

Case No. 2,911.

CLUTE ET AL. V. GOODELL.

{2 McLean, 193.}<sup>1</sup>

Circuit Court, D. Michigan.

Oct. Term, 1840.

SHERIFF—RESPONSIBILITY FOR ACTS OF DEPUTY.

A sheriff is responsible for the acts of his deputy.

{Cited in The Laurens, Case No. 8,122.}

{At law. Action by Clute and Mead against Goodell.}

Frazer & Walker, for plaintiffs.

Witherell & Buell, for defendant.

OPINION OF THE COURT. This action is brought against the defendant, who acts as sheriff, for the misconduct of one of his deputies. It was proved that an execution was issued, on a judgment, for \$3,898.09, and costs, the 25th November, 1837, which was, on the same day, placed in the hands of the deputy to levy and collect the amount immediately.

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A levy was made on a store of goods, amounting to thirteen or fourteen thousand dollars, which belonged to the defendant, named in the execution. But an arrangement was made with him by the deputy, under which the goods were sold, and only a small part of the proceeds of the sale was applied in satisfaction of the execution.

THE COURT instructed the jury, that the sheriff was responsible to the plaintiffs for the acts of his deputy, and that, if the levy was made on a sufficient amount of goods to satisfy the execution, which the deputy failed to dispose of, as by law he was bound to do, they would find against the defendant, the amount due on the judgment, including interest. The jury rendered a verdict for the plaintiffs for \$3,418.48. Judgment.

<sup>1</sup> [Reported by Hon. John McLean, Circuit Justice.]