

No. 14705

Supreme Court of Illinois

Ripper

vs.

Vogle et al.

71641  7

14705

STATE OF ILLINOIS,
SUPREME COURT,
THIRD GRAND DIVISION.

No. 90

J. W. Madison & Co., Stationers, 196 Lake St.

Rogers
Thayer
1868

Henry Vogle
Philip Heisel v
William Stausterry } In the Supreme Court of
 } Illinois 3^d Grand Division
 }
Adam Ripper ^{v2} 2 Error to ~~Tazewell~~ ^{Peoria}

The clerk will please give a
summons for defendant directed to Sheriff
of Tazewell County send to me at Peoria
I will file the record in a few days, Enclosed
find \$10 -

Stm Mead
Atty for App in Error

⁹⁰
Henry Vogle Esq

²³
Adam Ruffer

Receipt

Filed January 16, 1884
L. Leland
Clerk

SUPREME COURT OF ILLINOIS.

...

Third Grand Division-March Term, 1864

ADAM RIPPER

vs

HENRY VOGLE, PHILIP HEISEL and WILLIAM
STANBERRY.

ABSTRACT OF RECORD.

Morning Mail Print.—Peoria.

Filed April 19, 1864
L. L. and C. W.

H. M. WEAD,
For Plaintiff in Error.

SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION---MARCH TERM, 1864.

ABSTRACT OF RECORD.

ADAM RIPPER
vs.
HENRY VOGLE,
PHILIP HEISEL and
WILLIAM STANBERRY.

This was a Bill in Chancery filed in the Tazewell Circuit Court to foreclose a mortgage and removed by a change of venue to Peoria Circuit Court, where a final decree was rendered in favor of complainant on the day of
A. D., 1863.

The Bill was filed on the 2d day of June, 1862, summons was duly issued and served on defendants. The Bill alleges (page 3) that on the 27th day of February, 1857, one Henry Vogle, being seized in fee of three certain tracts of land (described in the Bill) and being indebted to one William Stanberry in the sum of three thousand five hundred dollars, (4) secured to be paid by three certain promissory notes all bearing date February 27, 1857, for the sum of \$1166.66 each, payable in one, two and three years after date with interest at the rate of *six per cent per annum* from the date thereof (copies of which notes were filed, marked A, B and C) and made a part of the Bill (4) said Vogle made and executed a mortgage on the land to secure the payment of the notes.

That on the 30th day of October, 1860, (5) there had been paid upon said notes the sum of eighteen hundred dollars. That about the 8th of March, 1859, Henry Vogle conveyed the lands described in the mortgage to

Philip Heisel, and on the 30th of October, 1860, there was due upon the notes for principal and interest the sum of \$2427.32, and Philip Heisel and Henry Vogle (5) then entered into an agreement with complainant, to whom said mortgage and notes had been assigned by said Stanberry, to pay your orator ten per cent interest annually upon said sum of \$2427.32, *and changed said notes from six to ten per cent*, a copy of which agreement is filed, marked E, and made part of the Bill (page 6).

(6) That in the month of October, 1860, ^{Henry}Stanberry assigned said notes and mortgage to complainant.

That the money is all due except the payment above mentioned. *The defendants are called upon to answer under oath.*

Prayer that the Court will find the amount due and that defendants be decreed to pay the same, or in default thereof that the mortgaged lands may be sold.

The notes are set out on page 8 of the record, the first of which, marked "B," is as follows :

"\$1166.66.

"PEKIN, February 27, 1857.

"One year after date I promise to pay to the order of William Stanberry "eleven hundred and sixty-six 66-100 dollars, value received, with ten per "cent interest from date.

"HENRY VOGLE."

The note is endorsed "pay to A. Ripper," and signed by William Stanberry.

The other two notes (8) are precisely like the first, payable in two and three years, and like the first had been altered from six to ten per cent.

Exhibit D, pages 8 and 9, consists of the mortgage which is set out in full. It describes the notes as being for \$1166.66, payable in one, two and three years *with interest at the rate of six per cent per annum* (9).

The agreement referred to in the Bill and marked exhibit E, is as follows. Record, page 11 :

"Whereas, William Stanberry has this day assigned to Adam Ripper, Senr., "three notes secured by mortgaged against Henry Vogle; said notes amount "in all to this date, interest and principal, to the sum of twenty-four hundred "and twenty-seven 32-100 dollars, upon which, said sum of \$2427.32, I, Henry

"Vogle, hereby agree and bind myself to the said Adam Ripper to pay him interest at the rate of ten per cent payable annually.

"Pekin, October 20, 1860.

"H. VOGLE,
"PHILIPP.

"In witness of J. Westfield." *Vogle*

The answer of Henry Ripper, is under oath, and was filed on the 8th of February, 1862, (13). He admits the making of the notes and mortgage as set forth in the bill; admits the payment of \$1800 on the 30th October, 1860, and that he had at that time paid over that sum on said notes, and as he thinks \$1000 in 1858 and \$1000 in 1859; admits that he sold and conveyed the premises to Philip Heisel, 8th March, 1859, but denies that there was due on said notes, 30th October, 1860, the sum of \$2427.32, and avers that *"he did not with Philip Heisel or otherwise agree with complainant, or any other person, to change said notes in said mortgage named from 6 per cent interest to 10 per cent, and alleges that if said notes have been so changed from 6 to 10 per cent interest from date, it was done wholly without permission and authority from him,* and he submits that the agreement marked exhibit E, referred to in the Bill, is without consideration and void, and that the 10 per cent therein named is not secured by the mortgage, and so far as the foreclosure of the same is concerned should not be included.

Admits that the notes and mortgage were duly assigned to complainant, but denies that the exhibits marked (page 14) A, B, C, *i. e.* the notes, are copies of the notes he executed, and denies that they are the notes described in the mortgage.

Philip Heisel, one of the respondents, also filed his answer, under oath, at the February term, 1862.

He admits that Vogle executed the mortgage, and the notes described therein; admits that there had been paid \$1800 on the 30th October, 1860. States that he is advised that Vogle actually paid before that time \$2000. Admits that he purchased the premises of Vogle, 8th March, 1859, but denies there was due on the notes \$2427.32 on the 30th October, 1860, and avers that he did not with Vogel, or any other person, agree with complainant to change said notes from 6 per cent to 10 per cent, and alleges that if the notes have been so altered, it was done wholly without his consent, authority or approval, and he submits that the subsequent agreement of Vogle to pay 10 per cent is without consideration and void, and the 10 per cent is not included

in the mortgage. Admits that Stanberry assigned said notes to complainant in 1860. Thinks complainant is entitled to the amount due on said notes as originally made, but denies that the notes set out in the Bill are copies of the notes executed by Vogle and secured by the mortgage, and denies that they are the notes described in the mortgage. (17)

(17) Replication was filed at the February Term to each of the foregoing answers.

On the same day, 8th February, the mortgage was filed and that instrument describes the notes as drawing *six per cent interest per annum* (18, 19).

(35) The Bill was taken for confessed as against defendant Stansberry.

[35] The case was tried before Hon. A. L. Merriman, Judge at the February term, 1863, of the Peoria Circuit Court.

On the trial [39] the complainant read in evidence the mortgage, which described the notes as drawing *six per cent interest*, and the notes attached to the deposition of J. Westfield, and the assignment thereon to complainant, and also the deposition of J. Westfield, which is as follows :

My name is Juatz Westfield, my age 25 years, residence Pekin, Illinois, occupation grocery merchant [23], am acquainted with Henry Vogel, Philip Heisel, William Stanberry and Adam Ripper ; knew them in the year 1860. [Here exhibit A was shown him.] Saw Vogle sign it and witnessed his signature. Did not see Heisel sign it, and do not know his signature. Have seen the notes annexed, marked B, C, D.

Question 6.—“Please state whether those notes were ever altered in your presence ; if so, when it was ? by whom the alteration was made, and what alteration was made ?”

Answer.—“Mr. Stanberry and Mr. Vogle both told me on the 20th day of October, 1860, that he [Mr. Stanberry] had altered them, but not at that date ; am not able to state whether they were altered from drawing interest at 6 per cent. to 10 per cent. as each note became respectively due, or whether they were altered after they all became due. Mr. Stanberry told me that he had altered them ; [Record page 24 ;] that Mr. Vogle was present, and had agreed to the alteration.”

Question 7.—“Do you know whether they stated anything about paying interest on any certain amount ?”

Answer.—“Yes, sir. From the 20th day of October, 1860, Henry Vogle

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agreed to pay 10 per cent. interest upon \$2,427 32, which those three notes, marked "B," "C," "D" amounted to; as Mr. Vogle and Mr. Stanberry at that time figured them up."

The agreement marked exhibit "A" was drawn up by Mr. Stanberry.

Cross examined by defendant—Question—"Did you see those notes [page 23] marked "B," "C," "D," altered from 6 to 10 per cent. interest? If so, please state by whom they were altered, where they were altered, and who was present at the time it was done."

Answer.—"I did not see them altered. The notes were present on the 20th of October, 1860. I saw them."

Question 3.—"Were they altered at that time?"

Answer.—"They were altered."

The agreement marked Exhibit "A" [25] was written in my store in Pekin, Illinois, on the 20th of October, 1860, in the afternoon. I was present. Mr. Vogle and Mr. Ripper were present. Mr. Vogle signed it in my store. Mr. Stanberry, Mr. Ripper and I were present. I was not the agent of Ripper, but acted as an interpreter with Mr. Stanberry. Stanberry and Ripper talked with me a little the most, but Vogle also talked with me. Sometimes I was alone with Stanberry; sometimes all were present. Before Ripper traded for the notes, he was afraid he would not be able to collect the 10 per cent. interest, but Stanberry and Vogle both assured him it was all right, and that he, Vogle, would give him an agreement to that effect; that after he had traded for the notes he still feared he would not be able to collect the 10 per cent, but that he did not know the law..

The agreement referred to by this witness as being marked exhibit "A," is as follows:

"Whereas, William Stanberry has this day assigned to Adam Ripper, Sen., three notes, secured by mortgage, against Henry Vogle; said notes amount in all to this date, interest and principal, to the sum of twenty-four hundred and twenty-seven 32-100 dollars, upon which said sum of \$2,427 32 I, Henry Vogle, hereby agree and bind myself to the said Adam Ripper, to pay him interest at the rate of ten per cent. payable annually.

Pekin, October 20, 1860.

In witness of

J. WESTFIELD."

H. VOGLE.
PHILIPP."

The notes (32) referred to in said deposition as exhibits B, C, D, are as follows:

"\$1166.66.

Pekin, February 27, 1857.

"Three years after date I promise to pay to the order of William Stanberry, eleven hundred and sixty-six 66-100 dollars, value received, with ten per cent. interest from date,

HENRY VOGLE."

The other two notes are precisely like this, except they are payable in one and two years, and *they* call for *ten* per cent. interest from date.

The notes were duly assigned to complainants.

On the note payable in one year were the following endorsements: \$300, February 27, 1858, in a check on the bank; March 10, 1858, \$200; May 8, 1858, \$300.

The complainant next offered in evidence the deposition of William Stanberry, to the admission of which the defendant excepted, on the ground that said Stanberry was interested against the defendants, but the Court overruled the objection and admitted the deposition, to which decision the defendants then and there excepted and filed their bill of exceptions, which was allowed. See Record, page 39.

Said William Stanberry swore as follows: "My name is William Stanberry, my age 47 years, place of residence, Pekin, Ill., occupation milling. I know Adam Ripper, Henry Vogle and Philip Heisel. Have seen the instrument marked exhibit "A." Henry Vogle executed the same, October 20, 1860, at the store of Westfield, in Pekin; I do not know the signature of Philip Heisel."

"I have seen the notes referred to in Westfield's deposition; those notes were altered; the notes were made payable to me, and drew 6 per cent. interest, and by an agreement between Vogle and myself, the notes were to draw ten per cent. after maturity. Prior to the 20th of October, 1860, Vogle had sold the farm to Philip Heisel, and had been trying to dispose of the Heisel note and mortgage which had been given on the same farm in controversy to Ripper, which he declined taking because these notes were secured by an older mortgage; and by an agreement with Vogle I altered them to draw 10 per cent., on the 20th day of October, 1860, at the store of Westfield, in Pekin, Ill., to satisfy Ripper—that it was agreed between Ripper and Vogle that the notes should draw 10 per cent. interest after maturity. Page 29."

Interrogatory 5—(29) "Do you know anything about the credits on the

the back of the notes marked "C," in Westfield's deposition, if so, state all you know about the credits and the erasure of the same?"

Answer—"I originally had six notes, three on Vogle, and three on Martin Heisel, written by the same person, for the same amounts and of the same dates; Martin Heisel paid me from time to time (30) or at different times, different sums, for which I gave him receipts, he afterwards presented the receipts and I endorsed the same on Vogle's note through a mistake. I then erased the same, and spoke to Vogle about it."

Cross Interrogatory—"Did you not tell Mr. Ripper before he traded for the notes that he could not recover 10 per cent. on the notes; that the land would only be held for 6 per cent., and the remainder would have to be recovered from Vogle on his agreement."

Answer—"I did so inform him."

Interrogatory 2d—"Was Ripper by when you altered the notes?"

Answer—"He was not by at the time."

Here the complainant rested.

(39). The defendants then read in evidence the endorsement of the several payments made on the notes which were as follows: Endorsement on note at one year; \$200 March 10, 1858, May 8, 1858, \$300. One note due in two years \$1,000, July 23, 1859.

The defendants then proved the signature of William ^{Stanberry} ~~Vogle~~ to the following receipts. Page 40.

"Received of H. Vogle, a check of \$300 on the bank, which is to be credited on his note which I hold against him.

Pekin, Feb. 28, 1858. Signed, W. STANBERRY."

"Received of H. Vogle, two hundred dollars, to be applied on his note which I hold against him. Pekin, March 10, 1858. W. STANBERRY."

"Received of H. Vogle, three hundred dollars, to be applied on his note due March 1st, 1858, which I hold against him. May 8, 1858.

W. STANBERRY."

To the reading of these receipts as evidence, the complainant objected, for the reason that the payments in the receipts mentioned were endorsed on the note, which objection the Court sustained, and rejected said receipts, except the one dated May 8, 1858, for \$300, which was allowed in lieu of, and

in correction of the endorsement of \$200 of same date. Page 41. On the note payable one year after date, to which opinion of the Court in the rejection of said receipts as payments the defendants then and there excepted (41). The Court then rendered a decree in favor of complainants, for the amount due upon said notes, computing the same at 6 per cent. interest, after deducting the several payments endorsed on said notes, and \$100 allowed in said receipt for \$300, dated May 8th, 1858, which decree is as follows: See page 42.

“It appearing to the Court that the defendant Vogle did execute the notes and mortgage as in the bill alleged, that the same were afterwards duly assigned to complainant, and it further appearing that the defendant Vogle has paid on account of said mortgage debt, the sum of \$1800, at various dates, as shown by the endorsements on said promissory notes and receipts exhibited.”

“And it further appearing that the said notes were altered by consent and agreement of defendant Vogle, so as to draw 10 per cent., instead 6 per cent. interest, on or about the 30th day of October 1860. But it not appearing from the evidence that the defendant Heisel was a party to, or consented to said alteration, it is ordered by the Court that the balance due on said mortgage be ascertained by computing interest thereon at the rate (42) of six per cent. in accordance with the recital and description of said notes in the mortgage, and it appearing from such computation after allowing a payment of \$300 on the 8th of May 1858, in lieu of the endorsement of \$200, on the same date on one of said notes, that there is now due on said mortgage a balance of twenty-five hundred sixty-three dollars and fifty-nine cents. And it further appearing that defendant Heisel is a purchaser of the equity of redemption of said mortgage premises, with notice of said mortgage. It is ordered and decreed that defendants, Vogle and Heisel, pay to complainant said sum of \$2563.59 cents, in ten days from this date, with six per cent. interest thereon, together with the costs of this suit, and in default thereof, that the said mortgaged premises, or so much thereof as shall be necessary, be sold by the Master in Chancery, at public auction, to the highest bidder for cash, at the front door of the Court House, in this County, after having given at least twenty days previous notice of such sale in a newspaper printed and published in this County, and that said Master give to the purchaser at such sale a certificate of sale in the customary form, that out of the

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proceeds of such sale, said Master shall first pay the costs of this suit, and of said sale, and apply the balance toward payment of said mortgage debt and interest as above liquidated. It is further ordered that said Master report his proceedings to this Court at the term next succeeding such sale, and that this cause stand continued for that purpose. To which opinion of the Court, in rendering the said decree, the defendants then and there excepted and prayed that this, their Bill of Exceptions might be allowed, which is accordingly done."

J. A. MERRIMAN, [SEAL.]

The land was sold on the decree, May 5, 1863, to Adam Ripper, complainant, (38) for \$2671.44, and on the 2d day of June 1863, such sale was reported to, and satisfied and approved by the Court.

H. M. WEAD, for Plt'f. in Error.

Proceedings in Chancery before the Circuit Court
in and for the County of Teoria in the State of
Illinois on the thirteenth day of February in the year
of our Lord One thousand Eight hundred and
sixty three in a certain cause wherein Adam
Ripper is Complainant and Henry Vogel, Philip
Heisel and William Stanbery are defendants.

Be it remembered that heretofore, to wit: on the
second day of June in the year of our Lord one
thousand Eight hundred and sixty two there was
filed in the office of the clerk of said Court a certain
Transcript of proceedings had in the Circuit Court
in and for the County of Tazewell in said State, in
said Cause, which said Transcript and the papers
accompanying the same and referred to in said
Transcript and which said papers are respectively
Endorsed and marked A. B. C. D and E are in
the words and figures following, to wit:

Transcript

" Proceedings

At a term of the Circuit Court begun
and held at the Court house in Pekin within and
for the County of Tazewell and State of Illinois on
the first Monday of the month of February
A. D. 1862 Present Hon James Harriott Judge
of the 21st Judicial Circuit of the State of Illinois,
Composed of the Counties of Mason, Tazewell &
Chapman Williamson Sheriff
and George H. Harlow Clerk,
to wit:

Monday February 3^d 1862

2 Adam Ripper

vs

Henry Vogel, Philip Heisel
& William Stanbery

Foreclosure

Now Comes the Complainant by his Solicitors Roberts & Ireland and it appearing to the Satisfaction of the Court, that the defendants have been regularly served with process herein a rule is entered upon said defendants to answer by Friday Morning

Now afterwards, to wit: at a Term of the Circuit Court begun and held at the Court house in Pekin within and for the County of Tazewell and State of Illinois on the first Monday of the month of September A.D. 1862 and on the 8th day of said month it being the 7th day of said Term, the following proceedings, were had, to wit:

Adam Ripper

vs

Henry Vogel Philip Heisel
& William Stanbery

Foreclosure

Now on this day Come the parties by their Solicitors and it appearing that the Presiding Judge of this Court is interested in this Cause, ^{It is ordered by the Court that the venue in this} be changed to the County of Peoria, It is further Ordered that the clerk of this Court transmit to the clerk of the Circuit Court of Peoria

County a certified transcript of the Record of proceedings herein, and the papers on file in said cause.

State of Illinois,
Jazewell County. } I, George H. Harlow clerk of the
Circuit Court in and for said County, do hereby certify
the foregoing is a full, true and complete transcript
of the Record of proceedings had in said cause, and
that the accompanying papers marked A, B, C,
D, E are all the papers filed in said cause



Witness my hand and the Seal
of said Circuit Court hereunto affixed
at office in Pekin this 6th day of October
A. D. 1862, Geo H. Harlow, clerk
Per A. T. Emerson, deputy

(Paper marked (A) referred to in Transcript)

State of Illinois }
Jazewell County }
In Circuit Court
In February Term 1862
To the Hon. James Harriott Judge
of the 21st Judicial Circuit of the State of Illinois,
in Chancery sitting

Humbly complaining sheweth
unto your Honor your Orator Adam Rippert a
resident of Jazewell County, Illinois. That on or
about the 27th day of February 1857 one Henry Vogel
being seized in fee of the following described tracts
of land, to wit: The East half of the South West
quarter of Section Twenty Six, the West half of the
South East quarter of Section Twenty Six and the

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South West quarter of the North West quarter of section
Twenty Six all in Township Twenty Five North of
Range Five West of the 3^d principal meridian, ex-
cepting six acres out of the last described tract des-
cribed as follows, to wit: beginning at the South East
Corner of the West half of the North West quarter of
section Twenty Six same township and Range above
named; thence running North Seven chains and
fifty links, thence West Eight chains thence South
Seven chains and fifty links thence ^{East} West Eight chains
to the beginning, and said Henry Vogel being indebted
unto one William Stanbery in the sum of three thousand
and five hundred dollars secured to be paid by
three certain promissory notes all bearing date Feb-
ruary 27th 1857 for the sum of Eleven hundred
and Sixty Six ⁶⁶/₁₀₀ dollars each payable in one,
two and three years after date respectively with
interest at the rate of six per cent per annum from
the date thereof, copies of which said notes are here-
with filed marked (A), (B) & (C) and proved
to be taken as part of this rec, and said Vogel
being desirous of more Effectually securing the
payment of said notes on or about the 27th
day of February 1857 executed and delivered to
said William Stanbery his deed in fee simple
conveying to the said William Stanbery his heirs
and assigns the above described lands in fee
simple absolute but which said deed was and
is subject to a condition of defeasance therein
written ^{that} if the said Vogel his heirs, executors or

administrators should well and truly pay to the said William Stanbery his Executors, administrators or assigns the aforesaid sum of money with interest thereon at the times and in the manner mentioned in said promissory notes then said deed was to be void otherwise to be in full force and effect, as will more fully and at large appear by reference to said deed a copy of which is herewith filed (marked 2) and prayed to be taken as part of this Bill and the original will be produced upon the hearing of this cause.

Your Orator further shows unto your Honor that & up to and about the 30th day of October 1860 there had been paid upon said notes the sum of Eighteen hundred dollars and Your Orator further charges that on or about the 8th of March 1859 said Henry Vogel ~~devised~~ conveyed said mortgaged premises to one Philip Heise, and Your Orator further shows that on or about the 30th of October 1860 there was due upon said notes above mentioned for principal and interest the sum of Twenty Four hundred and twenty seven $\frac{32}{100}$ dollars, and said Philip Heise and Henry Vogel then entered into an agreement with your Orator to whom said notes and mortgage had been assigned by said Stanbery, to pay your Orator ten per cent interest annually upon said sum of Twenty Four hundred and twenty seven $\frac{32}{100}$ dollars annually and changed said notes from six to ten per cent, a copy of which agreement is also

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herewith filed (marked E) and prayed to be taken as
part hereof and the Original will be produced upon
the trial of this cause.

Your Orator further shows unto your
Honor that on or about the month of October
1860 said William Stanbery assigned and delivered
said notes and mortgage & to Your Orator whereby
Your Orator became entitled to receive the money
due and to become due upon the said notes and
Mortgage.

And Your Orator further shows that
within ^{neither} the said Henry Bogel nor any one for
him has ever paid any thing upon said
notes and mortgage except as above stated,
but Your Orator shows that there is still a
large sum for principal and interest due
and unpaid upon said notes and mortgage
And Your Orator further shows that he has fre-
quently and in a friendly manner requested
said Bogel to pay the same but he has wholly
refused so to do.

To the end therefore that the said
Henry Bogel, Philip Heisel and William
Stanbery may all be made parties to this bill
and upon their respective Corporate oaths full true
and perfect answers make to all and singular
the allegations thereof and that an account may
be taken of what is due to Your Orator upon
said notes and mortgage according to said
agreement made by the said Henry Bogel
and Philip Heisel and that said defendants

Shall be Ordered by decree of this Hon. Court to
pay within a short time what shall be
found due and the costs of this proceeding and
in default thereof that said defendants and
all persons claiming by, through or under them
May be barred and foreclosed of and from
all Equity of redemption in said premises and
that the same & may be sold and the proceeds
thereof applied to the payment
of said sum that shall be so found due
and interest and costs and for such other
and further relief as the nature of the case
may require and is Equity shall seem proper.

Will Your Honor also grant unto
your Orator the People's writ of Subpoena
to be directed to the Sheriff of Tazewell County
Illinois Commanding him to Summon said
defendants Henry Vogel, Philip Heise and
William Stanbery personally to be and appear
before Your Honor at the Court house in Pekin
on the first Monday in February 1862 to
Answer the premises and abide the order
and decree of this Honorable Court.

Adam Ripper
by Roberts & Ireland
Sols

Roberts & Ireland
Complets Sol

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Exhibit (A) \$1166 $\frac{66}{100}$ Pekin February 27th 1857

One Year after date I promise to pay to the
Order of William Stanberry Eleven hundred and sixty
Six $\frac{66}{100}$ dollars (value received) with ten per cent interest
from date

Henry Vogel

The above note is ~~Endorsed~~ indorsed, pay to A Ripper
It signed, W Stanberry

Exhibit (B) \$1166 $\frac{66}{100}$ Pekin February 27th 1857

Two Year after date I promise to pay
to the Order of William Stanberry Eleven hundred
and sixty Six $\frac{66}{100}$ dollars (value received) with ten
per cent interest from date.

Henry Vogel

The above note is indorsed, pay to A Ripper It
and signed W. Stanberry

Exhibit (C) \$1166 $\frac{66}{100}$ Pekin February 27th 1857

Three years after date I promise
to pay to the order of William Stanberry Eleven
hundred and sixty Six $\frac{66}{100}$ dollars (value received)
with ten per cent interest from date

Henry Vogel

The above note is indorsed, pay to A Ripper It,
and signed, W Stanberry

Exhibit (D) This Indenture made this twenty
seventh day of February in the Year of our Lord
One thousand Eight hundred and fifty seven,
between Henry Vogel of the County of Tazewell and

and State of Illinois of the first part and
William Hanberg of the same County and State
of the second part, Whereas the said party of the
first part is justly indebted to the party of the second
part in the sum of Three thousand five hun-
dred dollars secured to be paid by three certain
promissory notes all bearing date February 27th
1857 for the sums of Eleven hundred and sixty
six ⁶⁶/₁₀₀ dollars each payable in One, Two and three
years after date respectively with interest at the rate of
six per cent per Annum from the date of said notes.

Now therefore this Indenture witnesseth,
that the said party of the first part for the better
securing the payment of the money aforesaid with
interest thereon according to the tenor and effect of
the said promissory notes above mentioned and
also in consideration of the further sum of One
dollar to him in hand paid by the said party
of the second part, the receipt whereof is hereby
acknowledged, has granted, bargained, sold and
conveyed and by these presents does grant, bargain,
sell and convey unto the said party of the second part
his heirs and assigns forever, all the following des-
cribed tracts of land, to wit: The East half of the
South West quarter of Section Twenty six (26). The
West half of the South East quarter of Section
Twenty six, and the South West quarter of
the North West quarter of Section Twenty six
(26) all in Township Twenty five (25) North of
Range Five (5) West of the third principal meridian,
excepting six acres out of the last described tract

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described as follows, to wit: beginning at the South East corner of the West half of the North West quarter of Section Twenty Six (26) same Township and Range above named, thence running North seven chains and fifty links, thence West Eight chains, thence South Seven chains and fifty links, thence East Eight chains to beginning). Together with all and singular the tenements, hereditaments and appurtenances thereto belonging and all the Estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in as in Equity, of the said party of the first part of, in and to the above described premises and every part and parcel thereof, with the appurtenances. To have and to hold, all and singular the above mentioned and described premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever. Provided always, and these presents are upon this Express Condition, that if the said party of the ^{first} part, his heirs, executors or administrators, shall well and truly pay or cause to be paid, to the said party of the second part, his heirs, executors, administrators or assigns, the aforesaid sums of money, with the interest thereon at the time and in the manner specified in the above mentioned promissory notes according to the true intent and meaning thereof, then and in that case, these presents shall be void, otherwise to remain in full force. In witness whereof the said party of the first part has hereunto set his hand

and Seal the day and Year first above
written

Henry Vogel

State of Illinois ss.
Jazewell County ss. J. M. Jackaberry a Justice
of the Peace for said County, do certify that on this
day personally appeared before me Henry Vogel
whose name appears subscribed to the foregoing deed
of Conveyance as having executed the same, who
is personally known to me to be the real person,
who is personally known and in whose name
the acknowledgment is proposed to be made, and
acknowledged the execution thereof as his voluntary
act and deed, for the uses and purposes expressed.
Given under my hand and seal of office at
Pekin this Second day of March A.D. 1857.
J. M. Jackaberry J. P.

Exhibit (C) Whereas William Stanbery
has this day assigned to Adam Pippel and
three notes secured by mortgage against Henry
Vogel, said notes amount in all to this date inter-
est and principle to the sum of Twenty Four Hundred
and twenty seven $\frac{32}{100}$ dollars upon which said
sum of \$2427.32 Henry Vogel
herely agree and I bind myself to the said
Adam Pippel to pay him interest at the rate of ten per
cent payable annually

Pekin October 20, 1860

In witness

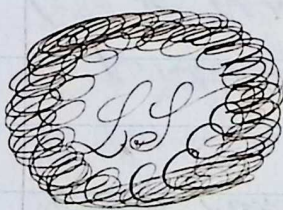
of J. Jackaberry

H. Vogel
Pippel

(Paper Marked (B) referred to in Transcripts)

"State of Illinois,
Jazewell County.

The People of the State of Illinois
To the Sheriff of said County, Greeting:
We Command you that you summon Henry
Vogel, Philip Keisel & William Stanberry
if in your County, personally to appear before
the Circuit Court of Jazewell County, on the
first day of the next Term thereof to be holden
at the Court house in the City of Pekin on the
first Monday in the Month of February next,
to answer to a certain bill of Complaint,
filed in our said Circuit Court, on the Chancery
side thereof against them by Adam Puffer,
And to do and receive whatever our said Court
may Order and decree in the premises, And
have you then and there the writ and make
due return thereon in what Manner you Exceed the
same. Witness George W. Harlow,
Clerk of said Circuit Court and the Seal
thereof affixed, at Pekin this 16th day of
January A.D. 1862



Geo W. Harlow clerk
per A. P. Arnold deputy

(Endored)

Served on Philip Keisel & Wm Stanberry
by delivering a true copy of the within and
stating to them the Contents thereof. Served on

Henry Vogle at his usual place of abode by
delivering a true copy of the within to Mary
Vogle wife of Henry Vogle and stating to
her the contents thereof this 18th day of Janu-
ary 1862.

C. Williamson J. C.
per W. H. Seibert Sept.

State of Illinois }
County of Jazewell }

Of the Feb'y Term of the Jazewell
Circuit Court A. D. 1862

Adam Ripper

vs

Henry Vogle Philip Heisle.
& William Stanby

Henry Vogel one of the defendants
in the above entitled cause having & reserving &c
for answer thereto or to so much thereof as he is
advised that it is necessary & proper for him to
make answer unto answering say that it is
true that on the 27th day of February 1857 he
executed unto William Stanby the mortgage in
said Bill named to secure the notes & sum of
Money in said mortgage described and Respondent
admits that on the 30th day of October 1860 there
had been paid by him on said notes the sum of
\$1800. dollars and he avers that he had at that
time paid over that sum on said notes & as
he thinks had then paid about \$1000.00 dollars
in 1858 & \$1000.00 dollars in 1859. Respondent

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admits that about the 8th of March 1859 he sold & conveyed said promises to Philip Heide but he denies that there is due on said notes 30 Oct. 1860 the sum of \$ 2427³³ dollars, and he avers that he did not with Philip Heide or otherwise agree with Complainant or any other person to change said notes in said Mortgage named from 6 per cent interest to 10 per cent and he alleges that if said notes have been so changed from 6 per cent to ten per cent interest from date it was done wholly without permission & authority from this Respondent and Respondent submits that the agreement Exhibit E referred to in Bill named was without consideration & illusory and void, and whether considered agreement thereof to obtain from Respondent more than legal interest absolutely void, in either event it is not recurred in or by said Mortgage & so far as the foreclosure of the same is concerned should not be considered or included. Respondent admits that he is advised that Stanbery assigned said notes in 1860 to said Complainant & that what ever is unpaid upon said notes described in said Mortgage said Complainant is entitled to as he believes and this Respondent utterly denies that the Exhibits A, B & C in said Bill named as shown by the Court in said Bill are copies of the notes he executed and he denies that they are the notes described in

said Mortgage and now having fully answered
in this behalf, this Respondent asks to be dismissed
with his reasonable costs in this behalf ~~Expended~~
^{Expended} Henry Bogel"

J. Prettyman

Att for deft."

Subscribed & sworn to before me this 8th day of
February 1862.

Geo. W. Harlow Clerk
for A. P. Griswold deputy

(Paper marked (D) referred to in Transcript)

State of Illinois
County of Jazewell

Of the Feb'y Term of the Jazewell
Circuit Court A.D. 1862

Adam Ripper

Henry Bogel Et al Philipp Heisle one of the
defendants in the above cause having & reserving
& for answer thereto & to do much thereof as he
is advise that it is necessary & proper for him
to make answer and answering says that
it is true as he is advised that on the 27th
day of Feby 1857 Henry Bogel Executed unto
William Stanberry the Mortgage in said Bill
named to secure the notes & sum of money
in said mortgage described and respondent ad-
mits that on the 30th day of October 1860
there had been paid on said notes by said Bogel
the sum alleged & he further avers that he is
advised said Bogel actually paid before that time

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about \$2000. Dollars. Respondent admits that about the 8th of March 1859 he purchased said premises of Henry Boyle but he denies that there was then due on the notes in the mortgage named 30 Oct 1860 the sum of \$2427³³ dollars, and he avers that he did not with said Boyle or other wise agree with Complainant or any other person to change said notes in said mortgage named from 6 per cent interest to 10 per cent from date thereof and he alleged that if said notes have been so altered or changed from 6 per cent interest to ten per cent interest from the date thereof, it was done wholly without the consent or authority or approval of this Respondent and this Respondent submits that the agreement, Exhibit (C) referred to in said bill named was executed without consideration & is absolutely void in either event it is not recured in or by said mortgage & so far as the foreclosure of said mortgage is concerned on said notes therein described, this agreement referred to should not be included. Respondent admits that he is advised that Strawberry assigns

said notes in 1860 to said Complainant & that whatever is unpaid on said notes described in said mortgage said Complainant is entitled to as he believes and this Respondent utterly denies that that Exhibits A. B. C. in said bill named as shown to the Court in said Bill ~~named~~ ^{are} ~~as shown to the Court in said Bill~~ or Copies of the notes he is advised were executed by said

Vogel and which are secured by said Mortgage and he expressly denies that they are the notes described in said Mortgage & secured thereby and now having fully answered asks to be dismissed with his reasonable costs in this behalf expended &c.
Philip Heisel "

"I Prettyman
Sol for Deft "

"Subscribed & sworn to before me this 8th day
of February A.D. 1862.

Geo H Marlow clk.

(Paper marked (E) referred to in Transcript)

" State of Illinois,
Jasper County,

In Circuit Court
February Term 1862

Adam Tippet

vs

Henry Vogel
Philip Heisel &
William Hamberg

In Chancery
To foreclose Mortgage.

The replication of Adam Tippet
to the Answer of Henry Vogel and Philip
Heisel. This Replint having and receiving
all and all manner of advantage of Exception
to the manifold insufficiencies of the said
Answers for replication thereunto saith that he
will aver and prove his said bill to be
true, certain and sufficient in law to be an-
swered unto and that the said Answer of the
said defendants is uncertain, untrue and inefficient

in law to be replied unto; without this that any other Matter, whatsoever in said answer contained Material or Effectual in law to be replied, Confessed, traversed or denied is true, all which Matters and Things this repliant is ready to aver and prove as the Honorable shall direct and humbly prays as on and by his said bill he hath already prayed.
 Adam Ripper."

And on the same day to wit: on the second day of June in the Year of our Lord one thousand Eight hundred and sixty two there was filed in the office of the clerk of the circuit court of Ponia County in the State of Illinois and in said cause a certain Mortgage and the Endorsement of assignment ^{thereof} thereon written are in the words and figures following, to wit:

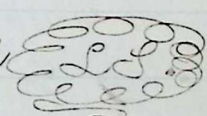
"This Indenture made this twenty Seventh day of February in the Year of our Lord one thousand Eight hundred and fifty Seven between Henry Vogel of the County of Tazewell and State of Illinois of the first part and William Stanbery of the same County and State of the Second part, Whereas the said party of the first part is justly indebted to the party of the Second part in the sum of Three thousand five hundred dollars secured to be paid by three certain promissory notes all bearing date February 27th 1857 for the sum of Eleven hundred and sixty six $\frac{66}{100}$ dollars Each payable in One, Two and Three years after date respectively

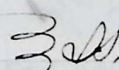
with interest at the rate of six per cent per annum
from the date of said notes. Now therefore this
Indenture witnesseth, that the said party of the
first part, for the better securing the payment of
the money aforesaid, with interest thereon ac-
cording to the tenor and effect of the said prom-
issory notes above mentioned, and also in con-
sideration of the further sum of One dollar to
him in hand paid by the said party of the
second part, the receipt whereof is hereby ac-
knowledged, has granted, bargained, sold and
conveyed, and by these presents does grant, bargain,
sell and convey, unto the said party of the second
part, his heirs and assigns forever, all the following
described tracts of land to wit: the East half of
the South West quarter of Section Twenty Six (26),
the West half of the South East quarter of Section
Twenty Six, and the South West quarter of the
North West quarter of Section Twenty Six (26)
all in township Twenty Five (25) North of Range
Five (5) West of the third principal meridian,
excepting Six acres out of the last described tract,
described as follows, to wit: beginning at the
South East Corner of the West half of the North
West quarter of Section Twenty Six (26) same
township and range above named, thence running
North Seven chains and fifty links, thence West
Eight chains, thence South Seven chains and
fifty links, thence East Eight chains to beginning.
Together with all and singular the lineaments, heredita-
ments and appurtenances therunto belonging, and all the

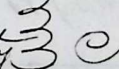
* and Every part and parcel thereof with the appurtenances,
to have and to hold, all and singular, the above
mentioned and described premises

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Estate, right, title, interest, property, possession, claim and
demand whatsoever, as well in law as in Equity,
of the said party of the first part, of, in and to
the above ~~mentioned~~ ~~and~~ described premises,*
together with the appurtenances, unto the said party
of the second part, and to his heirs and assigns,
forever. Provided, Always, and these presents
are upon this Express Condition, that if the said
party of the first part, his heirs, Executor or ad-
ministrators, shall well and truly pay, or cause
to be paid, to the said party of the second part,
his heirs, Executor, administrators or assigns,
the aforesaid sums of money, with the interest
thereon, at the time and in the manner specified
in the above mentioned promissory notes according
to the true intent and meaning thereof, then, and
in that case, these presents shall be void other-
wise, to remain in full force. In witness
whereof, the said party of the first part has here-
unto set his hand and seal the day and
year first above written

Henry Vogel 

Signed, Sealed and delivered in presence of 
State of Illinois 

Jazzell County  J. M. Jackalberry a Justice of the
Peace for said County do certify that on this day
personally appeared before me Henry Vogel whose
name appear subscribed to the foregoing deed of
conveyance as having executed the same, who is
personally known to me to be the real person who

who and in whose name the acknowledgment is
proposed to be made and acknowledged the execution
thereof as his voluntary act and deed for the
uses and purposes therein expressed. Given under
my hand and seal of office at Elgin the second
day of March A.D. 1857

M. Jackrabery J.P. Elgin
(Endorsed)

"State of Illinois,
Jazewell County.

This Instrument was filed for
Record the 23^d day of Feb 1857 and duly
recorded in book of page 515, 516.

M. C. Young Clerk
per W. J. Mans, D.C.

(Endorsed)

"I Assign all my right, title & interest to the
within Mortgage to Adam Ripper and the 20th day
of Oct. 1860. W. Stanbery"

And afterwar as to wit: On the third day
of February in the year of our Lord One Thousand
Eight Hundred and Fifty Three there was filed in
the office of the clerk of said Circuit Court of Peoria
County in said State of Illinois and in said
cause the ~~following~~ ^{certain} depositions in the words and
figures following, to wit:

"The depositions of Ignatz Westfeldt William Stanbery
of Peoria in the County of Jazewell and State of Illinois
witnessed of lawful age produced, sworn and examined

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upon their Corporal oaths on the fourteenth day of January A.D. 1863 between the hours of Eight o'clock A.M. and Six o'clock P.M. of said day at the office of Roberts & Ireland in the City of Pekin in the County of Tazewell and State of Illinois by (me A. B. Sawyer a Notary public in and for the town of Pekin in the County of Tazewell, State of Illinois duly authorized by law to take depositions, and in accordance with the provisions of a certain Notice dated Pekin December 20th 1862 which is hereto attached, the receipt of a copy of which is acknowledged by B. J. Pettyman December 24th 1862, for the examination of Ignatz Westfield and a William Stansberry - witnesses in a certain suit and matter in controversy now pending & undetermined in the circuit court of Cook County in the State of Illinois taken by a change of venue from the circuit court of Tazewell county & State of Illinois wherein Adam Ripper is Complainant and Henry Vogel et al are defendants in behalf of the said Complainants - ^{The said parties having appeared by their attorneys} the said witnesses Ignatz Westfield, William Stansberry being first duly sworn by me as witness in said cause previous to the commencement of their examination to testify the truth & the whole truth on the part of the complainants as well as the defendants in relation to the matters in controversy between the said complainants and defendants - as far as they should be interrogated testified and deposed as follows.

Interrogatories propounded to the said Ignatz Westefeld
a witness produced & sworn as aforesaid on the part
of the said Complainant and his answers thereto
as follows

Deposition of Ignatz Westefeld

Ques 1st What is your name age residence
and occupation

Answer My name is Ignatz Westefeld my age
twenty five years, residence Pekin Illinois, occupation
Grocery Merchant -

Ques 2nd Are you acquainted with Henry Vogel,
Philip Heisel, William Stansberry - & Adam Ruppel

Ans. - Yes Sir

Ques 3rd - Did you know them during the year 1860

Ans. - Yes Sir

Ques 4th Please state whether you have ever seen
the following agreement hereto attached marked
Exhibit "A"

Ans. I have seen the agreement before Mr Sam
Mr Vogel sign the same & witnessed his signature
I did not see Mr Heisel sign it and do not know
his signature

Ques 5th Please state whether you have ever seen
the following notes annexed marked "B" "C" "D"

Ans. I have seen the notes.

Ques 6th Please state whether those notes were ever
altered in your presence, if so, when it was? by
whom the alteration was made? and what al-
teration was made

23 Ans. Mr Stansberry & Mr Vogel both told me
me on the 20th day of October 1860 that he Mr Stansberry

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had altered them - but not at that date - am not able to state whether they were altered from drawing interest at .06 per cent to .10 per cent as each note became respectively due or whether they were altered after they all became due. Mr Stansberry told me that he had altered them, that Mr Vogel was present and had agreed to the alteration -

Ques. 7th Do you know whether they stated anything about paying interest upon any certain amount.

Ans. Yes Sir, from the 20th day of October 1860 Henry Vogel agreed to pay 10 per cent int upon \$2427³² which those three notes marked B. G. & D. amounted to as Mr Vogel & Mr Stansberry at that time figured them up.

Ques 8th Do you know whether they procured any body to write an agreement in regard to the amount upon which Vogel was to pay interest - if so, who wrote the agreement and where is it?

Ans. This is the agreement heretofore referred to - Mr Stansberry wrote the Agreement -

Ques. 9th Do you know of any other matter or thing of any benefit to the parties interested

Ans. No I think not.

Cross Examination

Ques 1st Did you see those notes marked "B G & D" altered from .06 to .10 per cent interest - if so -

please state by whom they altered - when they were altered - where they were altered & who was present at the time it was done?

Ans. I did not see them altered

Ques. 2nd Were those notes present on the 20th of October 1860, the time you were speaking off - & did you see them?

Ans. They were present and I saw them.

Ques 3rd Were they altered at that time

Ans. They were altered

Ques. 4th Where was this conversation at between Vogel & Stansberry of which you have been speaking and who was present besides yourself?

Ans. The conversation was in my store in Pekin. I see & no one was present save the three parties & Mr Ripper

Ques. 5th Were you present at the ~~time~~ agreement heretofore referred to was written - if so - state when it was written - where it was written - & who was present when it was written - where it was that Vogel signed - and who was present - at the time he signed it?

Answer. It was written at my store in Pekin I see on 20th October 1860 in the afternoon - I was present - Mr Vogel and Mr Ripper were present - Mr Vogel signed it in my store, Mr Stansberry, Mr Ripper and I were present.

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Ques 6th Were you not the agent of Ripper in managing the matter with Stansberry, and whether those conversations were not with Stansberry alone?

Ans. I was not Rippers agent, but acted as an interpreter with Mr Stansberry - Stansberry & Ripper talked ^{with} me a little, the most - but Vogel also talked with me - Sometimes I was alone with Stansberry sometimes all were present.

Ques 7th Have you ever heard Mr Ripper doubt his ability to collect the 10 per cent interest upon the notes or say anything in relation thereto, if so state what it was

Ans. Before he traded for the notes he was afraid he would not be able to collect the 10 per cent interest - but Stansberry & Vogel both assured him that it was all right - and that he Vogel would give him an agreement to that effect - that after he had traded for the notes he still feared he would not be able to collect the 10 per cent - but that he did not know the law.

Ignatz Westfeld.

I A B. Lawyer of the County of Jazewell and State of Illinois a Notary public duly appointed to take the deposition of the said Ignatz Westfeld a witness whose name is subscribed to the foregoing deposition do hereby certify that previous to the commencement of the examination of the said Ignatz Westfeld as a witness

in the said suit between the said Adam Rippet
Complainant and the said Henry Vogel Et al defen-
dants, he was duly sworn by me to testify the truth
in relation to the matters in controversy between the
said Adam Rippet complainant and the said Hen-
ry Vogel Et al defendants so far as he should be in-
terrogated concerning the same, that the said depo-
sition was taken at the office of Roberts & Ireland
in the City of Pekin in the County of Tazewell & State of
Illinois on the fourteenth day of January A.D. 1863 be-
tween the hours of Eight o'clock A.M. and six o'clock
P.M. and that after said deposition was taken by me
as aforesaid the interrogatories and answers thereto as
written down were read over to the said witness and
that thereupon the same was signed and sworn to
by the said deponent before me - the oath being ad-
ministered by myself as a Notary public at the place
and on the day and Year last aforesaid

E. S.
Clerk

A. D. Sawyer
Notary Public
Town of Pekin Ills

Deposition of William Shensberry.

Interrogatories propounded to the said William Shensberry
as witness produced and sworn as aforesaid on the
part of the said Complainant and his answers
thereto as follows

28 Ques 1st What is your name, age, place of residence and occupation? and do you know Adam Rippet, Henry Vogel and Philip Heisel and how long have you known them?

Ans. My name is William Stanberry my age forty seven years, place of residence Pekin Ill. My occupation is milling business - I know Adam Rippet, Henry Vogel and Philip Heisel - I have known Rippet about three years - Vogel about nine or ten years - and Heisel about seven or eight years.

Interrogatory 2nd

Did you ever see the instrument marked "A" referred to in Westfelds deposition, and if so - state if you know, who executed the same, and when and where the same was executed.

Ans. I have seen the instrument referred to - Henry Vogel executed the same - on October 20th 1860 at the Store Westfield in Pekin Ill.

Interrogatory 3rd

Do you know the signature of Philip Heisel

Ans. I do not

Interrogatory 4th

Did you ever see the notes referred to in Westfelds deposition - and if so state

Whether the forms were ever altered and if so by whom they were altered and when and where and all you know about the alterations if any were made

Ans. I have seen the notes referred to in Westfelds deposition, those notes were altered, the notes were made payable to me and drew .06 per cent interest and by an agreement between Vogel and myself the notes were to draw ten per cent after maturity prior to the 20th of October 1860 - Vogel had sold the farm to Philip Heisel and had been trying to dispose of the Heisel note & mortgage which had been given on the same farm in controversy to Ripper, which he declined taking because these notes were secured by an older mortgage, and by an agreement with Vogel I altered them to draw ten per cent on the 20th day of October 1860 at the shore of Westfeld in Pekin Ill to satisfy Ripper - that it was agreed between Ripper & Vogel that the notes marked "B" "C" "D" should draw .10 per cent interest after maturity.

Qth 5th Do you know anything about the credits on the back of the notes marked "C" in Westfelds deposition, if so - state all you know about the credits - and the encasure of the same?

Ans. I originally had six notes three on Vogel and three on Martin Heisel - written by the same person for the same amounts and of the same dates - Martin Heisel paid me from

time to time or at different times - different sums for which I gave him receipts - he afterwards presented the receipts and I Endorsed the same on Vogel's Note through a mistake - I then Erased the same and spoke to Vogel about it

Interrogatory 6th Do you know of any other matter thing of interest to the parties in controversy, if so please state the same.
Ans. I do not -

Defendant objects to all the foregoing questions & answers on ground of interest & for irrelevancy

Cross Examination

Interrogatory 1st

Did you not tell Mr Ripper before he traded for the notes, that he could not recover .10 per cent on the notes - that the land would only be held for .06 per cent - and the remainder would have to be recovered from Vogel or his agreement.

Answer. I did so inform him

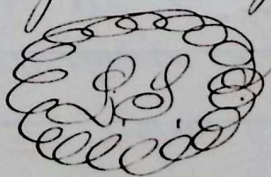
Interrogatory 2nd

Was Ripper by when you altered the notes

Answer. He was not by at the time.

W. Stanbery.

I, A. B. Sawyer of the County of Tazewell
and State of Illinois a Notary public duly ap-
pointed to take the deposition of the said William
Stansberry a witness whose name is subscribed
to the foregoing deposition do hereby certify that
previous to the commencement of the examinations
of the said William Stansberry as a witness in the
said suit between the said Adam Rippet Com-
plainant and the said Henry Vogel Et al
defendants he was duly sworn by me to testify
the truth in relation to the matters in controversy
between the said Adam Rippet complainant
and the said Henry Vogel Et al defendants so
far as he should be interrogated concerning
the same, that the said deposition was taken
at the office of Roberts & Ireland in the City of
Pekin in the County of Tazewell & State of Illi-
nois on the fourteenth day of January A.D. 1863
between the hours of Eight o'clock A.M. and six
o'clock P.M. and that after said deposition was
taken by me as aforesaid the interrogatories and
answers thereto as written down were read over
to the said witness and that thereupon the same
were signed & sworn to by the said deponent
before me the oath being administered by my-
self as a Notary public at the place and on the
day and Year last aforesaid.



A. B. Sawyer
Notary Public
Town of Pekin, Ill.

Exhibit "A"

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Whereas William Stanbery has this day assigned to Adam Rippet four notes secured by Mortgage against Henry Vogel said notes amount in all to this date interest and principle to the sum of Twenty Four hundred and twenty seven $\frac{32}{100}$ dollars upon which said sum of \$2427.32 I Henry Vogel hereby agree and I bind myself to the said Adam Rippet to pay him interest at the rate of ten per cent payable annually

Pekin October 20, 1860

In witness
of J Westfield

H Vogel
Philipp

Exhibit "B"

\$1166 $\frac{66}{100}$

Pekin February 27th 1857

Three years after date I promise to pay to the order of William Stanbery Eleven hundred and sixty six $\frac{66}{100}$ dollars value received with ten per cent interest from date

Henry Vogel

(Endored)

"Pay A Rippet or
W Stanbery"

Exhibit "C"

\$1166 $\frac{66}{100}$

Pekin February 27th 1857

Two Years after date I promise to pay to the order of William Stanbery Eleven hundred and sixty six $\frac{66}{100}$ dollars value received with ten per

cent interest from date

Henry Vogel"

(Endorsed)

~~"March 19 1859 Received on the within
\$300 three hundred~~

~~April 2nd 1859 Received on the with Eighty dollars
April 12th 1859 Received on the within one hun-
dred and fifty dollars~~

~~Entered by "mistake"~~

"Received on the within One thousand dollars
July 23 1859

Pay to A Ripper
W Stanbery"

Exhibit D

\$ 1166 ⁶⁶/₁₀₀

Pekin February 27th 1857

One year after date I promise to pay to the
Order of William Stanbery Eleven hundred
and sixty six ⁶⁶/₁₀₀ dollars value received with
ten per cent interest from date -

Henry Vogel

(Endorsed)

Received on the within a check on the Bank
for \$300.00 drawn by G in favor of H Vogel
Feb 27th 1858

Recd on the within \$200 March 10th 1858

Received on the within May 8 1858 Two hundred dollars

Pay to A Ripper or
W Stanbery

Exhibit "A"
 Benjamin I. Prettyman

Atty &c

Will please take notice
 that we will on the 14th day of January A.D.
 1863 proceed to take the depositions of Columbus
 J. D. Rupert and Ignatz Westorf and William
 Stanby of Jazewell County Illinois at the office
 of Roberts & Ireland in the city of Pekin in
 Jazewell County Illinois before A. D. Sawyer
 a Notary public or some other person author-
 ized by law to take depositions, between the
 hours of Eight o'clock in the forenoon and six
 o'clock in the afternoon of said day and to
 be continued from day to day until the same
 shall be completed, said depositions when
 taken to be used as Evidence in a certain
 Cause now pending in the Circuit Court of
 Peoria County Illinois on the Chancery side
 thereof, taken by change of Venue from the
 Circuit Court of Jazewell County Illinois
 wherein Adam Ripper is Complainant and
 and Henry Vogel et als are defendants, on the
 part and behalf of said Complainants, when
 and where you can attend and cross exam-
 ine if you see proper
 Pekin December 23. 1862

Roberts & Ireland

Attys for Complainant.

(Endorse)

"Given and filed and general order of court this 3^d day of Feb. 1863. E. P. Roan."

Proceedings in Chancery at a term of the circuit
Court begun and held at the Court house in the
City and County of Peoria in the State of Illinois
on the first Monday in the month of February
in the Year of our Lord one thousand Eight
Hundred and ^{it being the second day of said month} Fifty three, Present the Honorable
Amos L. Merriman Judge of the 16th Judicial
Circuit in said State, John A. J. Murray Sheriff,
and Enoch P. Sloan clerk, to wit:

Friday February 13th A. D. 1863

Adam Ripper

vs

Foreclosure.

Henry Vogel & al

This day came the Complainant &
the defendants Vogel & Weisel by their respective
Solicitors and the defendant Stansberry having been
called in open Court came not but made default,
It is therefore Ordered by the Court that the Com-
plainants bill be taken as confessed as against said
Stansberry. And now this cause coming on to
be heard upon the Bill of Complaint the answers
of defendants Vogel & Weisel, the replication thereto
and the exhibits and proofs of said parties respectively.
And it appearing to the court that the defendant
Vogel did execute the notes & mortgage as in the
Bill alleged, that the same were afterwards
duly assigned to complainant, and it further ap-
pearing that the defendant Vogel was paid on
account of said mortgage debt the sum of \$1800.
at various dates as shown by the indorsements on said
promissory notes and receipts Exhibited.

And it further appearing that the said notes were altered by consent and agreement of defendant Vogel so as to draw ten per cent instead of six per cent interest, on or about the 30th day of October A.D. 1860; But it not appearing from the evidence that the defendant Heisel was a party to or consented to said alteration it is Ordered by the court that the balance due on said mortgage be ascertained by computing interest thereon at the rate of six per cent in accordance with the recitals and description of said notes in the mortgage, and it appearing from said Computation after allowing a payment of \$300 on the 8th day of May 1858, in lieu of \$200. On the same date On One of said notes, that there is now due on said mortgage a balance of Twenty Five Hundred and Sixty Three dollars and fifty nine cents, And it further appearing that the defendant Heisel is a purchaser of the Equity of Redemption of said mortgaged premises with notice of said mortgage. It is Ordered and decreed that the defendants Vogel and Heisel pay to complainant, the said sum of Twenty Five Hundred and Sixty Three dollars fifty nine cents in ten days from this date with six per cent interest thereon together with the costs of this suit, and in default thereof that the said mortgaged premises or so much thereof as shall be necessary be sold by the Master in chancery at public auction to the highest bidder for cash at the front door of the court house in this county

after having given at least twenty days previous notice of such sale in a newspaper printed and published in this County, And that said Master give to the purchaser at such sale a certificate of sale in the customary form; that out of the proceeds of such sale said Master shall first pay the costs of this suit and of said sale and apply the balance towards payment of said mortgage debt and interest as above liquidated. It is further Ordered that said Master report his proceedings to this Court at the term next succeeding such sale and that this cause stand continued for that purpose.

Proceedings in Chancery at a term of the Circuit Court begun and held at the Court house in the City and County of Ponia, State of Illinois, on the first Monday in the month of June in the Year of our Lord One thousand Eight hundred and sixty three it being the first day of said month. Present John A. Murray, Sheriff and Enock P. Sloan, clerk to wit:

Tuesday June 2nd A.D. 1863.

Adam Ripper

vs

Foreclosure

Henry Vogel

Philip Heisel

William Stanberry

And now on this day the cause coming on again to be heard upon the Report of the

Master in Chancery filed herein and it appearing to the court from an inspection of said Report that said defendants failed to pay to said Complainant the sum of money required to be paid by the former Order and decree of said Court, and that the Master in Chancery duly advertised said premises, mentioned in said decree for sale, and on the 5th day of May 1863 sold the same to said Complainant Adam Rippet for the aggregate sum of Two Thousand Six Hundred and Seventy One dollars and forty four cents - said Complainant being the highest and best bidder therefor and the Court finding said Masters Report in all respects ~~formal~~ ^{orderly} formal and correct, It is therefore adjudged and decreed that said Report be affirmed - that said sale of said premises be ratified and the title to the same be confirmed in said purchaser subject only to redemption according to law. And it is further Ordered, adjudged and decreed that in the event of said premises not being redeemed from said date said sale according to law, that the Master in Chancery of Pona County execute and deliver to said purchaser or the assignee of said Certificate of purchase a Masters deed of said premises.

Be it remembered that on the fourteenth day of February in the Year of our Lord One thousand Eight hundred and sixty three there was filed in the office of the clerk of said Circuit Court of Peoria County and in said Cause the defendants Bill of Exceptions in the words and figures following, to wit:

"Adam Pippet	}	Circuit Court Peoria County
Henry Vogel		February Term
Phillip Heisel		A. D. 1863.
William Stanberry		In Chancery.

To foreclose Mortgage.

Be it remembered that this Cause came on to be heard upon Brief Exhibits and Answers, (replection and testimony, The Complainant read in Evidence the mortgage and assignment thereon without Objection on the part of the defendants and the notes attached to the disposition of J Westfield and the assignments thereon. And also the deposition of said Westfield. The Complainant then read the deposition of William Stanberry to which the defendants objected on account that said witness was interested against the said defendants which objection the Court then and there overruled and admitted said deposition as evidence to which opinion of the Court in admitting the said deposition the defendants then and there excepted.

The Complainant here rested his case.

The defendants then read in Evidence the Endorsement of the several payments made on the notes mentioned in the said mortgage which are

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in the words and figures following, to wit:

(Endorsement on note due in One year after date and marked Exhibit "D")

"Recd on the within a check on the Bank for \$300.00 drawn by G in favor of H Vogel Feb 27th 1858."

"Recd on the within \$200. March 10th 1858"

"Received on the within May 8th 1858 ^{Three} Two Hundred dollars"

(Endorsed on note due in Two years after date and Marked Exhibit "E")

"Received on the within One thousand dollars July 23rd 1859"

The defendants further to maintain the issue on their part proved the signature of William Stanberry to the following receipts which are in the words and figures to wit:

"Received of H Vogel a check of \$300.00 on the bank which is to be credited on his note which I hold against him Pekin Feb. 28 1858
W Stanberry"

"Received of H Vogel Two hundred dollars to be applied on his note which I hold against him Pekin March 10th 1858 W Stanberry"

"Received of H Vogel Three hundred dollars to be applied on his note due March 1 1858. which I hold against him Pekin May 8th 1858 W Stanberry"

to the reading of which as Evidence of payment the Complainant by his Counsel then and there objected

for the reason that the payments in the receipts mentioned were endorsed on the note, which objection the Court sustained and rejected said receipts except as to the receipt dated May 8th 1858 for \$300. which the court allowed as a payment on the said notes in lieu and in correction of the indorsement of \$200. of the same date on the note payable one year after date to which opinion of the court in the rejection of said receipts as payments the said defendants then and there by their Counsel excepted; The Court then rendered a decree in favor of the Complainant and against the defendants for the amount due upon said notes computing the interest on said notes at the rate of 5% per cent after deducting the several payments endorsed upon said notes and one hundred dollars allowed on said receipt for \$300. dated May 8th 1858 as aforesaid which decree is in the words and figures following, to wit:

"Adam Rippet

Feb Term 1863.

Henry Vogel & Co

This day came the Complainant & the defendants Vogel & Heisel by their respective solicitors and the defendant Granberry having been called in open Court came not but made default. It is therefore ordered by the Court that the Complainant's bill be taken as confessed as against said Granberry, And now this cause coming on to be heard upon the bill of Complainant, the answers of

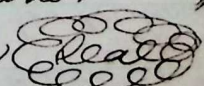
defendants Vogel & Heisel, the replication thereto and the Exhibits and proofs of said parties respectively, And it appearing to the court that the defendant Vogel did execute the notes Mortgage, as in the Bill alleged, that the same were afterwards duly assigned to complainant, And it further appearing that the defendant Vogel has paid on account of said mortgage debt the sum of \$1800. at various dates as shown by the indorsements on said promissory notes and receipts exhibited.

And it further appearing that the said notes were altered by consent and agreement of defendant Vogel so as to draw ~~six~~ ^{ten} per cent instead of Six per cent interest, on or about the 30th day of October A.D. 1860 - But it not appearing from the evidence that the defendant Heisel was a party to or consented to said alteration it is ordered by the court that the balance due on said mortgage be ascertained by computing interest thereon at the rate of Six per cent in accordance with the recital and description of said notes in the Mortgage, and it appearing from such computation after allowing a payment of \$300. on the 8th day of May 1858 in lieu of the indorsement of \$200 on the same date on one of said notes, that there is now due on said mortgage a balance of Twenty Five hundred Fifty three dollars and fifty nine cents. And it further appearing that the

defendant Heisel is a purchaser of the Equity of Redemption of said mortgaged premises with notice of said Mortgage: It is ordered and decreed that the defendants Vogel and Heisel pay to Complainant the said sum of Twenty five Hundred sixty three dollars fifty nine cents in ten days from this date with six per cent interest thereon together with the costs of this suit, and in default thereof that the said mortgaged premises or so much thereof as shall be necessary be sold by the Master in Chancery at public auction to the highest bidder for cash at the front door of the Court house in this county, after having given at least twenty days previous notice of such sale in a newspaper printed & published in this county - and that said Master give to the purchaser at such sale a certificate of sale in the customary form, that out of the proceeds of such sale said Master shall first pay the costs of this ~~or~~ suit and of said sale and apply the balance toward payment of said mortgage debt and interest as above requisited.

It is further Ordered that said Master report his proceedings to this Court at the Term next succeeding such sale - and that this cause stand continued for that purpose."

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So Which Opinion of the Court in rendering the said decree the defendants then and there excepted and prayed that this their Bill of Exceptions might be allowed which is accordingly done.

A. L. Mcerronian 

State of Illinois,
County of Peoria.

I Enoch P. Sloan clerk of the
Circuit Court in and for the County
of Peoria in the State of Illinois
do hereby certify that the foregoing
is a true, complete and correct copy
from the Records and Files of my office of the
proceedings had in said cause wherein Adam
Ripper is complainant and Henry Vogel,
Philip Heisel and William Stanberry are defendants
as the same appear of Record and on file in my office.
Witness my hand and the seal of said Court at
office this Twenty Eighth day of December A.D. 1863.
Enoch P. Sloan, Clerk



And now comes the said defendants by
H W Wend their solicitor says that in the
record & proceedings aforesaid and in the
decree aforesaid manifest ^{error} ~~mispry~~ hath inter-
vened to their injury in this

1st In holding that defendant Vogel ex-
ceeded the rates described in the mortgage

2^d In rendering a decree against said defend-
ants Vogel & Heisel

3^d In rendering a decree for the payment of
the money against defendant Heisel

4. In not rendering a decree for the defendants

5. In not holding said notes void

6. In rendering a decree to sell the land to pay void notes

7. In refusing to receive the receipts offered in evidence by defendants

8. In rejecting proper evidence

9. In rendering a decree for too large a sum of money

For all which errors & others manifest in the record defendants pray that said decree may be reversed annulled set aside & for nought held

By H W Mead

their Attorney &
Plaintiff

And now comes the said Defendant by Robert
his Atty & says that in the record & proceedings
aforesaid & in the judgment aforesaid are
such errors as is above set forth hath
intervened & this he prays may be reversed
45 by the Court By Robert's Ireland his Atty

Henry Vogel stats.

Adam Ripper

Record & Errors

Filed Jan'y 22-1864.
S. Leland
Ck.

Recd of H. M. Weed.
Exp. \$10 my fees for
making this Record.
H. Leland, clk