

that Hess, for bricks furnished under the contract, being indebted to the complainant in a sum exceeding \$2000, on or about the 1st of July, 1845, he, the complainant, applied to him for payment, at least in part, of this demand, or for security for payment. That thereupon, Hess, as by him expressly stipulated at the time he contracted with the complainant for the bricks, and as part of said contract, agreed with the complainant, that in pursuance of said original contract, he should receive. And the complainant assented, as by him originally agreed, to accept payment to the extent of \$3000 of his demand for bricks furnished, and yet to be furnished from Riely, out of, and on account of the sum for which Riely was liable and indebted to Hess for said building.

That at that time, and when the complainant reminded Riely of said agreement for the complainant's payment, there was an amount due, and becoming due, and payable for the building, from Riely to Hess, exceeding the amount of complainant's claim against Hess, provided by him as before stated to be paid. That the complainant promptly thereafter notified Riely thereof, and requested and required him to pay and provide for the complainant's claim, out of the sum claimable as aforesaid from him, the defendant, to Hess. That Hess, in like manner, notified Riely, and directed to him to pay the complainant's claim, which he promised to do accordingly, out of said liability to Hess, as the same should mature, and become due, to wit, in his three promissory notes, each for \$1000, payable in one, two, and three years, respectively, from the 1st of November, 1845. And the bill prays for relief, commensurate with the case thus stated.

In order to make out this case, therefore, two things must be proved or admitted,—

First, that Hess did contract and agree to pay or secure the complainant, in the way alleged by him, and—

Secondly, that the defendant Riely had due notice thereof, before he had paid to Hess, or upon his order, upon his contract with him, the amount thereby stipulated to be paid.

It is said that the answer of Riely has not met the allegations of this bill, in that full, explicit, and frank manner, which is required to give the defendant the benefit of a direct