

complainant, that the defendant was liable as a mortgagee in possession, to account for profits : for the defendant is reported to have said in the ~~same~~ conversation that he considered it a hard case that he should pay his money and have to pay hire too. But if he did so engage with the complainant, that is, if the understanding and agreement was, that he was to take possession of, and keep the slave, and apply his hire to the extinction of the \$400 he paid Mr. Estep, why should he complain of the hardship of the case. The witness told him that he must state his interest (that is, charge interest upon the sum he had advanced) and pay hire for the slave. Now, where was the hardship of this, if the defendant intended to admit that he held the slave as a mere pledge for his advance and nothing more?

My opinion, therefore, is, that upon the pleadings and proofs, the defence is made out, and the bill must, therefore, be dismissed, there being confessedly no ground for the interposition of equity, unless the case made by the bill, in relation to the slave, is supported. The other matters, standing alone, being fit subjects for a different jurisdiction.

I do not deem it necessary to express any opinion upon the question of limitation : being of opinion that a fair purchase at a fair price is shown, and consequently that the case upon the merits is with the defendant.

CORNELIUS McLEAN for Complainant.

RANDALL and PRATT for Defendant.