

jections did not arise under commissions issued from the court.

2. There must be a clerical mistake in the third count, in the omission of the words *per box*. The objection in the court below was not on this ground, but because the affidavit was not set out at length. The great strictness in setting out the whole instrument has been greatly relaxed; and where the substantial words are proved, it is now held to be sufficient. This is the case of a *libel*. Here the reference is to the affidavit, and the defendant has notice of the words charged and relied on. It is so in a *libel*, where the publication is referred to, and it may be known.

3. There being a general verdict in this case, and there being other counts in the declaration, which are good, the action can be sustained, and the judgment may be entered on any one of the good counts, under the act of 1809, *ch.* 153.

CHASE, Ch. J. The court could never permit the plaintiff to take a judgment on a count upon which he had given no evidence.

The court concur with the court below, in the opinion expressed in the *first* bill of exceptions, but dissent from that in the *second* bill of exceptions.

JUDGMENT REVERSED, AND PROCEDENDO AWARDED.

AYRES VS. GRIMES.

JUNE.

APPEAL from *Harford* County Court. *Replevin* for a slave, brought by the appellant against the appellee. The defendant pleaded *property, non cepit* and *limitations*. General replications and issues were joined. The plaintiff at the trial proved, that the slave was originally the property of *Josias Slade Bull*, who, in consideration of £110 paid by the plaintiff, bargained and sold the slave to the plaintiff, by an instrument of writing dated the 18th of March 1801. This bill of sale the plaintiff offered in evidence to the jury. It appears to have been signed and sealed by *Bull*, and acknowledged by him on the same day, before a justice of the peace of *Harford* county. The plaintiff also offered to prove, that this endorsement on it,

An instrument of writing, purporting to be an original bill of sale, and to have been signed and sealed by the vendor, and to have been duly acknowledged by him before a justice of the peace, with an endorsement thereon, proved to be in the handwriting of a person accustomed to write in the clerk's office of the county, stating that it had been duly recorded in the land records of the county—*Held*, to be sufficient evidence

1810.

Ayres
vs
Grimes