June Term 1863.

in the copy thereof heretofore exhibited herewith which said replication and
entry thereof was so made on the 13 day of August 1856 and that afterwards
the plaintiff himself by his Counsel upon certain further proceedings had in
said Scire Facias came and abandoned the same and non-pressed said Scire
Facias, that in said Scire Facias the said James B Dellet his claim to the
Credits aforesaid and insisted upon the justness and correctness of said credit for
$2000 but in as much as the testimony was in some degree varied and contradictory
as to the same heads nothing and did agree that a find should be entered in favour
of the plaintiff for a large amount of money than to considered really due and which as
their Complainants Attorney was done. But the said Houston by proceedings afterwards
in said cause caused said find to be struck off. or submitted to the finding and of the
same and to a Nonpros of said Scire Facias. And thereupon and afterwards
to November Term 1858 of said Court the said Houston an alias writ of Scire
Facias to issue against said original Judgment against the said James B Dellet
and his terretenants to which your Complainant William Joshua Dellet
by the name of Joshua Dellet) Abraham K Dellet by the name of Abraham
Dellet and Isaac Ashby were returned terretenants of the said inherited
Lots of said deceased being of the Lands and Tenements of which said James
B was seized at the time of said original judgment rendered on the 24 day of
November 1847 And at June Term 1859 of said Court to Wit on the 21
day of November 1859 the said Scire Facias came on for trial against
your Complainants the said William Joshua Abraham K and Isaac terretenants
as aforesaid, when a verdict was rendered against them as such terretenants
for the sum of eight thousand four hundred and seventy eight dollars and
thirty three cents on which a Judgment of Fieri was entered according to the
Jury assessing in their finding only such credits as the said James B
was entitled to after the rendition of the said original Judgment. Your
Complainants further shew that they were informed that the said Houston
was willing to allow a further credit for such sums as the said James
B paid before such judgment was rendered as he was desposed to admit
but he refused to allow the Credit for the said sum of Two thousand dollars
paid as aforesaid on the 10 day of March 1845, and as the said Jury was
precluded by the issues in the case and by the Law governing in such cases
from taking into consideration any Credit of a date prior to the original
Judgment except as both parties were consent and agreed and as an admission
by the Jury of any part of such Credits might operate thereafter as an
exclusion and a bar thereafter to other Credits claimed whether at Law or in
Equity the said Complainants terretenants as aforesaid were unwilling to
admit part of said Credit without the whole for the reason aforesaid and
that in consequence aforesaid said Judgment rendered irrespective
of any of said antecedent Credits but to guard their rights & statements were
filed in said cause explanatory of their rights and claims. Copies of all
which are hereunto exhibited as part hereof marked H.

Your Complainants allege and charge that they believe
said Credit for $2000, so disputed by said Houston, is just and true
and ought to be allowed, and could the rules of Law and Chancery have
allowed them to adduce proof of the same in the said trial they could have
established the same, and they are now prepared to establish the same to the

June Term 1863.

satisfaction of your Honor as they verily believe.

Your Complainants shew that the said Cyrus Houston has caused
a Scire Facias to be issued on said Judgment and to be levied on the said
two undivided fifths of said Land, and that the then Sheriff of said County
John M Houck into his hands said writ came but endorsed the
said undivided two fifths to be sold as Sheriffs said on the 5 day of
January 1861 to satisfy the whole of said Judgment as rendered as
aforesaid a copy of his Notice and advertisement of sale is hereunto exhibited
marked I as part of this Bill.

Your Complainants shew that all said proceedings are
contrary to Equity and good conscience and in violation of the rights of said
terretenants as well as of the Executors of said William Dellet deceased
under the entry of reference on said original Judgment against the
said James B Dellet which because of the refusal of said Isaac Ashby
to execute the power so vested in them and their inability under the rules of
the Common Law to give in proof of the same in the case of said
last named Scire Facias they were unable to establish at Law. They
further shew that of the said undivided two fifths of said Land should
be subject to the aforesaid of said Judgment in its entire amount as is
found by the Jury in said last named Scire Facias, the estate of said
William Dellet will be proportionably damnified, as said estate would then
be required to reimburse said purchasers for the amount so paid, and the
said Complainants do accordingly insist upon their equities as aforesaid
the said purchasers being also distributees of the Estate of said William
Dellet.

Your Complainants shew to your Honor that they are without remedy
except in your Honorable Court as a Court of Equity. To the end therefore
that the said Cyrus Houston and John M Houck Sheriff as aforesaid, may
answer the several matters and things hereinbefore set forth as fully and
particularly as if they were hereto again repeated and they thereto severally
interrogated, and that the said Judgment and execution may be
stayed by the Injunction of your Honor, and your Orator afforded an
opportunity under the Orders and practice of your Honorable Court
as a Court of Equity to shew, and prove the Equity to which the said
James B Dellet was entitled on said original Judgment, and that your
Orator may have such further and other relief as their case may require
or they be entitled to.

May it please your Honor to grant unto your Orator a writ
of Injunction against the said Cyrus Houston and said John M Houck
Sheriff aforesaid, their Attorneys, Agents, deputies and servants of every
Kind in the premises enjoining and strictly forbidding them and every
and each of them from further proceedings under said Judgment and
Execution and from in any wise selling or disposing of the said undivided
two fifths of said Land and premises, or any part thereof until after
the further order or decree of this Court in the premises and also the
Writ of Subpoena against the said Houston & Houck commanding
them and each of them to appear in your Honorable Court on a certain
day therein to be named, then and there to answer the premises and to stand