

In *Stark v. Starrs, supra*, Mr. Justice FIELD says: "Such claim or title must be exhibited in the proofs, and perhaps in the pleadings also, before the adverse claimant can be required to produce the evidence upon which he rests his claim of an adverse estate or interest." In *Holland v. Challen, supra*, the conveyances showing that the plaintiff claimed title to the premises under a purchaser at a tax sale, appear to have been alleged in the bill. On demurrer to the same, because it did not state the nature or particulars of the defendant's adverse claim to the property, it was held sufficient. In delivering the opinion of the court, Mr. Justice FIELD says:

"Undoubtedly, as a foundation for the relief sought, the plaintiff must show that he has a legal title to the premises, and, generally, that title will be exhibited by conveyances or instruments of record, the construction and effect of which will properly rest with the court. Such, also, will generally be the case with the adverse estates or interests claimed by others."

On the argument an objection was taken to the bill *ore tenus*, that it did not sufficiently state the title of the plaintiff. As has been shown, the plaintiff claims title by a regular chain of conveyances from the donees, of the premises, Balch and wife, under the donation act; and also on the ground of adverse possession from October 4, 1870, to December 31, 1883. Generally, I think it will be found sufficient for the plaintiff to allege his possession and interest, or estate, in the land, as that he is the owner thereof in fee for life or for years; and that he claims the same by a regular chain of conveyances from some recognized and undisputed source of title, as, the United States, or its donee under the donation act of September 27, 1850, without setting out such conveyances or stating them in detail. But when there is reason to believe, as in this case and many others, that the rightfulness of the defendant's claim depends on the validity or legal effect of some link or links in the conveyances under which the plaintiff claims title, it is very convenient, if not necessary, that the statement of the plaintiff's case should contain the facts fully and in detail at that point in the chain of his title where it conflicts with the claim of the defendant. By so doing the necessity of future amendments will be avoided, and the progress and dispatch of the case promoted. Now, it is fair to presume that if the defendant has a regular chain of conveyances from the donees of the United States, and the claim of the defendants is at all worthy of this litigation, that there is an alleged or supposed defect or invalidity at some point in this chain of conveyances, from which it may be claimed that the title, instead of being passed on to the plaintiff, was diverted to the defendants. Every case in this particular must stand on its own circumstances; but, on the whole, I think it best to allow the demurrer on this point; and it is so ordered.

WEBSTER and others v. MITCHELL and others.

(Circuit Court, D. Indiana. September 10, 1884.)

COLLATERAL SECURITY—AGENT INDORSING NOTES FOR PRINCIPAL—INSOLVENCY
—TRANSFER OF SECURITY—RIGHTS OF HOLDERS OF NOTES.

C. & Co. made M. their agent to sell lumber by contract, stipulating, among other things, that C. & Co. placed their stock of lumber in M.'s hands, at rates and on commissions stated, and "that all stock, and accounts or notes outstanding or thereafter made, and all future shipments, shall be and are collateral security to M. for any and all notes or acceptances heretofore given by him to C. & Co., or any notes or acceptances hereafter given by him to them." M., under this arrangement, made his note to C. & Co. for \$1,000, which they indorsed to W., and on the same day a note for \$500 was made and indorsed to P.; M., though in form the maker, being in fact the surety for C. & Co., for whose accommodation the notes were made. On the same day, C. & Co., with M. as surety, made their notes to S. for \$2,000, payable in equal instalments, in 60, 75, 90, and 120 days after date. Subsequently, M., as agent of C. & Co., by writing, reciting the indebtedness to S., transferred to him certain of the lumber, etc.; said S. to sell said lumber, etc., and to apply the proceeds to the payment of the notes. At the time of the transfer, C. & Co. and M. were insolvent, as S. knew. S. realized \$2,000 from the sale of the property. *Held*, that the property in the hands of M. was impressed with a trust in favor of the holders of the notes, and could not, after the insolvency of C. & Co. and M., be transferred to one of the *cestuis que trust* to the prejudice of the others, and that S. should account to W. and P. for a proportionate amount of the sum realized from the goods so transferred.

In Equity.

P. A. Randall, for plaintiffs.

Coombs, Morris & Bell, for defendants.

Woods, J. The facts in this case are these:

Some time before October 31, 1876, Crossette, Graves & Co., of Grand Rapids, Michigan, made Daniel Mitchell, of Marion, Indiana, their agent to sell lumber at Marion, and on that date made with him a contract, whereby the agency was extended until June 1, 1877; and it was stipulated, among other things, that Crossette, Graves & Co. placed their stock of lumber, lath, and shingles in Mitchell's hands for sale at rates and upon commissions stated, and "that all stock and accounts, or notes outstanding, or thereafter made, and all future shipments, shall be and are collateral security to the said Daniel Mitchell for any and all notes or acceptances heretofore given by him to said Crossette, Graves & Co., or any notes or acceptances hereafter given by him to them." On January 11, 1877, Mitchell, under this arrangement, made his note to Crossette, Graves & Co. for \$1,000, which they indorsed to the complainant Webster, and on the same day a like note for \$500 was made and indorsed to the complainant Price; Mitchell, though in form the maker, being in fact surety for Crossette, Graves & Co., for whose accommodation each of the notes was made. On the same day, January 11, 1877, Crossette, Graves & Co., with Mitchell as surety, made their notes to the defendants Sweetzer, for \$2,000, payable in equal instalments, maturing in 60, 75, 90, and 120 days, respectively, after date. On January 27, 1877, Mitchell, as agent for Crossette, Graves & Co., by a writing signed and acknowledged, wherein reference is made to the contract of agency aforesaid, and to the indebtedness to the Sweetzers, evidenced by said notes, did "sell, transfer, and deliver to Sweetzers certain lumber, lath, and shingles, more particularly described in an itemized statement thereto attached and made part thereof,