deceased to the use of the Creditors of the said William and Eleanor and their Heirs. It also further provides that the property shall not be sold without the consent of the trustee and said Eleanor Fisher. The Complainant claims to be entitled thereto as a purchaser at Sheriffs sale under a Sci fi facias and a bonded debt expunged from Montgomery County Court in the 24 Aug. 1843 and 15 Aug. 1844 respectively which Sci fi facias was issued on a judgment of a Justice of the peace rendered in favor of the said Chandler in the 20 of August 1842 for forty and dollars and 15 cents and costs and superseded the same day by endorsement on the judgment it being considered as fraudulent under the stat of Frauds &c. as to hindering &c. Creditors and others. The Bill prays that the land may be sold for the purpose of paying the Complainant and that it may be sold for the payment of his debt claimed also prays general relief admitting that the debt must be considered as fraudulent against the Complainant as a judgment Creditor and that as a purchaser under the process issued on that judgment to represent himself in the character of a judgment Creditor and is entitled to all his right & remedies. Let us examine in the first place the title to the Lands included in the Deed. The judgment itself is admitted not to be and certainly is no lien upon the Lands and I do not know that it has ever been deemed that Land could be taken at any time by virtue of a Sci fa issued on a judgment by a Justice of the peace. The act of 1791 Ch 67 Sec 3 and 4 and referred to by the Complainants Counsel by the 1. 2. 3 Sect of Assembly Justices of the peace are authorized to take a supersedeas of judgments rendered in behalf of appellees General Court County Court and Justices of the peace. The form of the supersedeas is given and it is directed by the 4 Sect to be returned to the Clerks where the original judgment was rendered and when before a justice to the Clerk of the County Court of this County by the Court after the confession to be entered on it and after the expiration of the time limited in the confession execution may be taken out. The act of 1811 Ch 62 however repeals the act in so far as it relates to judgments by Justices of the peace by its 1st Sect and by the 2d Sect authorizes the parties himself to issue execution in the supersedeas. The act of 1806 Ch 203 is also referred to as authorizing the issue by the County Court, but upon examination that act refers to the act of 1798 passed during the embargo and which is no longer in force. It was not necessary to refer

here to enter into this examination before us for, there is no evidence that any supersedeas was issued in the County Court and the Sci fa was issued on the original judgment before the Justice not upon the supersedeas in the Sci fa. It is seen in Sellers Justice Sec 473 that the power of the Constable or Sheriff to seize goods and chattels under a judgment of a justice of the peace is given by the act of 1791 Ch 67. The right to sell Real Estate is given by the act of 1831 Ch 290. By that act the return of the Sci fa is to be made to the justice continuing that ale and certain Jewelry to be deemed before the state the justice is required to return the same to the County Court and is not to be sold until confirmed by the Court.

By Sec 6 of the act the judgment rendered by a justice of the peace shall be a lien on Land when affirmed by the County Court. The Complainant therefore can legally sell as aforesaid under the Sheriffs sale in case he does be stand as a creditor. There is no evidence of his original claim. Nor is there any evidence of the judgment.

Neither the original judgment nor the justices docket or a short copy from it is before the Court. The papers produced W. C. O. which is introduced as bearing evidence is proved by William C. Clapper to be copies from the original judgment that was on file in the Clerks office. Neither copies on file there nor from them to be the original judgment does not appear. There is no proof that the original judgment has been destroyed. The question to Henry the Clerk relates only to the papers in the present case referred to. Bill of the Complainant can not be treated as a Creditor and the deed to Clagett set aside the property ought to be decreed to be sold for the payment of the debt but an account must first be decreed of the rents and profits to ascertain what is owing. There only remains to be considered the case of Jim Fisher and Wife to the Complainant. That passes no legal title which was in the trustee. It can only be treated as a contract which as to the Jew could not have no effect upon as to the Children of Fisher and under the provisions of the trust deed under which alone Fisher is in possession the contract is void, not being the consent of the trustee and being entirely made by Fisher and Wife as appears from the deed itself under the impression that the Sheriff sale to the Complainant was a valid one and such a contract as a Court of Equity would enforce. It is therefore the 27 day of August 1856 adjudged ordered and decreed that the Complainants Bill be and the same is hereby dismissed