

acknowledges he has received from *Heyland*, are as fully before the court now as they can be at any future stage of the case, or at the final hearing. The only opening for any doubt or hesitation is as to the true intent and meaning of those deeds. Let us then consider them carefully.

By that of the 20th of November, 1810, it appears, *Heyland* had become largely indebted to sundry persons for goods purchased of them; that, to secure the payment of those debts, he had drawn bills on the firm of *William & John Bell & Co.*, which they had accepted: who might, therefore, if they paid those bills, become the creditors of *Heyland*, in place of those of whom he bought the goods. After which the *Bells* transferred and made over this eventual and uncertain claim of theirs upon *Heyland*, to *Thompson*. In consideration of which, *Heyland* bound himself, by this contract, to pay to *Thompson* such balance as might be found to be due from him, *Heyland*, to the *Bells*, on account of those transactions, or otherwise, upon the fate of the bills being known, and a fair statement of accounts between *Heyland* and the *Bells*.

This seems to be the clear sense and substance of this first agreement. From which it appears, that *Thompson* was put into the place of the *Bells*; and, consequently, to the extent of their claim upon *Heyland*, became his creditor; and, as such, had a right to the funds which were placed in his hands under that agreement. But it is doubtful, from the answer, whether *Thompson* ever received any thing or not under this first agreement exclusively; and, even supposing he had, the amount not being specified, the court could make no order on this motion respecting it.

It appears, however, that the sum specified in the exhibit E, and which is distinctly acknowledged to have been received, came to *Thompson's* hands after the execution of the deed of the 8th of January; and, consequently, must be controlled and regulated according to that contract, and not the first deed of the 20th of November. Hence it becomes necessary to proceed directly to the consideration of the second agreement, dated on the 8th January, 1811.

This contract, after a recital nearly word for word the same, and in sense entirely the same as the first, proceeds to declare, that, in consideration of the premises, *Heyland* is held bound to pay to *Thompson* such balance as might be found due from *Heyland* to the *Bells* on account of those transactions, or otherwise, up to that time; that *Heyland* will immediately proceed to account with and