June Term 1863.

In A. Circuit Court for Washington County. No 1856.

Cyrus Huston vs James B Dell and Wm Tennants

No 22 Trials July Term 1856

Scire fa Recd Judgment Debt $1000 Damages $1000 and costs $5.48 1/3 Made Returned, nulla bona - 5 fieri facias issued and returned Levied on Negroes Slaves and other personal property, Leave to sell and Commission and agreement that Comm issue to W H Brady of Salisbury and Commissioned and returned Richard Y Plaintiff filed a suggestion of Sickness and Death of Defendant against the aforesaid defendant Seibert's pleas confessed and judgment on the same, and Judgment Scire facias against the others Aug 13 1856 for $4000 Interest from the 4th April 1837 Summons and writ of Inquiry to be issued on the 4 day of January 1858 and the other days on the 4 day of February 1859 Motion to strike out Judgment of August 13 1856 Stricken out as to all the parties Upon Motion of plaintiff Capias and all proceedings were quashed. Affidavits of George Ashley and Joshua Dell filed August 4th 1858.

Test Isaac Nesbitt Clk

Isaac Ankeny and William B Dell purchasers of the Real Estate mentioned in the Sheriffs amended return to the Scire fa in the above cause by their Attorney appearing in Court and move the Court here to strike out the Scire fa in the above cause so far as they are affected by it as the purchasers or aliences of William Dell and to enter the said cause continued from term to term in order that the said may plead to the same for reasons as follows,

1st Because when said Scire fa was entered there was no return of William Dell as a Terretenant in any manner which could affect him or any lands which were in the occupation,

2d Because at the time said Scire fa was entered the said William Dell was dead and his death had not been suggested on the Record and such suggestion was unnecessary for want of a return to affect him or his lands as above stated

3d Because there was no Judgment of Scire fa sought or asked for as to him or as persons by the return mentioned owned, and such Scire fa was as to him irregular,

4th Because there being no return as to said William he could not effectively be called on to plead said Scire facias, and as at the present time the Sheriff in whose hands said writ was there to be served has been allowed by the Court to amend the return so as to affect said William and his lands, an opportunity should now be given to them of pleading under said William to plead to said new or amended return

5th Because the said Isaac Ankeny and William B Dell are aliences and purchasers for a valuable consideration without notice of said Amendment and no opportunity was given to them or either by the said amendment should not be made and said Amendment as made subjects the Real Estate purchased by them to the Judgment in said case,

Test Isaac Nesbitt Clk

Washington County to Wit I hereby certify that the foregoing is truly taken from the Record of proceedings of the Circuit Court for Washington County aforesaid,

In testimony whereof I hereunto subscribe my name and affix the seal of the said Circuit Court this 7th day of July 1860,

Isaac Nesbitt Clk,

Exhibit No 3

State of Maryland Washington County sct: At a Circuit Court of the Fourth

June Term 1863.

Judicial Circuit of the State of Maryland begun and held at Hagerstown in and for the County aforesaid on the 4th Monday of July being the 26 day of the same Month in the year of our Lord 1859.

Present

The Honorable Thomas Perry Judge of said Court,

John M Kanak Esquire Sheriff.

Isaac Nesbitt Clk

In the Record of proceedings of the said Court amongst others is the following to Wit

Cyrus Huston vs James B Dell and Terretenants

Be it remembered that here before to Wit on the 11th day of August in the year of our Lord 1858 the said Cyrus Huston by Richard H Alvey and George Ashley Esquires his attorneys sues forth and of the Circuit Court for Washington County here to Wit of the State of Maryland of Scire Facias in the words and of the tenor following to Wit,

Washington County to Wit The State of Maryland to the Sheriff of Washington County Greeting. Whereas at a County Court begun and held at Hagerstown in and for the County aforesaid on the third Monday of November in the year of our Lord 1847 a certain Cyrus Huston by judgment of the said Court recovered against a certain James B Dell late of Washington County Yeoman as well the sum of Eight thousand dollars current money of this state debt as also the sum of One thousand dollars current money for his damages which he had sustained as well by reason of the detention of that debt as for his costs and charges by him about his suit in that behalf laid out and expended, whereof the said James B Dell is convicted, as it appears on Record, And whereas the said James B Dell at the time of the rendition of the Judgment aforesaid was seized of divers Lands and Tenements in his demesne as of fee and execution of that Judgment yet remains to be made, of the said Cyrus Huston Wherefore the same Cyrus Huston hath besought that a fieri facias remedy be granted him in this behalf and as it is right that those things which in the said Court are confusedly commanded and adjudged should be executed with due and speedy Execution, You are therefore hereby commanded, that you give notice to the said James B Dell and also unto the Terretenants of all the Lands and Tenements in your Bailiwick being whereof the said James B Dell on the 29 day of November 1847 on which day the Judgment aforesaid was rendered or ever afterwards was seized that they be and appear before our next Circuit Court to be held at the Court House in Hagerstown in said County on the 4th Monday of November next to shew if they have or can say any thing for themselves why the said Cyrus Huston ought not to have his execution of his debt damages costs and charges aforesaid, to be levied on those Lands and Tenements and paid to the said Cyrus Huston according to the form and effect of the recovery aforesaid, if they the said James B Dell and his terretenants shall thereof be convicted and further to do and receive what the said Court shall then and there consider concerning them in this behalf and have there this Writ, Witness the Honorable Thomas Perry Judge of our said Court the 26th day of July 1858. Issued the 11th day of August 1858.

Isaac Nesbitt Clk.