

Republic of Texas }
County of ~~San Antonio~~ ^{El Paso} }

To the Hon^{ble} A. B. Shelby Judge
of the first judicial District.

Your Petitioner Isaac Parker respectfully represents to your Honor that on or about the 29th day of June 1837 one J. J. Holcombe pretending that one Robert Flemming was a married man and entitled under the Colonization Law of This Republic to a League of land ^{as his head-right} and that he the said J. J. Holcombe by a regular assignment and transfer was legally authorized to assign transfer and pass title to the same and was duly authorized by a power of Attorney legally obtained from the said Robert Flemming ~~as mentioned~~ to take the necessary steps to obtain a patent for the same (all which representations of the said J. J. Holcombe were false and fraudulent) proposed to sell the said head-right to your Petitioner that your Petitioner confiding in said false representations of said J. J. Holcombe did purchase the said head-right from him paying him in part a horse which was then delivered and giving his conditional note as is herein substantially set forth for the residue of the purchase money to wit; "As soon as I obtain from the Government of Texas a good sufficient deed or title to a League of land as the head rite of Rob^t Flemming I acknowledge myself indebted to J. J. Holcomb the full sum of Three Hundred Dollars.

June 29th 1837—

Isaac Parker "

Your Petitioner further represents that the said Robert Flemming utterly failed to make good his undertaking to secure a deed or title from

said Government to said League of Land
nor could he so have done nor can he now
or hereafter make such title or procure the
same to be legally made because as your
petitioner expressly charges the said Robert
Flemming was not entitled to a League
of land as his head right if to any land
at all at the time of the said purchase
he being then and still being up to a late
period a single man and at most
entitled but to a Third of a League and
your petitioner is advised that the said
~~certificates~~ ~~being~~ ~~having been~~ ~~fraudulently~~
~~set~~ Claim for a League of land being fraud-
ulent in part viciated the whole - that the
consideration of the said note was void
~~ab initio~~ being tainted with fraud and
that being it being a conditional liability
with a condition precedent to be performed
by the said Robert Flemming; until such
performance on his part or those claiming
under him, ~~before~~ there can be ^{no} ~~any~~ pretence
of a fixed liability on the part of your
petitioner ~~he~~ ^{not} ~~before~~ ~~he~~ ^{could} ~~he~~ ^{legally or equi-}
tably be required to pay the said three
hundred dollars or any part thereof. ~~and~~
~~your petitioner having shown the consideration~~

Your petitioner further shows that not-
withstanding the illegal and fraudulent
consideration and Conditional character of
the said promissory note one John H
Pierce having obtained possession of the
same instituted a suit against your pe-
titioner and said J. J. Holcomb in his cha-
racter of assignee of said Holcomb in

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the County Court of said County of Mont-
gomery - in which Court your Petitioner was
informed that the Plaintiff had failed in
his action but as has since transpired to
the surprise of your Petitioner, who rested
contented under the belief the matter was
settled as aforesaid, a judgment was given
~~for want of a proper defense~~ against him
at the Spring Term of the District Court of
the County of Montgomery and an execution
has been levied on his property to satisfy the
same. ~~all which for~~

Your Petitioner is advised that an assign-
ee ~~takes~~ ^{not necessarily} of a promissory note takes the same
subject to all the equity which could have
been urged in defense against the original
holder or payee of the same as well as to
all the conditions apparent on the face of
the paper with full proof as to latent am-
biguity. That this is a case peculiarly
cognizable by ⁱⁿ a Court of Equity whose ~~own~~
~~searching~~ Character is often the sole means by
which frauds can be detected and therefore
prays that the petition be filed as his a-
mendment by way of ~~substitution~~ ^{assignment} to the Peti-
tion heretofore filed in this behalf ~~and~~
~~that he withdraws~~ - that the injunction
heretofore granted in obedience to the prayer
thereof may nevertheless be continued
and perpetuated - that the said John H.
Pierson may be cited to appear at the
next term of this Honorable Court and answer
this petition and that your Honor will
~~perpetually injure him~~ perpetuate the in-
junction ~~to~~ heretofore granted in this

behalf and your petitioners as in duty
bound will ever pray for such other
and further relief as the nature of his case
may require and as in duty bound will
ever pray &c

Joseph Heggerson
B B Goodrich
for Petitioner

Republic of Texas & Personally appeared
County of Montgomery 3 in open Court Isaac
Parker the fore above named Petitioner who
upon Oath Sweth that the foregoing allegations
so far as they are stated as of his own knowledge
are true and those stated on the information of
others he believes to be true in like manner

Subscribed and sworn
to in open Court Nov. 27th
1840. Charles Thomas Isaac Parker
Deputy Clerk Montgomery

Republic of Texas & In the Clerk of the
First judicial District 3 District Court of the
County of Montgomery. Let a writ of Habeas
corpus and Copy of this Petition and a citation
issue according to the prayer of Petitioner upon
the sufficient bond heretofore given

Given under my hand and seal
This 27th day of Nov. 1840.

exacted by attorney in this case

Chas. Thomas
Isaac Parker
Deputy Clerk
Montgomery