

No. 12005

# Supreme Court of Illinois

Glover.

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vs.

Fisher.

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71641  7

*Handwritten text, possibly a name or title, in a cursive script, mostly illegible due to fading and texture.*

*Prepared*

850

12005



Robert B. Glover  
vs  
John Fisher & Co  
Solomon Hay

State of Illinois  
In the Supreme Court  
of the June Term A.D. 1850  
Appeal from Stephenson

And the said appellant by Mr. P. Sweet his solicitor comes and says that in the record proceedings orders and decree in said cause there is error to the prejudice of the appellant in this to wit

1<sup>st</sup> The said Circuit Court erred in not decreeing a specific performance of the agreement set forth in the complainant's bill of complaint according to the prayer of said bill

2<sup>d</sup> The said Circuit Court erred in not decreeing a repayment to the complainant by the defendant of the money paid to the defendant on said contract,

3<sup>d</sup> The said Circuit Court erred in not decreeing a payment of \$546 to the complainant by the defendant Fisher

4<sup>th</sup> The said Circuit Court erred in not decreeing a conveyance from Fisher and Hay of the amount of Glover interest in the land -

5<sup>th</sup> The said Court erred in not decreeing a repayment to the complainant by the defendant



of the amount of money actually paid by  
the complainant together with the amount  
of the complainants interest in said land  
recovered at \$500.

6<sup>th</sup> The said Court erred in dismissing the  
appellants bill of Complaint.

7<sup>th</sup> The said Court erred in rendering a  
judgment for the defendant for costs,  
Wherefore for the errors aforesaid and others  
appearing in the record and proceedings aforesaid  
the said appellant prays that the judgment order  
and decrees aforesaid be reversed and the  
prayer of the appellants bill of Complaint be  
granted

M. P. Sweet  
Solicitor for Appellant



State of Illinois }  
Sixth Judicial Circuit } ss  
Stephenson County }

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Pleas in the Circuit Court before the  
Honorable Benjamin R. Sheldon Judge of the  
Circuit Court for the said Sixth Judicial Circuit  
presiding in said County of Stephenson at the  
Term of said Court begun and holden in and for  
said County on the second Monday in the month  
of August A. D. 1849 -

Robert V. Glover Complainant

vs

John Fisher junior & Nancy Fisher his wife  
& Solomon Hoy & Caroline Hoy his wife  
Defendants

In Chancery

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Be it remembered that hereto-  
fore to wit, on the 27<sup>th</sup> day of July A. D.  
1849 the said Complainant by his Solicitor  
appeared and filed in the office of the Clerk  
of said Court his Bill of Complaint and also  
his bond for costs in said cause -  
Which said Bill of Complaint and Bond  
are in the words and figures following  
that is to say: -

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State of Illinois }  
Stephenson County } ss

In the Circuit Court  
of said County On the  
Chancery side thereof of the  
August Term A. D. 1849 -



To the Honorable Benjamin R. Shelden presiding Judge of the Sixth Judicial Circuit of State in Chancery sitting

Your Orator Robert V. Glover of the County of Union in the State of Pennsylvania - humbly complaining sheweth unto your Honor that John Fisher Jun of the said County of Stephenson in the State of Illinois aforesaid was or pretended to be in and before the month of April in the year of our Lord one thousand eight hundred and forty seven seized of and well entitled in fee simple to the undivided one half of the south east quarter of section no. nineteen in township no twenty nine of Range no nine east of the fourth principal meridian situate lying and being in the said County of Stephenson and State of Illinois and also the undivided one half of section no twenty in township no twenty nine of Range no. nine east of the fourth principal meridian in the said County of Stephenson and State of Illinois aforesaid and then in the possession and occupation of the said John Fisher Jun -

And your orator further sheweth unto your Honor that by articles of agreement bearing date the nineteenth day of April in the year of our Lord one thousand eight hundred and forty seven made signed sealed and delivered by the said John Fisher Jun. and your orator by William Glover his agent duly appointed and constituted as such agent



for said purpose, the said John Fisher firm agreed to convey in fee simple clear of all incumbrances the herein before named and described tracts of land to your orator for and in consideration of the sum of twenty one hundred dollars to be paid by your orator to the said John Fisher firm in the manner following to wit: nine hundred dollars was to be paid by your orator to the said John Fisher firm at the time of the making signing sealing and delivering of the said article of agreement - four hundred dollars on the first day of October next after the date of the said article of agreement & eight hundred dollars on the first day of May in the year of our Lord one thousand eight hundred and forty eight, and it was further stipulated and agreed in and by said article of agreement that the said John Fisher firm should and would on the first day of May A.D. 1848, the day on which the last mentioned payment became due, make and deliver to your orator a good and lawful deed in fee simple, clear of all incumbrances conveying to your orator by a clear and indisputable title the said tracts of land herein before named each party to said article of agreement bearing or paying one half of all the costs that might occur in making over the said indenture title, and it was further agreed in and by said article of agreement that your orator was to take possession of said premises or tracts of land on the receipt by the said John Fisher firm of the said last mentioned payment, and it



was further agreed in and by said article of agreement the said Fisher firm should have the privilege of putting out a fall crop by delivering unto your orator in the stack one third of all such grain as might be raised as a winter crop, and it was further agreed in said article of agreement that the said Fisher firm should not use sell or in any way destroy any timber on the said premises with the exception of so much as he might need for his own use on said farm -

And your orator further sheweth unto your Honor that your orator by his agent aforesaid and the said John Fisher firm in and by said article of agreement each mutually bound themselves unto the other and his heirs and assigns in the penal sum of eight hundred dollars for the true performance of the covenants and agreements in said article of agreement contained

And your orator further sheweth unto your Honor that the said article of agreement is in the words and figures following to wit: "Article of Agreement  
"made and concluded upon this 19<sup>th</sup> day of  
"April A.D. 1847 between John Fisher jr in Rock  
"Grove Precinct Stephenson County and state  
"of Illinois Farmer of the one part and  
"Robert V. Glover of Hartly township Union County  
"and the state of Pennsylvania of the other part  
"as follows to wit: the said John Fisher jr for the  
"consideration herein after mentioned doth for  
"himself his heirs executors and administrators  
"covenant, grant and agree to and with the said

III



" Robert V. Glover his heirs and assigns by these  
" presents that <sup>he</sup> the said John Fisher jr shall  
" and will on the payment of the last gale each  
" bearing the one half all costs which may occur  
" in making over the indenture title to the said  
" Robert V. Glover his heirs and assigns a good  
" and lawful deed or deeds well and truly grant  
" and assign convey assure unto the said Robert  
" V. Glover his heirs & assigns in that messuage  
" or tract of land whereon he the said Fisher  
" now resides containing 160 acres more or less  
" Beginning at a N.W. corner in township 29  
" Range 9. E. being the one half of an undivided  
" tract of land purchased between John Fisher sen  
" & J Fisher jr from the United States -  
" In consideration whereof the said Glover his  
" heirs and assigns doth covenant promise and  
" agree to and with the said John Fisher jr his  
" heirs &c by these presents that he the said Robert  
" V. Glover his heirs executors and administrators  
" or some ~~one~~ of them shall and will on the  
" execution and delivery of the said deed as  
" aforesaid well & truly pay or cause to be paid  
" unto said Fisher jr his executors administrators  
" or assigns the sum of \$2100. in manner fol-  
" lowing to wit: nine hundred dollars in hand at  
" the date of this agreement, four hundred dollars  
" the first day of October A.D. 1847 and eight hundred  
" dollars on the first of May A.D. 1848 on the  
" delivery of the deed for the premises as aforesaid  
" all without interest, the said Robert V. Glover  
" is to take possession of the premises on the receipt  
" of the last payment - The said parties agree to  
" and with each other that the said Fisher jr is to



" have the privilege of putting out a fall crop  
" by delivering unto said Glover in the stack  
" the one third of all such grain as may be raised  
" as a winter crop and further said Fisher is  
" not to use nor sell nor in any way destroy  
" any timber on the above premises with the  
" exception of so much as he may need for  
" his own use on said farm -

" And for the true performance of the within  
" of all the covenants and agreements afore  
" said each of the said parties and administrators  
" unto the other his heirs and assigns in the  
" penal sum of eight hundred dollars lawful  
" money of these U. States firmly by these presents  
" have herunto set our hands and seals, dated  
" the day and year first above written -

" sealed and delivered }  
" in presence of }  
" Amos J. Rogers " }

" John Fisher Jr Seal  
" Robert V. Glover Seal  
" for William Glover  
" agent

Your orator further sheweth unto  
your Honor that on the day of the date  
of the said article of agreement your Orator  
by the hand of William Glover his agent  
as aforesaid paid to the said John Fisher Jr the  
sum of nine hundred dollars in part  
payment of the said sum of twenty  
one hundred dollars specified in the said  
article of agreement to be paid by your Orator  
to the said John Fisher Jr - And your Orator  
further sheweth unto your Honor that on  
the twenty first day of June in the year of  
our Lord one thousand eight hundred and forty  
seven he caused the further sum of two hundred



and twenty dollars to be paid by the hand of  
one Henry S. Barber to the said John Fisher jr  
which said last mentioned sum the said  
John Fisher jr accepted in part payment  
of the said sum of twenty one hundred dollars  
specified in said article of agreement to be paid  
by your orator to the said John Fisher jr and  
which said sum of two hundred and twenty  
dollars the said John Fisher jr received and  
enjoyed as aforesaid a long time before any  
payment was due on said article of agreement  
from your orator to the said Fisher jr -  
And your orator further sheweth unto  
your Honor that previous to the date of the  
said article of agreement and also at the  
time of the date thereof and for a long  
time thereafter your orator held a promissory  
note for the sum of three hundred and thirty  
nine dollars and a few cents made and  
signed by John Fisher sen the father of the  
said John Fisher jr and payable to your  
orator or his order and which said promissory  
note became due and payable to your orator  
or his order as aforesaid a short time previous  
to the first day of October A.D. 1847. And your  
Orator further sheweth unto your Honor  
that a short time previous to the date of the  
said article of agreement aforesaid and pend-  
ing the negotiation for the purchase of  
the said tracts of land of the said John Fisher jr  
by your orator ~~and~~ in a preliminary  
conversation in relation to the said  
purchase between the said John Fisher jr



and your orator by his agent William  
Glover as aforesaid your orator by his  
agent aforesaid stated to the said John  
Fisher jun that it would be impossible  
for your orator to purchase the said tracts  
of land of him the said John Fisher jun  
and pay him the said Fisher jun the  
consideration which should be agreed upon  
to be paid him the said Fisher jun by your  
orator for the said tracts of land unless he  
the said John Fisher jun would agree to  
receive and accept from your orator in  
part payment of the consideration which  
should be agreed to be given or paid by your  
orator to the said Fisher jun for the said tracts  
of land the said promissory note aforesaid  
for the sum of three hundred and thirty nine  
dollars and some cents or unless he the  
said John Fisher jun would consent and  
agree to look to and depend upon his father  
the said John Fisher sen, for the amount of  
the said promissory note aforesaid that is  
to say the sum of three hundred and thirty  
nine dollars and some cents in part pay-  
ment of the said consideration which should  
be agreed upon as aforesaid to be paid to said  
Fisher jun by your orator for said tracts of  
land. and your orator further sheweth unto  
your Honor that at the time when the  
articles of agreement aforesaid was made  
and entered into by your orator by his  
agent aforesaid and the said John Fisher jun  
it was expressly stipulated and agreed by  
and between the said John Fisher jun and your



orator by his agent as aforesaid that the said John Fisher jun should look to and depend upon his father the said John Fisher sen for the sum of three hundred and thirty nine dollars and some cents in part payment of the said twenty one hundred dollars in said article of agreement agreed to be paid by your orator to the said Fisher jun for said tracts of land) and at that time it was also further stipulated and agreed by and between the said John Fisher jun and your orator by his agent aforesaid the said John Fisher sen also being present at the time and approving and agreeing to the said stipulation and agreement between said Fisher jun and your orator by his agent aforesaid that the said William Glover the agent of your orator as aforesaid should retain and keep possession of the said promissory note and that the said John Fisher sen should make the payment of the said sum of three hundred and thirty nine dollars and some cents when the same should become due to the said John Fisher Jun in the stead of to your orator or his agent aforesaid and that the said John Fisher jun should endorse the payment of such sums of said article of agreement as the said John Fisher sen should advance or pay on the said note as last mentioned and agreed then agreed upon as aforesaid the said John Fisher jun at the time of making the said last mentioned stipulation and agreement



saying to the agent of your orator William  
Glover aforesaid that "the old man" meaning  
his father the said John Fisher sen "was  
perfectly good, and that it would be all right"  
and your orator further sheweth unto  
your Honor that your agent aforesaid towards  
the last of the month of April A.D. 1847  
soon after making the before mentioned  
agreement and stipulation with the  
said Fisher jun as aforesaid that he the said  
Fisher jun should look to and depend upon  
the said John Fisher sen for money in part  
payment as aforesaid of the twenty one  
hundred dollars stipulated in said article  
of agreement to be paid to the said Fisher  
jun for said tracts of land departed from  
the said county of Stephenson in the said  
state of Illinois to go to the state of Penn-  
sylvania intending that either your orator  
or his agent aforesaid should return to  
the said county of Stephenson in the  
state of Illinois in time to make the  
payment of eight hundred dollars  
on the first day of May A.D. 1848 to the  
said John Fisher jun as stipulated in said  
article of agreement and claim his deeds  
for said tracts of land from the said Fisher  
jun - and your orator further sheweth  
unto your Honor that on the first day  
of May in the year of our Lord one thou-  
said eight hundred and forty eight by his  
agent aforesaid he tendered in full payment  
of the sum of money agreed by your orator  
to be paid to the said John Fisher jun in the



said article of agreement unto the said John Fisher firm the sum of six hundred and eighty one dollars and eighty eight cents in cash together with the before mentioned note of three hundred and thirty nine dollars and some cents against the said John Fisher firm which said note the said Fisher firm had expressly stipulated and agreed to receive from your orator as aforesaid in part payment of the said consideration stipulated in said article of agreement to be paid to the said Fisher firm for said tracts of lands your orator at the time of making such tender aforesaid to the said Fisher firm offering to remit any excess <sup>said</sup> the sum of six hundred and eighty one dollars and eighty eight cents together with the said note of three hundred and thirty nine dollars and some cents which the said Fisher firm had before agreed to accept and receive as aforesaid might make or be over or above the amount due on the said first day of May A.D. 1849 in full payment from your orator to the said Fisher firm on said article of agreement and at the same time demanded from the said Fisher firm a deed for the said tracts of land as in said article of agreement stipulated to be given by said Fisher firm - And your orator further sheweth unto your Honor, refused to receive the said sum of six hundred and eighty one dollars and eighty eight cents and the said note of three hundred and



thirty nine dollars and some cents  
tendered as aforesaid and also refused  
to make to your orator any deed or  
conveyance or title to the said tracts of land  
in the said article of agreement men-  
tioned - and your orator further sheweth  
unto your Honor that on the fourteenth  
day of July A.D. 1849 your orator again  
tendered to the said John Fisher five the sum  
of ten hundred and seventy dollars and sixty  
cents in full payment of the back payments  
which might be due to the said John Fisher  
five on the said article of agreement together  
with the interest on said back payments  
up to the time of said tender and the said  
sum of ten hundred and seventy dollars  
and sixty cents being a sum greater than  
was due to the said John Fisher five for  
back payments on said article of agree-  
ment together with the interest on  
said back payments your orator at the  
same time offered to remit said excess  
to the said John Fisher five and your  
orator by his agent aforesaid at the time  
of making the tender last aforesaid again  
demanded a deed or conveyance from  
the said John Fisher five of the said lands  
to your orator according to the terms of  
the said article of agreement, but he the said  
John Fisher five again refused to receive the  
said money and to make a deed or convey-  
ance of said lands to your orator - and your  
orator further sheweth unto your Honor  
that your orator still has the said sum of ten



hundred and seventy dollars and sixty cents tendered as aforesaid ready to be delivered to the said John Fisher firm whenever the said Fisher firm <sup>shall</sup> desire to receive the same and your orator further sheweth unto your Honor that the said John Fisher firm by a deed signed by himself and Nancy Fisher his wife and dated the eighth day of March A.D. 1849 conveyed to one Solomon Hay a part of the said tracts of land herein before mentioned as appears from the records in the Records office of the said County of Stephenson in the State of Illinois which by leave of your Honor your orator begs leave to refer to and present here in court as part of this his bill - and your orator further sheweth unto your Honor that the said Solomon Hay at the time when he bargained for and purchased of the said John Fisher firm the pieces or parcels of land described in the deed last aforesaid was apprized and informed that the said John Fisher firm had previously by articles of agreement bound himself and agreed and stipulated to convey the said tracts of land to your orator and that the said Solomon Hay at the time when he purchased of the said John Fisher firm the pieces or parcels of land described and mentioned in the said deed last aforesaid required of the said John Fisher firm a bond from him the said Fisher firm with security indemnifying him the said Hay from any danger



risk, hazzard or loss which might occur to him said Hoy from the existence of said articles of agreement between the said John Fisher firm and your orator and your orator further sheweth unto your Honor that your orator hath always been ready and willing to perform his said agreements and to pay the purchase money for said lands to the said John Fisher firm and your orator hoped that the said John Fisher firm would have specifically performed his part of said agreements as in justice and equity he ought -

But now so it is may it please your Honor that the said John Fisher firm combining and confederating with the said Solomon Hoy and Caroline Hoy his wife whose names your orator prays he may be at liberty to insert herein with apt words to charge them as parties defendants hereto and with persons at present to your orator unknown whose names when discovered your orator prays he may also be at liberty to insert herein with apt words to charge them as parties defendants hereto and contriving how to wrong and injure your orator in the premises He the said John Fisher firm absolutely refuses to perform his part of the said agreements and to color such refusal sometimes gives out and pretends that your orator failed to perform his part of the said agreement on the first day



of October A. D. 1847 whereas your orator charges the contrary and that if the whole of the said four hundred dollars was not paid to the said John Fisher firm on the said first day of October A. D. 1847 as in in said article of agreement stipulated it was delayed by your orator by the express agreement of the said John Fisher firm with your orator by his agent as aforesaid to look to and depend upon the said John Fisher firm for the sum of three hundred and thirty nine dollars and some cents which said last mentioned sum would be due and payable from the said Fisher firm a short time before the said first day of October A. D. 1847 and besides this amount your orator having advanced and paid on the twenty first day of June A. D. 1847 to the said John Fisher firm the sum of two hundred and twenty dollars which said last mentioned sum of two hundred and twenty dollars the said John Fisher firm accepted and receipted on said article of agreement as so much paid towards the whole amount in said article of agreement stipulated to be paid for said lands and so the said John Fisher firm will at other times admit but then he refuses to make and deliver to your orator a deed, conveyance or title to said lands according to your orator's interest therein, all which actings and doings pretences and refusals are contrary to equity and good conscience and tend to the manifest wrong and injury



of your orator in the premises -

In tender consideration whereof  
and for as much as your orator  
can only have adequate relief in the  
premises in a court of equity where  
matters of this nature are properly  
cognizable and relivable. To the end  
therefore that the said John Fisher  
jun and the said Solomon Hoy and  
his wife Caroline Hoy and their con-  
federates whom discovered may severally  
answer to the best and utmost of their  
several and respective knowledge remem-  
brance information and belief to all  
and singular the matters and things a-  
foresaid and that as fully as if the same  
were here repeated and they and every of  
them distinctly interrogated thereto and  
that the said John Fisher jun. may spe-  
cifically perform the said agreement in  
all things on his part and behalf so en-  
tred into as aforesaid by him with your  
orator by his agent as aforesaid and  
that ~~Mary~~ Fisher the wife of the said  
John Fisher jun and if necessary the  
said Solomon Hoy and Caroline Hoy  
his wife may join in all proper deeds  
and acts for conveying the title of the  
said lands to your orator. Your orator being  
ready and willing and hereby offering  
specifically to perform the said agree-  
ment on his part and behalf, <sup>\*</sup> ~~or in~~  
~~case a specific performance of the said~~  
~~agreement may or shall not be ordered~~



And that your Orator may have such  
other and further relief in the premises  
as the nature and circumstances of this  
case may require and to your Honor may  
serve best -

May it please your Honor to grant  
unto your Orator the people most  
gracious writ of Subpoena to be directed  
to the said John Fisher jun and Nancy  
Fisher his wife and the said Solomon  
Hoy and Caroline Hoy his wife thereby  
commanding them at a certain day  
therein to be limited personally to be and  
appear before your Honor in this Honorable  
Court and there and there full true  
direct and perfect answers make to all  
and singular the premises and further  
to stand to perform and abide such fur-  
ther order direction and decree therein  
as to your Honor shall seem meet and  
your Orator shall ever pray &c

Robert V. Glover  
per. Wm Glover

William Glover being first duly sworn  
deposes and says that the statements set  
forth in the foregoing Bill are true  
to the best of his knowledge and belief  
sworn to and subscribed before me Clerk  
of the Circuit Court in and for said  
County of Stephenson and State of  
Illinois at my office in Freeport this  
27<sup>th</sup> day of July A.D. 1849 -  
John A. Clark Clerk  
attest



which said Bill of Complaint is endorsed  
as follows - "Filed July 27 1849

John A. Clark Clerk

Security for costs -

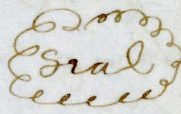
Robert V. Glover }  
vs }  
John Fisher jun. }  
Nancy Fisher }  
Solomon Hay and }  
Caroline Hay }  
~~William Hay~~

In the Stephenson Co.  
Cir. Court on the Chancery  
side thereof of the August  
Term A.D. 1849 -

I do hereby enter myself  
security for costs in this cause and  
acknowledge myself bound to pay  
or cause to be paid all costs which may  
accrue in this action either to the  
opposite party or to any of the officers  
of this court in pursuance of the laws  
of this state -

Dated this twenty seventh day of July  
A.D. 1849 -

In presence of }  
F. D. Brawley }  
Approved

David Clay 

John A. Clark Clerk

which said Bond for security for costs is  
endorsed as follows - "Filed July 27 1849

John A. Clark Clerk

Afterwards and on said 27<sup>th</sup> day of July  
A.D. 1849 there issued out of the office  
of the Clerk of said Circuit Court the proper  
writ of Subpoena agreeable to the prayer  
contained in said Bill of Complaint



which said writ of Subpoena is in the words and figures, following, to wit;

State of Illinois }  
Stephenson County } 3

The People of the State  
of Illinois To the Sheriff of said County  
Greeting

We command you that you  
Summon John Fisher Junior, Nancy  
Fisher, his wife, Solomon Hoy and Caroline  
Hoy his wife if they shall be found in  
your county personally to be and appear  
before the Circuit Court of said County  
on the first day of the next term thereof  
to be holden at the court house in the  
town of Freeport in said County on the  
2<sup>d</sup> Monday in the month of August next  
to answer unto Robert V. Glover on a certain  
Bill in Chancery filed in the said Court  
on the Chancery side thereof against them  
and have you then true this writ with  
an endorsement thereon in what manner  
you shall have executed the same -

S. S.

Witness John A. Clark  
Clerk of our said Court  
and the seal thereof at his  
Office in said County this  
27<sup>th</sup> day of July A.D. 1849 -

John A. Clark Clerk

on the back of which said writ of Subpoena  
appears the following endorsement, to wit;  
"Executed the within by reading the same



and delivering to the within named John  
Fisher jr. Nancy Fisher (his wife), Solomon  
Hoy and Caroline Hoy (his wife) personally  
a copy of the within - August 1<sup>st</sup> 1849 -

Fees herein \$2.00  
Miles 4.00  
Retary .12 1/2  
\$6.12 1/2

F. A. Strocky Sheriff

Afterwards to wit, on the 14<sup>th</sup> day of  
August in the Term of August A.D. 1849  
of said Steptunson County Circuit Court  
the said complainant had leave to amend  
his bill of complaint as appears by an  
order then made therein, as follows

Robert V. Glover }  
as

John Fisher jr } In Chancery  
et al. }

On motion of the Complainant  
by his solicitor it is Ordered by the  
Court that said complainant have  
leave to amend his bill of complaint  
herein -

Whereupon and afterwards, to wit, on the  
16<sup>th</sup> day of August in this same Term of August  
the following order was made in said  
cause, to wit:

Robert V. Glover }  
as

John Fisher jr } In Chancery  
et al. }

Now at this time comes



the Complainant by his Solicitor  
and files his amended bill herein -

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

" State of Illinois } ss  
Stephenson County } In the Circuit Court  
of said County on the  
Chancery side thereof  
of the August Term A.D.  
1849 -

To the Honorable Benjamin R. Sheldon  
presiding Judge of the Sixth Judicial Circuit  
of State in Chancery sitting -

Your orator Robert V. Glover of  
the County of Union in the State of Pennsyl-  
vania - humbly complaining sheweth unto  
your Honor that John Fisher son of the said  
County of Stephenson in the State of Illinois  
aforesaid was or pretended to be in and before  
the month of April in the year of our  
Lord one thousand eight hundred and forty  
seven seized of and well entitled in fee-  
simple to the undivided one half of the  
south east quarter of section no. nineteen  
in township no. twenty nine of Range no.  
nine east of the fourth principal meridian  
situate lying and being in the said County  
of Stephenson and State of Illinois and also  
the undivided one half of section no. twenty in  
township no. twenty nine of Range no. nine  
east of the fourth principal meridian in the



said county of Stephenson and State of Illinois aforesaid and then in the possession and occupation of the said John Fisher jun and your orator further sheweth unto your Honor that by articles of agreement bearing date the nineteenth day of April in the year of our Lord one thousand eight hundred and forty seven made signed sealed and delivered by the said John Fisher jun and your orator by William Glover his agent duly appointed and constituted as such agent for said purpose, the said John Fisher jun agreed to convey in fee simple clear of all incumbrances the herein before named ~~named~~ and described tracts of land to your orator for and in consideration of the sum of twenty one hundred dollars to be paid by your orator to the said John Fisher jun in the manner following, to wit: nine hundred dollars was to be paid by your orator to the said John Fisher jun at the time of the making signing sealing and delivering of the said article of agreement - four hundred dollars on the first day of October next after the date of the said article of agreement & eight hundred dollars on the first day of May in the year of our Lord one thousand eight hundred and forty eight, and it was further stipulated and agreed in and by said article of agreement that the said John Fisher jun should and would on the first day of May A.D. 1848, the day on which the last mentioned payments became due,



make and deliver to your Orator a good and lawful deed in fee simple, clear of all incumbrances conveying to your Orator by a clear and indisputable title the said tracts of land hereinbefore named each party to said article of agreement bearing or paying one half of all the costs that might occur in making over the said indenture title, and it was further agreed in and by said article of agreement that your orator was to take possession of said premises or tracts of land on the receipt by the said John Fisher jun of the said last mentioned payment, and it was further agreed in and by said article of agreement the said Fisher jun should have the privilege of putting out a fall crop by delivering unto your orator in the stack one third of all such grain as might be raised as a winter crop, and it was further agreed in said article of agreement that the said Fisher jun should not use sell or in any way destroy any timber on the said premises with the exception of so much as he might need for his own use on said farm -

And your Orator further sheweth unto your Honor that your orator by his agent aforesaid and the said John Fisher jun in and by said article of agreement each mutually bound themselves unto the other and his heirs and assigns in the penal sum of eight hundred dollars



for the true performance of the covenants  
and agreements in said article of agree-  
ment contained —

And your Orator further sheweth  
unto your Honor that the said article  
of agreement is in the words and figures  
following, to wit:

"Article of agreement made and  
"concluded upon this 19<sup>th</sup> day of April  
"A.D. 1847 between John Fisher jr in Rock  
"Grove Precinct Stephenson County and  
"state of Illinois, Farmer of the one part  
"and Robert V. Glover of Hartly township  
"Union County and the state of Pennsylvania  
"of the other part as follows to wit. The said  
"John Fisher jr for the consideration <sup>herein</sup> after  
"mentioned doth for himself his heirs ex-  
"ecutors and administrators covenant grant  
"and agree to and with the said Robert V.  
"Glover his heirs and assigns by these presents  
"that <sup>he</sup> the said John Fisher jr shall and  
"will on the payment of the last gale  
"each bearing the one half all costs which  
"may occur in making over the inden-  
"tured title to the said Robert V. Glover his  
"heirs and assigns a good and lawful deed  
"a deeds well and truly grant and assign  
"convey assign unto the said Robert V.  
"Glover his heirs and assigns in that mes-  
"sage or tract of land whereon he the said  
"Fisher now resides containing 160 acres  
"more or less Beginning at a N.W. Corner  
"in township 29 Range 9. E. being the one



" half of an undivided tract of land  
" purchased between John Fisher Sen. and  
" ~~J. A.~~ Fisher Jr from the United States -  
" In consideration whereof the said  
" Glover his heirs and assigns doth con-  
" vey and promise and agree to and with  
" the said John Fisher Jr his heirs &c by  
" these presents that he the said Robert V.  
" Glover his heirs executors and administra-  
" tors or some of them shall and will on  
" the execution and delivery of the said  
" deed as aforesaid well & truly pay or cause  
" to be paid unto said Fisher Jr his executors  
" administrators or assigns the sum of  
" \$2100. in manner following, to wit:  
" nine hundred dollars in hand at the  
" date of this agreement, four hundred dol-  
" lars the first day of October A.D. 1847 and  
" eight hundred dollars on the first of  
" May A.D. 1848 on the delivery of the deed  
" for the premises as aforesaid all without  
" interest, the said Robert V. Glover is to  
" take possession of the premises on the re-  
" ceipt of the last payment - The said par-  
" ties agree to and with each other that  
" the said Fisher Jr is to have the privilege  
" of putting out a fall crop by delivering  
" unto said Glover in the stack the one  
" third of all such grain as may be raised  
" as a winter crop and further said Fisher  
" is not to use nor sell nor in any way  
" destroy any timber on the above premises  
" with the exception of so much as he may  
" need for his own use on said farm -



" and for the true performance of the  
 " within of all the covenants and agree-  
 " ments aforesaid each of the said parties  
 " and administrators unto the other his  
 " heirs and assigns in the penal sum of  
 " eight hundred dollars lawful money  
 " of these U States firmly by three presents  
 " have hereunto set our hands and seals -  
 " Dated the day and year first above written  
 " sealed and delivered }  
 " in presence of } " John Fisher Jr Seal.  
 " James J. Rogers } " Robert V. Glom Seal.  
 " } In William Glom agent

Your Orator further sheweth unto  
 your Honor that on the day of the date of  
 the said article of agreement your Orator  
 by the hand of William Glom his agent  
 as aforesaid paid to the said John Fisher Jr the  
 sum of nine hundred dollars in part pay-  
 ment of the said sum of twenty one hund-  
 red dollars specified in the said article of  
 agreement to be paid by your Orator to  
 the said John Fisher Jr - and your Orator  
 further sheweth unto your Honor that  
 on the twenty first day of June in the  
 year of our Lord one thousand eight hundred  
 and forty seven he caused the further sum  
 of two hundred and twenty dollars to be  
 paid by the hand of one Henry S. Barber  
 to the said John Fisher Jr which said last  
 mentioned sum the said John Fisher Jr  
 accepted in part payment of the said  
 sum of twenty one hundred dollars speci-



-find in said article of agreement to - paid  
by your orator to the said John Fisher jr and  
which said sum of two hundred and twenty  
dollars the said John Fisher jr received and  
enjoyed as aforesaid a long time before any  
payment was due on said article of agree-  
-ment from your orator to the said Fisher  
jun. -

And your orator further sheweth unto  
your Honor that previous to the date of  
the said article of agreement and also at  
the time of the date thereof and for a long  
time thereafter your orator held a promissio-  
-ry note for the sum of three hundred and  
thirty nine dollars and a few cents made  
and signed by John Fisher sen. the father  
of the said John Fisher jun and payable to  
your orator or his order and which said  
promissory note became due and payable  
to your orator or his order as aforesaid a  
short time previous to the first day of Oct-  
-ober A.D. 1847 - and your orator further shew-  
-eth unto your Honor that a short time  
previous to the date of the said article of  
agreement aforesaid and pending the  
negociation for the purchase of the said  
tracts of land of the said John Fisher jr by  
your orator ~~and~~ in a preliminary con-  
-versation in relation to the said purchase  
between the said John Fisher jun. -

and your orator by his agent William  
Glenn as aforesaid. Your orator by his  
agent aforesaid stated to the said John



Fisher jun that it would be impossible for your orator to purchase the said tracts of land of him the said John Fisher jun and pay him the said Fisher jun the consideration which should be agreed upon to be paid him the said Fisher jun by your orator for the said tracts of land unless he the said John Fisher jun would agree to receive and accept from your orator in part payment of the consideration which should be agreed to be given or paid by your orator to the said Fisher jun for the said tracts of land the said ~~tract of~~ promissory note aforesaid for the sum of three hundred and thirty nine dollars and some cents or unless he the said John Fisher jun would consent and agree to look to and depend upon his father the said John Fisher sen. for the amount of the said promissory note aforesaid that is to say the sum of three hundred and thirty nine dollars and some cents in part payment of the said consideration which should be agreed upon as aforesaid to be paid to the said Fisher jun by your orator for said tracts of land -

And your orator further sheweth unto your Honor that at the time when the article of agreement aforesaid was made and entered into by your orator by his agent aforesaid and the said John Fisher jr it was expressly stipulated and agreed by and between the said John Fisher jun and your orator by his agent as aforesaid that the said John Fisher jun



should look to and depend upon his father  
the said John Fisher sen. for the sum of three  
hundred and thirty nine dollars and some  
cents in part payment of the said twenty  
one hundred dollars in said article agreed  
to be paid by your orator to said Fisher jun  
for said tracts of land and at that time  
it was also further stipulated and agreed  
by and between the said John Fisher jun  
and your orator by his agent aforesaid  
the said John Fisher sen. also being present  
at the time and approving and agreeing  
to the said stipulation and agreement  
between said Fisher jun and your orator by  
his agent aforesaid that the said William  
Glover the agent of your orator as aforesaid  
should retain and keep possession of the  
said promissory note and that the said John  
Fisher sen should make the payment of the  
said sum of three hundred and thirty nine  
dollars and some cents when the same  
should become due to the said John Fisher  
jun in the stead <sup>of</sup> to your orator or his agent  
aforesaid and that the said John Fisher jun  
should endorse the payment of such sums  
on said article of agreement as the said  
John Fisher sen should advance or pay on the  
said note as last mentioned and then agreed  
upon as aforesaid the said John Fisher jun  
at the time of making the said last  
mentioned stipulation and agreement  
saying to the agent of your orator William  
Glover aforesaid that "the old man" meaning



his father the said John Fisher sen. "was perfectly good, and that it would be all right"

And your orator further sheweth unto your Honor that your agent aforesaid towards the last of the month of April A.D. 1847 soon after making the before mentioned agreement and stipulation with the said Fisher firm as aforesaid that he the said Fisher firm as aforesaid should look to and depend upon the said John Fisher sen for money in part payment as aforesaid of the twenty one hundred dollars stipulated in said article of agreement to be paid to the said Fisher firm for said tracts of land departed from the said county of Stephenson in the said state of Illinois to go to the state of Pennsylvania intending that either your orator or his agent aforesaid should return to the said county of Stephenson in the state of Illinois in time to make the payment of eight hundred dollars on the first day of May A.D. 1848 to the said John Fisher firm as stipulated in said article of agreement and claim his dues for said tracts of land from the said Fisher firm -

And your orator further sheweth unto your Honor that on the first day of May in the year of our Lord one thousand eight hundred and forty eight by his agent aforesaid he tendered in full payment of the sum of money agreed by your orator to be paid to the said John Fisher firm in the said article of agreement unto the



said John Fisher for the sum of six hundred and eighty one dollars and eighty eight cents in cash together with the before mentioned note of three hundred and thirty nine dollars and some cents against the said John Fisher sum. which said note the said Fisher firm had expressly stipulated and agreed to receive from your orator as aforesaid in part payment of the said consideration stipulated in said article of agreement to be paid to the said Fisher firm for said tracts of land. your orator at the time of making such tender aforesaid to the said Fisher firm offering to remit any excess the <sup>said</sup> sum of six hundred and eighty one dollars and eighty eight cents together with the said note of three hundred and thirty nine dollars and some cents which the said Fisher firm had before agreed to accept and receive as aforesaid might make or be over or above the amount due on the said first day of may A.D. 1849 in full payment from your orator to the said Fisher firm on said article of agreement and at the same time demanded from the said Fisher firm a deed for the said tracts of land as in said article of agreement stipulated to be given by said Fisher firm - and your orator <sup>further</sup> sheweth unto your Honor - refused to receive the said sum of six hundred and eighty one dollars and eighty eight cents and the said note of three hundred and



thirty nine dollars and some cents tendered as aforesaid and also refused to make to your Orator any deed or conveyance or title to the said tracts of land in the said article of agreement mentioned - And your Orator further sheweth unto your Honor that on the fourteenth day of July a.d. 1849 your Orator again tendered to the said John Fishum the sum of ten hundred and seventy dollars and sixty cents in full payment of the back payments which might be due to the said John Fishum on the said article of agreement together with the interest on said back payments up to the time of said tender and the said sum of ten hundred and seventy dollars and sixty cents being a sum greater than was due to the said John Fishum for back payments on said article of agreement together with the interest on said back payments, your Orator at the same time offered to remit said excess to the said John Fishum. and your Orator by his agent aforesaid at the time of making the tender last aforesaid again demanded a deed or conveyance from the said John Fishum of the said lands to your Orator according to the terms of the said article of agreement but he the said John Fishum again refused to receive the said money and to make a deed or conveyance of said lands to your Orator - And your Orator further sheweth unto your Honor that your Orator still has the said sum of ten hundred



and seventy dollars and sixty cents  
tendered as aforesaid ready to be delivered  
to the said John Fisher Jun whenever  
he the said Fisher Jun shall desire to  
receive the same - And your orator  
further sheweth unto your Honor that  
the said John Fisher Jun by a deed signed by  
himself and Nancy Fisher his wife and  
dated the eighth day of March A.D. 1849  
conveyed to one Solomon Hoy a part of  
the said tracts of land herein before mentioned  
as appears from the records in the Recorder  
office of the said county of Stephenson  
in the state of Illinois which by leave  
of your Honor your orator begs leave  
to refer to and present here in court  
as part of this his bill - And your orator  
further sheweth unto your Honor that  
the said Solomon Hoy at the time when  
he bargained for and purchased of the  
said John Fisher Jun the pieces or parcels  
of land described in the deed last aforesaid  
was apprised and informed that the  
said John Fisher Jun had previously by  
articles of agreement bound himself and  
agreed and stipulated to convey the said  
tracts of land to your orator and that the  
said Solomon Hoy at the time when he  
purchased of the said John Fisher Jun the  
pieces or parcels of land described and mentioned  
in the said deed last aforesaid required of  
the said John Fisher Jun a bond from him  
the said Fisher Jun. with security indem-



misifying him the said Hoy from any danger  
risk, hazzard or loss which might occur to  
him said Hoy from the existence of said  
articles of agreement between the said  
John Fisher jun and your orator -

And your Orator further sheweth unto  
your Honor that your orator hath always  
been ready and willing to perform his said  
agreements and to pay the purchase money  
for said lands to the said John Fisher jun  
and your orator hoped that the said John  
Fisher jun would have specifically per-  
formed his part of said agreements as in  
justice and equity he ought.

But now so it is may it please  
your Honor that the said John Fisher jun  
conbinig and confederating with the  
said Solomon Hoy and Caroline Hoy his  
wife whose names your orator prays <sup>he</sup> may  
be at liberty to insert herein with apt  
words to charge them as parties Defendants  
hereto and with persons at present to  
your Orator unknown whose names when  
discovered your orator prays he may  
also be at liberty to insert herein with  
apt words to charge them as parties de-  
fendants hereto and contriving how  
to wrong and injure your orator in  
the premises. He the said John Fisher jun  
absolutely refuses to perform his part of  
the said agreements and to color such  
refusal sometimes gives out and pretends  
that your orator failed to perform his  
part of the said agreement on the first day



of October A.D. 1847 whereas your Orator  
charges the contrary and that if the  
whole of the said four hundred dollars  
was not paid to the said John Fisher jun  
on the said first day of October A.D. 1847  
as is in said article of agreement stip-  
-ulated it was delayed by your Orator by  
the express agreement of the said John  
Fisher jun with your Orator by his agent  
as aforesaid to look to and depend upon  
the said John Fisher sen. for the sum of  
three hundred and thirty nine dollars  
and some cents which said last men-  
-tioned sum would be due and payable  
from the said Fisher sen. a short time  
before the said first day of October A.D.  
1847 and besides this amount your  
Orator having advanced, and paid on the  
twenty first day of June A.D. 1847 to the  
said John Fisher jun the sum of two  
hundred and twenty dollars which said  
last mentioned sum of two hundred &  
twenty dollars the said Fisher John Fisher  
jun accepted and receipted on said article of  
agreement as so much paid towards the  
whole amount in said article of agreement  
stipulated to be paid for said lands and so  
the said John Fisher jun will at other times  
admit but then he refuses to make and  
deliver to your Orator a deed, conveyance or  
title to said lands according to your Orator's  
interest therein. all which actings, ~~and~~  
doings, practices and refusals are contrary



to equity and good conscience and tend  
to the manifest wrong and injury of your  
Orator in the premises -

In tender consideration whereof and  
for as much as your Orator can only  
have adequate relief in the premises in  
a court of equity where matters of this  
nature are properly cognizable and  
relievable - To the end ~~that~~ ~~the~~ therefore  
that the said John Fisher Jun. and the said  
Solomon Hoy and his wife Caroline Hoy  
and their confederates when discovered  
may severally answer to the best and  
utmost of their several and respective know-  
-edge remembrance information & belief  
to all and singular the matters and  
things aforesaid and that as fully as if  
the same were here repeated and they  
and every of them distinctly interrogated  
thereto, and that the said John Fisher Jun  
may specifically perform the said agree-  
-ment in all things on his part and  
wholly so entered into as aforesaid by  
him with your Orator by his agent  
as aforesaid and that Nancy Fisher the  
wife of the said John Fisher Jun. and if  
necessary the said Solomon Hoy and Caroline  
Hoy his wife may join in all proper  
deeds and acts for conveying the title  
of the said lands to your Orator, your  
Orator being ready and willing and hereby  
offering specifically to perform the said  
agreement on his part and behalf \*



and that your Orator may have such other and further relief in the premises as the nature and circumstances of this case may require and to your Honor may seem meet -

may it please your Honor to grant unto your Orator the people most gracious writ of Subpoena to be directed to the said John Fishburn and Nancy Fishburn his wife and the said Solomon Hoy and Caroline Hoy his wife thereby ~~thoroughly~~ commanding them at a certain day therein to be limited personally to be and appear before your Honor in this Honorable court and there full true direct and perfect answers make to all and singular the premises and further to stand to perform and abide such further order direction and decree therein as to your Honor shall seem meet and your Orator shall ever pray &c -

Robert V. Glover  
for Mrs. Glover

William Glover being first duly sworn deposes and says that the statements set forth in the foregoing bill are true to the best of his knowledge



and belief sworn to and sub-  
scribed before me Clerk of the  
Circuit Court in and for said  
county of Stephenson and State  
of Illinois at my office in  
Freeport this 27<sup>th</sup> day of July  
A.D. 1849 -

attest John A. Clark  
Clerk -

\* Or in case a specific per-  
formance of the said agreement  
may or shall not be ordered and  
decreed by your Honor against  
the said defendants according  
to the prayer of your Orator  
herein that he the said John  
Fisher firm may be ordered and  
directed by your Honor to repay  
and refund to your Orator the  
said sums of money so paid and  
tendered by your Orator to the  
said John Fisher firm as herein  
before shown to your Honor.

Which said amended Bill of  
complaint is endorsed as follows  
viz: "Filed, Aug. 16. 1849

John A. Clark  
Clerk -



Afterwards and on the 17<sup>th</sup> day of August  
in this same term of August A.D. 1849, of said  
Circuit Court Defendant is ordered to file his  
answer in said cause, within ninety days from  
the rising of said Term of Court, which said  
order is in the words and figures following  
to wit;

Robert V. Glover }  
as } In Chancery  
John Fisher Jr }  
et al. }

On motion of the  
Complainant by his Solicitor It is Ordered  
by the Court that the Defendant file his  
answer herein within ninety days from  
the rising of this Court -

Afterwards and on said 17<sup>th</sup> day of  
August in this same Term of August 1849  
of said Circuit Court an Order is made of  
record in said cause which is in the words  
and figures following to wit:

Robert V. Glover }  
as } In Chancery  
John Fisher Jr et al }

And now comes the  
Complainant in this cause and brings  
into Court the sum of one thousand and seventy  
dollars and sixty cents and here now makes tender



of the same - and the Defendant Fisher not receiving the same, It is ordered by this court that William Jacobs be appointed Receiver to take the custody of the said money, which is accordingly done. And it is further ordered that if the said John Fisher jr shall at any time before the next term of this court file with the Clerk of this court a good and sufficient warranty deed to the said complainant conveying the premises set forth in the agreement set forth in the complainant's bill by a good and proper legal title, to be approved by the Clerk, then it is hereby made the duty of the said Receiver to pay over the said sum of money to the said Defendant Fisher -

Afterwards, to wit, on the 11<sup>th</sup> day of October A.D. 1849 The said Defendant, John Fisher jr, filed in the office of the Clerk of the Circuit Court in and for said County of Stephenson, his answer to said Complainant's <sup>said</sup> bill of complaint - which said answer is in the words and figures following, to wit;

Stephenson Cir. Court } Of the Oct. Special Term 1849  
In Chancery }

The separate plea of John Fisher one of the Defendants to the Bill of Complaint of Robert V. Glover Complainant -

This Defendant, by protestation, not acknowledging all or any of the matters and things in the complainant's said bill of Complaint contained to be true in such manner



I form as the same are therein alleged and set forth, as to so much of the said bill as seeks to charge this defendant with, or on account of an agreement or contract purporting as set forth in & as a part of said bill to have been made by and between this defendant & said complainant of and concerning the receiving by this defendant of a certain promissory note given by one John Fisher Sen<sup>r</sup> to said complainant for the sum of three hundred and thirty nine dollars & a few cents in part and so much payment of the amount to be due from & paid by said complainant to this defendant as set forth in said bill of Complaint, the same being more particularly set forth in said bill from and including the words "and your orator" in the 218<sup>th</sup> line, to and including the words "all right" in the 318<sup>th</sup> line, therein, does plead therewith, & for cause of plea says that said alleged agreement or contract was not, nor was any part thereof reduced to writing then or at any time by this defendant & said complainant & signed by them or either of them: and therefore this defendant doth plead the statute passed the third day of March in the year eighteen hundred and forty five, for the prevention of frauds and perjuries: & prays the benefit of the said act & particularly the first section thereof: & pleads the same in bar of so much of said complainants bill as above set forth and mentioned, & prays the judgment of this Honorable Court thereon.

And this defendant now and at all times hereafter saving & reserving to himself



all manner of benefit & advantage of exception to the many errors & insufficiencies in the complainant's said bill of complaint contained; and not waiving his said plea, but wholly relying and insisting thereon for answer to the writ or unto so much or such parts thereof as this defendant is advised is material for him to make answer unto - He answers and says, he admits he was on and before the month of April in the year eighteen hundred and forty seven, seized and well entitled in fee simple of the undivided one half of the south east quarter of section no. nineteen in township no. twenty nine of Range no nine east of the fourth principal meridian as in the complainant's said bill mentioned. - And this defendant further answering admits that on the nineteenth day of April in the year eighteen hundred & forty seven he executed an article of agreement to & with the said complainant substantially the same as set forth in the complainant's said bill; but this defendant denies that at the time he executed said agreement, or at any other time did he receive from said complainant, or from any other person for him, the sum of nine hundred dollars upon the first payment specified in said agreement; this defendant however admits and insists that a short time previous to the executing of said agreement one William Glover came into the said County of Stephenson where this defendant then resided upon the land described in said bill, & which he then & for about ten years previously had occupied as a farm, & which by extensive im-

answ<sup>r</sup>



improvements & cultivation he had made worth  
the full amount of Twenty one hundred  
dollars, & claimed of this defendant payment  
of some old claims which he held against this  
defendant amounting as near as this defendant  
can ascertain the same, to the sum of Two hundred  
& twenty six dollars & consisting of one note given  
by this defendant for one hundred dollars to  
said William Glover & dated in April eighteen  
hundred & thirty seven: one note given by this  
defendant to said William Glover for one hundred  
dollars & dated in May eighteen hundred & thirty  
nine & an account in favor of said William  
Glover against this defendant for about twenty  
six dollars & dated about the time of the last above  
mentioned note, all of which indebtedness  
accrued in the state of Pennsylvania where  
the legal rate of interest is six per cent per an-  
num as this defendant is informed & believes —  
— And this defendant further insists the said  
William Glover soon after he came into the  
said county of Stephenson began to give out and  
threaten that he would harass and trouble this  
defendant on account of said indebtedness & it  
was mainly through fear of being embarrassed  
& injured thereby that this defendant was induced  
to enter into a negotiation with the said  
William Glover for the sale of said land men-  
tioned in said agreement to said complainant.  
And this defendant further insists that when  
he and ~~the~~ the said William Glover pretending  
to be acting as the agent of the said complainant  
had agreed upon the sale of the said land at the



said piece of twenty one hundred dollars  
by the said William Glover as agent as aforesaid  
brought forward the above mentioned claim  
to the amount of two hundred & twenty six  
dollars & another note given by one Peter D.  
Fisher to said complainant for one hundred  
dollars, the same not being then due nor  
bearing interest & insisted that this defendant  
should allow him the said William Glover for  
the use & forbearance of said sum of two hundred  
& twenty six dollars for the time this defendant  
had been indebted to him therefor an amount  
sufficient together with said note for one  
hundred dollars against said Peter D. Fisher  
to make the said sum of nine hundred dollars  
as & for the first payment mentioned in  
said agreement - and this defendant  
here shows that as near as he can estimate  
the same, the legal interest on the said  
sum of two hundred and twenty six dollars  
at the date of said agreement amounted  
to one hundred and eight dollars which  
added to the said sum of Two hundred and  
twenty six dollars and the said sum of One  
hundred dollars for said note of Peter D. Fisher  
amounted to the sum of only four hundred  
& thirty four dollars & that this defendant  
was induced by the said William Glover so  
pretending to act as agent for the said com-  
plainant as aforesaid, but really and in fact  
acting solely for his own benefit as this de-  
fendant believes, to allow to him the said  
William Glover the sum of four hundred and  
sixty six dollars upon & towards the said first



payment of nine hundred dollars, for no other consideration than as usurious & illegal interest: And this defendant avers that he never has at any time, or in any manner except as above stated received the said first payment of nine hundred dollars so agreed to be paid as by said agreement in the complainant's said bill provided: And he claims the benefit of the statute passed March third eighteen hundred & forty five, regulating the rate of interest, in respect to the aforesaid sum of four hundred and sixty six dollars so allowed to said William Glover in part payment of the said sum of nine hundred dollars as aforesaid -

And this defendant further avowing expressly and absolutely denies that he ever at any time, either at, before, or after the time of making and executing said agreement, had any negotiation, or made any contract, or agreement with the said complainant or the said William Glover as agent of the said complainant or with any other person, that he this defendant should "look to and depend upon his father the said John Fisher Sen. for the sum of three hundred & thirty nine dollars & some cents in part payment of the said twenty one hundred dollars" and he further denies that he ever directly or indirectly, expressly or inferentially made any agreement or had any understanding whatever with the said complainant or the said William Glover as agent of the said complainant of, or concerning any promissory note there

Note



held by the said complainant against the said John Fisher Sen: but so far from it this defendant was not then aware that the said John Fisher Sen was indebted to the said complainant, nor does he believe that the said complainant then had any promissory note whatever against the said John Fisher Sen. for any amount -

This defendant however then had an impression that there was an unsettled account between said John Fisher Sen & said William Glover & that said John Fisher Sen might be indebted to said William Glover but how much, this defendant had no means of knowing, nor did he know that said William Glover held said John Fisher Sen note for any amount: but he has been informed that some time about a year after the date of said agreement in said bill mentioned, the said William Glover induced the said John Fisher Sen to make his promissory note payable to the said complainant, by the said John Fisher Sen. through the deceit practiced upon him by said William Glover supposing that he was giving his note payable to the said William Glover in satisfaction of the claims of said William Glover against him, the said John Fisher Sen.

And this defendant further answering admits that he received from the said complainant by the hand of Henry S. Barber on the twenty first day of June eighteen hundred and forty seven the sum of two hundred and twenty dollars in part payment of the <sup>said</sup> sum of four hundred dollars so to become due on the first day of October thereafter according to



the terms of said agreement in said bill mentioned -

And this defendant further answering admits that on the first day of May eighteen hundred and forty eight, the said William Glover came to the residence of this defendant & exhibited some money & counted the same, but whether the amount was the same as stated in said complainant's bill, this defendant cannot say, but to the best of his recollection the amount was then stated to be five hundred & eighty seven dollars & a half & whether the said William Glover then made a tender thereof or any sufficient tender, this defendant not being learned in the law cannot say; but he is advised by counsel that said William Glover then and there made just no tender at all. And this defendant says that the said William Glover (according to the recollection & belief of this defendant) after he had counted out the money as aforesaid stated that he had not quite enough & that he had fifteen days time to make up the full amount & he then asked this defendant whether he would take that amount, which this defendant declined to do. And this defendant expressly & absolutely denies that the said William Glover then and there presented or exhibited or offered to him the said note as stated in said complainant's bill, nor did he allude to said note or even inform this defendant that he had any such note, nor did this defendant then know that said complainant



or said William Glover had any such note but on the contrary the first this defendant knew of the existence of any such note was in or about March eighteen hundred and forty nine when the said William Glover filed in the office of the Probate Justice of said County of Stephenson against the estate of said John Fisher Sen. this defendant then being one of the administrators thereof a certain note given by said John Fisher Sen. to said Complainant for about four hundred dollars as near as this defendant can remember & dated about May eighteen hundred & forty eight & this defendant has no knowledge of the said complainant or the said William Glover having had any other note given by the said John Fisher Sen.

And this defendant further answering says that soon after he made & executed the agreement set forth in the said Complainant's bill he made an agreement with one McKim whereby he agreed to purchase of the said McKim a farm for the sum of twelve hundred dollars & in that agreement it was stipulated that the payments should be made by this defendant at the same time that the several payments were to be made by said complainant according to the terms of the agreement in said bill mentioned & that a few days thereafter & before the said William Glover left the said County of Stephenson, as in said bill stated this defendant informed him of his said purchase & the terms thereof & at the same time expressly stated to him that



he this defendant had made such purchase relying entirely upon the payments being made promptly & precisely by said complainant according to the terms of said agreement in order to enable this defendant to meet the terms of his said agreement with said Kerr - and said the said William Glover then assured this defendant that said complainant's agreement should be strictly and promptly fulfilled or words to that effect. - And this defendant further says that in pursuance of the agreement with said Kerr, this defendant went on to the farm so purchased by him of said Kerr as aforesaid some time in the month of August eighteen hundred and forty seven & put in about twenty five acres of fall wheat at an expense to this defendant of about fifty dollars. And this defendant further says that in consequence of the failure of said complainant to pay the balance of the said sum of four hundred dollars so stipulated to be paid by him as aforesaid, this defendant was wholly unable to fulfil his agreement with said Kerr, & he was thereupon obliged to abandon & relinquish the same at the entire loss of the expense of putting <sup>in</sup> said wheat crop and also to forfeit all the advantage of having purchased a farm estimated & believed by this defendant to have been worth from five to eight hundred dollars more than the price he was to pay for the same. and this defendant denies that he refused to make a deed or conveyance of said



land in the complainant's said bill men-  
tioned at the time the said William Glover  
counted out some money as above stated, for  
the reason that the said William Glover made  
no demand of such upon this defendant as  
in the said complainant's bill is stated, but  
on the contrary this defendant then & there  
expressly insisted to said William Glover  
that he the said defendant was then entirely  
willing and anxious to fulfil in all respects  
the terms of said agreement if he the said  
complainant or the said William Glover  
as his agent would do what he ought to  
do to indemnify this defendant against loss  
in consequence of the failure of the said  
complainant to fulfil on his part - And this  
defendant then expressly insisted to the said  
William Glover, that he this defendant was  
anxious still to obtain the farm so purchased  
by him of said Ken as aforesaid at the rate  
originally agreed upon & that as he had been  
obliged to relinquish it in consequence of  
said complainant's fault as aforesaid if he  
the said complainant or said William Glover  
would do what was necessary to procure the  
said farm now without this defendant having  
to pay any more for it than specified in  
his said agreement with said Ken then this  
defendant would willingly carry out the  
said agreement with the said complainant  
to all propositions in substance as above  
stated the said William Glover entirely refused  
to accede & seemed only inclined to take every pos-  
sible advantage of this defendant without



indicating any willingness to do what in equity and fairness he ought to do.

And this defendant further answering admits that the said William Glover on the 14<sup>th</sup> day of July A.D. 1849 came to the residence of this defendant and counted <sup>out</sup> some money which the said William Glover said amounted to ten hundred and seventy dollars & some cents the precise amount this defendant does not recollect & told this defendant that it was in payment of the land which he this defendant had deeded to Hoy, & at the same time demanded of this defendant a deed of said land, but the said William Glover did not then nor has he or any other person at any time presented to this defendant a deed ready to be executed. This defendant however did then refuse to receive said money & to execute any deed; but what became of said money or whether the said William Glover still has the same ready to be delivered to this defendant, this defendant is not advised -

And this defendant further answering admits that on or about the 8<sup>th</sup> day of March 1849 he sold and conveyed to Solomon Hoy by warrant deed all of the above described land except thirty acres situated on the north west part of said tract or quarter section as he lawfully might have done, but in what respect the said Solomon Hoy was informed or advised of the rights or claims of the said complainant this defendant cannot say; but this defendant believes



that the said Solomon Hoy understood that the said complainant had no legal or equitable right to said land, not only because he had entirely failed to fulfil the agreement on his part to be performed, but that he had also, through William Glover his agent, relinquished whatever claim he had pretended to have upon said land & had commenced a prosecution against this defendant to recover back the money which had been paid upon said agreement yet this defendant believing that the said William Glover was a litigious person & inclined to harass this defendant all that he could, & knowing that the said Solomon Hoy was a very cautious person was willing & did of his own free will execute & deliver to the said Solomon Hoy a bond or agreement with security indemnifying him against all the consequences of any claim or pretended claim of the said complainant.

And this defendant further aversing says that as to the said complainants having been "always ready & willing to perform his said agreement & to pay the purchase money for said lands" as in his said bill is stated this defendant has no knowledge or information except from what is stated in his said bill & what he has derived from the conduct of the said William Glover pretending to act as agent as aforesaid, but this defendant knows & he therefore insists that the said complainant has not kept or performed his said agreement nor paid the purchase money for said lands nor has he, or the said William Glover his agent



offered to pay the same except as in this  
defendants answer heretofore stated -

And this defendant further answer-  
ing says that as to the said complainants "hoping"  
that this defendant "would have specifically  
performed his part of said agreement", he is  
not informed how or in what manner the  
said complainant did or could hope that  
this defendant would perform his part of  
the said agreement without the said  
complainants performing his part, but  
this defendant insists that he was not only  
ready & willing but anxious & it was great-  
ly for his interest to have specifically  
performed the said agreement on his part  
if he had not been prevented by the fault  
& bad faith of the said complainant or the  
said William Glover so pretending to act as  
the agent of the said complainant as  
aforesaid - And this defendant further  
says that notwithstanding the defaults of  
the said complainant & the serious injury  
to this defendant consequent upon such  
defaults this defendant has been ready &  
willing & anxious to repay to the said com-  
plainant through his said agent William  
Glover all that he has ever received in part  
payment of the said sum of twenty one  
hundred dollars & to this end this defendant  
& said William Glover some time about the  
month of March last had a reckoning of &  
concerning all the money which this defend-  
ant had so received upon said agreement & found



that the whole amount which this defendant had received except for interest as in his answer heretofore stated was five hundred & forty six dollars which said sum this defendant then offered to repay to the said William Glover but he entirely refused to accept the same -

And this defendant humbly submits & insists that although he was then ready and willing to waive all questions of actual loss & injury sustained by him in consequence of the various failures of the said complainant to keep and perform his part of said agreement & for the sake of avoiding any further difficulty or litigation with or through the said William Glover was willing & did offer to repay the aforesaid sum of five hundred & forty six dollars yet he ought not to be liable to repay said sum or any part thereof - And he denies all combination & confederacy in the said bill charged without that that any other matter or thing material or necessary for this defendant to make answer unto & not herein & hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true to the knowledge or belief of this defendant. - All which matters and things this defendant is ready to aver maintain & prove as this Honorable Court shall direct & humbly prays to be hence dismissed with his reasonable costs & charges in that behalf most wrongfully sustained -

John Fisher jr



State of Illinois }  
County of Stephenson }  
}

On this 11<sup>th</sup> day of Oct  
A.D. 1849 before me personally appeared the  
above named John Fisher Jr & made oath that  
he has heard the above plea and answer, sub-  
scribed by him, read & knows the contents thereof  
& that the same are true of his own knowl-  
edge, except as to the matters therein stated  
to be on his information or belief, & as to  
those matters he believes them to be true.

John A. Clark Clerk  
Marsh & Wright per Chas A. Clark Dep. Clerk  
Solicitor & Counsel } of Circuit Court of Stephenson  
for Defendant } County Illinois -

Endorsed "Filed Oct. 11. 1849 John A. Clark Clerk -

Afterwards and on the said 11<sup>th</sup> day of  
October A.D. 1849 The said Defendant, Solomon  
Hay filed in the office of the Clerk of the  
said Circuit Court of Stephenson County his  
answer to said Complainant's said Bill  
of Complaint -

which said answer is in the words &  
figures following to wit:

Stephenson Circuit Court }  
In Chancery }  
}

The several Answer  
of Solomon Hay one of the Defendants to the  
Bill of Complaint of Robert V. Glover Com-  
plainant against this Defendant & John Fisher  
Defendants -

This Defendant now and at all times



saving and reserving to himself all advantage  
and benefit of exception to the errors and  
imperfections contained in the said bill of  
complaint of the said complainant for  
answer thereto or to so much thereof as he  
is advised it is material for him to make answer  
unto. he answering admits that at the time  
mentioned in said bill or about that time he  
received from the said John Fisher jun. a deed  
of conveyance of the greater part of said land  
mentioned in said bill and all thereof except  
about twenty eight acres of wood land on the  
west side thereof as in said bill mentioned  
but says that he bought said land in good  
faith & paid a valuable consideration therefor  
to wit, the sum of Fifteen hundred dollars  
and more that at the time of the purchase  
of said land he had heard that the complainant  
<sup>claimed</sup> some right or interest in said land but what  
he does not precisely know and did not then  
precisely understand & that at the time of  
said purchase as aforesaid and before he had  
been informed that the complainant did  
not wish a conveyance of the land to him  
and a short time before said purchase William  
Glover the complainant's agent in a conver-  
sation with this defendant informed this defend-  
ant that he the said agent did not care who  
bought the said land or the farm if only said Fisher  
& himself had their matter settled or words to  
that effect and this defendant says that he thereby  
understood the complainant to consent to the  
purchase and intimate that he had no objection  
to the same, but was willing that said Fisher



might sell the land to whom he pleased  
that he and said Fisher would settle their difficulty  
some other way, and he has been informed  
and believes that a suit was then pending in this  
court to collect the money paid by complainant  
to said Fisher under said contract on complainant's  
behalf against said Fisher and that in full faith  
of such consent and willingness on the part of  
the complainant this defendant was induced  
to purchase said farm and that he would  
not have bought the same had he supposed  
that the complainant would have made  
any claim thereto or that he would have  
incurred any danger of being annoyed or har-  
-assed by a suit in Chancery and that in  
consequence of what passed between this de-  
-fendant and the complainant's agent  
this defendant inferred such consent to his  
purchase on the part of the complainant  
or his agent the said William Glou -


And this defendant further answer-  
-ing admits that he received from the said John  
Fisher at the time of said purchase a bond  
signed by said John Fisher, Joseph Musser and  
Samuel Chambers in the penalty of one thousand  
dollars with a condition to indemnify this  
defendant against all claims of the complain-  
-ant to said land that the said John Fisher from  
on his part voluntarily offered this defendant  
to give the said bond to guard against any  
possible contingency or difficulty that  
might arise in consequence of the claim  
of the complainant that this defendant wished



to be entirely safe and received the said bond though at the time he attached no importance to the bond and expected no difficulty in consequence of the claim of the complainant -

And this defendant further answering says that he heard that there was an agreement between the said complainant and the said John Fisher though he has been informed and believes that the said Fisher sold & agreed to sell the said land to the complainant as stated in said bill and that the said parties executed the written agreement mentioned in said bill or a similar one -

And this defendant further answering says he has no knowledge or information of any other matter or thing set forth in said bill and puts the complainant upon the proof thereof. And he denies all combination and confederacy charged against him in the said bill of complaint; without that that any other matter or thing in the said bill of complaint contained and not herein and hereby well and sufficiently answered unto confessed and avoided traversed or denied is true to his knowledge or belief. All which matters and things this defendant is ready to aver prove and maintain as this honorable Court shall direct and prays to be hence dismissed with his costs and charges in this behalf most wrongfully sustained -

"Solomon Hoey"  




Stephenson County fo

Before me this 11<sup>th</sup> day  
of October 1849 personally appeared Solomon  
Hoy who after being duly sworn deposes and  
says that he has heard the foregoing answer  
read knows the contents thereof that the same  
is true in substance & fact except those  
parts stated to be on information & belief & to  
those parts he believes it to be true -

John A. Clark per C. A. Clark Dep. Clerk  
of the Circuit Court of Stephenson  
County Illinois -

(Endorsed "Filed Oct. 11, 1849")

John A. Clark Clerk

Afterwards, to wit, On the twenty sixth  
day of October in the year of our Lord one  
thousand eight hundred and forty nine at the  
October Special Term of the Circuit Court in  
and for said county of Stephenson, an Order  
was made in said cause by the court and  
entered of record <sup>in the words & figures &</sup> to the effect following  
that is to say -

Robert V. Glover

vs

John Fisher Jr et al

In Chancery

By agreement of parties  
by their attorneys. It is ordered that this cause  
be set for hearing on Wednesday October 31<sup>st</sup> -

It appearing to the court that the complain-  
ant in this cause has filed his replica-  
tion to Defendants answer herein & the same  
cannot now be found, It is ordered that said



Complainant have leave to file Repli-  
cation *in* *pro* *time* -

Afterwards and on said twenty sixth  
day of October in the year of our Lord one  
thousand eight and forty nine at the  
October special Term of said Circuit Court  
aforesaid an order <sup>was</sup> made by said Court  
and entered of record <sup>in the words & figures &</sup> to the effect following  
to wit:

Robert V. Glover }  
                  *vs* } In Chancery  
John Fisher jr }  
et. al. }

Now at this time come  
the complainant by his Solicitor  
and by permission of the Court files  
his replication to Defendants answer  
*in* *pro* *time* -

Afterwards and on said twenty sixth  
day of October in the year of our Lord  
one thousand eight hundred and forty  
nine at the October special Term of said  
Circuit Court aforesaid the said Com-  
plainant by his Solicitor aforesaid and  
in pursuance of the orders last aforesaid  
comes into court and files his Replication  
to said Defendants answers herein.  
which said replication is in the  
words and figures following to wit;



Robert V Glover } In Chancery  
vs } In the Steptunson Co, Cir  
John Fisher Jr } Court of the October Special  
& Edmond Hoy } Term A.D. 1849 -

This repliant saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors uncertainties and insufficiencies of the several answers of the said defendants for replication thumunto saith that he doth and will aver maintain and prove his said Bill to be true certain and sufficient in the law to be answered unto by the said defendants, and that the said several answers of the said defendants are uncertain, evasive and insufficient in the law to be replied unto by this repliant without that that any other matters or things in the said several answers contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto confessed or avoided traversed or denied is true, all of which matters and things this repliant is ready to aver maintain and prove as this Honorable Court shall direct and humbly prays as in and by his said Bill he hath already prayed -

Sweet & Browley } Robert V. Glover  
Comptrolr }  
(indand )

Filed Oct 25 1849

John A. Clark clock



Afterwards, to wit, on the 7<sup>th</sup> day of November A.D. 1849 at the said October Special Term of said Circuit Court. An Order was made in said cause and entered of record in the words and figures and to the effect following, to wit;

Robert V. Glover }  
as } In Chancery  
John Fisher & etal }

On motion of the complainant by his solicitor it is ordered by the court that the clerk open the deposition on file in this cause, which is done -

Afterwards and on the 9<sup>th</sup> day of November A.D. 1849 at the same October Special Term of said Circuit Court An Order was made in said cause and entered of record in the words and figures and to the effect following, to wit;

Robert V. Glover }  
as } In Chancery  
John Fisher junior etal }

And now at this day came the complainant and the respondents and their solicitors, and the said cause came on to be heard upon the Bill, answers replication & pleas, and upon the proofs written and oral herein, and the hour of adjournment having arrived the further hearing of the same is adjourned until tomorrow morning -



Afterwards and on the 10<sup>th</sup> day of  
of November A.D. 1849 at the same October  
Special Term of said Circuit Court an  
Order was made in said cause and entered  
of Record in the words and figures and to the  
effect following, to wit:

Robert V. Glover }  
vs } In Chancery  
John Fisher junior }  
et al.

And now at this  
day again came the parties and their  
solicitors, and the court having fully heard  
the proof and the arguments of Counsel  
herein, and all things being submitted  
by the parties to the judgment of the  
Court The court take time to consider  
of the same -

Afterwards, to wit, on the twenty eighth  
day of March in the year of our Lord  
one thousand eight hundred and fifty  
at the March Term of said Circuit Court  
an Order was made in said Cause in the  
words and figures and to the effect following  
to wit;

Robert V. Glover }  
vs } In Chancery  
John Fisher junior }  
et al

And now at this day the  
Court being fully advised and having  
fully considered the Bill, Answer, Replication  
and proofs in this cause, Order and adjudge



that the said Complainant's Bill be dismissed, whereupon it is considered and adjudged that the said Defendant have and recover of the said Complainant his costs by him about his suit in this behalf expended and that he have execution for the same -

And thereupon the said Complainant prays an appeal to the Supreme Court -

Whereupon and afterwards, to wit, on the 30<sup>th</sup> day of March A.D. 1850 at the said March Term of the Circuit Court an order was made in said cause <sup>& entered of record</sup> in the words and figures and to the effect following, to wit:

Robert V. Glover }  
vs } In Chancery  
John Fisher jr }  
et al. }

In this case the prayer of the Complainant for an appeal to the Supreme Court is granted on condition that the said Complainant enter into Bond with David Clay, Abraham M. Johnson and Charles<sup>W.</sup> Cummings as security in the sum of two hundred dollars within twenty days from the rising of this Court, with proper conditions &c.







with the ~~bill~~ said bill of exceptions to the complainants solicitor which said bill of exceptions together with the suggested alterations and amendments of the Defendants solicitor shall be forwarded by the complainants solicitor to the Honorable A. R. Sheldon the Circuit Judge of the sixth judicial Circuit in said State for settlement & the said Bill of Exceptions as settled by said Judge (if not previously agreed upon by said Solicitors) shall stand and be taken as the bill of Exceptions in this cause in the same manner & to the same effect as if the same had been settled at the present Term of this Court -

Jason Marsh  
Sol for Deft  
M J Sweet  
Sol. for complainant

(Endorsed), "Filed March 29, 1852"  
John A Clark clk."

Afterwards and on the nineteenth day of April in the year of our Lord one thousand eight hundred and fifty the complainant in said cause filed in the office of the clerk of said circuit court his appeal Bond in said cause which said Appeal Bond is in the words and figures following, to wit: -



Know all men by these presents that we Robert V. Glover of the state of Pennsylvania David Clay, Charles W. Cummings and Abraham M. Johnson of the county of Stephenson and state of Illinois are held and firmly bound unto John Fisher junior of the county of Stephenson and state of Illinois in the penal sum of two hundred dollars for the payment of which well and truly to be made we and each of us binds ourselves our heirs, executors and administrators jointly and severally and firmly by these presents.

Scaled with our seals and dated at Freeport this sixteenth day of April A.D. eighteen hundred and fifty -

The condition of the above obligation is such that whereas the said John Fisher junior did on the twenty eighth day of March A.D. 1850. in the circuit court within and for the county of Stephenson and state of Illinois obtain a judgment against the above named & bounden Robert V. Glover for costs of suit from which judgment the said Robert V. Glover has prayed for and obtained an appeal to the Supreme Court of said State -

Now if the said Robert V. Glover shall duly prosecute said appeal, and shall moreover pay the amount of the judgment for costs as aforesaid interest and damages rendered and to be rendered against him the said Robert V. Glover in case the said



judgment shall be affirmed in the said Supreme Court, then the above obligation to be null and void, otherwise to remain in full force and effect.

Witness  
Jacob Mease jr }  
Jacob Lindaman }  
  
F W S Brawley  
witness to signature of  
A M Johnson & R V Glover  
John A. Clark

David Clay Seal  
A M Johnson Seal  
Robert V. Glover Seal  
by his attorney in fact  
Wm Glover Seal  
C W Cummings Seal

"endorsed, "Filed, April 19, 1850"

John A. Clark clerk

Afterwards, to wit, and on the twenty second day of May in the year of our Lord one thousand eight hundred and fifty, the said complainant by his solicitor filed in the office of the clerk of said Circuit Court his bill of exceptions in said cause duly signed and sealed, - which said Bill of exceptions is in the words and figures following, to wit;

State of Illinois } In the Stephenson County  
Robert V. Glover } Circuit Court of the  
vs } October Special Term  
John Fisher jr. & } A.D. 1849 In Chancery -  
Solomon Hoy

Be it remembered that on the ninth day of November A.D. 1849 at a Special Term of the Circuit Court



begun and holden in and for the County  
of Stephenson and state of Illinois the said  
court in Chancery sitting at this special  
October term of said Court came on to be  
heard the above entitled cause wherein  
the following proceedings were had, The  
complainant to maintain the issue  
on his part read the Bill of Robert V. Glover  
in this cause and the answers of the defendants  
herein. (which said Bill of said Complainant  
and said answers of said Defendants are in  
the words and figures following, that is  
to say:

State of Illinois }  
Stephenson County }<sup>ss</sup>

In the Circuit Court  
of said County on the  
Chancery side thereof of  
the August Term A.D. 1849.

To the Honorable Benjamin R. Sheldon  
Presiding Judge of the sixth Judicial Circuit  
of State in Chancery sitting -

Your orator Robert V. Glover  
of the County of Union in the state of Penn-  
sylvania humbly complaining sheweth  
unto your Honor that John Fisher Junr. of  
the said County of Stephenson in the state of  
Illinois aforesaid was or pretended to be in and  
before the month of April in the year of our  
Lord one thousand eight hundred and forty seven  
seized of and well entitled in fee simple to the  
undivided one half of the south east quarter  
of section no. nineteen in township no. twenty nine  
of Range no. nine east of the fourth principal



meridian situate lying and being in the  
said county of Stephenson and state of Illinois  
and also the undivided one half of section  
no. twenty in township no. twenty nine of  
Range no. nine east of the fourth principal  
meridian in the said county of Stephenson  
and state of Illinois aforesaid and then in  
the possession and occupation of the said  
John Fisher firm.

And your orator further sheweth unto  
your Honor that by articles of agreement  
bearing date the nineteenth day of April in  
the year of our Lord one thousand eight  
hundred and forty seven made signed sealed  
and delivered by the said John Fisher firm  
and your orator by William Glover his  
agent duly appointed and constituted,  
as such agent for said purpose, the said  
John Fisher firm agreed to convey in fee-  
simple clear of all incumbrances the herein  
before named and described tracts of lands  
to your orator for and in consideration  
of the sum of twenty one hundred dollars  
to be paid by your orator to the said John  
Fisher firm in the manner following, to  
wit: nine hundred dollars was to be paid by  
your orator to the said John Fisher firm  
at the time of the making signing sealing  
and delivering of the said article of agree-  
ment, four hundred dollars on the first day  
of October next after the date of the said article  
of agreement and eight hundred dollars  
on the first day of May in the year of our  
Lord one thousand eight hundred and forty eight



and it was further stipulated and agreed in and by said article of agreement that the said John Fisher Jun should and would on the first day of May A.D. 1848, the day on which the last mentioned payment became due, make and deliver to your orator a good and lawful deed in fee simple, clear of all incumbrances conveying to your orator by a clear and indisputable title the said tracts of land hereinbefore named, each party to said article of agreement bearing or paying one half of all the costs that might occur in making over the said indenture title, and it was further agreed in and by said article of agreement that your orator was to take possession of said premises or tracts of land on the receipt by the said John Fisher Jun of the said last mentioned payment, and it was further agreed in and by said article of agreement the said Fisher Jun should have the privilege of putting out a fall crop by delivering unto your orator in the stack one third of all such grain as might be raised as a winter crop, and it was further agreed in said article of agreement that the said Fisher Jun. should not use, sell or in any way destroy any timber on the said premises with the exception of so much as he might need for his own use on said farm.

And your orator further sheweth unto your Honor that your orator by his agent aforesaid and the said John Fisher Jun in and by said article of agreement each mutually bound themselves unto the other and his heirs



and assigns in the penal sum of eight hundred  
dollars for the true performance of the covenants  
and agreements in said article of agreement  
contained -

And your orator further sheweth unto  
your Honor that the said article of agreement  
is in the words and figures following, to wit:

"Article of agreement made and con-  
"cluded upon this 19<sup>th</sup> day of April A.D. 1847,  
"between John Fisher jr in Rock Grove Precinct  
"Stephenson County and state of Illinois Farmer  
"of the one part and Robert V. Glover of Hartly  
"township Union County and the state of  
"Pennsylvania of the other part as follows, to wit,  
"the said John Fisher jr for the consideration herein  
"after mentioned doth for himself his heirs  
"executors and administrators covenant grant  
"and agree to and with the said Robert V. Glover  
"his heirs and assigns by these presents that the  
"said John Fisher jr shall and will on the  
"payment of the last gale each bearing the  
"one half all costs which may occur in  
"making over the indenture title to the said  
"Robert V. Glover his heirs and assigns a good and  
"lawful deed or deeds well and truly grant &  
"assign convey assure unto the said Robert V.  
"Glover his heirs & assigns in that messuage or  
"tract of land whereon he the said Fisher now  
"resides containing ~~one hundred and sixty~~  
~~acres~~ 160 acres more or less beginning at a N.W.  
"Corner in Township 29 Range 9. E. being the  
"one half of an undivided tract of land purchased  
"between John Fisher sen & J Fisher jr from  
"the united states -



" In consideration whereof the said Glover  
" his heirs and assigns doth covenant promise  
" and agree to and with the said John Fisher  
" for his heirs &c by these presents that he the  
" said Robert V. Glover his heirs executors and  
" administrators or some of them shall and  
" will on the execution and delivery of  
" the said deed as aforesaid well & truly pay or  
" cause to be paid unto said Fisher for his  
" executors administrators or assigns the sum  
" of \$2100. in manner following to wit:  
" nine hundred dollars in hand at the  
" date of this agreement, four hundred  
" dollars the first day of October A.D. 1847 and  
" eight hundred dollars on the first of May  
" A.D. 1848 on the delivery of the deed for the  
" premises as aforesaid all without interest  
" The said Robert V. Glover is to take possession  
" of the premises on the receipt of the last  
" payment: The said parties agree to and  
" with each other that the said Fisher for is to  
" have the privilege of putting out a fall  
" crop by delivering unto said Glover in the  
" stack the one third of all such grain as may  
" be raised as a winter crop and further said  
" Fisher is not to use or sell nor in any way  
" destroy any timber on the above premises  
" with the exception of so much as he may  
" need for his own use on said farm -  
" and for the true performance of the within  
" of all the covenants and agreements aforesaid  
" each of the said parties and administrators  
" unto the other his heirs and assigns in the



" penal sum of eight hundred dollars lawful  
" money of these U States firmly by their presents  
" have herunto set our hands and seals.  
" Dated the day and year first above written  
" sealed and delivered } " John Fisher Jr (Seal)  
" in presence of } " Robert V. Glover (Seal)  
" James S. Rogers" } " Wm. William Glover (Seal)  
" agent

Your orator further sheweth unto  
your Honor that on the day of the date  
of the said article of agreement your  
orator by the hand of William Glover  
his agent as aforesaid paid to the said  
John Fisher Jr the sum of nine hundred  
dollars in part payment of the said sum  
of twenty one hundred dollars specified in  
the said article of agreement to be paid  
by your orator to the said John Fisher Jr.  
And your orator further sheweth unto  
your Honor that on the twenty first day  
of June in the year of our Lord one thousand  
eight hundred and forty seven he caused the  
further sum of two hundred and twenty  
dollars to be paid by the hand of one Henry S.  
Barber to the said John Fisher Jr which  
said last mentioned sum the said John Fisher Jr  
accepted in part payment of the said  
sum of twenty one hundred dollars specified  
in said article of agreement to be paid by your  
orator to the said John Fisher Jr and which  
said sum of two hundred and twenty dollars  
the said John Fisher Jr received and enjoyed  
as aforesaid a long time before any payment  
was due on said article of agreement from



your orator to the said Fisher firm. -

And your orator further sheweth unto your Honor that previous to the date of the said article of agreement and also at the time of the date thereof and for a long time thereafter your orator held a promissory note for the sum of three hundred and thirty nine dollars and a few cents made and signed by John Fisher sen the father of the said John Fisher firm and payable to your orator or his order and which said promissory note became due and payable to your orator or his order as aforesaid a short time previous to the first day of October A.D. 1847.

And your orator further sheweth unto your Honor that a short time previous to the date of the said article of agreement aforesaid and pending the negotiation for the purchase of the said tracts of land of the said John Fisher jr by your orator ~~and~~ in a preliminary conversation in relation to the said purchase between the said John Fisher jr. and your Orator by his agent William Glover as aforesaid, your orator by his agent aforesaid stated to the said John Fisher firm that it would be impossible for your orator to purchase the said tracts of land of him the said John Fisher firm and pay him the said Fisher firm the consideration which should be agreed upon to be paid him the said Fisher firm by your orator for the said tracts of land unless he the said John Fisher firm would agree to



receive and accept from your orator  
in part payment of the consideration  
which should be agreed to be given or paid  
by your orator ~~by your orator~~ to the  
said Fisher firm for the said tracts of land  
the said promissory note aforesaid for the  
sum of three hundred and thirty nine dollars  
and some cents or unless by the said John  
Fisher firm would consent and agree to look  
to and depend upon his father the said John  
Fisher sen. for the amount of the said promi-  
-issory note aforesaid that is to say the sum  
of three hundred and thirty nine dollars and  
some cents in part payment of the said  
consideration which should be agreed upon  
as aforesaid to be paid to said Fisher firm by  
your orator for said tracts of land. and  
your orator further sheweth unto your  
Honor that at the time when the article  
of agreement aforesaid was made and  
entered into by your orator by his agent  
aforesaid and the said John Fisher jr it was  
expressly stipulated and agreed by and  
between the said John Fisher firm and  
your orator by his agent as aforesaid that  
the said John Fisher firm should look to and  
depend upon his father the said John Fisher sen  
for the sum of three hundred and thirty nine  
dollars and some cents in part payment  
of the said twenty one hundred dollars  
in said article agreed to be paid by your  
orator to said Fisher firm for said tracts of land  
and at that time it was also further stip-  
-ulated and agreed by and between the said



John Fisher firm and your orator by his agent aforesaid the said John Fisher sen also being present at the time and approving and agreeing to the said stipulation and agreement between said Fisher firm and your orator by his agent aforesaid that the said William Glover the agent of your orator as aforesaid should retain and keep possession of the said promissory note and that the said John Fisher sen. should make the payment of the said sum of three hundred and thirty nine dollars and some cents when the same should become due to the said John Fisher firm in the stead of to your orator or his agent aforesaid and that the said John Fisher firm should endorse the payment of such sums on said article of agreement as the said John Fisher sen. should advance or pay on the said note as last mentioned and then agreed upon as aforesaid the said John Fisher firm at the time of making the said last mentioned stipulation and agreement saying to the agent of your orator William Glover aforesaid that "the old man" meaning his father the said John Fisher sen. "was perfectly good, and that it would be all right"

And your orator further sheweth unto your Honor that your agent aforesaid towards the last of the month of April A.D. 1847 soon after making the before mentioned agreement and stipulation with the said Fisher firm as aforesaid that he the said Fisher firm



should look to and depend upon the said John Fisher sen. for money in part payment as aforesaid of the twenty one hundred dollars stipulated in said article of agreement to be paid to the said Fisher firm for said tracts of land departed from the said county of Stephenson in the said state of Illinois to go to the state of Pennsylvania intending that either your orator or his agent aforesaid should return to the said county of Stephenson in the state of Illinois in time to make the payment of eight hundred dollars on the first day of May A.D. 1848 to the said John Fisher firm, as stipulated in said article of agreement and claim his deeds for said tracts of land from the said Fisher firm - And your orator further sheweth unto your Honor that on the first day of May in the year of our Lord one thousand eight hundred and forty eight by his agent aforesaid he tendered in full payment of the sum of money agreed by your orator to be paid to the said John Fisher firm in the said article of agreement unto the said John Fisher firm the sum of six hundred and eighty one dollars and eighty eight cents in cash together with the before mentioned note of three hundred and thirty nine dollars and some cents against the said John Fisher sen. which said note the said Fisher firm had expressly stipulated and agreed to receive from your orator as aforesaid in part payment of the said consideration stipulated in said article of agreement to be paid to the said



Fisher firm. for said tracts of land your orator at the time of making such tender aforesaid to the said Fisher firm offering to remit any excess the sum of six hundred and eighty one dollars and eighty eight cents together with the said note of three hundred and thirty nine dollars and some cents which the said Fisher firm had before agreed to accept and receive as aforesaid might make or be over or above the amount due on the said first day of May A.D. 1849 in full payment from your orator to the said Fisher firm on said article of agreement and at the same time demanded from the said Fisher firm a deed for the said tracts of land as in said article of agreement stipulated to be given by said Fisher firm, And your orator further sheweth unto your Honor refused to receive the said sum of six hundred and eighty one dollars and eighty eight cents and the said note of three hundred and thirty nine dollars and some cents tendered as aforesaid and also refused to make to your orator any deed or conveyance or title to the said tracts of land in the said article of agreement mentioned - And your orator further sheweth unto your Honor that on the fourteenth day of July A.D. 1849 your orator again tendered to the said John Fisher firm the sum of ten hundred and seventy dollars and sixty <sup>cents</sup> in full payment of the back payments which might be due to the said John Fisher firm.



on the said article of agreement together with the interest on said back payments up to the time of said tender and the said sum of ten hundred and seventy dollars and sixty cents being a sum greater than was due to the said John Fisher jun. for back payments on said article of agreement together with the interest on said back payments, your orator at the same time offered to remit said excess to the said John Fisher jun. and your orator by his agent aforesaid at the time of making the tender last aforesaid again demanded a deed or conveyance from the said John Fisher jun. of the said lands to your orator according to the terms of the said article of agreement, but he the said John Fisher jun. again refused to receive the said money and to make a deed or conveyance of said lands to your orator -

And your orator further sheweth unto your Honor that your orator still has the said sum of ten hundred and seventy dollars and sixty cents tendered as aforesaid ready to be delivered to the said John Fisher jun. whenever he the said Fisher jun. shall desire to receive the same and your orator further sheweth unto your Honor that the said John Fisher jun. by a deed signed by himself and Henry Fisher his wife and dated the eighth day of March A.D. 1849 conveyed to one Solomon Hoy a part of the said tracts of land herein before mentioned as appears from the records in the Recorder's Office of the said County



of Stephenson in the state of Illinois which  
by leave of your Honor your orator begs leave  
to refer to and present here in court as part  
of this his bill - And your orator further  
sheweth unto your Honor that the said  
Solomon Hoy at the time when he bargained  
for and purchased of the said John Fisher jun  
the pieces or parcels of land described in the  
deed last aforesaid, was apprised and informed  
that the said John Fisher jun had previously  
by articles of agreement bound himself  
and agreed and stipulated to convey the  
said tracts of land to your orator and that  
the said Solomon Hoy at the time when  
he purchased of the said John Fisher jun  
the pieces or parcels of land described and  
mentioned in the said deed last aforesaid  
required of the said John Fisher jun a bond  
from him the said Fisher jun with security  
indemnifying him the said Hoy from any  
danger risk, hazard or loss which might occur  
to him said Hoy from the existence of said  
articles of agreement between the said  
John Fisher jun and your orator -

and your orator further sheweth unto  
your Honor that your orator hath always  
been ready and willing to perform his said  
agreements and to pay the purchase money  
for said lands to the said John Fisher jun  
and your orator hoped that the said John  
Fisher jun would have specifically per-  
formed his part of said agreements as in  
justice and equity he ought -



But now so it is may it please  
Your Honor that the said John Fisher jun  
combining and confederating with the  
said Solomon Hoy and Caroline Hoy his wife  
whose names your Orator prays he may  
be at liberty to insert herein with apt words  
to charge them as parties defendants hereto  
and with persons at present to your Orator  
unknown whose names when discovered your  
orator prays he may also be at liberty  
to insert herein with apt words to charge  
them as parties defendants hereto, and  
contriving how to wrong and injure  
your orator in the premises, he the said  
John Fisher jun absolutely refuses to perform  
his part of the said agreement and to color  
such refusal sometimes gives out and  
pretends that your Orator failed to  
perform his part of the said agreement  
on the first day of October A.D. 1847 whereas  
your Orator charges the contrary and  
that if the whole of the said four hundred  
dollars was not paid to the said John Fisher  
jun on the said first day of October A.D.  
1847 as is in said article of agreement stip-  
-ulated it was delayed by your Orator  
by the express agreement of the said  
John Fisher jun with your Orator by his  
agent as aforesaid to look to and depend upon  
the said John Fisher Sen. for the sum of  
three hundred and thirty nine dollars  
and some cents which said last men-  
-tioned sum would be due and payable from  
the said Fisher Sen. a short time before the



said first day of October, a.D. 1847 and besides  
this amount your orator having advanced  
and paid on the twenty first day of June  
a.D. 1847 to the said John Fisher firm the  
sum of two hundred and twenty dollars  
which said last mentioned sum of two  
hundred and twenty dollars the said John  
Fisher firm accepted and receipted on said  
article of agreement as so much paid,  
towards the whole amount in said  
article of agreement stipulated to be paid  
for said lands and so the said John Fisher firm  
will at other times admit but then he  
refuses to make and deliver to your orator  
a deed conveyance or title to said lands ac-  
cording to your orators interest therein  
all which actings and doings, pretences  
and refusals are contrary to equity and  
good conscience and tend to the manifest  
wrong and injury of your orator in the  
premises. -

In tender consideration whereof and  
for as much as your orator can only  
have adequate relief in the premises in  
a court of equity where matters of this  
nature are properly cognizable and reliev-  
able - To the end therefore that the said  
John Fisher firm and the said Solomon Hoy  
and his wife Caroline Hoy and their con-  
federates when discovered may severally  
answer to the best and utmost of their  
several and respective knowledge remembrance  
information and belief to all and singular



the matters and things aforesaid and that as fully as if the same were here repeated and they and every of them distinctly interrogated thereto and that the said John Fisher jun may specifically perform the said agreement in all things on his part and behalf so entered into as aforesaid by him with your orator by his agent as aforesaid and that Nancy Fisher the wife of the said John Fisher jun and if necessary the said Solomon Hoy and Caroline Hoy his wife may join in all proper deeds and acts for conveying the title of the said lands to your orator, your orator being ready and willing and hereby offering specifically to perform the said agreement on his part and behalf \* and that your orator may have such other and further relief in the premises as the nature and circumstances of this case may require and to your Honor may seem meet -

May it please your Honor to grant unto your orator the peoples most gracious writ of subpoena to be directed to the said John Fisher jun and Nancy Fisher his wife and the said Solomon Hoy and Caroline Hoy his wife thereby commanding them at a certain day therein to be limited, personally to be and appear before your Honor in this Honorable Court and then and there full true direct and perfect answers make to all and singular the premises and further to stand to perform and abide such further order direction and decree



therein as to your Honor shall seem  
meet and your orator shall ever  
pray &c.

Robert V. Glover  
per Wm Glover

William Glover being first duly sworn  
deposes and says that the statements  
set forth in the foregoing Bill are true  
to the best of his knowledge and belief  
sworn to and subscribed before me Clerk  
of the Circuit Court in and for said County  
of Stephenson and State of Illinois as my  
office in Freeport this 27<sup>th</sup> day of July  
A.D. 1849.

attest John A. Clark Clerk.

\* Or in case a specific performance of  
the said agreement may or shall not  
be ordered and decreed by your Honor  
against the said defendants according  
to the prayer of your orator herein that  
he the said John Fisher jun may be  
ordered and directed by your Honor to  
repay and refund to your orator the  
said sums of money so paid and tendered  
by your orator to the said John Fisher jun  
as herein before shown to your Honor.

which said is endorsed as follows to wit;

"Filed Aug. 16, 1849

John A. Clark  
Clerk "



Stephenson Cir Court. Of the Oct Special  
Term 1849.

In Chancery -

The separate plea of John  
Fisher one of the Defendants  
to the Bill of Complaint of  
Robert V. Glou Complainant.

This defendant by protestation not  
acknowledging all or any of the matters  
& things in the complainants said bill  
of Complaint contained, to be true, in such  
manner and form as the same are therein  
alleged & set forth, as to so much of the said  
bill as seeks to charge this defendant with  
or on account of an agreement or contract  
purporting as set forth in and as a part of  
said bill to have been made by and between  
this defendant & said Complainant of &  
concerning the receiving by this defendant  
of a certain promissory note given by  
one John Fisher Senr. to said Complainant  
for the sum of three hundred and thirty nine  
dollars & a few cents in part & so much  
payment of the amount to be due from  
& paid by said complainant to this defend-  
ant as set forth in said bill of Complaint  
the same being more particularly set forth  
in said bill from & including the words  
"and your orator in the 218<sup>th</sup> line to & including  
the words "all right" in the 318<sup>th</sup> line therein  
does plead therrunto: and for cause of plea  
says that said alleged agreement or



contract was not, nor was any part thereof reduced to writing then or at any time by this defendant & said complainant & signed by them or either of them, and therefore this defendant doth plead the statute passed the third day of March in the year eighteen hundred & forty five, for the prevention of frauds & perjuries: and prays the benefit of the said act & particularly the first section thereof & pleads the same in bar of so much of said complainant's bill as above set forth & mentioned & prays the judgment of this Honorable Court thereon -

And this defendant now & at all times hereafter saving & reserving to himself all manner of benefit and advantage of exception to the many errors & insufficiencies in the complainant's said bill of complaint contained; and not waiving his said plea, but wholly relying & insisting thereon for answer to the residue or unto so much or such parts thereof as this defendant is advised is material for him to make answer unto - He answers & says he admits he was on & before the month of April in the year eighteen hundred and forty seven seized and well entitled in fee simple of the undivided one half of the south east quarter of section no. nineteen in township no. twenty nine of Range no. nine east of the fourth principal meridian as in the complainant's said bill mentioned

And this defendant further answering admits that on the nineteenth day of April



in the year eighteen hundred and forty seven he executed an article of agreement to and with the said complainant substantially the same as set forth in the complainant's said bill; but this defendant denies that at the time he executed said agreement, or at any other time, did he receive from said complainant, or from any other person for him the sum of nine hundred dollars upon the first payment specified in said agreement; this defendant however admits & insists that a short time previous to the executing of said agreement one William Glover came into the said county of Stephenson where this defendant then resided upon the land described in said bill, & which he then & for about ten years previously had occupied as a farm, & which by extensive improvements & cultivation he had made worth the full amount of Twenty one hundred dollars & claims of this defendant payment of some old claims which he held against this defendant amounting as near as this defendant can ascertain the same to the sum of Two hundred and twenty six dollars, & consisting of one note given by this defendant for one hundred dollars to said William Glover & dated in April eighteen hundred & thirty seven, one note given by this defendant to said William Glover for one hundred dollars & dated in May eighteen hundred and thirty nine & an account in favor of said William Glover against this defendant



for about twenty six dollars & dated about  
the time of the last above mentioned note,  
all of which indebtedness accrued in the  
state of Pennsylvania where the legal rate  
of interest is six per cent per annum as this  
defendant is informed, and believes - and this  
defendant further insists the said William  
Glover soon after he came into the said  
county of Stephenson began to give out and  
threaten that he would harass and trouble  
this defendant on account of said indebtedness:  
& it was mainly through fear of being embarrassed  
& injured thereby that this defendant was induced  
to enter into a negotiation with the said  
William Glover for the sale of said land  
mentioned in said agreement to said  
complainant -

And this defendant further insists that when  
he & the said William Glover pretending to be  
acting as the agent of the said complainant  
had agreed upon the sale of the said land  
at the said price of twenty one hundred  
dollars, he the said William Glover as agent  
as aforesaid, brought forward the above  
mentioned claims, to the amount of  
two hundred and twenty six dollars, & an-  
other note given by one Peter J. Fisher to said  
complainant for one hundred dollars,  
the same not being then due, nor bearing  
interest, & insisted that this defendant should  
allow him the said William Glover for  
the use and forbearance of said sum of  
two hundred & twenty six dollars for the



time this defendant had been indebted to him therefor, an amount sufficient, together with said note for one hundred dollars against said Peter D. Fisher to make the said sum of nine hundred dollars, as & for the first payment mentioned in said agreement. -

and this defendant here shows that as near as he can estimate the same, the legal interest on the said sum of two hundred & twenty six dollars at the date of said agreement amounted to one hundred and eight dollars which added to the said sum of two hundred & twenty six dollars & the said sum of One hundred dollars for said note of Peter D. Fisher amounted to the sum of only four hundred & thirty four dollars: & that this defendant was induced by the said William Glover, so pretending to act as agent for the said complainant as aforesaid, but really and in fact acting solely for his own benefit, as this defendant believes, to allow to him, the said William Glover, the sum of four hundred and sixty six dollars upon and towards the said first payment of nine hundred dollars for no other consideration than as usurious and illegal interest: and this defendant avers that he never has at any time or in any manner except as above stated received the said first payment of nine hundred dollars so agreed to be paid as by said agreement in the complainant's said bill provided; and he claims the benefit of the statute passed March third Eighteen



hundred & forty five regulating the rate of interest in respect to the aforesaid sum of four hundred & sixty six dollars. so allowed to said William Glover in part payment of the said sum of nine hundred dollars as aforesaid

And this defendant further answering expressly and absolutely denies that he ever at any time, either at before or after the time of making and executing said agreement, had any negotiation, or made any contract or agreement with the said Complainant or the said William Glover as agent of the said complainant or with any other person, that he, this defendant should "look to and depend upon his father, the said John Fisher Sen for the sum of ~~two~~<sup>three</sup> hundred & thirty nine dollars & some cents in part payment of the said twenty one hundred dollars" and he further denies that he ever directly or indirectly, expressly or inferentially made any agreement or had any understanding whatever with the said complainant or the said William Glover as agent of the said complainant of or concerning any promissory note then held by the said complainant against the said John Fisher Sen: but so far from it, this defendant was not then aware that the said John Fisher Sen. was indebted to the said complainant, nor does he believe that the said complainant then had any promissory note whatever against the said John Fisher Sen for any amount. This defendant however then had an impression



that there was an unsettled account between said John Fisher Sen. & said William Glover & that said John Fisher Sen. might be indebted to said William Glover, but how much, this defendant had no means of knowing, nor did he know that said William Glover held said John Fisher Sen. note for any amount, but he has been informed, that some time about a year after the date of said agreement in said bill mentioned, the said William Glover induced the said John Fisher Sen. to make his promissory note payable to the said complainant in the said John Fisher Sen. through the deceit practised upon him by said William Glover supposing that he was giving his note payable to the said William Glover in satisfaction of the claims of said William Glover against him the said John Fisher Sen. —

And this defendant further answering admits that he received from the said complainant by the hand of Henry S. Barber on the twenty first day of June Eighteen hundred & forty seven the sum of two hundred & twenty dollars in part payment of the said sum of four hundred dollars so to become due on the first day of October thereafter according to the terms of said agreement in said bill mentioned —

And this defendant further answering admits that on the first day of May Eighteen hundred and forty eight the said William Glover came to the residence of this defendant and exhibited some money & committed the



the same, but whether the amount was the same as stated in the said complainant's bill, this defendant cannot say, but to the best of his recollection the amount was then stated to be five hundred and eighty seven dollars and a half, & whether the said William Glor then made a tender thereof or any sufficient tender this defendant not being learned in the law cannot say; but he is advised by counsel that said William Glor then and there made first no tender at all. and this defendant says that the said William Glor (according to the recollection & belief of this defendant) after he had counted out the money as aforesaid, stated that he had not quite enough & that he had fifteen days time to make up the full amount, and he then asked this defendant whether he would take that amount, which this defendant declined to do.

And this defendant expressly and absolutely denies that the said William Glor then and there presented or exhibited or offered to him the said note as stated in said complainant's bill, nor did he allude to said note, or even inform this defendant that he had any such note; nor did this defendant then know that said complainant or said William Glor had any such note; but on the contrary the first this defendant knew of the existence of any such note was in or about March eighteen hundred and forty nine when the said William Glor filed in the office of



the Probate Justice of said County of Steptunson  
against the estate of said John Fisher sen.  
this defendant then being one of the administrators  
thereof, a certain note given by said John  
Fisher sen to said Complainant for about four  
hundred dollars as near as this defendant  
can remember & dated about May Eighteen  
hundred & forty eight: & this defendant has  
no knowledge of the said Complainant or  
the said William Glover having had any other  
note given by the said John Fisher sen. -

and this defendant further answering  
says that soon after he made & executed the  
agreement set forth in the said Complainants  
bill, he made an agreement with one Mr.  
Kerr whereby he agreed to purchase of the  
said Kerr a farm for the sum of twelve  
hundred dollars & in that agreement it was  
stipulated that the payments should be made  
by this defendant at the same time that  
the several payments were to be made by  
said Complainant according to the terms  
of the agreement in said bill mentioned  
& that a few days thereafter & before the said  
William Glover left the said County of Ste-  
ptunson as in said bill stated, this defendant  
informed him of his said purchase & the  
terms thereof & at the same time expressly  
stated to him that he this defendant had made  
such purchase relying entirely upon the  
payments being made promptly and precisely  
by said Complainant according to the terms  
of said agreement in order to enable this  
defendant to meet the terms of his said



agreement with said Kerr, and the said William Glover then assured this defendant that said complainant's agreement should be strictly and promptly fulfilled, or words to that effect. - And this defendant further says that in pursuance of the agreement with said Kerr, this defendant went on to the farm so purchased by him of said Kerr as aforesaid some time in the month of August eighteen hundred & forty seven, & put in about twenty five acres of fall wheat at an expense to this defendant of about fifty dollars.

And this defendant further says that in consequence of the failure of said complainant to pay the balance of the said sum of four hundred dollars as stipulated to be paid by him as aforesaid, this defendant was wholly unable to fulfil his agreement with said Kerr: & he was thereupon obliged to abandon & relinquish the same at the entire loss of the expense of putting in said wheat crop & also to forfeit all the advantage of having purchased a farm estimated & believed by this defendant to have been worth from five to eight hundred dollars more than the price he was to pay for the same. - And this defendant denies that he refused to make a deed or conveyance of said land in the complainant's said bill mentioned at the time the said William Glover counted out some money as above stated for the reason that the said William Glover made no demand of such upon this defendant as in said complainant's bill is stated: but



on the contrary this defendant then & there expressly insisted to said William Glover that he the said defendant was then entirely willing & anxious to fulfil in all respects the terms of said agreement if he the said complainant or the said William Glover as his agent would do what he ought to do to indemnify this defendant against loss in consequence of the failure of the said complainant to fulfil his part. And this defendant then expressly insisted to the said William Glover that he this defendant was anxious still to obtain the farm so purchased by him of said Kerr as aforesaid at the rate originally agreed upon & that as he had been obliged to relinquish it in consequence of said complainant's fault as aforesaid, if he the said complainant or said William Glover would do what was necessary to procure the said farm now without this defendant having to pay any more for it than specified in his said agreement with said Kerr, then this defendant would willingly carry out the said agreement with the said complainant. For all propositions in substance as above stated the said William Glover entirely refused to accede & seemed only inclined to take every possible advantage of this defendant without indicating any willingness to do what in equity and fairness he ought to do -

And this defendant further answering admits that the said William Glover on the 14<sup>th</sup> day of July A.D. 1849 came to the residence of this defendant & counted out some



money which the said William Glover said amounted to ten hundred & seventy dollars & some cents, the precise amount this defendant does not recollect & told this defendant that it was in payment of the land which he this defendant had deeded to Hoy & at the same time demanded of this defendant a deed of said land; but the said William Glover did not then nor has he or any other person at any time presented to this defendant a deed ready to be executed. This defendant however did then refuse to receive said money, & to execute any deed; but what became of said money, or whether the said William Glover still has the same ready to be delivered to this defendant, this defendant is not advised.

And this defendant further answering admits that on or about the 8<sup>th</sup> day of March 1849 he sold and conveyed to Solomon Hoy by warranty deed all of the above described land except thirty acres situated on the north west part of said tract or quarter section, as he lawfully might have done, but in what respect the said Solomon Hoy was informed or advised of the rights or claims of the said complainant this defendant cannot say; but this defendant believes that the said Solomon Hoy understood that the said complainant had no legal or equitable right to said land, not only because he had entirely failed to fulfil the agreement on his part to be performed



but that he had also, through William Glover his agent, relinquished whatever claim he had pretended to have upon said land, & had commenced a prosecution against this defendant to recover back the money which had been paid upon said agreement yet this defendant believing that the said William Glover was a litigious person, & inclined to harass this defendant all that he could, & knowing that the said Solomon Hoy was a very cautious person, was willing & did of his own free will execute and deliver to the said Solomon Hoy a bond or agreement with security indemnifying him against all the consequences of any claim or pretended claim of the said complainant -

And this defendant further answering says that as to the said complainant having been "always ready and willing to perform his said agreement & to pay the purchase money for said lands," as in said bill is stated this defendant has no knowledge or information except from what is stated in his said bill, & what he has derived from the conduct of the said William Glover pretending to act as agent as aforesaid, but this defendant knows & he therefore insists that the said complainant has not kept or performed his said agreement nor paid the purchase money for said lands nor has he or the said William Glover his agent offered to pay the same except as in this defendant's answer heretofore stated -

And this defendant further answering says that as to the said complainant "hoping"



that this defendant "would have specifically performed his part of said agreement" he is not informed how or in what manner the said complainant did or could hope that this defendant would perform his part of the said agreement without the said complainant's performing his part, but this defendant insists that he was not only ready & willing but anxious & it was greatly for his interest to have specifically performed the said agreement on his part if he had not been prevented by the fault and bad faith of the said complainant, or the said William Glover so pretending to act as the agent of the said complainant as aforesaid. - And this defendant further says that notwithstanding the defaults of the said complainant & the serious injury to this defendant consequent upon such defaults this defendant has been ready & willing & anxious to repay to the said complainant through his said agent William Glover all that he has ever received in part payment of the said sum of twenty one hundred dollars, & to this end this defendant & said William Glover some time about the month of March last had a reckoning of and concerning all the money which this defendant had so received upon said agreement, & found that the whole amount which this defendant had received except for interest as in his answer heretofore stated was five hundred & forty six dollars, which said sum this defendant then offered to repay to the said William Glover, but he entirely refused to accept the same. -



And this defendant humbly submits and insists that although he was then ready and willing to waive all questions of actual loss & injury sustained by him in consequence of the various failures of the said complainant to keep & perform his part of said agreement & for the sake of avoiding any further difficulty or litigation with or through the said William Glover, was willing & did offer to repay the aforesaid sum of five hundred & forty six dollars yet he ought not to be liable to repay said sum or any part thereof. and he denies all combination & confederacy in the said bill charged without that, that any other matter or thing material or necessary for this defendant to make answers unto & not herein & hereby well & sufficiently answered unto, confessed or avoided, traversed or denied, is true to the knowledge or belief of this defendant. All which matters & things this defendant is ready to aver, maintain & prove as this honorable Court shall direct: & humbly prays to be hence dismissed, with his reasonable costs & charges, in that behalf most wrongfully sustained -

John Fisher jr.

State of Illinois

Stephenson county fs }

On this 11<sup>th</sup> day of Oct. A.D.

1849 before me personally appeared the above named John Fisher jr & made oath that he had heard the above plea and answer subscribed by him, read & knows the



contents thereof & that the same  
are true of his own knowledge  
except as to the matters therein  
stated to be on his information or  
belief & as to those matters he  
believes them to be true -

John A. Clark clerk }  
per Chas a Clark Dep. clerk } Marsh & Night  
of Circuit Court of Stephenson } Solicitors and Counsel  
County Illinois - } for Defendant.  
which said answer is endorsed "Filed Oct 11. 1849 John A. Clark clerk"

Stephenson Circuit Court }  
In Chancery }

The several answer of  
Solomon Hay one of the defendants  
to the Bill of complaint of Robert  
V. Glover complainant against  
this defendant & John Fisher jr  
defendants -

This defendant now and at all times sa-  
-ving and reserving to himself all advantage  
and benefit of exception to the errors and im-  
-perfections contained in the said bill of complaint  
of the said complainant for answer thereto  
as to so much thereof as he is advised it is  
material for him to make answer unto he  
answering admits that at the time mentioned  
in said bill or about that time he received  
from the said John Fisher firm a deed of conveyance  
of the greater part of said land mentioned in said  
bill and all thereof except about twenty eight  
acres of wood land on the west side thereof as in  
said bill mentioned but says that he bought said



land in good faith & paid a valuable consid-  
-eration therefor, to wit, the sum of fifteen hundred  
dollars and more that at the time of the pur-  
-chase of said land he had heard that the com-  
-plainant claimed some right or interest in said  
land, but what he does not precisely know and  
did not then precisely understand & that at the  
time of said purchase as aforesaid and before  
he had been informed that the complainant  
did not wish a conveyance of the land to him  
and a short time before said purchase William  
Glover the complainant's agent in a conversation  
with this defendant informed this defendant  
that he the said agent did not care who bought  
the said land, <sup>or the farm</sup> if only said Fisher & himself had  
their matter settled, or words to that effect, and  
this defendant says that he thereby understood  
the complainant to consent to the purchase  
and intimate that he had no objection to the  
same, but was willing that said Fisher  
might sell the land to whom he pleased that  
he and said Fisher would settle their difficulty  
some other way and he has been informed and  
believes that a suit was then pending in this  
court to collect the money paid by complainant  
to said Fisher under said contract on com-  
-plainant's behalf against said Fisher. and  
that in full faith of such consent and willing-  
-ness on the part of the complainant this defend-  
-ant was induced to purchase said farm and that  
he would not have bought the same had he  
supposed that the complainant would have  
made any claim there to or that he would  
have incurred any danger of being annoyed



or harassed by a suit in chancery and that in consequence of what passed between this defendant and the complainant's agent, this defendant inferred such consent to his purchase on the part of the complainant or his agent the said William Glover -

And this defendant further answering admits that he received from the said John Fisher ~~him~~ at the time of said purchase a bond signed by said John Fisher, Joseph Musser and Samuel Chambers in the penalty of one thousand dollars with a condition to indemnify this defendant against all claims of the complainant to said land, that the said John Fisher junior on his part voluntarily offered this defendant to give the said bond to guard against any possible contingency or difficulty that might arise in consequence of the claim of the complainant, that this defendant wished to be entirely safe, and received the said bond, though at the time he attached no importance to the bond and expected no difficulty in consequence of the claim of the complainant -

And this defendant further answering says that he heard that there was an agreement between the said complainant and the said John Fisher though he has been informed and believes that the said Fisher sold and agreed to sell the said land to the complainant as stated in said bill and that the said parties executed the written agreement mentioned in said bill or a similar one. -



And this defendant further answering says he has no knowledge or information of any other matters or things set forth in said bill and puts the complainant upon the proof thereof - And he denies all combination and confederacy charged against him in the said bill of complaint without that, that any other matter or thing in the said bill of complaint contained and not herein and hereby well and sufficiently answered, unto confessed and avoided, traversed or denied is true to his knowledge or belief. - all which matters and things this defendant is ready to approve and maintain as this honorable court shall direct and prays to be hence dismissed with his costs and charges in this behalf most wrongfully sustained -

Solomon Hoy

Stephenson County ss

Before me this 11<sup>th</sup> day of October 1849 personally appeared Solomon Hoy who after being duly sworn deposes and says that he has heard the foregoing answer read knows the contents thereof that the same is true in substance & fact except those parts stated to be on information & belief & to those parts he believes it to be true.

John A. Clark Jr. C. Clark Dep  
clerk of the Circuit Court  
of Stephenson County  
Illinois -



and the complainant further to maintain the issue on his part produced William Glover as witness, who having been sworn upon his voir dire in answer to questions proposed by the defendants' Solicitor said, I have known the complainant twenty years and the defendant as long. The complainant resides in Pennsylvania and has never been in this country. I executed the contract with John Fisher jr, had no authority under seal for doing it. had demands in my hands belonging to the complainant and authority to do the best I could with them, had no authority to buy a farm. I had receipts with me belonging to the complainant against John Fisher jr of two hundred dollar notes, one hundred dollars was to be invested in buying a claim in this country and one hundred dollars was to enter the land with after it came into market. These receipts were originally mine. The money paid by Barber to the defendant was money collected on a judgment against Cummings, the judgment was mine and collected in my name and paid on this contract the complainant never controlled the money. The demands were left in his hands in Pennsylvania, at the time the contract was made the money belonged to the plaintiff - I have no interest in the event of this suit, all the interest I had was to dispose of my share in the property. I had authority to make the contract but not under seal. In case the complainant fails in this suit he will be the loser and not myself.



I shall not owe him anything more if he fails. I shall not owe him more or less if he fails -

The witness was then sworn in chief. {Objections having been made thereto by depts on account of his interest & overruled by the court & exception taken by depts to the <sup>ruling</sup> ~~witness~~} I had claims in my hands against the defendant Fisher belonging to the complainant to settle. I was the complainant's agent to settle them.

I let the complainant have the claims to raise money and to pay my brother, the complainant to raise money and pay him a debt of seven or eight hundred dollars I did not retain my interest in the claims I was to close up the business and the complainant was to pay me for it, the claims I let my brother have <sup>two</sup> receipts for one hundred dollars each given me by the defendant in A.D. 1837 for money I paid Fisher to be invested in land the receipts were handed over when the trade was made to the defendant, the first hundred dollars was to pay for the claim the other hundred dollars was to pay for the land when brought into market the land in controversy is the land for which the money was invested. I came here in November A.D. 1839 and went back again to Pennsylvania, Novr 1846 I came here, I attempted to arrange the matter with the defendant and could not agree as to our interest the defendant agreed to leave it to his father what the farm was worth, I agreed with Fisher to leave it to his father, Old Mr. Fish



<sup>decided</sup> claimed, that if I took the farm I must  
pay the defendant thirteen hundred dollars  
or if John kept the land he should pay  
eight hundred dollars, I agreed to take it at  
that and eight hundred dollars was the com-  
-plainant's interest in the lands the eight hund-  
-red dollars or one hundred dollars the amount  
of P.D. Fisher's note was the amount paid at the  
time the contract was made I had a demand  
against old man Fisher to the amount of  
three hundred and thirty dollars the article  
of agreement was deposited with old man Fisher  
and executed at his house I had old man Fisher's  
note in my possession of three hundred and  
thirty nine dollars & wanted the defendant  
to indorse the same on the contract, after  
some conversation about it the defendant  
agreed to take it on the contract as a pay-  
-ment the defendant said the old man might  
be dilatory about and I had better keep it  
till next payment that it would be all  
right I left here for Pennsylvania in April  
A.D. 1847 and returned April 25<sup>th</sup> A.D. 1848, I  
on the 1<sup>st</sup> day of May 1848 tendered in land  
office money to the defendant Fisher six  
hundred and eighty one dollars and eighty cents  
I then had the note in my pocket book and  
think I had it on the table and told Fisher if  
I had it for him he said he would take no  
money nor notes nor make a deed he refused  
to take any thing - On the 16<sup>th</sup> day of July  
1849 I tendered him One thousand and Seventy  
dollars and sixty cents and demanded a deed



for the premises, the money last tendered was deposited with the clerk of this court for the defendant -

On the cross examination the witness said that he and his brother the complainant went into the mercantile business together in Pennsylvania in A.D. 1843 I had those claims against the defendant Fisher at that time I gave them up to my brother in A.D. 1844. Do not recollect the amount of capital I had, it was three, four or five hundred dollars, we dissolved in 1844 after the October election of 1844 I had other property was in business from '43 to '44 I became indebted to my brother in those years, I was indebted to him when we commenced business some \$75. I owed him between seven and nine hundred dollars paid him seven or seven hundred and fifty dollars in '44, I do not know how much I am indebted to him now, my brother did not receive the proceeds from any of my property after A.D. 1844, I do not recollect assigning him anything but the Fisher claims I also assigned a note against Peter D. Fisher the ~~Peter D. Fisher~~ <sup>note</sup> was originally a claim against Rouse I settled it & took P.D. Fisher's note I got the Rouse matter <sup>in</sup> my hand in <sup>the</sup> 1847 I got old <sup>man</sup> Fisher to determine the value of the property in controversy we was to have the matter between me or complainant and the defendant I had settled with old man Fisher and taken his note the settlement was between all of us I informed them where the receipts



were shown that they belonged to Robert and told him the old man of Roberts interest the note I took of old man Fisher was taken in March 1847 and it was shown to Robert V. Glou Old man Fisher had it. The article of agreement mentioned in the bill in this cause was drawn by Rogers and signed by me at Rogers house and by Fisher at his Father's house, dont know where he was the next day. My general stopping place was at my father in laws old man Fisher's. I took the old gentlemen's note with me to Pennsylvania and left it with my brother, it was drawn in his name and was left with him as a payment on this bond if he came west to be applied on the land if I did not come back. The Barber money paid Fisher was collected from Cummings on a judgment in my favor collected after I left for Pennsylvania. The judgment was obtained in this court, the judgment was not assigned to my brother, The claim was considered in with the demands I assigned to my brother Mr. Robert Barber & Rogers were present when I tendered the six hundred dollars to the defendant I told the defendant I had his father's note at that time and that if he did not take the note I would have to raise the money out of it. Fisher said at that time if I would purchase the farm in Wisconsin or the Kerr farm for him that he had con-



-tracted for he would make me a deed  
he said he had given up said farm which  
he had articles for. I said I would not pur-  
-chase any other farm as I had trouble  
about this, when I made the six hundred  
dollar tender. I took Rogers along to count  
the money, Barber was there. The whole  
amount of money paid to defendant  
was two hundred and twenty dollars by  
Barber and <sup>one</sup> hundred dollars in P. D. Fisher's  
note. (~~The above named two receipts of Fisher  
were given up to him at time of contract~~)  
and the complainant's interest in the  
land, the above named two receipts of Fisher  
were given up to him at time of contract.  
We did not look over to see how much was  
going to Fisher. The note given by the old  
gentleman was in 1847, the consideration was  
a note in my favor dated 1840 was in his  
possession to 1846, when I came to this state.  
I did not hold any note against old man  
Fisher in 1848 -

The complainant further to maintain  
the issue on his part called Isaac Kleckner  
who having been duly sworn said I heard  
John Fisher jr, <sup>the defendant</sup> say that for Glover's interest in  
the farm Glover charged him eight hundred  
dollars, this conversation took place in July, <sup>A.D.</sup> 1848  
I gave him to understand what I came for  
Fisher said Glover had not lived up to his  
contract & he didn't know that he had any thing  
to settle. that he had bought a farm and had  
been disappointed in not getting the payments



from Glover. he said if Glover would purchase the farm for him at the price he had agreed to pay for it he would allow it. that when Glover bought the farm named in the bill Glover's interest in the land was recorded at eight hundred dollars and the payment of three hundred dollar note of P. D. Fisher made the sum of nine hundred dollars indorsed on the article of agreement. He said that Glover had charged him too much for his interest in the place but had not charged him for the improvements on it. Fisher said if Glover would purchase the Kerr farm for him for what he agreed to pay he would allow it -

The complainant further to prove the issue on his part called A. J. Rogers who being sworn said that on the first day of May 1848 I went with Wm Glover to Fishers. Mr. Barber was there, it was at the old mans. John Fisher jr was there Wm Glover counted out six hundred dollars for John Fisher jr. Mr. Barber said that was not enough, he had his pocket book out, after counting out the money he put his papers in his pocket and said he had fifteen dango to make the balance in. The defendant said he would have nothing to do with the money would not take the money as Glover had not lived up to his contract in making the second payment. Do not think that any note was offered. Fisher said he never



was to take a note, in a conversation after or before -

On the cross examination he said he heard nothing about any note, at the time the money was counted Glover said said he had fifteen days time to raise the balance of money. I went for Glover to see the money counted. Don't know when the conversation was about the note, Fisher said if Glover would buy the Kerr farm he would allow Glover the amount he was to pay for it. Fisher said he had been compelled to give up the farm he had purchased by Glover not paying him the second payment -

Mr. Snyger was then called to further maintain the issue on the part of the complainant, who being sworn said that in a conversation he had with the defendant John Fisher jr. he Fisher told him he had received two hundred and twenty dollars on the contract between him and Glover before the October payment became due. This conversation was while Mr. Glover was in Pennsylvania & was on the 25<sup>th</sup> or 26<sup>th</sup> September that he Fisher had thrown up his contract for the Kerr farm and held on to the amount he had received from Glover as damages he said he did not look for Glover back to meet his payment. Conversation was a few days before the October payment became due. He said he had seen a letter from him to his father that he was going to hold on



to the two hundred and twenty dollars as damages, that he did not expect Glor on, that he was not the least <sup>uneasy</sup> ~~worried~~ about Glor coming back, this last observation was in reply to a remark made that it would be funny if Glor came -

Thomas Glor was then called by the complainant to further prove the issue on his part who being sworn said that he was present when William Glor paid John Fisher for one hundred dollars to be invested in western lands and took Fisher's receipt for it. I saw the receipt in 1840 John Fisher first told me he had purchased the land in controversy with the money. I saw the receipts in 1846 and in 1847 William showed them to me before he made the contract with the defendant saw the money paid on the first receipt was seventeen years of age the first money was paid in A.D. 1837, the last receipt was given in A.D. 1839 saw the defendant on the land in A.D. 1840. fifty or sixty acres of the land was improved and fenced, saw the receipts in William's hands in Pennsylvania A.D. 1840 the first one & the first one was dated 17<sup>th</sup> April A.D. 1837 and the money was to be invested in western land to buy the claim, the other was dated May 5<sup>th</sup> A.D. 1839 and was for the purchase of land in Stephenson county, an receipt was given by defendant at Hartleton Penn-



-sylvania, the other at New Berlin Pennsylv-  
-vania where he Glorv lived both now dated  
Hartleton -

On the cross-examination the witness  
said that he had not conversed with  
William about the suit until he came  
here in June last & came to pay him  
some money that I owed R. V. Glorv.  
William did not tell me anything  
about the receipts but asked me if  
I knew anything about them, I told  
him I did -

Mr. Williams was then called to further  
prove the issue on the part of the complain-  
-ant who being sworn said that he knew the  
defendant Fisher - Defendant has resided on  
the same in controversy a part of the time  
from 1837 until he sold it. witness saw two  
receipts given by Fisher to Glorv saw them  
in Mr. Glorv's possession in 1847 one of the  
receipts was for one hundred dollars to be  
invested in lands for them Glorv & Fisher  
the other was for one hundred dollars to pay  
for land also saw two notes against  
Old man Fisher, witness was called on  
to calculate the interest on them they  
amounted to four hundred dollars. don't  
know in whose hand writing they were  
in Judge them to be in John Fisher's  
hand writing. <sup>the receipts were in John Fisher's</sup> hand writing  
I saw the notes at the same  
time A.D. 1847 the receipts were made to Mr  
Glorv and the notes also with the exception  
of the small one which was payable



to John Glover - I calculated the interest at that time on the notes it was in 1847 before the bargain with Fisher for the purchase of the farm - the two amounted to over four hundred dollars -

Joshua Shurtz was then called and sworn to further prove the issue on the part of the complainant and said the defendant John Fisher for purchase the claim to the land in controversy of one Moore in A.D. 1838 and gave two hundred dollars for it, witness was on the land in 1838 now on it since.

The defendant to maintain the issue on his part introduced two records of judgments in the Stephenson county circuit Court and proved by them that on the fourth day of April A.D. 1840. a judgment was rendered in favor of William Glover for eighty four dollars and seventy cents against Charles W. Cummings and another judgment on the 10<sup>th</sup> day of April 1847 in favor of Wm Glover against Charles W Cummings for the sum of one hundred and sixty one dollars -

and to further prove the issue on his part defendant produced Robert Barber a witness who being sworn said "I was present at Fishers at the time spoken of by Rogers I was called on to see some money



counted called on by the defendant. William Glover put the money on the table and counted it five or six hundred dollars. Glover and Fisher argued their case Fisher said there was not money enough. Glover said he had fifteen days to get it in. no note was spoken of between the parties. if anything had been said about a note I would have heard it. Fisher said to Glover if you will place me in the same situation I was in I will fulfil. Fisher said he had bought the Ken place and had to give it up by Glover's default in not paying. Glover said he had time to pay up the balance did not pretend to have fulfilled the contract. Fisher made all the improvement on the farm it was a marked claim when he got it there are two houses on it one a frame the other a log house the land in a state of nature in 1849 would have been worth three dollars per acre it was admitted by Defts Council not to be worth any more than don't know the amount of money counted -

The defendant then called Henry S. Barber to further prove the issue on his part who being sworn said I paid to the defendant two hundred and twenty dollars got the money from the sheriff of Stephenson County by order of William Glover and paid <sup>it</sup> over to the defendant. Glover came to me and said he was going east and wished me to attend to the October



payment to get the money of \$220. from the sheriff and pay it over to John Fishers on the October payment and endorse it on the contract and that he would send as a draft for the balance. These directions were given before Glover went to Pennsylvania after the contract was made.

George Fisher was then called and sworn on the part of the defendant and said I was present at a settlement and accounting between William Glover and the defendant last spring, after this suit was commenced previous to July they were receiving the amount of Grovers interest in the farm as being the amount Glover <sup>had</sup> against the farm of five hundred and forty six dollars including an account of twenty six dollars against the defendant -

The depositions of White and Kerr were then read -

Steph Cir Court } Of Oct. Special Term 1849  
Robert V. Glover }  
vs } In Chancery  
John Fisher Jr. als

State of Illinois  
Stephenson County } Joseph Kerr of the County  
of Greene in the state of Wisconsin a witness  
produced on the part of the defendant in  
the above entitled cause before me John A Clark



in pursuance of the agreement of said parties & being by me duly sworn doth depose & say as follows, to wit, —

I made a contract of sale of my farm in Green Co Wisconsin to John Fisher for the defendant in the month of April 1847 the contract was in writing & has since been destroyed, he bought 200 acres more or less & was to pay \$1200. for it the first payment of \$500. was to be made Oct 1<sup>st</sup> 1847; the balance of \$700. in the spring of 1848 I think in the month of May (at or before the agreement was made. Fisher said he wanted to fix the payments so as to meet them with the money he was to get from <sup>Mr</sup> Glover to whom he said he had just sold his farm - the last answer objected to by compels solv.,) The last of August Fisher came on and got in about 13 acres of wheat on the land he had bought of me. I cannot tell what it was worth to get it in - I think it was worth \$17.<sup>00</sup> or more for labor & seed - a little time before the first payment became due about a week or so, Fisher came to me & said he was afraid he should disappoint me as he was afraid Glover would disappoint him. On the day the payment became due Fisher came to me and said Glover had disappointed him & he could not meet the payment I told him I didnt care & I was willing to take the farm back & cancel the agreement. We then went to the person who held the agreement & had it destroyed I believe this was on 1<sup>st</sup> day Oct



1847 —

Joseph Kerr

Sworn to and subscribed  
before me this 1<sup>st</sup> Nov. }  
1849 - John A. Clark clk

Joseph White a witness produced by  
said defendant being duly sworn in man-  
-ner as above doth depose and say, as follows  
to wit - I was present when the contract  
was made between the above witness &  
said defendant - when they were arranging  
the time of the payments. Fisher said he  
wanted to have them come so that he could  
meet them from the payments coming from  
Mr. Glover to whom he said he had sold his farm  
They fixed on the 1<sup>st</sup> Oct 1847 & 1<sup>st</sup> May 1848  
for the payments. At the time defendant  
bought the farm of Mr. Kerr. I considered  
it worth \$2000. I considered it worth the  
same in Oct 1847. I was pretty well ac-  
-quainted with the value of farms in that  
section & I estimated the value of this  
farm from the price at which other im-  
-proved land were bought & sold, as other farms  
were held. - I paid \$400 per acre for <sup>un</sup>improved  
lands in that vicinity. There was an  
orchard on this farm of about 275 trees  
7 or 8 years old last spring. -

Cross examined - he <sup>deposes</sup> says - I know of but  
one farm being sold. that sold for \$5.00  
an acre -

Sworn to and subscribed by me } Joseph White  
me this 1<sup>st</sup> Nov. 1849 - }

John A. Clark clk.



"The above affidavits taken by agreement of parties to be read in evidence in this cause reserving all questions of relevancy -

~~Oct~~ Nov. 1<sup>st</sup> 1849.

E. D. Baker per  
J. Marsh Solr  
for Deft "

William Van Winkle was then produced and sworn on the part of the defendant and said I know the Kerr farm I think it worth in October 1847 ten dollars per acre from the way they valued adjoining farms there was on it a barn house a large orchard and well improved, 200 acres in the farm -

To further prove the issue on the part of the defendant Mr. Van Matre was then called and sworn said he had known the Kerr farm ten or eleven years thinks it worth from eight to ten dollars per acre in October 1847 -

Mr. Hartsough was then called and sworn on the part of the defendant he said I know the Kerr farm. The Brewster farm of 320 acres was purchased for three thousand dollars in the year 1847, no orchard on the Brewster farm, worth more than the Kerr farm, they are one or two miles apart.

~~Mr.~~ <sup>Mr.</sup> Jacobs was then called and sworn on the part of the defendant and said



he had loaned to Wm Glover money to make a tender in this cause five hundred and eighty dollars -

The evidence of Jacobs was objected to by counsel for complainant and the objection was sustained by the court

The defendant here produced a letter from William Glover -

(The letter referred to is not upon the files of the court.)

which was read (subject to exceptions) and the counsel for the complainant objected to the reading the same, which objection was overruled by the court and thereupon the counsel for the complainant excepted to the ruling of the court in allowing said letter to be read and prayed that this his bill of exceptions be allowed signed sealed and made a part of the record herein and it was so done -

The defendant then produced a record of a suit of Robert V. Glover against John Fisher jr in the Stephenson County Circuit Court which was read in evidence -

Upon the records of said court of the April Term A.D. 1849 to wit: on the 7<sup>th</sup> day of April, there appears the following order to wit:

Robert V. Glover }  
vs } Assumpsit  
John Fisher jr }

Now at this day came the parties and their attorneys and upon motion of the plaintiff by his attorney. It is Ordered by the Court - this cause be dismissed at the



costs of the said plaintiff. It is therefore considered by the court that the said defendants have and recover of and from the said plaintiff his costs by him about his suit in this behalf expended and that he have execution therefor.

The foregoing being substantially all the evidence in said cause, after argument of counsel the cause was submitted to the court and the court took time for its decision. At the March Term of said court, the court having been fully advised in the premises ordered and decreed that the complainant pay the costs of the said suit, and the complainant by his counsel excepted and prayed that this his Bill of exceptions be allowed signed sealed and made a part of the Record herein and it was so done.

Benj. R. Sheldon 

which is endorsed "filed May 22<sup>d</sup> 1850"

John A. Clark Clerk

Robert V. Glover

Stephenson County Circuit Court of the  
 Wm Fisher Jr. et al vs March Term All 1850

Bill of costs clerk fees

Delg. Bill of Issuing sums. 50	Issuing 13 subps. 1.50	\$7.06
Bonds for costs 25 - 21 affidavits of witnesses 2.62	July 56 paper 3.50	6.37 <sup>2</sup>
Enty. aff. & sub. 25. 2 aff. to Delg. 25. Enty. mo. for leave to amend Bill 25		75
Enty. order to amend 25	Enty. fil. of ds. 25	50
Enty. mo. for rule to ans. 25.	Enty. rule 25	50
Enty. order for leave to file Ret. nunc pro tunc 25	Enty. fil. of ds. 25	50



Enty order appointing Recum 25	Enty order to pay out in car 25	50
Enty. agmt. to let for hearing 25	Enty order to open dep 25	50
Opening dep. 12	Enty adjournment 25	37
Witness 12 witnesses on trial -		75
Docket came 3 terms 35.	Enty prayer for appeal 25	55
Enty order granting same 20.	Fully Bond on appeal 50	70
Matty. & enty Bill cost 30	copy 20.	50
	cut + seal 25	75
		<u>19.81</u>

Shuff fees

H. A. Struckly	Shuff for exp. & enty summons	6.12
do	do	9.90
P. Le Shaffer dep.	do	12.81
J. Baker	do	2.18
		<u>31.56</u>

Witness George Fisher	14 days	7.00
-	let Cummings 14	7.00
-	J. B. Snyder 15	7.50
-	J. J. Rogers 15	7.50
		<u>29.00</u>

Transcript of Record cut. & seal --- 36.85

Defendants fee Bill - Clerks fees

Enty app & sol 25	Issuing 6 subps 3.00	3.25
5 aff. of witnesses 62	July 12 papers 75	1.37
2 aff of dep 25	Aug. 5 witnesses 31	56
Enty drop 25	Enty sub 15	40
Matty. & enty Bill cost 30.	copy 20	50
	cut + seal 25	75
		<u>6.33</u>

Shuff fees

Baker dep.	for exp. only 2 subps	3.62
Carton	do	1.25
Kellogg	do	1.57
Hartshorn	do	2.00
		<u>8.44</u>

carried over --- \$131.99



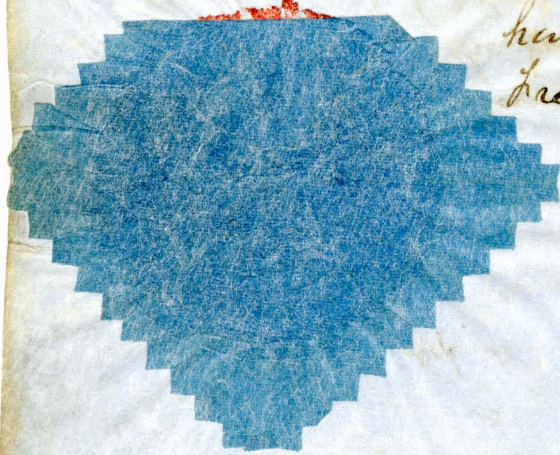
		amt. ret. over		131.99
Witness	W. VanWinkle	12 days	\$ 6.00	
do.	J. Bolender	10 —	5.00	
"	J. Reinbaum	1 do. 80 miles (foreign witness)	5.00	
"	M. Van Matur	5 do.	2.50	18.50
				<u>\$ 150.49</u>

State of Illinois

Stephenson County, Ill. I, John A. Clark clerk of the Circuit Court in and for the said County do hereby certify that the foregoing is a true and complete record of the suit lately depending in said Court wherein Robert C. Glover is complainant and John Fisher junr. et al are defendants as the same appears upon the records and files in my office, including a copy of the Bill of costs in said cause

In witness whereof I have hereunto set my hand and affixed the seal of said Court at Freeport this 7<sup>th</sup> day of June A.D. 1890

Attest John A. Clark Clerk





62

Robert V. Glover  
vs  
compt

John Fisher Jr.  
et al. Depts

Complete Records

Filed June 12, 1850.  
A. Deland Clk.

Clk.

15-5002







Fisher had the right to put out a fall crop, by delivering to Glover one third of all such grain in the stack.

Fisher not to use or sell timber except such as was necessary for the use of the farm. The article of agreement was executed by William Glover a legally constituted agent of the complainant, and John Fisher Junior.

For the faithful performance of the contract the parties mutually bound themselves in the penal sum of \$900.

That on the day of the date of the agreement Glover paid to Fisher the sum of \$900, which is inclosed on the agreement.

That on the 21<sup>st</sup> day of June AD 1847. Glover Paid to Fisher in part payment of the \$2100, the sum of \$220, by the hand of Henry S Barker, which sum was accepted in part payment by Fisher when there was nothing due from Glover.

That previous to and at the date of the Article of agreement Glover held the promissory note of John Fisher Sen. the father of Fisher Jun. for the



sum of \$339, and a few cents payable a short time previous to the 1<sup>st</sup> day of October AD 1847.

That pending the ~~negotiation~~ ~~contract~~ for the purchase of the land Glover told Fisher that he could not pay for the land unless Fisher would accept in part payment the said note against Fisher Sen.

That at the time of executing the said agreement Fisher Sen agreed to look to his said father for the amount of said note, that Fisher Sen was present and consenting to said arrangement, for the purpose of inducing to promptness on the part of Fisher Sen. Glover was to keep the note

That soon after the making of the agreement for said land William Glover the agent left Illinois for the state of Pennsylvania where the complainant resided intending to return in season to make the payment of the \$800. came May 1<sup>st</sup> 1848 that he left relying on the arrangement of Fisher to meet the October payment

That on the 15<sup>th</sup> day of May <sup>1848</sup> Glover by his said agent tendered to Fisher Sen \$681,88 in cash together with said note and demanded a deed of said land Fisher refused the money and the note



and refused to make the deed or

That on the 14<sup>th</sup> day of July A.D. 1849  
Glover tendered to Fisher the sum  
of \$1070.60, in full payment and  
demanded a deed, the said sum  
being the principal and interest.

Fisher refused the money - and  
declined to make the deed.

The tender last named kept good -  
ready to deliver to Fisher.

Fisher and Mary his wife by deed  
on 8<sup>th</sup> day of March A.D. 1849 conveyed said  
land to Solomon Kay.

Kay at the time he received said  
deed and when he purchased knew  
of the contract between Glover & Fisher  
and took from Fisher a bond of  
indemnity against the claim of Glover

Charges Conspiracy &c.

Prayer for specific performance or  
a repayment of money advanced or



At the August term on the first day of the term of the Circuit Court of Stephenson County, AD 1849. They were last tendered to wit \$1070.00, brought into court, special receiver appointed by the court

Fisher Pleads to that part of the bill of Complaint relating to Fishers agreement to receive in part payment of the consideration for said land the note of John Fisher Sen, the statute of Francis &c

Fisher answers, and admits he was on and before the month of April 1847 the owner of said land

Admits the Contract of April 19, 1847.

denies that at the expiration of the Contract or at any other time he received from Glover the sum of \$900.

Admits that shortly before the expiration of said agreement, William Glover called on him with some old claims, which he held against him (Fisher) amounting to the sum of \$226, consisting of one note given by Fisher for \$100, to said Wm Glover, and dated in April 1837, and one note given by Fisher to Wm Glover for \$100 dated May 1839.



and an amount in favor of Mr. Glover against Fisher for about \$26.00 - all of which indebtedness accrued in the state of Pennsylvania, where interest is six per cent.

William Glover threatened defendant that he would hang defendant on account of said indebtedness.

Through fear of being embarrassed the defendant entered into the negotiation with William Glover for the sale of the land.

The defendant insists that after the agreement of Glover to pay \$2100. for the land, the old claim aforesaid was brought forward, & and another note given by Peter D. Fisher to the complainant for \$100, the same not being due, and insisted that the defendant should allow ~~them~~ him for the use of said \$226, an amount sufficient together with the Peter Fisher note to make the sum of \$900, the first payment &

<sup>principal</sup>  
The legal interest on the \$226, on \$100 note of Peter D. amounted to \$434.



Denies any agreement to look to his Father for the sum \$339. in part payment of the sum of \$2000.

~~Had~~ Had no knowledge that Glover held a note against his father but had an impression there was an unsettled account between Wm Glover & his Father and thought his father might be indebted to Glover; how much he did not know

Admits the receipt on the 21<sup>st</sup> day of June 1847. the sum of \$220. in part payment of the ~~the~~ sum due in October thereafter

Admits that on the 1<sup>st</sup> day of May 1848 Wm Glover came to Defendants Residence and exhibited some money and counted the same whether the amount was the sum stated in the bill defendant cannot say - To the best of Defendants recollection the amount stated was \$587.50. Cannot say whether or not Wm Glover then made a tender thereof, or any sufficient tender, "not being learned in the law" But is advised by Counsel that said Wm Glover then and there made just no tender at all, according to Defendants recollection and belief Wm Glover after he had counted the money said he had not got quite enough but he had fifteen.



day time to make up the balance in

The defendant declined to take the sum offered by William Glover.

The defendant denies that Glover then presented a note as stated in the bill of complaint.

That soon after the contract with Glover for the sale of said land - the defendant contracted with Mr Kerr to purchase of Kerr & Pann - for the sum of \$1200. Defendant agreed with Kerr to make payments at the same time complainant was to pay him the defendant.

That a few days after said contract and before Mr Glover left for Pennsylvania defendant informed said Glover of his purchase and the terms of payment and that he relied on the money from Glover to meet his engagements with Kerr.

That in pursuance of his engagements with Kerr he put in 24 acres of fall wheat on said Kerr farm in August 1847, at an expense of about \$50.



That in consequence of the failure of Glover to pay the balance of the four hundred dollars to be paid in October the defendant was obliged to abandon his Kern purchase at the loss of the expense of putting in said wheat crop and the advantage of his purchase believed by the defendant to have been worth from 5 to 8 hundred dollars more than the purchase price

Denies his refusal to make a deed to Glover at the time some money was counted out as aforesaid stated, for the reason that Glover made no demand of such upon the defendant but on the contrary the defendant then and there insisted that he was willing to perform his agreement if Glover would do what he ought to indemnify defendant against loss in consequence of the failure of the said Glover to fulfil ~~in all~~ on his part. The defendant then insisted that he was anxious to obtain the Kern farm and that he had been obliged to relinquish it by the fault of Glover

Admits that W<sup>m</sup> Glover on the 14<sup>th</sup> day of July 1849 came to his house and counted out some money which Glover said amounted to \$1070, and



Some cents does not remember the  
precise amount and told defendant  
it was in payment of the bond  
and at the same time demanded a  
deed of defendant.

But did not present a deed ready  
to be signed.

The defendant refused  
to receive the money and execute a  
deed.

Does not know what became of the  
money -

Admits the deed from defendant to  
May dated March 8<sup>th</sup> 1949

Does not know how far May was  
informed of Glover's claim.

Believes May was satisfied Glover had  
no legal claim.

That he had relinquished whatever  
claim he had by suit to recover back  
the money paid.

Defendant of his free will executed  
to May a bond of indemnity



The defendant insists that notwithstanding gloves default, he the defendant was anxious, ready and willing to pay to the complainant all that he had received in part payment of the \$2100.

That in March he accounted with William gloves concerning the money which the defendant had received upon said agreement except for interest and the sum was \$546, which the defendant offered to repay -

Denies that he is bound now to pay the same -

Denies combination -

Solomon Key in his answer admits that he received of John Fisher Junior a deed of conveyance of said land at the time mentioned in the complainants bill, except 28 acres of wood land

He paid a valuable consideration for it to wit \$1500.

At the time of the purchase he heard that the complainant claimed some



right in it, did not precisely understand what,

That at the time of the purchase he ~~was~~ been informed that Glover did not wish a conveyance -

A short time before the purchase Mr Glover told him he did not care who bought the land so that Complainant and Fisher had their matter settled

Admits he received at the time of his purchase a bond signed by Fisher, Joseph Munn and Samuel Chambers in the penalty of \$1000, with a condition to indemnify him against Complainant's claim to said land

That at the time he purchased he had heard of the agreement between Glover and Fisher - and took Fisher's bond to be entirely safe -

The Complainant proved by William Glover, that as the agent of Complainant he executed the agreement mentioned in the bill, he witnesses had claims in his hands belonging to Complainant. They were two receipts given by Fisher in A.D. 1837 to Witness for \$100 each



and assigned by witness to Complainant to pay a debt Witness owed Complainant. They were in witness hand for settlement, The receipts were for money Witness let Defendant Fisher have, for Fisher to invest in western land for the joint benefit of Witness and Fisher \$100. to be invested in the purchase of a claim and \$100. for the purchase of the land ~~left~~ from the government, The land in controversy is the land purchased with the money the money was furnished in Pennsylvania

Witness attempted to arrange the matter with Fisher but they could not agree as to their interest,

The defendant agreed to leave it to Defendants father, what the farm was worth, I agreed to leave it to Old man Fisher -

He decided, that if I took the land I must pay the defendant \$1300. or if Defendant kept the land he should pay \$400, Witness agreed to take the land at that, The \$400. was Complainants interest in the land, that sum and a note for \$100. against P. D Fisher made the first payment.



The Witness, proves the arrangement  
as stated in the bill of Complaint  
in relation to the 330 dollar note  
against John Fisher Senior,

Proves the tenders of May 1<sup>st</sup> 1848  
& July 14<sup>th</sup> 1849 as stated in the bill.

Proves demand for deed -

at the time making the contract  
set forth in the bill - the receipts  
were given up to Fisher -

Glover's interest in the land  
recovered at \$800.

J. J. Rogers a witness for Complainant  
proved -

That May 1<sup>st</sup> 1848 witness went  
with William Glover to Defendant's  
house - William Glover counted out  
for Defendant \$600.

William Glover - had his pocket book  
out, put up his papers, said he had  
fifteen days to make the balance.

The Defendant said he would not take  
the money as Glover had not performed  
his agreement in relation to the second



payment, dont think any note was offered,

Mr Snyder

Proved. That Fisher told him he had received \$220. ~~from~~ on the contract before the October payment became due. the conversation was while William Glover was in Pennsylvania on the 25 or 26 of September that he Fisher had thrown up his contract with Kerr for the Kerr farm and held on to the amount he had received of Glover as damages he said he did not look for Glover back. That he was not in the least uneasy about Glover coming back

Thomas Glover

Witness was present when William Glover paid Fisher \$100. to be invested in Western land in 1837, saw the receipts in 1846 & 1847, one receipt was to buy the claim the other to buy the land Fisher told witness the land in controversy was bought with the money furnished by Mr Glover



Williams

Proves that dependant has resided on the land in controversy from 1837 until he sold it.

Witness saw two receipts given by Fisher to Glover saw them in possession of W<sup>m</sup> Glover in 1847. One was for \$100, to be invested in land for Glover & Fisher the other was for \$100, to pay for land - /

Saw two notes in Glovers possession against old man Fisher, Witness calculated the interest on them, they amounted to \$400, thinks they were in the hand writing of John Fisher Junior saw the notes at the time saw the receipts in 1847. The notes payable to W<sup>m</sup> Glover except a small one payable to John Glover, saw the notes and receipts before the bargain with Fisher.

Joshua Sheely -

Proved that Fisher purchased the claim to the land in controversy in AD 1838, and gave for it \$200, -



The Defendant proved that on the 4<sup>th</sup> day of April 1840 judgment was rendered in favor of Wm Glover against C. W. Cummings for \$84.70 and another on the 10 of April 1847 for the sum \$161.

Robert Barber was present at the time spoken of by Noyes. Called on by Defendant Glover counted five or six hundred dollars. Glover & Fisher argued their case. Fisher said there was not money enough. Glover said he had fifteen days to get it in. No note spoken of - If there had been witness would have heard it. Fisher said if Glover would place him in the same situation he was in he would fulfil.

Fisher made all the improvement on the farm there are two houses on the land one frame the other a log house. The land in a state of nature in AD 1849 was worth \$3. per acre.

Henry S Barber

Proved that he paid to Fisher \$220. Got the money of the Sheriff of Stephenson County by order of William Glover. Glover said he would get a draft for the rest of the October payment.



George Fisher

Was present when Glover and defendant had a settlement and accounting together last spring after this suit was commenced previous to July they were reckoning the amount of Glover interest in the land as being the amount Glover had against the farm of \$546 including an account of \$26, against defendant,

By the deposition of Joseph Kern the defendant proved & see deposition

also deposition of Joseph White -

William Van Winkle knew the Kern farm worth in October 1847 \$10. per acre 200 acres - thinks it worth that the way they valued adjoining lands

Mr Vanmeter

Knew the Kern farm thinks it worth from \$8 to 10 per acre in October 1847.



Glover  
vs  
Fisher & Kerr

Supreme Court

Points in the evidence

Fisher admits all the material statements in the bill except two -

There are 1<sup>st</sup> a denial of having received \$900. at the execution of the agreement,

2<sup>d</sup> The statement in the bill in relation to the note of John Fisher Senior,

Fisher gives a false account of the payment at the execution of the agreement,

William Glover is corroborated by Thomas Glover and William & Shetty,

Payment from Glover in October ~~\$1200~~ of 2<sup>nd</sup> January \$180,

Payment from Fisher to Kerr October \$500,

The answer claims that Fisher lost the expense of putting in wheat crop - \$50,  
And the advantage of his trade \$800

Making \$850 for the want of \$180. and that after he had received from Glover \$1120,

Kerr contradicts Fisher as to expense of wheat crop - Kerr makes it \$170.



All of Fisher's acts show a predetermination  
to make Glover forfeit whatever he had  
paid

His bargain with Kerr, and the terms of  
payment,

See the Testimony of Snyder,

Fisher is contradicted - by his Own Witness  
George Fisher

See George Fisher's evidence,

See Isaac Kleckner's evidence, contradicting  
Fisher

In every particular where Fisher is contradic-  
-ted Glover is Corroborated

Contract made April 19, 1847. - \$900, paid

\$400 to be paid Oct 1<sup>st</sup> 1847,

Paid June 21<sup>st</sup> 1847 \$220 - 4 months before  
due -

May 1<sup>st</sup> 1848 - Tendered \$681.85,

July 14 - A.D. 1849. Tendered \$1070.00

Just 14 months after last payment became  
due



no attenuation in the value of the property proved -

Fisher is proved willfully to have falsified the facts in relation to the first payment,

He is proved by circumstances to have falsified the truth in relation to his Father's note,

Fisher proposes his willingness specifically to perform notwithstanding Glover's claim provided the Kern Farm could be purchased -  
-chancel

Evidence shows he did not want the Kern farm - He used it as a mere pretense to claim a forfeiture from Glover.

From the whole case it is evident that Fisher originally held one half of the estate in Trust for Glover, that at the time of sale Glover's interest was liquidated at \$800.

Fisher sought to extinguish that interest by forfeiture, and to receive the additional ~~so~~ payments of \$3200 as also a forfeiture -



Glover  
or  
Fisher & Kay } Supreme Court June Term 1850

Appeal from Stephenson

Brief

Time is not of the essence of this contract  
a day set for the performance of covenants  
does not in equity make time material  
But to make it so, there must be  
an express stipulation in the contract  
to that effect, 1<sup>st</sup> Chitty practice 847.  
Smith or Wells. Paige C. R. 22. - 11 Do 352  
2<sup>d</sup> Marchalls Decisions 212.

Where time is not made of the essence of  
the contract by the contract itself  
although a day for performance is  
named neither party can make it so  
after the contract 1<sup>st</sup> Sugden on Vendors  
313, - 874.

After the case of Gregson v Riddle 7 Ves Jun 268  
268. it was doubted whether the parties  
by express covenants could make time of  
the essence of the contract. In Seaton v  
Slade 7 Ves Jun 365, Lord Eldon was in-  
clined much to think notwithstanding  
Gregson v Riddle that time may be made  
the essence of the contract.

The rule doubly void is where it is clearly  
the intention of the parties that time shall be  
deemed of the essence of the contract it must  
be so considered in equity Sugden on Vend. 312



In *Marquis of Hertford v Roore* 5 Ves Jun 719  
The bill was filed after a delay of ~~7~~ years  
14 Months, the dependant resisted specific  
performance on the ground of delay,  
Specific performance was decreed  
1<sup>st</sup> Sug on Venel. 308

What is said in ~~Harford~~ *Millward v*  
*Earl Tharvet* (5 Ves 720 note b) and cited  
in <sup>1<sup>st</sup></sup> Sug on Ven 248) That the party must  
be ready, prompt, and eager, was said  
figuratively and in reference to the  
peculiar facts of that case - where there  
had been a delay of seven years - and  
means simply that he must not be  
negligent

*Benedict v Lyrich* (1 John Ch Rep 370 may be  
cited against me, It will be merely  
necessary to look to the case to see that  
It cannot apply - The agreement was  
declared to be void in terms, by the parties  
and the Chancellor relies on this express  
provision - He thinks the parties may  
make time material by express agreement  
though it had been formerly held other-  
wise -

I insist that where time slips by being  
even the essence of the contract, it is never  
an objection to a specific execution unless  
the party who alone can be injured



promptly refuses to complete the agreement on that ground - C. Mad. C. 12, 20 & Paige 600 More et al v. Smedburgh

6 Wheat 528

Brusher  
v.  
Gratz

Chief Justice Marshall says that the rule that time is not of the essence of the contract has been recognized in Courts of equity, a failure to perform on the day does not deprive a purchaser of his right to demand a specific performance at a subsequent day when he shall be able to comply with his part of the agreement.

The party who is ready may file his bill requiring the other to perform or rescind  
6 Wheat 528.

Wells v. Smith }

7 Paige 5122 }

In Wells v. Smith, The Chancellor proceeds expressly upon the ground, that the parties had a right to covenant, that either at Law or equity failure on either party to perform, should cause the contract to cease -

7 Ch. 1020

The discretion of Courts of Equity to compel specific performance of agreements, by a long course of Decisions and practice has in a great measure become fixed. And it is now as much of course in equity specific performance made by competent persons, and in its



and circumstances inadmissible  
as the recovery of damages at Law.  
See 9 Mes. 608

1. Chitty Pr 435 As to such breaches of Covenant as will  
prevent specific performance  
See Chitty Pr 1 Vol. 4645

Same 545 What change of circumstances or alterations  
of the property referred to in the agreement  
will prevent specific performance  
(See Chitty Pr 445)

I am now to consider whether there was  
any act of Fisher putting an end to  
the contract upon the hypothesis  
that he had the power so to do (which  
is not conceded)

The evidence shows  
no act but Fisher's silence when  
the money was tendered.

6. Med. 20. In Regnolds v Nelson (6 Med. 20)  
The vendor should have given notice  
that he considered the agreement as at  
an end, and should have returned  
the deposit.



2 Gill, 327+

334 This Court says in Andrews, et al vs Sullivan (2 Gillman 327-334)

The doctrine in equity is not forfeiture but compensation, and they frequently relieve men who have acted fairly though negligently, and dispense with what the law requires appropriate

That Courts of equity are frequently called upon to relieve where the terms for the performance and completion of the contract have not in point of time been strictly complied with, Andrews et al vs Sullivan [2 Gill 334.

2<sup>d</sup> Story Eq. Jur. § 776-7 & notes 1 Chitty R. 120  
11. Paige Ch. R. 352- & Paige Ch. R. 600.

Boyd  
Bunker  
1 Barber  
Ch. R. 273  
The Decree should be against Key, he having purchased with notice of the complainant's interest (1 Barber Ch. R. 273)

Performance of agreement to purchase may be decreed after considerable delay (4 Brown Ch. R. 230 Marginal page) Look at Wright or Mr. Nelly  
11 Ill. Rep 241

Intention of parties gathered from their situation and the whole transaction  
Fruit & Cole (5 Gill 339)

Money in Court, 5 Gill 547-



The Covenants were mutual and  
dependant H. Wendell 49

with every covenant not to be broken  
and every covenant not to be broken  
and every covenant not to be broken

and every covenant not to be broken  
and every covenant not to be broken  
and every covenant not to be broken

and every covenant not to be broken  
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and every covenant not to be broken  
and every covenant not to be broken  
and every covenant not to be broken



Glover }  
vs }  
Fisher }

Supreme Court June Term

AD 1850

Appeal from Stephenson

1<sup>st</sup> Time ~~was~~ is not of the essence of this Contract  
that which constitutes time material is the express  
agreement of the Parties, <sup>to that effect,</sup> or after failure notice

2<sup>d</sup> If time is of the essence of the Contract it  
is waived by the act of Fisher

3<sup>d</sup> Equity demands a specific performance  
for the reason - that <sup>for</sup> a property valued  
at \$2100, the Defendant had received  
\$1120, ~~and~~ the use of the property

4<sup>th</sup> Fisher never declared his determination  
to put an end to the Contract for the  
reason of lapse of time,

6<sup>th</sup> Fisher was not injured by delay -

7<sup>th</sup> The parties covenanted for a specific  
remedy in case of the failure of either  
in point of time,

8<sup>th</sup> The delay in the October-payment was occa-  
sioned by Fisher's act,