

was to have been sold by the sheriff, was the result of the solicitation of the complainant himself, and if he did buy, as he alleges he did, he bought at the request of, and to gratify the complainant.

There is no evidence or ground of suspicion even, that this mortgagee used, or attempted to use his incumbrance, to coerce the will, or influence the conduct of the mortgagor. The case, therefore, of the defendant, Hopkins, stands entirely free from any possible prejudice, which could be brought to bear against it, because the property in question was mortgaged to him, and the question therefore is, whether the true nature of the transaction, by which the defendant got, and has retained possession of, the slave, is, as stated in the bill, or in the answer. It appears that on the 22d of January, 1841, the complainant, for the purpose of indemnifying the defendant, and Samuel Thomas, who were his sureties in a note given to Richard Estep and Henry A. Hall, executed to them a mortgage of this slave, (named John,) and some other articles of personal property; and the bill alleges, that for the purpose of accumulating in the hands of Hopkins, by the hire of the slave, a fund in payment of the debt, he delivered him the possession at or about the time of the execution of the mortgage. The theory of the bill therefore is, that it was the understanding, and arrangement of the parties, that the mortgaged property should be placed in the hands of one of the mortgagees, that from the rents and profits, the debt should be paid and his sureties thus indemnified.

Now this statement is explicitly denied by the answer, which maintains, that the mortgagor retained the possession of the property from the date of the mortgage, until some time in October, 1843, when Estep and Hall the creditors, who had recovered judgment against all the parties to the note, issued an execution, and had it levied on this slave, when the defendant became the purchaser of him at the request of the complainant, for the sum of \$400; which he agreed to pay, and did pay Estep, one of the plaintiffs in the judgment; and that on the day following the sale the complainant delivered him possession