

Talbot Jones & Co. in favor of said Edward, and indorsed by him to the bank for \$1,341 82. Said assignment also authorized and directed the bank to pay over to said John D. Kerr, the surplus of said proceeds, or, if so required, to hand over to him whatever notes remained unpaid at the time of such request, on payment to the bank of the balance, if any, due on said note of Talbot Jones & Co. The same instrument also assigned to said John D. Kerr, said note of Talbot Jones & Co., upon its payment to the bank out of said collections, or by said John, in whole or in part, a copy of this assignment is also filed with the bill. The bill then admits that the bank received notice of this assignment on the 22d of August, 1846. That it was willing to deliver up to said John, the aforesaid notes upon his payment of the balance due the bank by said Edward, at the date of said assignment, and of said note of Talbot Jones & Co., and a certain bill of exchange on Appler & Willis, for \$238 92, but that said John never offered to pay to the bank said balance, at any time before its extinguishment in December, 1846, as above stated. The bill further states that said Edward failed and stopped payment on the 21st of August, 1846, and on the 4th of May, 1847, applied for the benefit of the insolvent laws, and received his final discharge thereunder, on the 29th of September, 1847, and that John Glenn was appointed his permanent trustee. That, in the month of September, 1846, notice was given to the bank, by George M. Gill, Esq. as attorney for a certain Moses Potter, not to deliver said notes to the said John, or any other assignee of said Edward, he, said Gill, insisting that they were the partnership effects, which said Edward was enjoined from disposing of, by an injunction issued out of this court, on the application of said Potter. That on the 1st of February, 1847, said Gill demanded that said notes should be delivered up to him, as partnership effects, he having been appointed by this court a receiver to take into his possession all the assets and effects of the said Edward M. Kerr.

That on the 24th of April, 1847, a demand was made on the bank for said notes, by said John D. Kerr, accompanied with