while his house was in building. You must look at the evidence of an attempt to settle all their business, land and moveable property, spoken of by Mr. William Boyle, the witness; the setting off to William a piece of land at the lower end, and Solomon's refusal to assent to it or sign any paper.

This was before the death of the witness's father, which occurred in 1829.

It was of course in William's lifetime, for he was one of the parties to it. You must judge how far this was a denial by Solomon of William's right, and whether of the whole right or only a part, and as to what part? Whether the refusal to ratify the settlement was because of William's claim, or of the claim by the sisters, because of the arrangement of the land or of the personal property?

If there was denial of William's right, then if he and his heirs slept over it for twenty years, the right is gone.

Again, William married in 1808, and then went to his wife's property.

You must determine from the evidence whether after that he received any of the profits of the farm or exercised any acts of ownership over it? or whether Solomon was in the exclusive occupation and receipt of the profits, and if that was so by reason of Solomon's refusal, or of William's declining to take them? Then the period of forty-four or forty-five years having elapsed, between that time and the commencement of the suit, you are at

liberty to presume an ouster, and it is your province to determine whether there was an ouster or not.

If there was, then the right to recover is barred. If you find that the lessors of the plaintiff had a title to the land in question, or either part of it, you will find that the defendants are guilty of the trespass and ejectment laid to their charge, and assess the damages at six cents.

If you find for all that is claimed, the 52 acres in entirety and the 76 and 47 in co-tenancy, you will express that—if only for a part, you will express what part. 10

If you find that the plaintiffs had no title to any of the premises at the time the action was commenced—whether William Boyle had no title, or his right is barred by lapse of time, you will find the defendants not guilty.

The said plaintiffs, by their counsel, excepted to so much and such parts of the said charge to the said Jury, as related to the validity of the deed offered in evidence from the Commissioners of the Loan Office to William Boyle, dated the fifth day of March, in the year seventeen hundred and ninety-nine, and its effect and operation, and prayed a bill of exceptions, and that the same might be sealed, and it is sealed accordingly. 20

DANIEL HAINES. [L. s.]

The said plaintiffs, by their counsel, also excepted to so much and such parts of the said charge of the said Judge, whereby the said Judge submitted it to the said Jury as a question for their determination, arising upon the evidence in the cause: Whether the said William Boyle took the said deed from the Commissioners of the Loan Office as a trustee for other parties, and not in his own right? and prayed a bill of exceptions, and that the same might be sealed, and it is sealed accordingly. 30

DANIEL HAINES. [L. s.]

The said plaintiffs, by their counsel, also excepted to so much and such parts of the charge of the said Judge to the said Jury, as submitted to the said Jury as a question for their determination, arising upon the evidence in the cause: Whether the said deed was procured from the Commissioners of the Loan Office by fraud, practised by said William Boyle? and prayed a bill of exceptions, and that the same might be sealed, and it is sealed accordingly. 40

DANIEL HAINES. [L. s.]

The said plaintiffs, by their counsel, also excepted to so much and such parts of the charge of the said Judge to the said Jury, as related to the evidence offered to prove possession of the said premises by said William Boyle, jointly with said Solomon Boyle, and that the mere fact of his living in the house, and on the place, was not sufficient evidence of possession to give him a right as tenant in common; and prayed a bill of exceptions, and that the same might be sealed, and it is sealed  
10 accordingly.

DANIEL HAINES. [L. s.]

The said plaintiffs by their counsel also excepted to that part of the charge of the said Judge to the said jury in relation to the mortgage given by said Solomon Boyle to William Boyle, dated 13th August, 1801, offered in evidence in the cause, and the assignment thereof to William Steele, in which the said Judge charged the said jury that the presumption of law arising from that mortgage and assignment was, that William Boyle never had  
20 any title to the property or that he had released it, and prayed a bill of exceptions, and that the same might be sealed, and it is sealed accordingly.

DANIEL HAINES. [L. s.]

The said plaintiffs also by their counsel excepted to that part of the said charge to the said jury by the said Judge, as submitted to them for their consideration as proper and competent evidence in the cause, the letter of Caleb Russell to Mathias Williamson, if the jury were  
30 satisfied that William Boyle saw it and had an opportunity of denying its statements, and prayed a bill of exceptions, and that the same might be sealed, and it is sealed accordingly.

DANIEL HAINES. [L. s.]

The said plaintiffs by their counsel also excepted to so much and such parts of the said charge of the said Judge to the said jury as submitted to them under the evidence in the cause, the question whether William Boyle ever saw and had an opportunity of denying the statement of the said letter of Caleb Russell to Matthias Williamson,  
40 and prayed a bill of exceptions and that the same might be sealed, and it is sealed accordingly.

DANIEL HAINES. [L. s.]

The said plaintiffs by their counsel also excepted to all that part of the charge of the said Judge to the said jury

as submitted to them for their decision under the evidence in the cause, the question whether William Boyle assented to the statements of the said letter from Caleb Russell to Matthias Williamson, the said plaintiffs insisting that there was no evidence in the cause from which the jury could lawfully infer that William Boyle ever assented to the statements of said letter, and prayed a bill of exceptions and that the same might be sealed, and it is sealed accordingly.

DANIEL HAINES. [L. S.] 10

The said plaintiffs by their counsel also, before the jury retired to consider of their verdict, requested the said Judge to charge and instruct the said jury, as matter of law arising upon the said cause, that there was no evidence given in the said cause to said jury from which they could lawfully find that William Boyle admitted the contents of the said letter from Caleb Russell to Matthias Williamson to be true; which charge and instruction the said Judge thereupon refused to give to the said jury; and thereupon the said plaintiffs by their counsel excepted to such refusal of said Judge, and prayed a bill of exceptions and that the same might be sealed, and it is sealed accordingly. 20

DANIEL HAINES. [L. S.]

The said plaintiffs by their counsel also requested the said Judge before the said jury retired to consider of their verdict, to charge and instruct the said jury that the said mortgage given by said Solomon Boyle to said Matthias Williamson, and the mortgage given by Solomon Boyle to William Boyle, could not impair or affect the title or possession acquired under the deed from the executors of Luce; which charge and instruction the said Judge refused upon such request to give to the said jury, and thereupon the said plaintiffs by their counsel excepted and prayed a bill of exceptions and that the same might be sealed, and it is sealed accordingly. 30

DANIEL HAINES. [L.S.] 40

## NEW JERSEY COURT OF ERRORS AND APPEALS.

NOVEMBER TERM, 1854.

10	JOHN DEN, Ex-demise of Albert H. Osborn and Adeline his wife, et als., Plaintiffs in error, and JOHN TUNIS and Seneca White, Defendants in error.	}	In error to Supreme Court.
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And afterwards, to wit: at the term of November, in the year eighteen hundred and fifty-four, of the said Court of Errors and Appeals, before the Judges thereof, comes the said John Den, by Edward W. Whelpley, his attorney, and saith that in the record and proceedings aforesaid, and also in the matters received and contained in the said bills of exceptions, sealed on the trial of the said issue, joined between the parties aforesaid, and also in giving the verdict and judgment aforesaid, there is manifest error in this.

I. That the said Justice of the Supreme Court, before whom the said issue was tried, upon the trial of the same before the said Jury, against the objection of the counsel for the said John Den, permitted the said defendant to give in evidence and read to the said Jury, as legal and competent evidence upon the said trial for the said defendants, a certain deed of conveyance from Joseph Boyle and wife, to Solomon Boyle, junior, dated the twenty-ninth day of January, in the year eighteen hundred, and recorded August fourteenth, eighteen hundred and one, in Morris County Register of Deeds, Book D, fol. 431, in said first bill of exceptions mentioned: Whereas, by the law of the land, the said Justice ought not to have permitted the said deed to be read in evidence to said Jury on the trial of said issue, because, among other things, the said deed was the same deed mentioned and set forth in the said bill and decree in Chancery, between the executors of William Luce and Solomon Boyle, senior, and Solomon Boyle, junior, read in evidence in this cause on the said trial; and that the said defendants, claiming title to the premises in question by virtue of sundry mesne conveyances from Solomon Boyle, were estopped from claiming title to said premises by virtue of said deed, and that said deed was in other respects irrelevant and inadmissible as evidence in the cause.

II. And there is also error in this, that the said Justice before whom said issue was tried, upon the trial thereof before said Jury, against the objection of the counsel of the plaintiff then and there duly made and interposed, permitted the said defendants to read in evidence to the said Jury, a certain bond and mortgage made by Solomon Boyle to William Boyle, bearing date and acknowledged on the thirteenth day of August, eighteen hundred and one; also the said bond and the assignments thereon endorsed and on said mortgage, and the same were read in evidence to said Jury, notwithstanding said objection: Whereas, by the law of the land, the said bond, mortgage and assignments were not competent evidence for the said defendants against the said plaintiffs, and ought not to have been by said Justice permitted to be read in evidence to said Jury against said objection of plaintiffs' counsel. 10

III. And there is also error in this, that the said Justice before whom the said issue was tried, upon the trial thereof against the objection of the counsel of the plaintiff then and there made, permitted the said defendants to read in evidence to the said Jury a certain letter, written by one Caleb Russell and signed by him, in said bill of exceptions set forth, and the same was read in evidence to the said Jury. Whereas, by the law of the land, the said letter of the said Caleb Russell was incompetent and illegal evidence against the plaintiff on said trial, because there was no evidence that the said letter had been written by direction of the said William Boyle, under whom the plaintiff claimed title to said premises, or that the said William Boyle ever, in any way, assented to or admitted the truth of the statements in said letter contained, and the said letter and the statements therein contained were, against the said William Boyle and those claiming under him, hearsay evidence, and therefore inadmissible under the said issue. 20 30

IV. And there is error in this also, that the said Justice before whom the said issue was tried, on the trial thereof, charged the said Jury upon the question of the validity of the deed from the Commissioners of the Loan Office, in said bill of exceptions mentioned, under which the plaintiff claimed title, "that if the deed was not made in good faith and for the benefit of William, if he got it by fraud, or for the use of some other person for whom he became the trustee, or for any other purpose than for himself, it could not avail the plaintiff." Whereas there was no evidence given in said cause tending to show that 40

the said deed was got by fraud, or for the use of some other person, or for any other purpose than for himself and the said Justice was not warranted by the evidence in the cause or the law to submit the said questions to the said Jury for their determination as matters of fact; and the said Judge so charged the said Jury, notwithstanding the said plaintiff, by his counsel, at the said trial interposed and objected to such charge, direction and submission.

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V. And there is error in this also, because the said Justice before whom the said cause was tried, upon the trial thereof, against the objection of the plaintiff by his counsel then made, submitted to the said Jury as a question for their determination, Whether the deed from the Commissioners of the Loan Office, in the said bill of exceptions mentioned, was procured by fraud by said William Boyle? Whereas, by the law of the land, the said Justice was not warranted in submitting to the said Jury the said question for their determination, because there was no proof in the said cause before the said Jury from which they could lawfully find that the said deed was procured from the said Commissioners by fraud.

20

VI. And there is error in this also, that the said Justice before whom the said cause was tried, on the trial thereof, notwithstanding the objection of the said plaintiff by his counsel then and there made, in his charge and direction to the said Jury then given, submitted to them for their determination the question, Whether the said William Boyle took the said deed from the Commissioners of the Loan Office, in said bill of exceptions mentioned, in his own right? Whereas, by the law of the land, the said Justice was not warranted in submitting such question to the said Jury for their determination, because there was no evidence in said cause before said Jury from which they could lawfully find that said William Boyle did not take the said deed in his own right.

30

VII. And there is error in this also, that the said Justice before whom the said cause was tried, upon the trial thereof, against the objection of the plaintiff by his counsel then interposed, charged and directed the said Jury that the presumption of law arising from the mortgage given by Solomon Boyle, junior, to William Boyle, dated thirteenth August, eighteen hundred and one, and the assignment thereof, was that William Boyle never had any title to the property, or that he had released it: Where-

40

as, by the law of the land, no such presumption arose from such deed or assignment.

VIII. And there is error in this also, that the said Justice before whom the said issue was tried, on the trial thereof, against the objection of the plaintiff by his counsel then interposed, in his charge to the said Jury, submitted to the said Jury the said letter of Caleb Russell to Matthias Williamson, in said bill of exceptions mentioned, as proper and competent evidence for their consideration in finding their verdict, if they were satisfied that William Boyle saw it, and had an opportunity of denying its statements: Whereas, by the law of the land, the said Justice was not warranted in submitting said letter to said Jury for their consideration in finding their verdict, because there was no evidence given to the said Jury from which they could lawfully find that the said William Boyle ever saw the said letter, or had any opportunity of denying its statements, and because there was no evidence in said cause tending to show that the said William Boyle did not deny the statements in that letter. 10 20

IX. And there is error in this also, that the said Justice before whom the said cause was tried, on the trial thereof, against the objection of the plaintiff by his counsel then interposed, by his charge to said Jury, submitted to the said Jury the question for their determination, Whether William Boyle assented to the statements in the said letter to the said Matthias Williamson, written by said Caleb Russell, in said bill of exceptions mentioned? Whereas, by the law of the land, the said Justice was not warranted in submitting that question to said Jury, because there was no evidence in said cause before said Jury from which they could lawfully find that William Boyle ever assented to the statements in that letter. 30

X. And there is error in this also, that the said Justice before whom the said issue was tried, on the trial thereof, refused, although so requested to do by the counsel of the plaintiff before the Jury retired to consider of their verdict, to charge and instruct the said Jury that there was no evidence given in the said cause to said Jury from which they could lawfully find that William Boyle admitted the contents of said letter from said Caleb Russell to Matthias Williamson to be true: Whereas, by the law of the land, the said Judge was bound so to charge and instruct the said Jury. 40

XI. And there is error in this also, that the said Justice before whom the said issue was tried, upon the trial thereof, refused, although so requested to do by the counsel of the plaintiff before the Jury retired to consider of their verdict, to charge and instruct the said Jury that the said mortgage given by the said Solomon Boyle to Matthias Williamson, and the mortgage given by Solomon Boyle, junior, to William Boyle, could not impair or affect the title or possession acquired under the deed from the executors of Luce: Whereas, by the law of the land, the said Justice was bound so to charge and instruct the said Jury.

XII. And there is error in this also, that the judgment aforesaid, by the record aforesaid, appears to have been given for the said John Tunis and Seneca White against the said John Den: Whereas, by the law of the land, the said judgment ought to have been given for the said John Den against the said John Tunis and Seneca White.

20 And the said John Den prays that the judgment aforesaid, for the errors aforesaid, and for other errors in the said record and proceedings being, may be reversed, annulled and altogether holden for naught, and that he may be restored to all things which he hath lost by occasion of the said judgment, &c.

E. W. WHELPLEY, Atty.

And of Counsel with Plaintiff in Error.

30 NEW JERSEY ss:—John Den puts in his place Edward W. Whelpley, his attorney, to prosecute his writ of error in the Court of Errors and Appeals, against John Tunis and Seneca White.

## NEW JERSEY SUPREME COURT,

OF THE TERM OF JUNE, IN THE YEAR OF OUR LORD ONE  
THOUSAND EIGHT HUNDRED AND FIFTY-THREE.

10

JOHN DEN, Ex-demise of Albert H. Osborn and others. vs. RICHARD FEN, Seneca White, ten- ant in possession.	}	In a plea of trespass and eject- ment for lands in Morris County.
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It is ordered by the consent of the attornies of both parties, that Seneca White and John Tunis be made defendants in the stead of Richard Fen, the now defendant, and do forthwith appear at the suit of the plaintiff and receive a declaration in an action of trespass and ejectment for the premises in question; which said premises the said Seneca White and John Tunis hereby admit to be or consist of one tract of land of fifty two acres and the equal undivided half part of two other tracts, the one containing forty-seven acres, one rood and thirty-seven perches, and the other containing seventy-six acres, situate in the township of Morris in the said County of Morris, and designated upon the map of the same hereto annexed, and made a part hereof; which said lands and premises are admitted to be in the possession of the said Seneca White, as tenant of said John Tunis, and for the same the said Seneca White as tenant and the said John Tunis as landlord and owner thereof, intend to defend this action of trespass and ejectment. And it is further ordered by the like consent, that the said Seneca White and John Tunis do forthwith plead thereto not guilty, and upon the trial of the issue confess lease, entry and ouster; and that the said Seneca White was, at the time of the service of the said declaration, in possession of the premises hereinbefore mentioned and specified, and insist upon the title only; otherwise let judgment be entered for the plaintiff against the now defendant Richard Fen by default. And if, upon the trial of the said issue, the said Seneca White and John Tunis shall not confess lease, entry and ouster and such possession as aforesaid, whereby the plaintiff shall not be able further to prosecute his suit herein against the said Seneca

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White and John Tunis, then no costs shall be allowed for not further prosecuting the same, but the said Seneca White and John Tunis shall pay costs to the plaintiff in that case to be taxed. And it is further ordered, that if upon the trial of the said issue a verdict shall be given for the said Seneca White and John Tunis, or if it shall happen that the said plaintiff shall not further prosecute his said suit for any other cause than for not confessing lease, entry and ouster and such possession as aforesaid, then the lessors of the plaintiff shall pay to the said Seneca White and John Tunis their costs in that case to be adjudged.

E. W. WHELPLEY, Att'y for Pl'ffs.'

THEODORE LITTLE, Att'y for Def'ts.

### B.

This Indenture, made the sixth day of December, in the year of our Lord one thousand seven hundred and eighty-six, between Solomon Boyle of Morristown of the County of Morris, of the one part, and the Commissioners of the Loan Office of the County of Morris, of the other part, witnesseth: That the said Solomon Boyle for and in consideration of the sum of thirty-eight pounds by the Commissioners of the Loan Office of the County of Morris, to him in hand well and truly paid, before the enscaling hereof, the receipt whereof the said Solomon Boyle hereby acknowledges and thereby acquits and discharges the said Commissioners of the Loan Office of the County of Morris and their successors forever, hath granted, bargained, sold, released, enfeoffed and confirmed, and by these presents doth grant, bargain and sell, release, enfeoff and confirm unto the said Commissioners of the Loan Office of the County of Morris, and their successors and assignees for ever, All that lot of land situate in Morristown, bounded as follows: Beginning at a stone marked S. B. between a hickory and a pine oak tree, thence north eighty-eight degrees, west eleven chains to a stone marked S. B.; thence south one degree east forty-five chains and fifty links to a stone marked S. B., ten links west of a maple sapling marked for a corner; thence east eleven chains and fifty links to a stone; thence north one degree west forty-five chains and thirty links to the place of beginning, containing fifty-two acres, be the same more or less. Together also with all the buildings, fences, improvements, rights, privileges, hereditaments and appurtenances whatsoever to the same belonging or in anywise

appertaining; and all the estate, right, title, interest, possession, property, claim or demand whatsoever of the said Solomon Boyle to the above bargained premises and every part thereof. To have and to hold all and singular the above bargained premises and every part thereof, with the appurtenances, unto the said Commissioners of the Loan Office of the County of Morris, their successors and assigns forever. To the uses and purposes mentioned in an act of General Assembly of this state, passed in the year of our Lord one thousand seven hundred and eighty-six, entitled "An act for striking and making current one hundred thousand pounds in bills of credit to be let out on loan, and directing the mode for sinking the same;" and the said Solomon Boyle for himself, his heirs, executors and administrators, doth covenant, grant and agree to and with the said Commissioners of the Loan Office of the County of Morris and their successors and assigns, that at the time of the ensealing and delivery hereof, he, the said Solomon Boyle, is lawfully seized and possessed of the above granted and bargained premises in his own proper right, as a good, sure, perfect and absolute estate of inheritance in fee simple, and that the same at the time of the sealing and delivery hereof is free and clear of and from all other or former gifts, grants, bargains, sales, leases, releases, mortgages, wills, entails, jointures, dowers, judgments, executions, and all other incumbrances whatsoever: Provided always and these presents are upon this condition, that if the said Solomon Boyle, his heirs, executors, administrators or assigns do well and truly pay or cause to be paid to the said Commissioners of the Loan Office of the County of Morris, the interest of the aforesaid sum of thirty-eight pounds at the rate of six per cent. per annum, on the first Tuesday of December yearly, and every year for and during the space and term of seven years, the first payment whereof to be on the said first Tuesday in December in the year seventeen hundred and eighty-seven, and also pay the aforesaid sum of thirty-eight pounds in five equal payments thereafter annually, with the interest at the rate aforesaid, that is to say, the sum of seven pounds twelve shillings, being the one-fifth part of the abovesaid principal sum, on the first Tuesday in December in the year of our Lord one thousand seven hundred and ninety-four, with one year's interest of the whole principal sum and the like sum of seven pounds twelve shillings, being one-fifth part of the above said principal sum, on the first Tuesday of December in the year one thousand seven hundred and ninety-five, with one year's interest of the four-fifths part of the whole principal sum aforesaid

- and the like sum of seven pounds twelve shillings being one other fifth part of the above said principal sum on the first Tuesday in December in the year one thousand seven hundred and ninety-six, with one year's interest of the three-fifths part of the whole principal sum aforesaid, and the like sum of seven pounds twelve shillings, being one other fifth part of the abovesaid principal sum, on the first Tuesday in December, one thousand seven hundred and ninety-seven, with one year's interest of the two-fifths part of the whole principal sum aforesaid, and the like sum of seven pounds twelve shillings, being the remaining fifth part of the abovesaid principal sum, on the first Tuesday of December, A. D. 1798, with the interest of the remaining fifth part for the year preceding, or in case the said Solomon Boyle, his heirs, executors, administrators or assigns shall at any of the times of payment aforesaid, pay unto the said Commissioners of the Loan Office of the County of Morris, or their successors, the whole of the principal and interest then due and unpaid, that then in either case the before mentioned grant, bargain and sale, and every article and clause thereof, shall be void and of none effect; but if failure shall be made in any of the payments above mentioned at the time the same is herein made payable, that then the above bargain and sale shall be and remain in full force and virtue, and the said Solomon Boyle, for himself, his heirs, executors and administrators, doth by these presents covenant, grant, bargain, promise and agree to and with the Commissioners of the Loan Office of the County of Morris and their successors, well and truly to pay to them all and every the sums of money above mentioned at the times in which the same ought to be paid as aforesaid; and that in case of failure of payment for the space of thirty days in any or either of the cases above mentioned, the said Solomon Boyle, his heirs and assigns, shall be fully and absolutely barred of all equity of redemption of the said granted and bargained premises, and that the same may be sold by the said Commissioners of the Loan Office of the County of Morris or their successors, for the purposes mentioned in the before recited act.
- In witness whereof, the parties to these presents have interchangeably set their hands and seals the day and year above written.

SOLOMON BOYLE. [L. s.]

Sealed and delivered in presence of

JAMES THOMAS,  
JOHN WILKINSON.

## ENDORSEMENTS.

	£	s.	d.
25th December, 1787. Received forty-five shillings and seven pence, the interest of this mortgage one year.....	2	5	7
16th Dec. 1788. Received forty-five shillings and eight pence, the interest of this mortgage one year.....	2	5	8 10
22d Dec. '89. Interest paid for the third year forty-five shillings and seven pence.....	2	5	7
31st Dec. '90. Interest paid for fourth year, forty-five shillings and eight pence.....	2	5	8
27th Dec. '91. Interest paid for fifth year, forty-five shillings and seven pence.....	2	5	7
6th Dec. '92. Interest paid for sixth year, forty-five shilling and eight pence.....	2	5	8
Jan. '94. Interest paid for seventh year.....	2	5	7 20
Dec. '95. Interest paid for eighth year.....	2	5	8
And towards principal, seven pounds twelve shillings.....	7	12	0
Dec. '95. Interest paid ninth year.....	1	16	6
And towards principal.....	7	12	0
Jan. '97. Interest paid for the tenth year, twenty-seven shillings and four pence.....	1	7	4 30
And towards principal, seven pounds twelve shillings.....	7	12	0
Dec. '97. Interest paid for eleventh year eighteen shillings and two pence.....			
And towards principal, seven pounds twelve shillings.....			

## C.

This Indenture, made this fifth day of March, in the year of our Lord one thousand seven hundred and ninety-nine, between the Commissioners of the Loan Office of the county of Morris on the one part, and William Boyle of the county of Morris of the other part, witnesseth that the said Commissioners of the Loan Office of the county of Morris, for and in consideration of the sum of eight

pounds, eight shillings and sixpence, to them in hand paid, whereof they grant the receipt, and discharge the said William Boyle, his heirs and assigns, executors and administrators thereof forever, have, pursuant to an act of the General Assembly of this State, entitled "An act for striking and making current one hundred thousand pounds in bills of credit, and to be let out on loan, and directing the mode for sinking the same," passed the 26th day of May, in the year of our Lord one thousand

10 seven hundred and eighty-six, granted, bargained, sold, released, enfeoffed and confirmed, and by these presents do grant, bargain, sell, release, enfeoff, convey and confirm unto the said William Boyle, his heirs and assigns for ever, All that lot of land situate in Morristown, bounded as follows: beginning at a stone marked S.B., between a hickory and a pin oak; thence north eighty-eight degrees west eleven chains, to a stone marked S.B.; thence south one degree east forty-five chains and fifty links, to a stone marked S.B., ten links west of a

20 maple marked for a corner; thence east eleven chains and fifty links, to a stone; thence north one degree west forty-five chains and thirty links, to the beginning: Containing fifty-two acres, be the same more or less; together with all the buildings, fences, improvements, rights, privileges, hereditaments and appurtenances whatsoever to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, possession, property, claim and demand whatsoever of the Commissioners of the Loan Office of the county of Morris, and

30 their successors, to the above bargained premises and every part thereof, with the appurtenances, to the said William Boyle, his heirs and assigns, for ever.

In witness whereof, the Commissioners of the Loan Office of the county of Morris have hereunto set the seal of their Corporation, with their hands, the day and year above written.

JOHN MILLS, }  
JOS. LEWIS. } Loan Officers. [L. s.]

Sealed and delivered in the presence of

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CHAS. H. MORRELL,  
JEPHTHA WADE.

MORRIS Co., ss.:—Be it remembered that on the sixth day of January, *Anno Domini* eighteen hundred and two, personally appeared before me, Samuel Tuthill, one of the Judges of the Court of Common Pleas in and for said county, Charles H. Morrell, one of the subscribing witnesses, and being duly sworn, deposeth and saith he

saw the within granters, John Mills and Joseph Lewis, seal and deliver the within written deed, as and for their voluntary act and deed, for the uses therein mentioned:

SAML. TUTHILL.

Recorded Jan. 7th, 1802.

C. RUSSELL, Clk.

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D.

IN CHANCERY OF NEW JERSEY.

BETWEEN PETER MACKIE and John Buchanan, Ex'rs, &c., of Wm. Luce, deceased. And Solomon Boyle, Senr. and Solomon Boyle, Junr.	}	Bill to foreclose. Filed May 6, 1800. Isaac H. Williamson. Sol'r.	20
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TO HIS EXCELLENCY RICHARD HOWELL, ESQUIRE, GOVERNOR  
 CAPTAIN-GENERAL AND COMMANDER-IN-CHIEF IN AND OVER  
 THE STATE OF NEW JERSEY, AND ORDINARY IN THE SAME,  
 &c.

Humbly complaining, showeth unto your Excellency your orators Peter Mackie and John Buchanan, executors of the last will and testament of William Luce, deceased, late of the City and State of New York, that on or about the sixth day of June, in the year of our Lord one thousand seven hundred and ninety-one, Solomon Boyle, senior, of Morris County, in the State of New Jersey, being or pretending to be seized in fee, or of some other good and sufficient estate of inheritance of and in the tract of land, hereditaments and premises hereinafter mentioned, and being lawfully and justly indebted unto the said William Luce in his lifetime, by his certain bond or obligation, bearing date the day and year aforesaid, in the penal sum of four hundred and twenty-eight pounds current money of New York, (of the value of one thousand and seventy-five dollars, lawful money of the United States,) with a condition thereunder written, that if the said Solomon Boyle should well and truly pay to the said William Luce the just and full sum of two hundred and fourteen pounds four shillings, like money as aforesaid, with lawful interest for the same, on or before the sixth day of November next ensuing, the date of the said bond, that then the said obligation should be void and of none effect, or else to be and remain in full force and virtue. Did by indenture of mortgage, bearing date

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the said sixth day of June, in the year aforesaid, made between the said Solomon Boyle of the one part, and the said William Luce of the other part, for the better and more effectually securing the payment of the said sum of two hundred and fourteen pounds four shillings mentioned in the condition of the before in part recited bond, with the interest that should become due thereon, at the time-limit for the payment thereof; and also for and — consideration of the sum of five shillings, to him in hand paid by the said William Luce, before the execution of the said mortgage, the receipt whereof is therein acknowledged, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed unto the said William Luce, his heirs and assigns forever, All that tract of land beginning at Davidson's Bridge in Passaic, on the road that leads to Baskingridge; thence south sixty-seven degrees east, two chains and twenty-six links along said road; thence south forty-nine degrees and three-quarters east, seven chains; thence south sixty-two degrees and three-quarters east, four chains and twenty links; thence south seventy-three degrees east, eight chains and seven links; thence south sixty-four degrees east, six chains and seventy-nine links; thence south sixty-one degrees east, five chains and thirty-four links, to a stone in said road placed for a corner; thence south four degrees and a half east, twenty-two chains and sixty links, along Bulman's line, to the road that leads from Doty's Mill to Long Hill, then south seventy-six degrees west, ten chains along said road; thence north eighty-five degrees and a half west, eight chains and seventy-five links, to a stone placed for a corner; thence north thirteen degrees west, ten chains and fifty links, to a stone; thence north seventy-two degrees west, four chains and sixty links, to the Mill-pond; thence up the Mill-pond to the place of beginning, containing seventy six acres. Also, all that other tract of land lying in Morris County, beginning at a stone marked S.B., formerly a corner between Solomon, Benjamin and Joseph Boyle; thence south eighty-eight degrees east, eleven chains and fifty links, to a stone marked S.B., in the line of lot No. 4, between a hickory and a pin oak; thence running on the line of lot No. 4 north, one degree west, forty-five chains, to a stone marked S.B., lying in the great road for a corner; thence along the said road as it now runs fourteen chains, to another stone marked S.B., lying in the said road for a corner; thence south one degree east, thirty-six chains and eighty links, to the place of beginning, containing forty-seven acres, one rood and thirteen perches, be the same more or less, and is

bounded north-westerly by the said road or highway easterly on lot No. 4, southerly on other land of Solomon Boyle, and westerly on land of Joseph Boyle. And also, all that other piece or parcel of land lying in Morris County aforesaid, being part of the plantation of the late Solomon Boyle the elder: Beginning at a stone marked S.B., between a hickory and a pin oak tree; thence north eighty-eight degrees west, eleven chains and fifty links, to a stone planted for a corner marked S.B.; thence south one degree east, forty-five chains and fifty links, to a stone marked S.B., ten links west of a maple sapling marked for a corner; thence east eleven chains and fifty links, to a stone; thence north one degree west, forty-five chains and fifty links, to the place of beginning, containing fifty-two acres, be the same more or less, bounded west on land of Joseph Boyle, east on lot No. 4, north and south on land of Benjamin Boyle; together with all and singular the buildings, fences, improvements, hereditaments and appurtenances to the same belonging, or in any way appertaining; and also all the estate, right, title, interest, claim and demand whatsoever of him, the said Solomon Boyle, of, in and to the said premises, and every part and parcel thereof, with the appurtenances. To have and to hold all and singular the said tracts of land and premises, with the appurtenances, unto the said William Luce, his heirs and assigns, to the only use, benefit and behoof of the said William Luce, his heirs and assigns forever: Subject, nevertheless, to a proviso or condition for redemption in the said mortgage contained, that if the said Solomon Boyle, his heir or assigns, should well and truly pay unto the said William Luce, his executors, administrators or assigns, the said sum of two hundred and fourteen pounds four shillings, in the condition of the said bond mentioned, with the interest thereof, in and upon the said sixth day of November then next, according to the condition of the said bond, then the said mortgage and the estate thereby granted was to cease and be void. And the said Solomon Boyle did, in and by the said deed of mortgage, covenant and agree to and with the said William Luce, that at the time of the ensealing and delivery of the said mortgage, that the said Solomon Boyle was lawfully seized of the said mortgaged premises, of a good, sure and indefeasible estate of inheritance in fee simple, and that the same were free and clear from all incumbrances, as in and by the said mortgage, duly executed by the said Solomon Boyle, and now in your orators' custody, and ready to be produced as this honorable Court shall direct, and to which your orators for greater certainty refer them-

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selves may more fully and at large appear, and which said mortgage, having been first duly proved according to law, was received in the Clerk's Office of the County of Morris on the sixth of July, in the year of our Lord one thousand seven hundred and ninety-one, and duly recorded in the said office on the sixteenth day of July, in the year aforesaid, in Book C of Mortgages, fol. three hundred and eighty-five.

- 10 And your orators further show unto your Excellency, that the said sum of two hundred and fourteen pounds four shillings, or any part thereof, was not paid to the said William Luce according to the condition of the said in part recited bond, at the day therein mentioned, and that the said William Luce, without having received the said sum of money or any part thereof, in or about the
- day of            in the year of our Lord one thousand seven hundred and ninety           , departed this life, having first duly made and published his last will and testament in writing, bearing date the            day of           , in the
- 20 year of our Lord one thousand seven hundred and ninety           , and therein and thereby made and appointed your orators executors of his said will; and that your orators, immediately after his death, duly proved the same, and took upon themselves the burden of the execution thereof, by virtue of which your orators stand in the place of the said William Luce, deceased, as to the said bond and mortgage, and are entitled to receive all the money due and to grow due on the said in part recited obligation, and to all his right, title and interest of, in and to the said mortgaged premises, and to have the benefit of the same in such manner as this honorable Court shall direct.
- 30 And your orators charge that the said principal sum of two hundred and fourteen pounds four shillings, nor the interest thereof, nor any part of the said principal and interest, was not paid to the said William Luce in his lifetime, nor to either of your orators since his death, or to any person authorised to receive it, according to the proviso in the said mortgage contained at the time mentioned for the payment thereof, nor at any other time, whereby your orators' estate in the said mortgaged premises is absolute, and your orators entitled to have the said mortgage foreclosed, or the said mortgaged
- 40 premises sold for the payment of the said debt, as your Excellency may think proper to direct.

And your orators further show unto your Excellency, that the said principal and interest remaining as aforesaid due and unpaid to your orators, your orators well hoped that the said Solomon Boyle would either have paid your orators what is so due to them, or would have suffered

your orators peaceably and quietly to have taken possession of the said premises, and held and enjoyed the same, and for that purpose your orators have frequently and in a friendly manner applied to the said Solomon Boyle, and requested him to pay to your orators the said principal and interest so due as aforesaid, or else peaceably and quietly to deliver up possession of the said mortgaged premises to your orators, and to release all his rights, title, interest and equity of redemption, of, in and to the said mortgaged premises, to your orators.

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And your orators well hoped that the said Solomon Boyle would have complied with such reasonable request of your orators, as in justice and equity he ought to have done. But now so it is, may it please your Excellency, that the said Solomon Boyle, combining and confederating himself with one Solomon Boyle, junior, his son or other near relation, of Morris County aforesaid, (and to and with divers other persons at present unknown to your orators, whose names when discovered your orators pray may be inserted in this their bill of complaint, with apt words to charge them as parties thereto,) how to defeat and defraud your orators of the moneys due on the said bond and mortgage, and of the said mortgaged premises; and your orators having occasion for their money, the said Solomon Boyle, senior, and Solomon Boyle, junior, refused to pay the same, and pretend that the said Solomon Boyle, junior, purchased the said mortgaged premises of one Joseph Boyle, brother of the said Solomon Boyle, senior, and that the said Joseph Boyle purchased at Sheriff's sale, under a judgment and execution against the said Solomon Boyle, senior, obtained against him prior to the date of your orators' said mortgage, but at whose suit, and in what court, and in what term the said judgment was obtained they refuse to discover; whereas your orators expressly charge, and have no doubt but it will so appear to your Excellency, that said judgment (if there was any) was subsequent to your orators' said mortgage; that the said Joseph Boyle and Solomon Boyle, junior, had notice of your orators' said mortgage at the time of the said Sheriff's sale, and long before, and that the said Joseph Boyle purchased the said premises in trust, and for the benefit of the said Solomon Boyle, senior, and Solomon Boyle, junior, or one of them, for a small consideration, far below the real value of the said premises, and subject to your orators' said mortgage. And at other times the said Solomon Boyle, senior, and Solomon Boyle, junior, pretend and give out in speeches, that the said Solomon Boyle, senior, executed a mortgage to John Chetwood and John Blanchard, esquires, previous to your ora-

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tors' said mortgage; and that after the said Sheriff's sale to the said Joseph Boyle, and after the sale by him to the said Solomon Boyle, junior, the said Solomon Boyle purchased the said mortgage of John Chetwood and John Blanchard, and took an assignment of the same from the said John Chetwood and John Blanchard, to secure and protect his title against other judgments and incumbrances.

Whereas your orators charge and believe it will so appear, that if the said John Chetwood and John Blanchard held any mortgage upon the said premises, given to them  
 10 prior to your orators' said mortgage, they prosecuted an action of debt against the said Solomon Boyle, senior, for the money secured to them by their said mortgage, and obtained a judgment in the said action, and took out an execution thereon, by virtue of which the then Sheriff of Morris sold and conveyed the said premises to raise the money due to them on their said mortgage, subject to your orators' said mortgage, by reason of which sale the said premises were exonerated and discharged from the said mortgage of the said John Chetwood and John  
 20 Blanchard, and their said mortgage ought to have been delivered up by them to have been cancelled; and if the said Joseph Boyle or Solomon Boyle have obtained an assignment of the said mortgage, the same is illegally and fraudulently kept on foot by the person or persons now holding it to defraud your orators out of the money so due to them as aforesaid, and the said mortgage and assignment will appear fit and proper to be set aside in this honorable Court; and at other times the said Solomon Boyle, senior, and Solomon Boyle, junior, pretend and declare that your orators' said estate being originally but  
 30 by mortgage, they or one of them will redeem the same at their pleasure, and that in case your orators should enter thereon, that they will make your orators their bailiffs, and accountable to them for the rents and profits thereof; and also that the said mortgaged premises are liable and charged or chargeable with other incumbrances precedent to your orators' said mortgage, but to whom, when or for what, they refuse to discover; whereas, if there are any such incumbrances, the same are voluntary and fraudulent, and for no good or valuable consideration, and will appear in equity proper and fit to be set aside; or are  
 40 satisfied, and ought not to be kept on foot to prejudice the title of your orators, who had no notice of any of the said pretended incumbrances. All which actings and doings of the said Solomon Boyle, senior, and Solomon Boyle, junior, and their confederates, are contrary to equity and good conscience, and tend to the manifest wrong and in-

jury of your orators. In tender consideration whereof,  
 and for that your orators are remediless by the strict rules  
 of the common law, and for that your orators have no  
 ways or means to discover what incumbrances there are  
 upon the said mortgaged premises, and to which they are  
 liable, nor to ascertain whether the said Solomon Boyle,  
 junior, has any and what interest, &c., in the said pre-  
 mises, nor whether he purchased before or after your ora-  
 tors' said mortgage, nor whether he holds any incumb- 10  
 rance on the said premises prior to your orators' said  
 mortgage, and if any, what is justly due on the same, nor  
 to foreclose the equity of redemption of, in and to the said  
 mortgaged premises, or to obtain a sale of the same, but  
 in a Court of Equity, where matters of discovery are pro-  
 perly to be had and made, and relief against secret and  
 fraudulent conveyances is to be obtained; and the rather  
 for that your orators' witnesses are either dead or beyond  
 the seas, or in places remote, and to your orators unknown.  
 To the end, therefore, that the said Solomon Boyle, seni-  
 or, and Solomon Boyle, junior, and their confederates 20  
 when discovered may, upon their several and respective  
 corporal oaths, true, full and perfect answer make to all  
 and singular the premises before set forth, as fully and  
 particularly as if the same were herein again repeated,  
 and they interrogated according to the best of their re-  
 spective knowledge, information and belief, and more par-  
 ticularly whether the said Solomon Boyle, senior, was not,  
 on or about the sixth day of June, in the year of our Lord  
 one thousand seven hundred and ninety-one, or at some  
 other and what time, and when, seized in fee, or of some 30  
 other and what estate of inheritance, of and in the lands,  
 hereditaments and premises hereinbefore mentioned, or  
 any and which of them, and whether he was not indebted  
 to the said William Luce, deceased, in his lifetime by  
 bond, bearing date the same day and year aforesaid, or  
 some other and what date, in the penal sum of four hun-  
 dred and twenty-eight pounds money aforesaid, condi-  
 tioned for the payment of the sum of two hundred and  
 fourteen pounds four shillings of like money, together  
 with the lawful interest, and payable on or upon the sixth  
 day of November next ensuing, the day and year last 40  
 aforesaid, or some other and what sum of money, and  
 when payable, and whether by bond, or in any other and  
 what manner.

And whether the said Solomon Boyle, senior, did not  
 execute such indenture of mortgage as aforesaid on the  
 said premises to the said William Luce, bearing date the  
 day and year last aforesaid, or some other and what mort-

gage, and of what date and upon what premises, and may admit the said mortgage and the consideration thereof to be in the manner hereinbefore respectively set forth, or may set forth wherein they materially differ, and whether the said sum of money and interest, or any part thereof, was paid to the said William Luce in his lifetime, or to your orators since his death, on the day limited in the said bond and mortgage for the payment thereof, or at any other and what time, and whether the said William Luce did not depart this life on or about the            day of

10            in the year of our Lord one thousand seven hundred            or when, having first made his last will and testament in writing, bearing date the day of            in the year of our Lord            or of some other and what date, and made your orators executors thereof, who after his death duly proved the same, and took upon themselves the execution thereof, or who are the executors of the said William Luce, deceased; and that the said Solomon Boyle, senior, and Solomon Boyle, junior, may set forth and admit which of them or who claims the equity of redemption of, in and to the said mortgaged premises, and what right, interest or title the

20            said Solomon Boyle, junior, has or claims in or to the said mortgaged premises, and by what purchase, and when and of whom and for what sum or how otherwise, and that he may set out his right and title to the same fully and particularly; and that the said Solomon Boyle, senior, and Solomon Boyle, junior, may set forth and declare whether at any time since your orators' said mortgage, and when the said mortgaged premises were sold at Sheriff's sale by virtue of a judgment and execution against the said Solomon Boyle, senior, or any and what judgment and execution, and in what court and of what term

30            and at whose suit the said judgment was obtained upon which the said premises were sold; and whether the said Joseph Boyle purchased at the said Sheriff's sale, any other and what person, for what sum and for whose use and benefit, and what person paid the money to the said Sheriff, and whose money was it, and whether the said Sheriff did not sell subject to all incumbrances, or how otherwise; and that the said Solomon Boyle, senior, and Solomon Boyle, junior, may set forth what incumbrances there are upon the said mortgaged premises, and when and by whom the same were charged and incumbered, and who claims the same respectively, and may set forth

40            the nature and kinds thereof, and whether the same are by absolute purchase, mortgage, judgment or how otherwise, and the date, tenor and short contents of such several incumbrances, and of the deeds, records and other in.

struments of writing, treating or relating to the same, and may set forth the respective considerations thereof, and when and where and in whose presence such considerations were respectively paid; and whether the said incumbrances, or any and which of them, are now unpaid and unsatisfied, and how much money is now due upon the same respectively. And more particularly that the said Solomon Boyle, senior, and Solomon Boyle, junior, may set forth and declare whether the said Solomon Boyle, senior, at any time previous to your orators' said mortgage, and when, executed a mortgage to the said John Chetwood and John Blanchard on the said mortgaged premises or any part thereof, and if any, of what date, for what consideration, and on what part of the said premises so mortgaged as aforesaid to the said William Luce, and who is now in possession of the said mortgage, and who claims the same, and whether by assignment or how otherwise, and what was the consideration paid for the same and who paid it, and whether an action was not brought in some Court of Record of the State of New Jersey, and what court and when, to recover the same sum secured by the said mortgage, or what sum; and whether such proceedings were not had in the said action, that a judgment was obtained against the said Solomon Boyle, senior, and when, and an execution thereupon taken out and the said premises sold at Sheriff's sale to pay off and discharge the said debt, and what sum was raised upon the said execution, and what was due on the said mortgage at the time of the said Sheriff's sale, and whether the said mortgage has not been fully paid off to the person or persons to whom it was originally given; and may set forth and admit the real value of the said premises, and whether the same are not of sufficient value to satisfy your orators' said mortgage, and all mortgages executed prior to your orator— said mortgage by the said Solomon Boyle, senior, and which were not paid off and discharged at the date of your orators' said mortgage, and whether your orators' said mortgage was not known of at the time of the said Sheriff's sale, and whether the said premises did not sell for a small consideration in comparison to their real value, on account of the incumbrance or incumbrances on them; and that the said Solomon Boyle, senior, and Solomon Boyle, junior, may set forth and admit how they are related to each other and to the said Joseph Boyle, and that the said premises are now subject to and incumbered with your orators' said mortgage.

And that the said Solomon Boyle, senior, and Solomon

Boyle, junior, or one of them, may be directed to pay off and satisfy to your orators the principal sum due to them as aforesaid on the said bond and mortgage, and the interest due and to grow due thereon, by a short day, to be appointed by this honorable Court, together with your orators' costs both in law and equity; and in default thereof, that the said mortgaged premises may be decreed to  
 10 be sold to pay off and satisfy your orators' said debt and interest, or that the said Solomon Boyle, senior, and Solomon Boyle, junior, and all persons claiming under them, or either of them, may be foreclosed of and from all equity of redemption or claim in and to the said premises, and may deliver to your orators the peaceable possession of the same, and all deeds, writings and evidences concerning or relating to the said premises, as to your Excellency shall seem meet. And that your orators may have such  
 20 other and further relief in the premises as to your Excellency shall seem meet, and agreeable to equity and good conscience.

May it please your Excellency, the premises considered, to grant unto your orators a writ or writs of subpoena, to be directed to the said Solomon Boyle, senior, and Solomon Boyle, junior, and their confederates when discovered, thereby commanding them at a certain day, and under a certain penalty therein to be inserted, to be and appear before your Excellency in this honorable Court, and then and there to answer all and singular the premises, and to stand to perform and abide such further order and decree  
 30 therein as to your Excellency shall seem meet, and agreeable to equity and good conscience.

And your orators shall ever pray, &c.

ISAAC H. WILLIAMSON,  
 Of Counsel with the Complainant.

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SUBPCENA RETURNABLE TO MAY TERM, 1800.

40 THE STATE OF NEW JERSEY TO SOLOMON BOYLE, SENIOR,  
 AND SOLOMON BOYLE, JUNIOR.—*Greeting:*

For certain causes offered before us in our Chancery, We command and strictly enjoin you and each of you, that, laying all other matters aside, and notwithstanding any excuse, you personally appear before us in our said

Chancery, at Trenton, on the twenty-second day of May instant, to answer concerning those things, which shall be then and there objected to you; and to do further, and receive what our said Court shall have considered in this behalf; and this you may in nowise omit, under the penalty of one hundred pounds: And have there this writ.

Witness his Excellency, Richard Howell, Esq., our Governor and Chancellor, at Trenton, the sixth day of May, in the year of our Lord one thousand eight hundred.

G. CRAFT, Clerk.

I. H. WILLIAMSON, Solicitor.

PETER MACKIE and John Buchanan, Executors of Wm. Luce, deceased, vs. SOLOMON BOYLE, Senior, and Solomon Boyle, Junior. I. H. Williamson, Solicitor.	}	Subpœna to appear and answer in Chanc'y, on Thursday 22d, 1800, at the suit of the Executors of William Luce, deceased. Attested, Trenton, May 6th, 1800.
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Summoned Solomon Boyle, senior, and Solomon Boyle, junior, on the 10th May, 1800. 20

ISAAC CANFIELD, Sheriff.

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DECRETAL ORDER, FILED NOVEMBER 18th, 1800.

At a Court of Chancery, holden at Trenton, in and for the State of New Jersey, of the term of November, in the year of our Lord eighteen hundred. 30

*Present*—His Excellency RICHARD HOWELL, Esq., Governor and Chancellor.

BETWEEN PETER MACKIE and John Buchanan, Executors, &c., of William Luce, deceased, Complainants, and SOLOMON BOYLE, senior, and Solomon Boyle, junior, Defendants.	}	On bill for foreclosure.
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TUESDAY, NOV. 18, 1800.

This cause being this day opened to the Court by Mr. I. H. Williamson, solicitor and of counsel for the complainants, and it appearing to the Court that the bill in this cause was filed on the sixth day of May last past, and that the subpœna thereupon issued was by the Sheriff of Morris duly served on the said defendants, requiring them respectively to appear in this Court on the third Tuesday of the same month of May last past, to answer, &c. Nevertheless, that the said defendants have hitherto 40

neglected to appear, or to file their plea, demurrer or answer to the said bill, or otherwise in any manner to defend themselves against the same, although ruled thereto by this Court for that purpose. It is ordered by the Court that the said complainants' bill be taken as confessed.

Whereupon the said complainants' bill having been opened to the Court, and the same, with the documents and proofs in support of the allegations therein contained, being fully inspected and considered, and what was alleged by the counsel on the part of the said complainants clearly understood, this Court doth think fit to order and decree, and accordingly it is on this present day, that is to say, on Tuesday the eighteenth day of November, in the year of our Lord eighteen hundred, by his Excellency Richard Howell, esquire, Governor and Chancellor of the State, ordered, adjudged and decreed, that the said Solomon Boyle, senior, and Solomon Boyle, junior, and each of them, and all and every person and persons claiming under them, or either of them, be forever foreclosed of and from all equity of redemption or claim, of, in and to the mortgaged premises, and every part thereof, with the appurtenances in the complainants' bill set forth. And that the said defendants do yield up and deliver the possession of the said mortgaged premises to the complainants, and do deliver over to the said complainants all deeds, charters and other evidences, writings and muniments whatsoever relating to or concerning the said premises, and every part and parcel thereof.

R. D. HOWELL, Chancellor.

I, DANIEL B. BODINE, Clerk of the Court of Chancery of the State of New Jersey, do hereby certify  
 [L. s.] that the foregoing is a true transcript of the proceedings in the case wherein Peter Mackie and John Buchanan, executors, &c., of Wm. Luce, deceased, were complainants, and Solomon Boyle, senior, and Solomon Boyle, junior, were defendants, now remaining on file in my office.

In testimony whereof I have hereto set my hand, and affixed the seal of said Court, at Trenton, the third day of March, in the year of our Lord, one thousand eight hundred and fifty-four. (1854.)

DANIEL B. BODINE, Clerk.

## E.

This Indenture, made the first day of December, in the year of our Lord one thousand eight hundred and one, between John Buchanan and Peter Mackey, executors of the last will and testament of William Luce, deceased, of the city of New York, in the county of New York and State of New York, of the one part, and Solomon Boyle and William Boyle, of the township of Morris, in the County of Morris and State of New Jersey, of the other part, witnesseth: that the said John Buchanan and Peter Mackey for and in consideration of the sum of ten cents good and lawful money of the United States, to them in hand well and truly paid by the said Solomon Boyle and William Boyle at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said John Buchanan and Peter Mackey therewith fully satisfied and paid, have given, granted, bargained and sold, released, aliened, enfeoffed, conveyed and confirmed, and by these presents do give, grant, bargain, sell, alien, enfeoff, convey and confirm to the said Solomon Boyle and William Boyle, and to their heirs and assigns for ever, all those tracts or parcels of land and premises hereinafter particularly described, situate lying and being in the township of Morris in the County of Morris and State of New Jersey, butted and bounded as follows: First tract begins at Davison's bridge on the Passaic river on the road that leads to Baskingridge; thence south sixty-seven degrees east two chains and twenty-six links along said road; (2) thence south forty-nine degrees and three-quarters east, seven chains; (3) thence south sixty-two degrees and three-quarters east, four chains and twenty links; (4) thence south seventy-three degrees east, eight chains and seven links; (5) thence south sixty-four degrees east, six chains and seventy-nine links; (6) thence south sixty-one degrees east, five chains and thirty-four links to a stone in said road for a corner; (7) thence south four degrees and a-half east, twenty-two chains and sixty links along Bulman's line to the road that leads from Doty's mill to Long Hill; (8) thence south seventy-six degrees west, ten chains along said road; (9) thence north eighty-five degrees and an half west, eight chains and seventy-five links to a stone placed for a corner; (10) thence north thirteen degrees west, ten chains and fifty links to a stone; (11) thence north seventy-two degrees west, four chains and sixty links to the mill-pond; (12) thence up the mill-pond to

the place of beginning, containing 76 acres. And also, that other tract of land beginning at a stone marked S. B., formerly a corner between Solomon Boyle and Benjamin and Joseph Boyle ; (1) thence south eighty-eight degrees east, eleven chains and fifty links to a stone marked S. B. in the line of lot No. 4, between a hickory and a pine oak ; (2) thence running on the line of lot No. 4, north one degree west, forty-five chains to a stone marked S. B., lying on the Great Road for a corner ; (3) thence along the said road as it now runs fourteen chains to another stone marked S. B., lying in the said road for a corner ; (4) thence south one degree east, thirty-six chains and eighty links to the place of beginning, containing forty-seven acres and one rood and thirty-seven perches, be the same more or less ; and is bounded northerly by the said road, easterly on lot No. 4, southerly on other land of Solomon Boyle, father of the above named, and westerly on land of Joseph Boyle. Being the land mortgaged by Solomon Boyle, father of the above named Solomon Boyle and William Boyle, to William Luce, dated the sixth day of June, A. D. 1791, to secure the payment of two hundred and fourteen pounds four shillings, and recorded in Liber. C, folio 385, of mortgages in the Clerk's Office of Morris County ; on which said mortgage a decree of the Court of Chancery for foreclosure has been obtained before Richard Howell, Esquire, Governor and Chancellor in and over the State of New Jersey, as by the said decree reference being thereunto had, may more fully appear. Together with all and singular the profits, privileges and advantages, with the appurtenances to the same belonging or in anywise appertaining. Also, all the estate, right, title, interest, property, claim and demand whatsoever of the said John Buchanan and Peter Mackey, of in and to the same, and of, in and to every part and parcel thereof. To have and to hold all and singular the above described tracts or lots of land and premises with the appurtenances, unto the said Solomon Boyle and William Boyle, their heirs and assigns, to the only proper use, benefit and behoof of the said Solomon Boyle and William Boyle, as tenants in common, and to their heirs and assigns forever. And the said John Buchanan and Peter Mackie do for themselves, their heirs, executors and administrators, covenant and grant to and with the said Solomon Boyle and William Boyle, their heirs and assigns, that the said John Buchanan and Peter Mackie have not done, caused, suffered or procured to be done, any act, matter or thing whereby the title of the said Solomon Boyle and William Boyle of, in and to the above bounded and described lands and

premises or any part thereof, can or may be changed, charged, altered or defeated in any way whatever. In witness whereof the said John Buchanan and Peter Mackie have hereunto set their hands and seals, the day and year first above written.

J. BUCHANAN. [L. s.]

Signed, sealed and delivered in the presence of

ELISHA BAIRD. 10

MORRIS COUNTY, ss:—Be it remembered that, on this sixth day of January in Anno Domini eighteen hundred and two, personally appeared before me Samuel Tuthill, one of the Judges of the Court of Common Pleas in and for the said County of Morris, Elisha Baird, the within subscribing witness, and being duly sworn, deposeth and saith: he saw John Buchanan, one of the within named grantors, seal and deliver the within written deed as and for his voluntary act and deed for the uses and therein mentioned. 20

SAMUEL TUTHILL.

Recorded Jan. 7th, 1801.

C. RUSSELL, Clerk.

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IN CHANCERY.

30.

THE EXECUTORS OF WILLIAM LUCE, dec'd, }  
   agt. }  
 SOLOMON BOYLE, Senr., and Solomon Boyle, Jr. }

1801, November 7th.

Received of Solomon and William Boyle two hundred and one dollars and seventy-eight cents, being for the balance of debt and interest, which is one hundred and forty-six dollars and seventeen cents, and for costs, which are fifty-five dollars and sixty-one cents. 40

146 17

MATH. S. WILLIAMSON, Junr.

.55 61

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201 78

Recorded Jan. 7, 1802.

C. RUSSELL, Cl'k.

F.

To MR. SENECA WHITE :

SIR: We, the undersigned, William L. Boyle, James H. Hutchins and Albert H. Osborn, claim to be let into  
 10 possession along with you of such part or parts of the farm now in your possession, and whereof Solomon Boyle at the time of his death was in possession, on Long Hill, in the County of Morris, as belonged to him formerly, and his brother William Boyle, deceased, as tenants in common; the undersigned James H. Hutchins having intermarried with Anna Maria, one of the daughters of the said Doctor William Boyle, deceased, and the undersigned Albert H. Osborn having intermarried with Adeline, another of the daughters of the said Doctor William Boyle, deceased.

20 And we claim and demand the immediate possession of all the rest and residue of said farm, consisting of fifty-two acres or thereabouts, which descended on the death of the said Doctor William Boyle, to his said three children, his heirs at law, namely, the said William L. Boyle, Anna Maria, now wife of the said James H. Hutchins, and Adeline, now wife of the said Albert H. Osborn.

WILLIAM L. BOYLE, per J. H. HUTCHINS, his Attorney and agent.

J. H. HUTCHINS.

30

April 19th, 1853.

A. H. OSBORN.

A true copy of the original, signed in my presence.

JOSEPH BOYLE.

To MR. JOHN TUNIS :

SIR: We, the undersigned, William L. Boyle, James H. Hutchins and Albert H. Osborn, claim to be let into  
 40 possession along with your tenant, Seneca White, of such part or parts of the farm whereof Solomon Boyle at the time of his death was in possession, on Long Hill in the County of Morris, as belonged to him formerly and his brother William Boyle, deceased, as tenants in common; the undersigned James H. Hutchins having intermarried with Anna Maria, one of the daughters of the said

Doctor William Boyle, deceased, and the undersigned Albert H. Osborn having intermarried with Adeline, another of the daughters of the said William Boyle, deceased.

And we claim and demand the immediate possession of all the rest and residue of said farm, consisting of fifty-two acres or thereabouts, which descended on the death of the said Doctor William Boyle to his said three children, his heirs at law, namely, the said William L. Boyle, Anna Maria, wife of the said James H. Hutchins, and Adeline, wife of the said Albert H. Osborn. 10

WILLIAM L. BOYLE, per his Attorney  
and agent J. H. HUTCHINS.

J. H. HUTCHINS.

April 19th, 1853.

A. H. OSBORN.

A true copy of the original, signed in my presence. 20

JOSEPH BOYLE.

G.

MORRIS COM. PLEAS.

DANIEL LORD	} In case. Sm. Judg't. and fi. fa. levied upon goods and lands.
vs.	
WILLIAM BOYLE and	}
Solomon Boyle.	

To JACOB WILSON, ESQUIRE, LATE HIGH SHERIFF OF MORRIS : 30

SIR: I, Solomon Boyle, one of the above defendants, request and desire that the real estate levied upon by you by virtue of the above stated execution, belonging to both the above named defendants, be sold before any of the goods and chattels levied upon by you by virtue of the same writ. And you will please suspend the sale of the said goods and chattels and sell the said real estate accordingly.

Yours,

Dated 22d June, 1824.

SOLOMON BOYLE.

H.

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DR. DANIEL LORD	} Judg't for \$228 96 damages and costs.
vs.	
WILLIAM BOYLE and Solo-	}
mon Boyle.	

On the back of the execution in this case, there is the following endorsement: "By virtue of this execution I

have levied on 2 horses, 4 cows, 6 young cattle, 10 sheep, 3 beds and bedding, 1 doz. chairs, 2 tables, and on 50 acres of land, in the township of Morris, bounded by lands of Joseph Boyle and Ludlow Squire <sup>(the property of Solomon Boyle)</sup> <sup>(or lands)</sup> no goods <sup>Δ</sup> chattels of William Boyle.

10

JACOB WILSON, Sh'ff.

## I.

H. A. FORD, }  
 vs. }  
 SOLOMON BOYLE. } Judg't entered April 29, 1824.  
 §

20 MEHITABLE BOYLE, }  
 vs. }  
 SOLOMON BOYLE. } Judg't entered April 25th, 1824.

JANE BOYLE, }  
 vs. }  
 SOLOMON BOYLE. } Judg't entered April 29, 1824.  
 §

30 The levy endorsed on the back of each of the executions in each of the above cases, after levying upon and reciting sundry goods and chattels, being all the personal property of the defendant, says: "Also on 170 acres of land in the township of Morris, bounded by lands of Joseph Boyle and others, being the homestead; also a lot of land in the great swamp, bounded by land to me unknown, containing 5 acres more or less, value ten cents."

## J.

40 In the name of God, amen. I, William Luce, of the city of New York, gentleman, being weak in body but of sound mind, memory and understanding, do make, publish and declare my last will and testament in manner and form following, that is to say:

First, my will is that my just debts and funeral expenses be paid and satisfied by my executors hereinafter named. Item, I give to Mr. Peter Turner, of Portsmouth in the State of New Hampshire, all my wearing apparel, watch and sword. Item, I give and devise to Sarah Turner, of the Island of St. Johns, an annuity or yearly sum of forty pounds, current money of the State of New

York, during her natural life, the first payment to begin and to be made at the end of twelve months after my decease. Item, I give and devise to Magdalen Turner, of the Island of St. Johns aforesaid, an annuity or yearly sum of forty pounds, current money of the State of New York aforesaid, during her natural life, the first payment to begin and to be made at the end of twelve months after my decease. I give and devise to Ann Luce Buchanan, wife of John Buchanan, of the said city of New York, merchant, my dwelling houses situated in the Broadway in the said city, in which I now reside, and the lot of ground thereunto belonging; also the dwelling house and lot of ground belonging to me, situate in New street in the said city; also the dwelling house and lot of ground belonging to me, situate in William street in the said city; also the dwelling house and lot of ground belonging to me, situate in Broad street in the said city; and also the lot of ground situate in New street aforesaid, lying in the rear of the said house and lot in Broad street; and I also give and devise to the said Ann Luce Buchanan all other my real estate wheresoever the same may be, to have and to hold the said several dwelling houses and lots of ground with their appurtenances, and all other my real estate, unto the said Ann Luce Buchanan, her heirs and assigns for ever, subject nevertheless to the payment of the said several annuities to the said Sarah Turner and Magdalen Turner; and I hereby expressly charge the estate herein given and devised to the said Ann Luce Buchanan with the payment of the same.

Item, after my debts and funeral expenses are paid and satisfied, I give, devise and bequeath unto the said Ann Luce Buchanan, all my household furniture of every sort, slaves, horses, carriages, and also all my mortgages, bonds and securities of every kind; and also all other my personal estate whatsoever, to have and to hold the same to the said Ann Luce Buchanan, her executors, administrators and assigns; and I do hereby nominate and appoint the said John Buchanan, and my friend Peter McKie, of the city of New York, merchant, to be the executors of this my last will and testament, hereby revoking and annulling all former and other wills by me at any time heretofore made. In witness whereof, I have hereunto set my hand and seal, this thirteenth day of August, in the year of our Lord one thousand seven hundred and ninety-three.

Signed, sealed, published and declared by the above named William Luce, as and for his last will and testament, in the presence of us, who, at his request and in his presence, have subscribed our names as witnesses hereunto.

10

JOHN COZINE.

JOHN KING.

JOHN R. COZINE.

CITY AND COUNTY OF NEW YORK, ss.—Be it remembered, that on the twenty-first day of October, in the year of our Lord one thousand seven hundred and ninety-three, personally came and appeared before David Gelston, Surrogate of said county, John King of the said city, gentleman, and being duly sworn on his oath, declared  
 20 that he saw William Luce sign and seal an instrument in writing, purporting to be the will of the said William Luce, bearing date the thirteenth day of August, in the year of our Lord one thousand seven hundred and ninety-three, (the preceding whereof is a true copy), and heard him publish and declare the same as and for his last will and testament; that at the time thereof he, the said William Luce, was of sound disposing mind and memory, to the best of the knowledge and belief of him the deponent; that his name subscribed as a witness to  
 30 the said will, is of his own proper hand writing, which he subscribed as a witness thereto in the testator's presence, and that he saw John Cozine and John R. Cozine, the other witnesses to the said will, subscribe their names as witnesses thereto, in presence of the testator.

DAVID GELSTON.

THE PEOPLE OF THE STATE OF NEW YORK, by the Grace of God Free and Independent. To all to whom these  
 40 presents shall come or may concern. *Greeting:*

Know ye that, at the city and county of New York, on the day of the date hereof, before David Gelston, Esquire, Surrogate of our said county, the last will and testament of William Luce, deceased (a copy whereof is hereto annexed), was proved and is now approved and allowed by us; and the said deceased having whilst he lived and at the time of his death, goods, chattels or credits within this state, by means whereof the proving and registering the said will, and the granting administration of all and singular the said goods, chattels and credits,

and also the auditing, allowing and finally discharging the amount thereof doth unto us: the administration of all and singular the goods, chattels and credits of the said deceased, and any way concerning his will, is granted unto John Buchanan, one of the executors in the said will named, he being first duly sworn well and faithfully to administer the same, and to make and exhibit a true and perfect inventory of all and singular the said goods, chattels and credits, and also to render a just and true account thereof when thereunto required. In testimony whereof we have caused the seal of office of our said Surrogate to be hereunto affixed. Witness, David Gelston, Esquire, Surrogate of the said county at the city of New York, the twenty-first day of October, in the year of our Lord one thousand seven hundred and ninety-three, and of our independence the eighteenth. 10

DAVID GELSTON. 20

STATE AND COUNTY OF NEW YORK, }  
 SURROGATE'S OFFICE. } ss.

I, Alexander W. Bradford, Surrogate of said county, and acting as clerk of the Surrogate's Court, do hereby certify that I have compared the foregoing copy of the last will and testament of William Luce, deceased, the proof thereof and letters testamentary thereon, with the original record thereof now remaining in this office, and have found the same to be a correct transcript therefrom, and of the whole of such original record. 30

[L. s.] In testimony whereof I have hereunto set my hand and affixed my seal of office, this twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-four, and of our independence the seventy-eighth.

A. W. BRADFORD, Surrogate.

STATE AND COUNTY OF NEW YORK, }  
 SURROGATE'S OFFICE. } ss.

40

I, Alexander W. Bradford, Surrogate of said county, and presiding magistrate of the Surrogate's court, do hereby certify that the foregoing exemplification of the

last will and testament of William Luce, the proof thereof and letters testamentary thereon is authenticated in due form.

In testimony whereof I have hereunto set my hand and affixed the seal of the Surrogate's Court, this twelfth day of May, in the year of our Lord one thousand eight hundred and fifty-four, and of our Independence the seventy-eighth.

[L. s.]

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A. W. BRADFORD, Surrogate.

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K.

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This Indenture, made the sixth day of June, in the year of our Lord one thousand seven hundred and ninety-one, between Solomon Boyle of Morris County, in New Jersey, of the one part, and William Luce of the City of New York, of the other part. Whereas the said Solomon Boyle, in and by one bond or obligation, bearing even date with these presents, is become bound unto the said William Luce in the penal sum of four hundred and twenty-eight pounds current money of New York, conditioned for the payment of two hundred and fourteen pounds four shillings like money aforesaid, with lawful interest for the same from the date thereof, in and upon the sixth day of November next, as by the said bond and the condition thereof may more at large appear. Now this Indenture witnesseth that the said Solomon Boyle, for the better securing the payment of the said sum of two hundred and fourteen pounds and four shillings, in the condition of the said bond mentioned, with the interest thereof, unto the said William Luce, and in consideration also of five shillings to him in hand paid by the said William Luce, the receipt whereof is hereby acknowledged, he, the said Solomon Boyle, hath granted, bargained, sold, aliened, released, enfeoffed and confirmed, and by these presents doth grant, bargain, sell, alien, release, enfeoff, convey and confirm unto the said William Luce, his heirs and assigns forever, All that tract of land, beginning at Davison's Bridge, on Passaic River, on the road leading to Baskingridge; thence south sixty-seven degrees east, two chains and twenty-six links along said road; thence south

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forty-nine and three-quarters east, seven chains; thence south sixty-two degrees and three-quarters east, four chains and twenty links; thence south seventy-three degrees east, eight chains and seven links; thence south sixty-four degrees east, six chains and seventy-nine links; thence south sixty-one degrees east, five chains and thirty-four links, to a stone in said road placed for a corner; thence south four degrees and a-half east, twenty-two chains and sixty links, along Bulman's line to the road that leads from Doty's Mill to Long Hill; thence south seventy-six degrees west, ten chains along said road; thence north eighty-five degrees and a half west, eight chains and seventy-five links, to a stone placed for a corner; thence north thirteen degrees west, ten chains and fifty links, to a stone; thence north seventy-two degrees west, four chains and sixty links, to the mill-pond; thence up the mill-pond, to the place of beginning, containing seventy-six acres. And also all that other tract of land lying in Morris County, beginning at a stone marked S.B., formerly a corner between Solomon, Benjamin and Joseph Boyle; thence south eighty-eight degrees east, eleven chains and fifty links, to a stone marked S.B., in the line of lot No. 4, between a hickory and a pin oak; thence running on the line of lot No. 4 north one degree west, forty-five chains, to a stone marked S.B., lying in the great road for a corner; thence along the said road as it now runs fourteen chains, to another stone marked S.B., lying in the said road for a corner; thence south one degree east, thirty-six chains and eighty links, to the place of beginning, containing forty-seven acres, one rood and thirteen perches, be the same more or less; and is bounded northerly by the said road or highway, easterly on lot No. 4, southerly on other land of Solomon Boyle, and westerly on land of Joseph Boyle. And also all that other piece or parcel of land lying in Morris County aforesaid, being part of the plantation of the late Solomon Boyle the elder, beginning at a stone marked S.B., between a hickory and pin oak tree; thence north eighty-eight degrees west, eleven chains and fifty links, to a stone planted for a corner, marked S.B.; thence south one degree east, forty-five chains and fifty links, to a stone marked S.B., ten links west of a maple sapling, marked for a corner; thence east eleven chains and fifty links, to a stone; thence north one degree west, forty-five chains and thirty links, to the place of beginning, containing fifty-two acres, be the same more or less. Bounded west on land of Joseph Boyle, east on lot No. 4, and north and south on land of Benjamin

Boyle. Together with all and singular the buildings, fences, improvements, hereditaments and appurtenances to the same belonging, or in any ways appertaining. And also all the estate, right, title, interest, claim and demand whatsoever of him, the said Solomon Boyle, of, in and to the said premises, and every part and parcel thereof, with the appurtenances. To have and hold all and singular the said tracts of land and premises, with the appurtenances, unto him the said William Luce, his heir and assigns, to the only use, benefit and behoof of him, the said William Luce, his heirs and assigns forever. Provided always, and it is agreed by and between the parties to these presents, that if the said Solomon Boyle, his heirs or assigns, do and shall well and truly pay, or cause to be paid, unto the said William Luce, his executors, administrators or assigns, the said sum of two hundred and fourteen pounds and four shillings, in the condition of the said bond mentioned, with the interest thereof, in and upon the said sixth day of November next, according to the true intent and meaning of the said condition of the said bond above mentioned, that then and from thenceforth these presents, and everything herein contained, shall cease and be void, and anything contained to the contrary notwithstanding. And the said Solomon Boyle, for himself, his heirs, executors and administrators, doth covenant and grant to and with the said William Luce, his heirs and assigns, that he the said Solomon Boyle, his heirs, executors or administrators, shall and will well and truly pay unto him, the said William Luce, his executors, administrators or assigns, the said sum of two hundred and fourteen pounds and four shillings, with the interest thereof, on the said sixth day of November next, without any fraud, covin or deception whatever. And the said Solomon Boyle, for himself, his heirs, executors and administrators, doth covenant, grant, bargain and agree to and with the said William Luce, his heirs and assigns, that at the time of the ensealing and delivery of these presents, he, the said Solomon Boyle, was lawfully seized of the above bargained premises, of a good, sure, perfect and indefeasible estate of inheritance in fee simple, and that the same were free and clear of and from all former and other gifts, grants, bargains, sales, leases, releases, mortgages, judgments, recognizances, dowers, entails and other incumbrances whatsoever; and the said William Luce, for himself and his heirs and assigns, doth covenant, grant and agree to and with the said Solomon Boyle, his heirs, executors and administrators, that until default shall be made in the performance of the said proviso, it shall and may be lawful to and for the said Solomon

Boyle, his heirs and assigns, to have, hold, occupy, possess and enjoy all and singular the above granted and bargained premises, with the appurtenances, and receive to his and their own use the rents, issues and profits thereof, without the let, suit, hindrance, molestation, interruption or denial of him, the said William Luce, his heirs or assigns.

In witness whereof the parties to these presents have interchangeably set their hands and seals, the day and year first above written. 10

SOLOMON BOYLE. [L. s.]

Sealed and delivered, (the words [west of] in the second page, between the eighth and nine line, being first interlined.)

MATTS. D. DE HART. 20

STAFFORD WILSON.

JOHN DE HART.

NEW JERSEY, ss:—Be it remembered that on the sixth day of June, in the year of our Lord one thousand seven hundred and ninety-one, personally appeared before me John Chetwood, esquire, one of the Justices of the Supreme Court of the State of New Jersey, Matthias D. De Hart, one of the subscribing witnesses to the within instrument, who, being duly sworn on the holy evangelists, saith that he saw the above named Solomon Boyle seal and deliver the within instrument, as his voluntary act and deed, the day and year within contained. 30

MATTS. D. DE HART.

Sworn to before me the day and year before written. 40

JOHN CHETWOOD.

Recorded July 16, 1791, in Lib. C, fol. 385 of Mortgages, in the Clerk's office for the County of Morris.

RUSSELL, Clerk.

## L.

This Indenture, made this twenty-ninth day of January, in year of our Lord one thousand eight hundred, between Joseph Boyle of Morristown, in the County of Morris and State of New Jersey, of the one part, and Solomon Boyle, junior, of the same place, of the other part, Witnesseth, that the said Joseph Boyle, for and in consideration of the sum of two hundred and thirty-one dollars to him in hand paid by the said Solomon Boyle, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, and the said Solomon Boyle, junior, thereof discharged forever, by these presents hath given, granted, bargained, sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents doth give, grant, bargain, sell, alien, release, enfeoff, convey and confirm unto him, the said Solomon Boyle, junior, his heirs and assigns forever, All that tract of land situate in the township of Morris, bounded on the west by land of said Joseph Boyle, on the east by land of Bedient Baird and Elias Corell, on the north by lands of Stafford Wilson and Joshua Doty, said to contain two hundred acres, be the same more or less, being the same tract of land taken in execution by William Campfield, esquire, Sheriff of the County of Morris, on a writ of *feri facias*, issued out of the Supreme Court of the State of New Jersey, in the term of May, *Anno Domini* seventeen hundred and ninety-seven, at the suit of John Chetwood and John Blanchard against Solomon Boyle and Stafford Wilson, and which he, the said Joseph Boyle, purchased at Sheriff's sale by deed, bearing date the eleventh day of June, seventeen hundred and ninety-eight, under the hand and seal of the said William Campfield, esquire, for the sum of two hundred and thirty-one dollars. Together with all and singular the buildings, fences, improvements, woods, waters, water courses, privileges, advantages, hereditaments and appurtenances to the said tract of land belonging, or in anywise appertaining, and also all the estate, right, title, interest, dower, possession, property, claim and demand whatsoever of him, the said Joseph Boyle, of, in and to the said tract of land and premises, both in law and equity. To have and to hold all and singular the above hereby granted and bargained premises, with the appurtenances, unto him the said Solomon Boyle, junior, his heirs and assigns forever, to the only proper use, benefit and behoof of him, the said Solomon Boyle, junior, his heirs and assigns forever.

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

JOSEPH BOYLE. [L. s.]

CATHARINE BOYLE [L. s.] 10

Signed, sealed and delivered in the presence of

STAFFORD WILSON.

WILLIAM BOYLE.

STATE of NEW JERSEY, }  
Somerset County. }

Be it remembered, that on the 23d day of December, 20  
eighteen hundred, personally, Joseph and Catharine  
Boyle, the within grantors, came before me, David Kelly,  
esquire, one of the Judges of the Inferior Court of Com-  
mon Pleas in and for said County, and did acknow-  
ledge that they did sign, seal and deliver the within in-  
strument of writing as their act and deed, for the uses  
and purposes therein mentioned, and the said Catharine,  
being by me examined in the absence of her husband,  
did say that she did sign the same of her own voluntary  
will, and that without any threat or compulsion from her  
husband or any other person. 30

Acknowledged before me,

DAVID KELLY.

Recorded in Morris Register of Deeds, Lib. D, fol. 471.  
August 14th, 1801.

C. RUSSELL, Clerk.

M.

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(BOND FROM SOLOMON BOYLE AND STAFFORD WILSON  
TO WILLIAM BOYLE.)

Know all men by these presents, that we, Solomon  
Boyle and Stafford Wilson, both of the County and  
Township of Morris, State of New Jersey, are held and  
firmly bound unto William Boyle of the County of Mor-



Boyle, on the south by land of the said Joseph Boyle, on the east by land of Bedient Baird and Elias Coriell, on the north by land of Stafford Wilson and Joshua Doty, said to contain two hundred acres, be the same more or less, being the same tract of land taken in execution by William Campfield, esquire, Sheriff of the County of Morris, on a writ of *feri facias*, issued out of the Supreme Court of the State of New Jersey, holden at Trenton in the term of May, *Anno Domini*, 1797, at the suit of John Chetwood and John Blanchard, against Solomon Boyle and Stafford Wilson, and which the said Joseph Boyle purchased at Sheriff's sale by deed, bearing date the eleventh day of June, *A. D.* seventeen hundred and ninety-eight, under the hand and seal of the said William Campfield, esquire, and by the said Joseph Boyle and wife conveyed to Solomon Boyle, junior, the mortgagor herein named. It being to secure the payment of seven hundred and fifty dollars good and lawful money of the United States, agreeably to the condition of a certain bond, of even date with these presents. 10 20

Received and recorded the thirteenth day of August, *A. D.* eighteen hundred and one.

C. RUSSELL, Clerk.

N.

(COPY OF ENDORSEMENTS ON MORTGAGE GIVEN BY SOLOMON BOYLE TO MATTHIAS WILLIAMSON, DATED NOVEMBER 2, 1801.) 30

MR. WILLIAMSON: The land herein mortgaged is mortgaged to Wm. Boyle for seven hundred and fifty dollars, dated the thirteenth day of August, 1801; the mortgage to Chetwood and Blanchard, trustees of Hampton, is not cancelled on record. Nor the mortgage to Wm. Luce, although I believe they have been settled, except this money he wants of you to pay the latter, the one to Wm. Boyle, his brother, as I am informed, was to raise the money to discharge Luce as far as it went. Mr. Boyle say the money is not due on the first until May *A. D.* 40

Yours,

CALEB RUSSELL.

For value received of Solomon Boyle, the mortgagor in the annexed mortgage, I promise and engage to pay Matthias Williamson, junr., Esq., the mortgage therein named, that I will pay to him the said Matthias Williamson, junr., his executors, administrators or assigns, the two hundred and fifty dollars, with the interest mentioned in the bond to which the mortgage refers, at the time mentioned in said bond upon the same being produced  
10 when demanded.

Witnessed my hand and seal, this second day of November, eighteen hundred and one.

WILLIAM BOYLE. [L. s.]

Witness, CALEB RUSSELL.

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20 I, William Boyle, of the County of Morris, do hereby covenant and agree to and with Matthias Williamson, junr., his heirs and assigns, that the within mortgage shall have and take the preference both in law and equity and be paid and satisfied before a mortgage from Solomon Boyle to me, bearing date on or about the thirteenth day of August last, notwithstanding its priority of date. As witness my hand, this fourth day of November, one thousand eight hundred and one.

WILLIAM BOYLE [L. s.]

30 Signed, sealed and delivered in the presence of

WILLIAM D. WILLIAMSON.

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O.

40 ELIJAH WARD, former Sheriff, }  
to  
JANE BOYLE. }

*To all to whom these presents may come. Greeting:—*  
Whereas a writ of *feri facias* of the State of New Jersey, issued out of the Inferior Court of Common Pleas, holden in Morristown, in and for the County of Morris, tested in the term of March, in the year of our Lord one

thousand eight hundred and twenty-four, was directed  
 and delivered to me, Elijah Ward, then Sheriff of the  
 County of Morris, whereby I was commanded that of the  
 goods and chattels of Solomon Boyle in my bailiwick, I  
 should cause to be made as well a certain debt of one  
 hundred and forty dollars and thirty-nine cents, which  
 Henry A. Ford lately before the judges of the said court  
 of Morristown, in the county aforesaid, recovered against  
 him ; as also eighteen dollars and thirty-five cents which 10  
 before the judges of the same court were adjudged to the  
 said Henry A. Ford for the damages he had sustained as  
 well by occasion of the detention of that debt as for his  
 costs and charges by him about his suit in that behalf  
 expended, whereof the said Solomon Boyle was convict-  
 ed as appears of record ; and if sufficient goods and  
 chattels of the said Solomon Boyle could not be found in  
 my county, whereof the debt and damages aforesaid  
 might be made, then I was commanded that I should  
 cause the whole or the residue, as the case might require,  
 of the said debt, damages and costs to be made of the 20  
 lands, tenements, hereditaments and real estate whereof  
 he the said Solomon Boyle was seized on the twenty-ninth  
 day of April, in the year of our Lord one thousand eight  
 hundred and twenty-four, or at any time afterwards, in  
 whose hands soever the same might then be ; and that I  
 should have that money before the judges of the same  
 court at Morristown aforesaid, on the first Tuesday of  
 July then next ensuing, to render unto the said Henry A.  
 Ford for his debt and damages aforesaid, and that I  
 should have then there that writ. And whereas another 30  
 writ of *feri facias* of the State of New Jersey, issued  
 out of the Inferior Court of Common Pleas, holden at  
 Morristown, in and for the County of Morris, bearing  
 teste in the term of March, in the year of our Lord one  
 thousand eight hundred and twenty-four, was directed  
 and delivered to me, Elijah Ward, then high sheriff of  
 the County of Morris aforesaid, whereby I was command-  
 ed that of the goods and chattels of Solomon Boyle in my  
 county, I should cause to be made as well a certain debt  
 of two hundred and sixty-nine dollars and eight cents  
 which Jane Boyle, then lately before the judges of the 40  
 Court of Common Pleas, holden at Morristown, in and  
 for said county of Morris, and by the judgment of the  
 said court recovered against him ; as also nineteen dollars  
 and thirty-five cents, which before the judges of the same  
 court were adjudged to the said Jane Boyle for the dam-  
 ages she had sustained as well by the occasion of the  
 detention of that debt, as for her costs and charges by her  
 about her suit in that behalf expended, whereof the said

10 Solomon Boyle was convicted as appears of record ; and if sufficient goods and chattels of the said Solomon Boyle could not be found in my county, then I was commanded that I cause the whole or residue, as the case might require, of the debts, damages and costs aforesaid to be made of the lands, tenements, hereditaments and real estate whereof the said Solomon Boyle was seized on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and twenty-four, or at any time afterwards in whose hands soever the same might be; and that I should have that money before the judges aforesaid on the first Tuesday in July then next, to render unto the said Jane Boyle for her debts and damages aforesaid, and that I should have then this writ.

20 And whereas, another writ of *feri facias* of the State of New Jersey, issued out of the Inferior Court of Common Pleas, holden at Morristown, in and for the County of Morris, bearing teste the third Tuesday of March, in the year of our Lord one thousand eight hundred and twenty-four, was directed and delivered to me, Elijah Ward, then High Sheriff of the County of Morris aforesaid, whereby I was commanded that of the goods and chattels of Solomon Boyle, in my county, I should cause to be made as well a certain debt of four hundred and fifty-nine dollars and fifty-six cents, which Mehitable Boyle then lately before the judges of the Inferior Court of Common Pleas, holden at Morristown, in and for the said County of Morris, and by the judgment of the said court recovered against him ; as also nineteen dollars and thirty-five cents, which before the judges of the same court were adjudged to the said Mehitable Boyle for the damages she had sustained as well by occasion of the detention of that debt as for the costs and charges by her about her suit in that behalf expended ; whereof the said 30 Solomon Boyle was convicted as appears of record ; and if sufficient goods and chattels of the said Solomon Boyle could not be found in my county, then I was commanded that I should cause the whole or the residue, as the case might require, of the debt, costs and damages aforesaid, to be made of the lands, tenements, hereditaments and real estate whereof the said Solomon Boyle was seized on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and twenty-four, or at any time thereafterwards, in whose hands soever the same 40 might be, and that I should have that money before the judges aforesaid at Morristown aforesaid, on the first Tuesday of July then next, to render unto Mehitable Boyle for the debt and damages aforesaid, and that I

should have then there that writ. By virtue of which said several writs of *feri facias* I did take, seize and levy upon, among other things, the then homestead farm of the said Solomon Boyle, described in my levy under each of the said writs of *feri facias* thus: "170 acres of land in the township of Morris, bounded by lands of Joseph Boyle and others, which said homestead farm is more particularly bounded and described as follows, to wit: Bounded on the west by lands of Joseph Boyle; on the south by lands of the said Joseph Boyle; on the east by lands of Bedient Baird and Elias Coriell; on the north by lands of Stafford Wilson and Joshua Doty, said to contain two hundred acres, as described in a certain deed of conveyance from one Joseph Boyle and wife to the said Solomon Boyle, dated the 9th day of January, 1800, and recorded in the Morris County record of Deeds, Liber. D, folio 471, which said homestead farm and premises before described were for want of sufficient goods and chattels of the said Solomon Boyle, by me duly advertised, pursuant to law, to be sold on the eleventh day of September, in the year of our Lord one thousand eight hundred and twenty-four, at the house of Elizabeth Halsey in Morristown, in the County of Morris aforesaid, at public vendue, at which time and place the said farm, land and premises by me accordingly exposed to sale at public vendue, and thereupon Jane Boyle did then and there bid for the same the sum of four hundred dollars, and no person bidding more, the said homestead farm, land and premises were by me in due manner openly cried off and sold to the said Jane Boyle for the sum of four hundred dollars.

Wherefore, know ye that I, Elijah Ward, former Sheriff, aforesaid, by virtue of the aforesaid writ and in execution of the power and trust in me reposed, and also for and in consideration of four hundred dollars to me in hand paid by the said Jane Boyle, the receipt whereof I hereby acknowledge and thereof discharge the said Jane Boyle, have given, granted, bargained, sold, assigned, conveyed and confirmed, and by these presents do give, grant, bargain, sell, assign, convey and confirm unto her the said Jane Boyle, her heirs and assigns forever, all and singular the above bounded and described homestead farm land and premises, with the appurtenances thereunto belonging, and also all the right, title, estate, interest, property, claim and demand of him the said Solomon Boyle of, in and to the same, and of, in and to every part and parcel thereof. To have and to hold the said granted and bargained home-

stead farm, land and premises, with all the profits, privileges, commodities, hereditaments and appurtenances to the same belonging unto the said Jane Boyle, her heirs and assigns, to the only proper use, benefit and behoof of the said Jane Boyle, her heirs and assigns for ever, in as full and ample a manner as I, the said Elijah Ward, Sheriff aforesaid, by virtue of the aforesaid writ, might, could or ought to convey the same. And I, the said Elijah Ward, Sheriff aforesaid, for myself, my heirs, executors and administrators, do covenant, promise and agree to and with the said Jane Boyle, her heirs and assigns, that I have not done or procured to be done any act, matter or thing whereby the above granted and bargained homestead farm, land and premises, or any part thereof, may be charged, changed or incumbered in title, estate or otherwise.

20 In witness whereof, I have hereunto set my hand and seal, this fourth day of September, in the year of our Lord one thousand eight hundred and forty-four.

ELIJAH WARD. [L. s.]

Signed, sealed and delivered in the presence of

HENRY A. FORD.

30 STATE OF NEW JERSEY, } ss.  
MORRIS COUNTY.

Be it remembered, that on this 4th day of September, A. D. 1844, before me, Henry A. Ford, one of the Masters in Chancery of the State of New Jersey, personally appeared Elijah Ward, who I am satisfied is the grantor in the foregoing deed, to whom I first made known the contents thereof, and he acknowledged that sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

HENRY A. FORD, M. C.

Received and recorded Oct. 19, 1852.

STANBOROUGH, Clerk.

## P.

This Indenture, made this eighteenth day of June, in  
 the year of our Lord one thousand eight hundred and  
 forty-five, between Jane Boyle of the township of Morris  
 in the County of Morris, and state of New Jersey, party  
 of the first part, and Solomon Boyle, of the township,  
 county and state aforesaid, party of the second part, wit- 10  
 nesseth, that the said party of the first part for and in  
 consideration of the sum of six hundred dollars, money  
 of the United States of America, to her in hand well and  
 truly paid by the said party of the second part, at or be-  
 fore the ensealing and delivery of these presents, the  
 receipt whereof is hereby acknowledged, and the said  
 party of the first part therewith fully satisfied, contented  
 and paid, hath granted, bargained, sold, aliened, released,  
 enfeoffed, conveyed and confirmed, and by these presents  
 doth grant, bargain, sell, alien, release, enfeoff, convey 20  
 and confirm to the said party of the second part, and to  
 his heirs and assigns forever: All that certain tract or  
 parcel of land and premises hereinafter particularly de-  
 scribed, situate, lying and being in the township of Morris,  
 in the county of Morris and state of New Jersey, bound-  
 ed and described as follows, to wit: All that homestead  
 farm and premises now in the possession of the said Solo-  
 mon Boyle, and upon which he now lives, and being the  
 same land and premises mentioned and described in a  
 certain deed of conveyance from one Joseph Boyle and  
 his wife to the said Solomon Boyle, dated the ninth day  
 of January, A. D. 1800, recorded in the Morris County 30  
 Record of Deeds, Liber. D, folio 471, in which deed it is  
 described thus: Bounded on the west by lands of Joseph  
 Boyle; on the south by lands of the said Joseph Boyle;  
 on the east by lands of Bedient Baird and Elias Coriell;  
 on the north by lands of Stafford Wilson, said to contain  
 two hundred acres, and being the same lands and premi-  
 ses purchased by me at sheriff's sale, on the eleventh day  
 of September, A. D. 1824, as described to me in a she-  
 riff's deed of conveyance to me by Elijah Ward, Esquire,  
 former Sheriff of the County of Morris, bearing date the  
 fourth day of this present month of September, A. D. 40  
 eighteen hundred and forty-four, as by reference to the  
 same will more fully appear. Together with all and sin-  
 gular the profits, privileges and advantages, with the  
 appurtenances to the same belonging or in anywise ap-  
 pertaining. Also, all the estate, right, title, interest, pro-  
 perty, claim and demand whatsoever of the said party of

the first part, of, in and to the same, and to every part and parcel thereof. To have and to hold all and singular the above described tract of land and premises with the appurtenances, unto the said party of the second part, his heirs and assigns, to the only proper use, benefit and behoof of the said party of the second part, his heirs and assigns forever. And the said Jane Boyle doth for herself, her heirs, executors and administrators, covenant  
 10 and grant to and with the said party of the second part, his heirs and assigns, that the said party of the first part hath not done, caused, suffered or procured to be done, any act, matter or thing whereby the title of the said Solomon Boyle of, in and to the above bounded and described land and premises, or any part thereof, can or may be changed, charged, altered or defeated in any way whatsoever. In witness whereof, the said Jane Boyle hath hereunto set her hand and seal, the day and year first above written.

20

JANE BOYLE. [L. s.]

Signed, sealed and delivered in the presence of

DANIEL RUNYON,

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30 STATE OF NEW JERSEY, } ss.  
 SOMERSET COUNTY.

Be it remembered, that on this twenty-fourth day of July, A. D. eighteen hundred and forty-five, before me, Andrew Smalley, one of the Judges of the Court of Common Pleas in and for the County of Somerset, personally appeared Jane Boyle, who I am satisfied is the grantor mentioned in the foregoing deed, and to whom I first made known the contents thereof, and she acknowledged that she signed, sealed and delivered the same as  
 40 her voluntary act and deed for the uses and purposes therein expressed.

ANDREW SMALLEY.

Received and recorded April 10, 1852.

STANBOROUGH, Clerk.

Lib. Y. 4, folio 143.