misapprehension or mistake; and, especially, is it under an obligation to do so, when it has just grounds for supposing, that the acts or declarations of the officer employed by it to make the sale, has been the cause of such surprise, misapprehension or mistake.

Now, in this case, in view of the facts stated by the trustee in his report, and of the grounds set forth in the petition of the defendant, sustained as that is by the evidence of disinterested parties, there is, I think, scarcely a doubt, that the trustee did, from inadvertence, misinform the defendant in regard to the day of sale ; or, at all events, from his (the defendant's) imperfect knowledge of our language, he misunderstood the trustee upon the subject.

It would seem impossible to doubt this ; and the deposition of James Slater, a witness whose veracity is not questioned, and of whose ability to pay no doubt has been expressed, says, but for the information which he received from the defendant, as to the time of sale, he would have attended, and if present, he would have given two thousand dollars for the property. It is true, there is some discrepancy between the evidence of this witness, as to the precise day on which he says the defendant told him the sale was to take place, and the statement of the defendant, in his petition. But, it is clear, beyond dispute, that the defendant was under a misapprehension upon the subject; and the evidence of Slater shows, that this misapprehension caused the defendant to make to the witness an erroneous statement as to the day of sale, which resulted in a loss of nearly one-half the value of the property.

It appears to me, that the following facts are indisputably established in this case :

1st. That the defendant did call on the trustee a few days before that on which the sale was made, for information as to the day of sale.

2d. That the trustee either incautiously misinformed him upon the subject, or, that the defendant misunderstood the trustee, owing to his (the defendant's) imperfect knowleddege of our language ; and,