

No. **12171**

Supreme Court of Illinois

Tierman

vs.

Hinman

71641  7

State of Illinois }
LaSalle County } ss. Clerk before the Honorable
} Edwin S. Leland Presiding Judge
} of the Ninth Judicial Circuit
Court of the State of Illinois at a Circuit Court com-
menced and held in and for the county of LaSalle
at the Court House in Ottawa on Monday the thir-
teenth day of November the same being the second
Monday in said month of November in the year
of our Lord one thousand eight hundred and
fifty four the same being the seventh year
of the Independence of the United States of America.

Mr. Honorable Mr. Calvin L. Johnson

1797
Charles G. Smith

W. H. S. G. H. S.

Richard Thomas

On the 7th day of September A.D. 1854 a letter was
filed in said Court in the words and figures following, viz

condition for the payment by the said Carlton to said John E. Ginneman of the sum of four hundred dollars on the first-day of July A.D. 1852 the sum of fifteen hundred dollars on the first-day of July A.D. 1853. the sum of eight-hundred and fifty dollars on the first-day of July A.D. 1854. and the sum of seven hundred and fifty one dollars and fifty one cents on the first-day of July in the years 1855, 1856, 1857, 1858 and 1859 respectively at the office of the clerk ~~of the clerk~~ of the Circuit Court of LaSalle County with a proviso in the condition of said bond contained, that upon failure to make any one of said payments when they should respectively become due, the whole unpaid sums of money mentioned in the condition of said bond should immediately become due and payable without fraud or delay, as will more fully appear from a copy of said bond hereto annexed marked "A."

Your orator further shows that on the same first-day of July A.D. 1851, in order to secure the performance of the condition of said bond, he the said William S. Carlton conjointly with his wife Sarah S. Carlton by their duly executed acknowledged and recorded bearing date the day and year last aforesaid conveyed and conveyed unto the said John E. Ginneman his heirs and assigns all that ~~tract~~ part of the tract of land composed of lots numbered six (6) seven (7) eight (8) eleven (11) twelve (12) and thirteen (13) in block numbered eleven (11) in Ottawa Centre in the County of LaSalle in State of Illinois which had not been taken and appropriated for the Illinois and Michigan Canal and for a ^{more} particular description

of said premises reference was thereby had and
made to the plat of said Ottawa Centre recorded in
the Records office of said Lsalle County. To Have
and to hold the said premises unto the said John
C. Winman his heirs and assigns forever with a
proviso in the said deed contained that if the
said William J. Easton his heirs executors or admin-
istrators should well and truly pay or cause to
be paid unto the said John C. Winman his execu-
tors administrators or assigns the said sum of money
mentioned in the condition of said bond or obliga-
tion and the interest thereon at the time and in the
manner mentioned in the said condition according
to the true intent and meaning thereof then said
deed and the estate thereby granted should cease de-
termine and be void and with a further proviso in
said deed contained that if default should be made
in the payment of the said sum of money, or the inter-
est that might grow due thereon or of any part there-
of then and from thence forth it should be
lawful for the said John C. Winman his executors
administrators or assigns to enter upon the premises
by the said deed granted or intended so to be and
to sell and dispose of the same and all benefit
and equity of redemption of the said William J.
Easton and Sarah P. Easton their heirs executors
administrators and assigns at public auction after
having given notice of the time and place of sale
by publication of a notice thereof in any one
newspaper published in Ottawa in said County
of Lsalle for four weeks successively and as
the attorney of said William J. Easton and Sarah
P. Easton for that purpose by said deed duly
authorized and appointed to make and deliver

to the purchaser or purchasers a good and sufficient deed or deeds of conveyance in the law for the same in fee simple and out of the money arising from such sale to retain the principal and interest which should then be due on said bond and such sum as might have been paid for taxes and insurance as thereafter mentioned together with the costs and charges of advertising and selling said premises, rendering the surplus of the money (if any there should be) unto the said William S. Easton his heirs executors administrators or assigns said sale to be a perpetual bar both in law and equity against the said William S. Easton and Jacob S. Easton and all other persons claiming or to claim the premises or any part thereof under them. And that it was further agreed by and between the parties to said deed that the said William S. Easton should pay all taxes legally assessed upon said premises and should insure and keep insured the building erected and to be erected upon the lands in said ~~deed~~ deed conveyed against loss and damage by fire in a good and responsible incorporated insurance company and assign the policy and certificate thereof to the said John E. Hinman and in default thereof it should be lawful for the said John E. Hinman to pay said taxes and to effect said insurance to the amount of five thousand dollars of insurance and said taxes and the premium or premiums paid for effecting said insurance should be a lien upon said mortgaged premises added to the amount of said bond or obligation and secured by said deed.

Your orator further shows that on the second

day of February A.D. 1852 said William J. Easton
being justly indebted to George A. Gibbs and your
orator then transacting business under the name
and style of George A. Gibbs & Co in the sum of fifteen
hundred dollars upon a bond dated August 27th
1851 and the further sum of four thousand
ninety one dollars eighteen cents upon account;
in order to secure to said George A. Gibbs and
your orator the due payment of said sums of money
and such further advances as said firm of George
A. Gibbs & Co should make to said William J. Easton
and such sums of money as said firm of George A.
Gibbs & Co might pay to said Hinman in discharge
of said mortgage all of which sums being more
particularly mentioned in a bond or writing
obligatory of the said Easton to the said George
A. Gibbs and your orator of that date in the
sum of six thousand dollars, he the said
Easton conjointly with his wife Sarah J. Easton
by their said duly executed acknowledged and
recorded bearing date the second day of February
A.D. 1852 conveyed and confirmed the same prop-
erties above described unto one Henry F. Barnes
his heirs and assigns in trust, that in case the
said William J. Easton should fail to pay and
discharge all or any of the sums of money above
mentioned by the first day of January A.D.
1853, at the request of the said firm of George
A. Gibbs & Co to sell said premises at auction to
the highest bidder giving thirty days notice
of such sale in a newspaper published at Ottawa
in said LaSalle County subject to said mort-
gage to said Hinman and to pay the said in-
debtedness to George A. Gibbs & Co rendering the

overplus if any unto said William J. Horton and in the name of said James to make a conveyance of said premises unto the purchasers thereof at such rate as by the said ^{deed} here in Court ready to be produced will more fully appear.

And your orator further shews that said William J. Horton having made default in the payment of said sum of money to said firm of George A. Gibbs & Co by the first day of January A.D. 1853 the said Henry B. James at the request of said firm of George A. Gibbs & Co on the 2^d day of March A.D. 1853 having first given thirty days notice in the Ottawa Free Trader a newspaper published at Ottawa in said Latch County as required by said deed of trust sold said premises to said George A. Gibbs and your orator they being the highest bidders therefor subject to the said mortgage to the said Hinman.

And that the said James on the same 2^d day of March A.D. 1853 by his deed of that date conveyed the same premises unto the said George A. Gibbs and your orator as by the said deed here in Court ready to be produced will more fully appear.

And your orator further shews that afterwards on the 22nd day of May A.D. 1854 the said George A. Gibbs conjointly with his wife Anne M. Gibbs by their deed bearing date the day and year last aforesaid conveyed and confirmed the same premises above described unto your orator and his heirs who is now the owner of the same subject to the incumbrance aforesaid to said John A. Hinman as by the deed of said Gibbs and wife here in Court ready to

the produce will more fully appear.
Your Orator further shews unto your Honor,
that on the first-day of July A.D. 1834 there was
due to the said John C. Hinman by virtue of the
said bond and mortgage to him a payment of
eight-hundred and fifty dollars falling due on
that-day, together with the further sum of two
hundred and twenty-four two dollars and seventy
one cents; for and on account of money paid by
said Hinman for insurance upon the buildings on
the said premises including interest thereon, which
sums so paid for insurance are more fully stated
in an account thereof hereto annexed and
exhibit "B" to which statement your Orator craves
leave to refer as a part of this his bill of complaint.

Your Orator further shews unto your Honor,
that soon after the said firm of George A. Gibbs & Co
became interested in said premises by virtue of said
deed of trust herein before mentioned and set forth,
to wit on the 14th day of February A.D. 1852 Joseph
Warman & Warrick the attorneys of said firm of George
A. Gibbs & Co, for and in behalf of said firm last-
mentioned, by letter advised the said John C. Hin-
man of the nature of the security of said firm of
Geo. A. Gibbs & Co upon said premises, and in substance
of the terms and conditions thereof; and requested
said John C. Hinman, not to take any advantage of
the proviso contained in the condition of said bond
to him, in case the payments therein mentioned
were not punctually made by said Easton whom only
it then was to make the sum, but to give the
said firm of Geo. A. Gibbs & Co reasonable notice of each
nonpayment so that they might make such payments
and thereby prevent the whole ~~sum~~ sum of money

mentioned in the condition of said bond to said Hinman from becoming due and payable on account of a neglect to make any one of the payments therein mentioned; to which letter the said John C. Hinman replied by letter dated February 21, 1852 stating in substance that he the said Hinman would give the said firm of Geo A Gibbs & Co. reasonable notice of said installments and insurance money were not punctually paid, which letter is hereto enclosed marked "C" to which your orator refers as a fact hereof.

Your orator further shews, that on or about the 1st day of July A.D. 1852 the said firm of Geo. A. Gibbs & Co. through and by their said attorneys Rufus Sorman & Wail, having received notice that the first payment of four hundred dollars in the condition of said bond mentioned was about to become due, and that the same with the moneys paid out for insurance by said Hinman, would not be paid by said Carter, remitted by draft from Chicago to the said John C. Hinman at Utica aforesaid, the sum of five hundred and sixteen dollars and fifty four cents to pay said first payment and insurance money; which said sum of money was received by the said Hinman after the said 1st day of July A.D. 1852 without objection or complaint.

Your orator further shews, that soon after said firm of George A. Gibbs & Co. became the purchasers of said premises as aforesaid to wit on the 2nd day of March A.D. 1853, the attorney of firm of George A. Gibbs & Co. W. D. Wail, the successor of said firm of Sorman & Wail wrote to the said John C. Hinman informing him of the purchase of said premises by said firm of Geo. A. Gibbs & Co. and stating to him,

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that said firm of George A Gibbs & Co were prompt
business men, and anxious to meet all their engage-
ments punctually, but that said firm was actively
engaged in business with which said premises had
~~no~~ connection, and for fear that they might in the
multiplicity of their business forget the prem-
ises when said payments would become due to
said Hirsman and the amount thereof,
requested the said Hirsman that he would
from time to time as said payments became
due and payable notify said said firm of
George A Gibbs & Co thereof, so that the same might
be made punctually and prevent the misfeasance
of money in the condition of said bond mentioned
from all becoming immediately due and payable
by reason of any unintentional omission or
oversight on the part of said firm of Geo. A. Gibbs
& Co: To which last mentioned letter the said John
C. Hirsman replied by letter dated March 16, 1853
therein stating to said writ; that he would please
to inform the purchasers of said property, that he
the said Hirsman was not in the habit of doing
his business finally; but always means to be
reasonable; and that he the said Hirsman ~~could~~
would give to them (said firm of George A Gibbs & Co)
timely notice if the mails did their duty which letter
is hereto annexed and marked "D" and to which
your orator craves leave to refer as a part hereof.

Your orator further shows, that on
or about the 27th day of June A. D. 1853, the sum of
fifteen hundred dollars being the amount of the
installment mentioned in the condition of
said bond falling due on the 1st day of July A. D. 1853,
was remitted from Chicago by George A Gibbs for

and in behalf of said firm of Geo. A. Gibbs & Co said John A. Hinman at & to the afore-
said, which said sum of money last mentioned
was received by the said Hinman without objec-
tion or complaint although the money paid out-
by him for insurance was not paid as appears
from the account books annexed marked "B"

Your orator further shows that
prior to the date of the deed of said Gibbs & his
wife to your orator to wit: the 22nd day of May A.D. 1854
the whole business in relation to said property was
managed by said George A. Gibbs and the attorney of
said firm W. F. Warr, excepting that your orator bid
off the same when sold by said James as aforesaid,
and that although your orator knew that there
was a mortgage upon said premises and about
the amount thereof, he did not know the precise
days when the said payments became due nor did
he know of the proviso in the condition of said
bond, that in case of any neglect to make any all
of said payments on the day whereon it became
due, the whole unpaid amount should immediately
become due and payable, until long after said
1st day of July A.D. 1854; and your orator charges
that said mortgage is so drawn, that the record
thereof gives no notice of such proviso.

Your orator further shows, that from
his imperfect knowledge of the manner in which
said business had been done and from what he had
understood about the same, he supposed that he
would receive notice in some way of the time when
said payments were to be made, upon the receiving of
which notice your orator was ready and willing to
meet the same.

Your orator further shews unto your honor, that on or about the first days of July A.D. 1854, the cholera broke out with an alarming mortality in the city of Chicago, and the panic in consequence thereof was such that business ~~was~~ of all kinds was nearly suspended; that said wait on or about the first day of July was attending upon the supreme court of this state at Ottawa, and on his return therefrom his mother living with him, was on the 7th of the same month attacked with said disease of which she died on the following day and that within three or four days thereafter said wait left Chicago for the East and did not return until about ten days since; and that on or about the first days of July last several of the intimate personal friends of your orator from his native state of Pennsylvania and city of Pittsburgh were taken sick, and among others Mr Robert Snyder formerly of Pittsburgh was sick from the first day of July until his death of the cholera on the 12th of the same month, and that from about the first day of July up to the 19th of the same month, your orator attended to no business whatever, but devoted his time night and day to taking care of his sick and dying friends and their families.

Your orator further shews, that he received no notice from said Hinman that said payment was to become due or had become due until after the 12th day of July A.D. 1854, nor did said Hinman write to the said George A. Gibbels giving them such notice as he had by his said letter agreed to do, but the first time your orators attention was called to the exact time when said payment ought to have been made.

was on or about the 12th day of July 1854, when your orator received a letter from his tenant of said property, advising him, that a payment upon said bond and mortgage was fast-due, and that said Hinman had instructed his attorney M. C. Hollister to call at the office of the clerk of the Circuit court of Latham county and if said payment together with said moneys paid out for insurance, had not been there paid and deposited, to proceed at once to advertise and sell said premises under and by of said mortgage and in pursuance of the terms thereof.

Your orator further shews, that he immediately wrote to attorney for a copy of said bond and mortgage and by his agent requested said Hollister to write to said Hinman requesting him to accept the said payment due on the first day of July and said moneys paid out for insurance with interest on the same, your orator offering not only to pay the same, but all costs and expenses incurred by said Hinman by reason of said nonpayment but the said Hinman utterly refused and still refuses to receive the same, and further directed the said M. C. Hollister his said attorney to proceed at once to advertise and sell said property, unless the whole amount of his said incumbrance thereon was paid, or secured to be paid with interest thereon.

Your orator further shews that the said letters of the said Hinman and the facts in relation thereto came to your orator's knowledge for the first time on Wednesday August 31, 1854, and although your orator

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supposed there was a letter from said
Hinman relative to said property before
that time, yet the said Wait and said
Gibbs being absent, your orator was unable
to obtain the information aforesaid until
after said Wait's return as aforesaid, and
that although your orator supposed he was
to receive notice of said payments, becoming
due yet until said Wait's return, he was
unable to state any good and substantial
reason for such a supposition.

Your orator further shows, that
he is now ready and willing to pay said sum
of ~~five~~^{ten} hundred seventy ~~and~~ two dollars and
twenty one cents, due to said Hinman on said
first day of July 1834, with interest thereon to
the present time together with all costs and ex-
penses incurred by said Hinman by reason of
said nonpayment by your orator and has
frequently offered ^{said Hinman} ~~to do~~

Your orator further shows, that
just previous to the filing of this bill of complaint,
he caused to be tendered to the said J. C.
Hallister the agent and attorney of said John
E. Hinman the sum of ten hundred and
eighty-four dollars being the said sum due
said Hinman on the 1st day of July A.D. 1834,
with interest on the same to the time of said
tender, together with the sum of thirty dollars
for the costs and charges of said Hinman
which tender your orator offers to bring into
Court.

Your orator further shows, that said
Hinman has by his said attorney J. C. Hallister

Caused said above described premises to be advertized for sale on the 11th day of Sept-1854, and threatens to proceed & will proceed to sell the same by his said attorney M. E. Hollister, unless restrained by your honor or the entire amount of said incumbrance is not fully paid and discharged. And your orator does & will insist that the power of sale in said mortgage contained cannot by law be delegated to said Hollister, and that J^r Hinman should be compelled to desist from claiming said alleged forfeiture, as in justice he ought to have done.

But now so it may it please your honor that the said John E. Hinman combining and confederating with divers persons at present unknown to your orator whose names when discovered your orator prays he may be at liberty to insert herein with apt words to charge them as defendants - here and contriving how to wrong and injure your orator in the premises. In the said John E. Hinman absolutely refuses to comply with such request and he at times pretends that the matters and things hereinbefore stated and charged are untrue. Whereas your orator charges that the same are true in manner and form as hereinbefore set forth.

All which actings doings and pretences are contrary to equity and good conscience and tend to the manifest injury of your orator in the premises.

In consideration whereof and for as much as your orator is altogether remediless.

in the premises by the strict-rules of the
common law and can only have relief
in a court of Equity-where matters of this
nature are properly cognizable and relivable.
To the end therefore that the said John E
Hinman his confederates when discovered
may not under oath or answer under oath
being hereby expressly waived full true direct
and perfect answer make to all and singular
the matters and things herein before stated
and charged and that-as particularly as if
the same were herein again repeated and
they thereunto faithfully interrogated accor-
ding to the best of their knowledge information
and belief.

And that your orator may be at liberty
to pay into court the amount of said pay-
ment-falling due on the 1st day of July 1854
and the moneys then due said Hinman for
the same by him paid for insurance, amount-
ing in the whole to the sum of ~~two~~^{ten} hundred and
seventy two dollars and seventy one cents with
interest on the same to the time of filing this
bill together with said Hinman's reasonable
costs & expenses. and that the said Hinman
may be enjoined from selling or attempting to
sell said premises under and by virtue of said
mortgage for or on account of the nonpayment
by your orator of the sums aforesaid. And
in the meantime that the said Hinman
his agents & attorneys may be restrained from
selling or attempting to sell said premises until
the further & order of your honor. and that
your orator may have such other further

relief as equity and good conscience may require.
 May it please your honor the premises
 considered, not only to grant unto your orator
 the people's writ of injunction restraining the
 defendant John E. Winman his agents & attor-
 nays as aforesaid, but also the People's writ of
 Summons to be issued out of and under the seal
 of the Circuit Court of LaSalle County, directed
 to the Sheriff of the same commanding him
 to summon said John E. Winman person-
 ally to be and appear before said said Court
 at the term thereof to be held at Ottawa on
 the 2nd Monday of November A.D. 1854 then and
 there to stand to and abide by such order
 and decree as to said Court shall seem
 meet.

C. Beckwith Subr

Michael Turnan

State of Illinois

Cook County }
 } Personally appeared Michael
 } Turnan and made oath that
 he has read the above bill subscribed by him
 and knows the contents thereof and that the
 same is true of his own knowledge except as to
 the matters which are therein stated to be on the
 information and belief of the complainant and
 that as to those matters the defendant believes it
 to be true except the statement in said bill re-
 lative to a tender to be hereafter made.

Subscribed & Sworn to before me Walter
 Kimball Clerk of the Cook County Court
 of Common Pleas of said County at Chicago
 this 4th day of September A.D. 1854. Witness my hand & Seal
 of said Court the day & year aforesaid.
 Walter Kimball
 Clerk

"Exhibit" filed Sept 7, 1834

Mortgage

This indenture made this first day of July in the year of our Lord one thousand eight hundred & fifty one between Wm. S. Easton and Sarah S. his wife of the County of Lasalle and State of Illinois of the first part; and John C. Whisman of the City of Utica County of Oneida and State of New York of the second part; Witnesseth —

That Whereas the said William S. Easton is jointly indebted to the said John C. Whisman in the sum of six thousand four hundred & seven dollars and fifty cents secured to be paid by his certain bond or obligation bearing even date with these presents; in the penal sum of ten thousand dollars conditioned for the payment of said first-mentioned sum as follows viz. —

four hundred dolls. one year from date, fifteen hundred dolls. two years from date, eight hundred & fifty dollars three years from date, seven hundred & fifty one doll, & fifty cents four years from date, seven hundred & fifty one doll & fifty cents five years from date, seven hundred & fifty one doll, & fifty cents six years from date, seven hundred and fifty one doll & fifty cents seven years from date, & seven hundred and fifty one doll, & fifty cents eight years from date, and in case of a failure

to pay either of said sums when due, the unpaid balance all to become due as by the said bond or obligation, and the conditions thereof appearing therein had may more fully ^{appear} draw therefore the said Wm. S. Easton & Sarah S. his wife for the

better securing the payment of the said sum
 of money mentioned in the condition of said
 bond or obligation, according to the true intent
 and meaning thereof, and the interest thereon,
 and also in the consideration of the sum of one
 dollar to them in hand paid by said Jas. C. Hinman
 at or before the executing of and delivery of these
 presents, the receipt whereof is hereby acknowledged
 have granted bargain sold & conveyed and
 by these presents do grant bargain sell and convey
 unto the said Jas. C. Hinman and to his heirs
 and assigns, forever all that part of the tract
 of land comprised of Lots numbered six (6) seven
 (7) eight (8) eleven (11) twelve (12) & thirteen (13) in
 Block number eleven (11) in Ottawa Center in
 said LaSalle County, which has not been taken
 and appropriated for the Illinois & Michigan Canal.
 For a more particular description of said Lots
 reference is made to the plat of Ottawa Center,
 recorded in the Records office of said LaSalle
 County, together with all and singular the heredi-
 taments and appurtenances thereto belong-
 ing, or in any way appertaining, and the rever-
 sion and reversions, remainder and remainders
 unto heirs and profits thereof, and also all
 the estate right title interest claim & demand
 property and possession as well in law as in
 equity, of the said William J. Barton and
 Sarah C. Barton of in and to the same and every
 part and parcel thereof with the appurtenances
 to have and to hold the above granted prom-
 ises with the appurtenances unto the said Jas.
 C. Hinman his heirs and assigns to his or
 their own proper use and benefit and behoof

Promis -

forever. Provided always and these presents are upon this Express Condition that if the said Wm S. Easton his heirs executors administrators shall well and truly pay unto the said Jno S. Hinman his executors administrators or assigns the said sum of money mentioned in the Condition of said bond or obligation, and the interest thereon at the time and in the manner mentioned in the said Condition according to the true intent and meaning thereof that then these presents and the Estate hereby granted shall cease determine and be void and the said Wm S. Easton for himself and his heirs executors and administrators doth covenant and agree to pay unto the said Jno S. Hinman his Executors administrators or assigns, the said sum of money and interest as Expressed in the Condition of said bond, and if default shall be made in the payment of the said sum of money, or the interest that may grow due thereon or of any part thereof that then and from thenceforth it shall be lawful for the said Jno S. Hinman his Executors administrators and assigns to enter into and upon all and singular the premises hereby granted or intended to be and to sell and dispose of the same and all profits and all benefit and equity of redemption of the said Wm S. Easton and Sarah S. Easton their heirs executors administrators and assigns at public auction after having given notice of the time and place of sale by publication of a notice thereof in any newspaper published in Ottawa in said County of Laval for ^{four} weeks successively and as the attorney of said Wm S.

Barton & Sarah S. Barton, for that purpose by
 their presents duly authorized, constituted & appoin-
 ted to make and deliver to the purchaser or
 purchasers a good and sufficient deed or deeds
 of conveyance in the law for the same in for
 simple and out of the ^{money} arising from such sale
 to return the principal and interest which
 shall then be due on said bond and such
 sums as may have been paid for taxes and
 insurance as mentioned hereafter together with the
 costs and charges of advertising and selling said
 premises rendering the surplus of the money (if
 such there be) unto the said Wm. S. Barton his
 heirs executors, administrators or assigns which
 sale to be so made shall forever be a perpetual
 bar both in law and equity against the said
 Wm. S. Barton & Sarah S. Barton their heirs and
 assigns and all other persons claiming or to
 claim the premises or any part thereof by
^{from} or under them or any of them, and it is also
 agreed by and between the parties to their
 presents that the said Wm. S. Barton shall
 pay all taxes legally assessed upon said prem-
 ises, and shall & will insure and keep insured
 the buildings erected and to be erected upon the
 land above conveyed, against loss and damage
 by fire in a good and responsible incorporate
 insurance Company and assign the policy and
 certificate thereof to the said Jas. C. Hinman
 and in default thereof it shall be lawful for
 the said Jas. C. Hinman to pay said taxes and
 effect said insurance to the amount of five
 thousand dollars of insurance, and said taxes
 and premium or premiums paid for effecting

Said insurance shall be a lien on said mortgage. Premiums added to the amount of said bond or obligation and secured by their presents.

In Witness whereof the said Wm. S. Easton & Sarah S. Easton his wife have hereunto set their hands and seals the day and year first above written.

Attest Signed William S. Easton ^{Wm S}
 Sarah S. Easton ^{Sarah}
 A. S. Leland (copy)

Exhib filed Sunday

This Indenture made this 2nd day of February AD 1852 between William S. Easton & Sarah S. Easton his wife of the first part & Henry F. Barnes, of the second part; all of Ottawa in the County of LaSalle in the State of Illinois.

Witnesseth, that whereas, said Easton is indebted to George A. Gibbs & Michael Thurman partners in trade under the name of Steph. George A. Gibbs & Co in the sum of fifteen hundred, on a bond dated August 27th 1851 secured by mortgage on the premises hereinafter described, and in the further sum of Four thousand and ninety nine dollars 18/100 & dollars, for account of advancers made on flour, evidenced by book of account, less the amount for which flour in their hands may sell, and they have further agreed to make further advances to said Easton in his said business of milling, and also in paying off installments as they become due to one John C. Thurman on a mortgage

and all the estate, title, interest ~~claim~~ ^{done} some
right of ~~claim~~ ^{done}, property claim & demand as
well as in law as in Equity, of the said party
of the first part thereto; The property hereby
being conveyed is the mill (steam) known as the
Aqueduct-Mills, & every portion and part of
of the fixtures, machinery ^{now} used in and about
said mill, in propelling machinery, & no machinery
and in manufacturing flour; and the real
estate thereto belonging.

To Have & to hold said above described &
granted premises & property to said party of the
second part, his heirs and assigns, & successors forever,
hereby covenanting that the title thereto is free &
clear & unincumbered, and that ^{we} ~~the~~ mill warrant
and defend said property & premises to the said
party of the second part, his heirs, & successors, &
assigns, against the claims of all persons whatsoever;
In trust for the following purposes;

In trust nevertheless, if default be made by
said Barton, his executors, administrators and
assigns, to pay said sums of money above described
as now due to George A. Gibbs & Co or which may
hereafter become due to them, or fulfill all &
singlular the conditions of said bond above
alluded to lastly, by the first day of January
A.D. 1853, or any of the covenants hereinafter
or hereinbefore described said to perform, with
the said George A. Gibbs & Co or their legal repre-
sentatives, assigns, or executors & administrators; in
default of said bond being complied with, & or
default in the conditions herein being kept, upon
application of the said George A. Gibbs & Co, the said

party of the second part, bearing first given
 30 days notice, by publication in some newspaper
 printed in said Ottawa LaSalle county, then
 in trust aforesaid to sell and dispose of all &
 singular the premises hereby granted, or intended
 to be, or any part or portion thereof, and all
 right and benefit and equity of redemption
 (given them or had or possessed by statute or other-
 wise) by said parties of the first part, (first part)
 at public sale to the highest & best bidder for cash,
 or on credit as the party of the second part may
 be instructed by said George A. Gibbs & Co at each
 time & place, in said county of LaSalle, as
 said party of the second part; or his successor in
 trust may appoint, with power to adjourn said
 sale from time to time, and in the name of
 said party of the second part; or his successor
 in trust; to make execute and deliver in due
 form of law, to the purchaser thereof a good
 and sufficient deed with covenants of general
 warranty as contained therein, & out of the money
 arising from the sale to pay first all costs,
 charges, fees, and other expenses growing out of
 the management and sale of said premises,
 including all travelling expenses & time spent
 going ^{to} & coming from said sale, & to pay to the
 said George A. Gibbs & Co any and all sums due
 & owing to them as aforesaid, for said last-
 mentioned bond; rendering the overplus to said
 Barton; provided said property be sold sub-
 ject to the first mortgage against the same to
 said John D. Hinman; otherwise the first
 money to be paid on said Hinman mortgage
 afterwards in the order above enumerated;

the said money to be distributed at the office of the said James in said Ottawa; or at the office of his successor in trust; and which shall be made to the purchaser, under such sale, shall forever bar, both in law & equity, the said parties of the second part, their heirs, and assigns, and all persons claiming any rights on said premises & property, from setting up any claim of any ~~trust~~ nature & description in & to said premises & property; in any manner derived from or through said parties of the first part. Upon said Carlton at any time before sale, complying with the conditions of said bond, and paying all sums of money due under the same to said George, A. Gibbs & Co, then the said party of the second part is to receive (at the expense of the party of the first part) said premises.

It is hereby expressly understood granted & covenanted and declared, that in case the said party of the second part shall die, at any time before the said trusts herein above declared shall be fully executed and performed or otherwise determined or shall at any time refuse or decline to act that the above granted and described premises shall be thereupon by their parents immediately & fully vested in Arloff M. Borman of the County of Cook in said State; and a notice ~~deemed~~^{served}, on the said party of the second part by the said George A. Gibbs & Co. said party of the second part neglecting within ten days to proceed, to act as directed shall authorize said Arloff M. Borman to act in the premises hereunto; and authorize to do every and singl^r all that the party of the second part may or could do in the premises. It is agreed that if said party

of the first part shall not keep all & singular his covenants in said bond contained, that upon such default the said party of the second part, or his successor may proceed at once to advertise said property and sell the same, upon the happening of said breach or default. The mortgage to Hinman is not yet due, & it is understood if said property & premises are sold under this, the purchaser may buy it subject to said mortgage, and take all and singular the rights of the party of the first part, with the privilege of taking the time for the payment of the same provided for by said notes & mortgage; or he may at once pay the money thereon. It is further agreed if said party of the first part should undertake to remove the property or any part of it herein described without the consent in writing of the said George A. Gibbs & Co then the said party of the second part is to proceed to take possession & sell the same.

It is further agreed that the party of the first part is to pay all taxes on said premises & to keep it insured to the full amount of the indebtedness due to Hinman & Gibbs & Co and which insurance policies to the amount of twenty five hundred dollars is to be assigned to said George A. Gibbs & Co. Said assignments above specified to be made to the party of the first part, or his assigns, of all the rights which the said party of the second part or his successor in said trust, acquired by virtue hereof, to the premises above described, upon his paying the trust debt above ^{as} specified. It is further understood that said party of the first part is to pay the installments on the mortgage to Heck-

-man as fast as they become due.

In Witness Whereof we hereunto set
our hands & seals the day & year above written.

William S. Easton

Sarah J. Easton

State of Illinois }

La Salle County }

Be it remembered that on the 2nd
day of February 1852 before me the
subscriber Judge of the La Salle County Court
appeared William S. Easton and Sarah J. Easton
his wife to me personally known to be the persons
described in and who executed the above instru-
ment in writing - That the said William S. Easton
acknowledged to me that he had executed the
same and that the said Sarah J. Easton wife
of the said William S. Easton after having been
by me made known acquainted with the con-
tents of the said instrument in writing on
an examination separate and apart from her
said husband acknowledged that she had
executed the same and relinquished her dower
in the lands and tenements therein mentioned
voluntarily and freely and without compulsion
of her said husband.

Henry G. Cotton

Debit filed same day

Whereas heretofore on the second day of
February in the year of our Lord Eighteen hun-
dred & fifty two William S. Easton and Sarah

J. Easton his wife executed a deed of Trust
 to Henry F. Barnes of the lots and property
 hereinafter described, to secure a debt due and
 owing by ^{said} Easton to George A. Gibbs & Michael
 Firman partners in trade under the name &
 style of George A. Gibbs & Co and which deed of Trust
 is recorded in the Recorder's office in LaSalle
 County in the book of Records of said County
 of LaSalle Volume Number Twenty six of Records,
 pages five hundred & forty nine; five hundred
 and fifty; five hundred & fifty one; five hundred
 & fifty two; and five hundred & fifty three and
 whereas said William J. Easton has made
 default in payment of the indebtedness secured
 by said Trust deed & having been duly notified
 by said George A. Gibbs & Michael Firman, of
 said default and application from them to
 do, & the said Henry F. Barnes proceeded to
 sell said property at public vendue, & the
 said Henry F. Barnes caused a notice to be
 published for more than thirty days then next
 preceeding the second day of March A.D. 1853
 of the time & place of sale, by publishing the same
 in the Ottawa Free Trader a paper of general
 circulation in the County of LaSalle & City of
 Ottawa; and by causing notice of the time
 & place of sale to be posted up in more than
 three public places in the Town of Ottawa, and
 County of LaSalle, & State of Illinois, where said
 property hereinafter described, was situated; &
 on the second day of March at the hour of ten
 o'clock a.m. at the door of the Court house, in
 the town of Ottawa, & County of LaSalle afo-
 said the time and place specified in said notice

~~upon~~^{for} the sale thereof; I canted said property
hereinafter described by virtue of the power
and authority in me vested by & under said
deed of trust - to be sold to the highest ~~bidder~~
and best bidder, subject to a mortgage thereon
to John S. Hinman to the highest and best-
bidder, and George A. Gibbs & Michael Tierman
of Chicago Illinois, became the purchasers thereof
for the sum of four thousand dollars - they being
the highest & best bidder therefor - Now know ye,
that I Henry T. Barnes as Executor for William
J. Easton; & Sarah J. Easton his wife for and in
consideration of the sum of Four thousand dollars
to me in hand paid by said George A. Gibbs &
Michael Tierman of Chicago Illinois, the receipt
whereof is hereby acknowledged I do hereby in
in consideration thereof and by virtue of the
powers in me vested conferred and to me granted
do hereby bargain, sell, give, remise, release and
forever quit claim to the said George A. Gibbs
& Michael Tierman all my right title interest
and estate to me granted by said deed of trust
and do give grant, bargain, sell and convey to
the said Gibbs & Tierman all the right title, in-
terest and estate of the said William J. Easton and
Sarah J. Easton his wife in & to the following de-
scribed real estate situate in the County of Cass
and State of Illinois, and described as
follows; to wit: Lots number six (6) seven (7)
eight (8) eleven (11) twelve (12) & thirteen (13) in
Block number eleven in the Town of Ottawa Center
in said Cass County Illinois; together with
all the machinery, appurtenances, fixtures and

improvements thereto belonging; together with
 the Aqueduct Mills thereon standing - and
 every portion of the fixtures and Machinery
 and in & about said Mill - in propelling Machinery
 and Machinery and utensils for the manufac-
 turing of flour - to have & to hold said premises
 with the above described appurtenances and
 property thereto pertaining to the said Grantee
 his ^{heirs} heirs, and assigns forever - Hereby releasing
 to said Grantee by virtue of the powers in me
 conferred on me by said deed of trust, my
 and all claims I may have on the said
 William J. Easton & Sarah J. Easton may have
 in and to said above described and granted
 premises; and every and all equity of redemption
 the said William J. Easton ~~and~~ or Sarah J. Easton
 or of any creditors of theirs, or any person
 claiming or to claim under, through or by them
 and every and all right of dower, which the
 said Sarah J. can or may have in ⁱⁿ the said
 premises; hereby intending to vest in said gran-
 tee all the right and title, which I may have
 under said deed, and the entire estate which
 said Easton & Sarah J. his wife may have in &
 the above described premises & property of every
 name, nature and description.

In Testimony whereof, I have hereunto
 set my hand and seal this second day of
 March A.D. Eighteen hundred & fifth Anno.

Henry F. Camus ^{Notary}
 Trustee as aforesaid

The State of Illinois
 LaSalle County 3^d Be it remembered that on

this second day of March AD. 1853 before
the the subscriber Clerk of the Circuit Court
within & for said county of Lasalle personally
appeared Henry F. Barnes Trustee for William
A. Carter & Sarah J. Carter, to me known to be
the person he represents himself to be known to
me to be the signer & seal and executor of
the above instrument of writing and the one
therein described - and the Henry F. Barnes
as such Trustee then and there acknowledged
the same to be his free act & seal for the uses
and purposes therein expressed, and that he
delivered the same for the uses & purposes therein
expressed.

In Witness Whereof, I have hereunto set my
Hand & seal of said Court the day &
year above written

Wm. Lindley Clerk
for J. A. Nash Deputy

Exhibit "C" filed same day

Witness My Hand 21, 1852

Gentlemen

Your favor of the 14th is rec^d as
regards the payments, that is to full due on my Bond
& Mortgage, & incident by my worthy friend Mr W. J.
Carter of Ottawa; I say, I can do nothing to alter the
terms of payments. But shall insist on prompt pay.
But I will give to Messrs G. A. Gibb, & Co Reasonable
notice, if the installments and insurance money
(about \$100. per year) are not punctually made,
which would be no more than their due as they

are situated, -

your humble servant

Jno. C. Hinman

P.S. I feel as though Mr. Easton has it in his power, to make a handsome property in a short-time, if he meets with no unforeseen accident.

Exhibit "D" filed same day

Worcester March 12, 1853

Or Sir

Your favor of the 3rd relating to the Ottawa property is rec^d.

You will please to inform the purchasers of the property that I am not ^{the} in fraction of doing my business harshly, but always mean to be reasonable, & will give them timely notice, if our mails do their duty. I regret my friend Easton was not more successful in his business, and have no doubt, had not death removed his friend, who resided in this country, he would have had ample means too have fulfilled his engagements although the 2 last crops of wheat had failed them in that vicinity.

your humble servant

Jno. C. Hinman

P.S. I do not mean by this letter, to extend the payments on my claim, & as I mean to have them paid - when due.

And on same day the following agreement was filed viz:

In the LaSalle County Circuit Court,
to Nov. Term A.D. 1854.

Michael Tierman }
vs } Bill of Indemnity
John C. Winman }

} The said Michael Tierman
Complainant in the above entitled suit, by
Glover & Cook his attorneys hereby stipulates that
the said John C. Winman may receive the amount
of Eleven hundred and fourteen dollars, the sum
mentioned in the said Complainant's Bill of
Complaint filed herein, without prejudice to his
rights & interests in said suit.

Witness my hand & seal
Sept. 7th 1854

Glover & Cook

On the 9th Sept 1854 the following receipt was
filed to wit:

Michael Tierman }
vs } LaSalle Co. Circuit Court.
John C. Winman } In Chancery Bill

Received of Michael Tierman eleven hun-
dred and fourteen dollars, being the amount
of the tender specified in the bill in the above
entitled cause.

Sept. 9th 1854

Hollister & Cargahy
attys for John C. Winman

On the 9th Sept 1854 the following Bond was
filed to wit:

Know all men by these

present that we Michael Tierman as principal
and Corydon Beckwith as surety all of the City
of Chicago in the County of Cook & State of Illinois
and Burton Leback as surety of LaSalle County,
Illinois are held and firmly bound unto John
E. Hinman of the City of Utica in the State of
New York in the full sum of ten thousand
dollars to be paid to the said John E. Hinman
his executors administrators or assigns, for which
payment well and truly to be made we bind
ourselves jointly and severally and our respec-
tive heirs, administrators and executors firmly
by these presents. Sealed with our seals and dated
this 21st of August A.D. 1854.

Whereas the above named Michael
Tierman has filed his bill of complaint in
the Circuit Court of LaSalle County, in the State
of Illinois against the above named John E.
Hinman, therein praying among other things
for ~~an~~^{an} injunction to restrain the said John
E. Hinman from selling or attempting to sell
certain tracts of land therein described; and
whereas the Judge of said Court has ordered that
an injunction be granted agreeably to the prayer
of said bill of complaint upon the said Michael
Tierman giving bond with security to pay all
damages and costs which may be ^{sustained} ~~incurred~~ by
the said John E. Hinman by reason of the granting
of said injunction in case it shall be adjudged that
the said complainant were not equitably entitled
to the same.

Now therefore the condition of the
above obligation is such, that if the said
Michael Tierman and Corydon Beckwith & B. L.

back their heirs executors or administrators
 or any of them shall and do well & truly pay or
 cause to be paid to the said John C. Hinman
 his executors administrators or assigns all
 damages and costs that may be ~~sustained~~^{sustained}
~~sustained~~ by the said Hinman by reason of
 the granting of said injunction in case it shall
 be adjudged by the said Court, that they the
 said Hinman is not equitably entitled to the
 same, then this obligation to be void, but other-
 wise to be and remain in full force and effect.
 Test & delivered
 In presence of
 Michael Hinman
 Corydon Beckwith
 B. C. Cook

On the back of said bill in chancery may be
 found the order for an injunction in the words
 and signs following viz:

Let an injunction issue accor-
 ding to the prayer of the foregoing bill upon the
 complainant filing the said bill with the clerk
 of the Circuit Court together with a bond condi-
 tioned as the law directs with Briston C. Cook &
 Corydon Beckwith sureties in the penal sum of not
 less than four thousand dollars five hundred
 dollars and also a stipulation that the said
 defendant or his solicitor may withdraw the tender
 of the money alleged to have been made in said
 bill without prejudice to any of the rights of the
 said defendant, the said ~~tender~~^{ten}der being made
 & kept good so that the same may be withdrawn as
 aforesaid

Ottawa Aug 7th 1854

J. S. Caton
 Just. Sup. Court

A Summons was issued in said cause in the words and figures following viz;

State of Illinois ^{3rd}
 LaSalle County ^{3rd} The People of the State
 of Illinois, To the Sheriff
 of LaSalle County. Greeting.

We command you to summon John C. Winman if to be found in your County, personally, to be and appear before the Circuit Court of said County, on the first day of the next term thereof, to be holden at the Court house at Ottawa, on 13th day of November next, to answer to a certain Bill of Complaint filed in our said Circuit Court on the Chancery side thereof, against him by Michael Furman; and have you then and there this writ, and make return thereon in what manner you execute the same.



Witness, Philo Lindley, Clerk of said Court, and the seal of said Court, at Ottawa, this 11th day of September A.D. 1854

J. P. Lindley Clerk

The Sheriff's return was as follows viz;

"Not found in my County Nov 10, 1854"
 "Ret. 10" J. R. Hann Sheriff

"Filed Nov. 13, 1854"

Philo Lindley

The Prohibition was issued in said cause in the words and figures following viz;

State of Illinois } The People of the State of
Ladue County } St. Illinois.
} To John C. Hinman his agents
and attorneys. Greeting.

Whereas Michael Tjernom has lately exhibited his bill of Complaint to the Judge of the Circuit Court in and for the County and State aforesaid on the Chancery ^{file} thereof against you the said John C. Hinman Defendant wherein among other things it is alleged that you the said John C. Hinman your agent or attorneys are wrongfully & unjustly about to dispose of sell and convey the following real estate to wit: Lots Number six (6) seven (7) eight (8) eleven (11) twelve (12) and thirteen (13) in Block Number eleven (11) in Ottawa Centre in said County & State to the great prejudice and damage of the said Michael Tjernom as in his bill of Complaint is alleged and set forth.

We therefore in consideration of the premises do strictly Enjoin and Command you the said John C. Hinman your agents and attorneys that you and each of you do absolutely and entirely desist and refrain from selling or disposing of Lots Number six (6) seven (7) eight (8) eleven (11) twelve 12 and thirteen 13 in Block Number eleven (11) in Ottawa Centre Until you and each of you shall appear to and fully answer the Complainant's bill of Complaint. And the said Court make other order to the contrary Hereof fail not under penalty of what the law directs.

To the Sheriff of said County to execute.

Witness Phil Lindley Clerk



of the said Circuit Court and
the seat thereof at my office in
Ottawa this 11th day of September
A. D. 1854

J. Lindley Clark

The Sheriff's return was as follows viz:

Executed this writ by
reaching the same to A. W. Curran, as atty for
supt - and by leaving with him a copy of the same.
Sept 11, 1854
"R. Thorne Sheriff"
"for H. Warner supt."

"Supt & Ret 60

1 copy 50

1 mile 5⁰⁰

\$11.50

Filed October 7, 1854

J. Lindley Clark

On the 13th day of November 1854 the defendant
filed his answer in the words & figures following viz:

Michael Thuman } State of Illinois
vs } Shelby County } Circuit Court
John E. Winman } thereof to Dec Term 1854.

The answer of John E. Winman
defendant to the Bill of complaint of Michael Thuman
complainant.

This defendant reserving to himself all
right of Exception to the said Bill of complaint for
answer thereto with that he admits it to be true
as stated in said Bill of complaint that on the first
day of July 1854. one William S. Canton in the said
Bill of Complaint named made executed and de-
livered to this defendant the hand^{or} of writing ob-
ligatory in that behalf mentioned & set forth in said

Bill of Complaint and that said Bond or writing obligatory was dated & conditioned as is in that behalf set forth in said Bill of Complaint.

And this defendant further answering admits it to be true that on the said first day of July 1851 in order to secure the performance of the condition of said Bond the said William S. Easton conjointly with his wife Sarah J. Easton conveyed and confirmed unto this defendant his heirs & assigns such parts of the several lots of land in that behalf mentioned in said Bill of Complaint which had not been to have & appropriated for the Illinois & Michigan Canal subject to the provisions in that behalf set forth in said Bill of Complaint and that it was further agreed by & between the parties to said deed that the said William S. Easton should pay all taxes legally assessed upon said premises & should insure & keep insured the buildings erected & to be erected upon said lands as contained in said deed conveyed against loss & damage by fire in a good & reasonable incorporated Insurance Company & assign the policy and Certificate to this defendant & in default thereof it should be lawful for this defendant to pay said taxes & to effect said Insurance to the amount of Five thousand dollars of Insurance & that said taxes & premium or premiums paid for effecting said Insurance should be a lien upon said mortgage premises added to the amount of said bond obligation & secured by said deed.

And this defendant further answering says that he has no knowledge information or belief except as he is informed by said Bill of Complaint whether in the 2nd day of February 1852 or at any other time

the said William S. Easton was jointly indebted
 the said Complain^{ant} & one George A. Gibbs - or whether
 the said Complain^{ant} & the said George A. Gibbs were or
 were not transacting business under the name & style
 of George A. Gibbs & Co nor what the amount (if any) if
 such indebtedness was nor what security they held
 therefor nor whether the said Easton & wife by their
 deed ~~and~~ bearing date 2^o February 1852 conveyed
 & confirmed the premises in that behalf mentioned
 in said Bill of Complaint unto one Henry F. Carns
 his heirs & assigns in trust for the purposes in that behalf
 mentioned in said Bill of Complaint, nor whether said
 deed was duly executed or acknowledged or recorded -
 nor whether the said William S. Easton made default
 in the payment of said sums of money to the said
 firm of George A. Gibbs & Co by the first day of January
 1853 - nor whether the said George A. Gibbs & Co ever re-
 quested the said Henry F. Carns to procure in the premises
 nor whether the said Henry F. Carns on the 2^o day of
 March A.D. 1853, or at any other time sold said premises
 to the said George A. Gibbs & said complainant - nor
 whether they were the highest-bidders therefor nor
 whether the said Henry F. Carns gave any
 notice of such sale - nor whether such sale was made
 subject to said mortgage to the defendant in this
 cause, nor whether the said Henry F. Carns on
 the 2^o day of March 1853 or at any other time convey-
 ed said premises unto the said George A. Gibbs
 & to said complainant - nor whether the said
 Gibbs & Anna his wife conveyed or confirmed
 the same premises by deed or otherwise to the
 said complainant - nor whether the said Com-
 plainant - now is or ever has been the owner of
 said premises, or in anywise interested therein

This defendant therefore does not admit the facts or circumstances so stated in said Bill of Complaint, or any of them; but denies the same and leaves the Complainant to the proof thereof, as he is, or shall be advised.

This defendant further answering, admits that the land and premises first mentioned in said Bill of Complaint were on the 1st day of July, 1851 & from thence hitherto have been subject to the incumbrance to this defendant mentioned set forth in said Bill of Complaint, and that on the 1st day of July, 1854, there was due to this defendant by virtue of said Bond and Mortgage to him, a payment of eight hundred and fifty dollars falling due on that day together with the further sum of two hundred and twenty-two dollars and twenty-one cents for and on account of monies paid by this defendant for Insurance upon the buildings on the said premises including interest thereon. And this defendant further answering in manner aforesaid says that on or about the 20th day of February 1852, he received through the mails a letter from Messrs. Sarman & Wait as attorneys for George A. Ebb & Co. bearing date 14th February 1852 at Chicago a copy of which is hereto annexed marked A-1 - and that he this defendant never received any other letter of that date, or of any other date during the said month of February, from said Sarman & Wait, which this defendant answered in writing, and that the answer of this defendant thereto is ^{truly} set forth in said Bill of Complaint marked B. C.

And this defendant further answering

in manner aforesaid, says that within the first four days of the month of July 1852, and this defendant believes on the 4th day of July 1852 this defendant received from the said Dorman & Waite, Attorneys for said George A. Gibbs & Co a letter bearing date the 29th day of June 1852, a copy of which is hereto annexed marked No 2, and that during the months of June & July 1852 he received no other letters from said Dorman & Waite than said letter containing the draft therein mentioned, which defendant received and accepted in satisfaction of the payment then due to this defendant on said Bond & mortgage - without objection or complaint for the reason that said letter & draft appeared to have been mailed to this defendant, before the payment became due & payable, and was actually received by this defendant before the expiration of the days of Grace to which days of Grace said Attorneys claim that Geo. A. Gibbs & Co; were entitled.

And this defendant further answering in manner aforesaid, says that he has no knowledge, remembrance, information or belief except such information as the letters of H. F. Waite hereinafter referred to & the Bill of Complaint in this cause afford whether the said George A. Gibbs & Co, became the purchasers of the furnace in the said mortgage mentioned as is in this behalf mentioned in said Bill of Complaint he therefore does not admit; but denies the same, but that on or about the tenth day of March 1853 the defendant received through the Post office a letter from H. F. Waite Esq; an attorney, for

Q. Gibbs & Co dated Chicago March 5th 1853, of which a copy is hereto annexed, marked No 3 & that during the month of March 1853 he received no others or different letters from the said H. F. Wait, and that this defendant on the 16th March 1853 by his letter of that date replied thereto & which is true, stated & set forth in Exhibit D of the complaint in this action.

And this defendant further answering admits that on or about the 25th day of June 1853, the sum of \$1,500 being the amount of the installment mentioned in the condition of the said Bond as becoming due on the 1st day of July 1853, was remitted from George A. Gibbs & Co to this defendant at Utica, & was received by this defendant on the 1st day of July 1853. Without objection or complaint, and he also admits that on that day there was a balance ⁱⁿ favor of the Insurance money, the amount of which this defendant does not know, nor can he state; but this defendant denies that at that time, he this defendant had paid said balance or any part thereof (As Insurance money) This defendant further answering says that he has no knowledge, remembrance, information, or belief except such information on the Bill of complaint in this cause affords, whether or not prior to the date of the deed from said Gibbs & wife to the complainant, the whole business in relation to said property was managed by the said George A. Gibbs & Co ^{the} attorney of the said Firm excepting as in that behalf is ex-

- Capt'd in said Bill of Complaint - nor whether said Complainant knew or did not know that there was a Mortgage on the said premises and about the amount thereof, nor whether the said Complainant was, or was not ignorant of the precise days when the said payments become due; or of the proviso in the Condition of said Bond until after the 1st day of July 1854.

This defendant therefore does not admit but denies each and every said allegations in said Bill of Complaint & leaves the Complainant to the proof thereof as he is or shall be ordered and this defendant denies that the Mortgage is so drawn that the record thereof gives no notice of such proviso; on the contrary thereof this defendant avers & insists that the said Record of said Mortgage gave full & ample notice of the said proviso.

This defendant further answering, says that he has no knowledge, remembrance, information or belief except such information as the Bill of Complaint affords whether or not the knowledge of the Complainant of the manner in which the said business had been done, was imperfect; or what said Complainant understood or supposed in relation to the matter, nor whether said Complainant was, or was not ready & willing to meet the same, if his supposition in relation thereto had proved true.

This defendant does not therefore admit said allegations in said Bill of Complaint, or any of them but denies the same.

This defendant further answering, says that he has no knowledge, remembrance in-

formation, or belief, except such information as said Bill of Complaint affords. Whether any of the facts & circumstances mentioned & set forth in said Bill of Complaint in the paragraph commencing with - "your orator further shows unto your Honor that on or about the first day of July, 1854, the cholera broke out - &c and ending with "lying friends & their families," he therefore does not admit, but denies each and every allegation therein contained & leaves the complainant to the proof thereof, as he is or shall be advised.

And this defendant further answering, says that he has no knowledge, remembrance, information, or belief whether or not said Complaint before the 12th of July, 1854, received any notice from this Defendant - that the payment of 1st July, 1854 was then to become due; but this defendant says & avers that on or about the 6th day of July, 1854, he addressed a letter to the said Gibbs & Co, or their said attorneys informing him or them that said payment had become due, and would be required according to the Terms of the Condition before referred to, and of the amount of Insurance Money then also due, and that said letter was then regularly mailed at which addressed to the said Gibbs & Co, or their attorney at Chicago - and this defendant denies that he, this defendant, made any agreement whatever, by which he was to give any notice to Gibbs & Co, in relation to the premium.

and this defendant further answering, says that he has no knowledge, remembrance, information or belief whether the said Complaint immediately after the 12th July 1854 or at any time prior to October

for a copy of said Bond & Mortgage or whether or not - by his agent the said Complainant requested said Hollister to write to this defendant requesting him to accept the payment due on the said 1st day of July 1854 together with the monies paid out for Insurance with interest on the same, nor whether the said Complainant offered to not only ^{pay} the same; but all costs & expenses incurred by this defendant by reason of said non-payment. This defendant does not therefore admit; but denies the same, and leaves the Complainant to the proof thereof, as he shall be advised, since this defendant denies that he ever refused to receive the payment due 1st July 1854 by virtue of the Condition of the Bond & Mortgage aforesaid, or the monies paid by him for Insurance as aforesaid together with the costs & expenses incurred in relation thereto by this defendant.

And this defendant further answering, says that he has no knowledge, remembrance, information, or belief except such as said Complainant affords, whether the letter of this defendant & the facts in relation thereto, or in relation to said Bond & Mortgage first came to complainant's knowledge on the 31st August - 1854 nor what the reasons for such delay were, nor what his supposition in relation thereto was, nor when said Complainant was enabled to state any substantial reason for such supposition. This defendant does not therefore admit said allegations in said Bill of Complaint or any of them - but denies the same.

And this defendant further answering, says that he has no knowledge, remembrance, information or belief, except from said Bill of Complaint, whether or not said Complainant is now ready & willing to pay the sum of \$1072,71 due on the 1st July 1854

With interest thereon to the time of filing said Bill of Complaint together with all costs & expenses incurred by said defendant by recovery of said nonpayment by said complainant, he this defendant does not admit said allegations, or any of them but denies the same & said defendant also denies that said Complainant has frequently, or at any time offered to do.

And this defendant further answering, says that he is informed & believes, therefore admits that just previous to the filing the Bill of Complaint in this Cause said Complainant did tender to M. C. Hallister the agent & attorney for this defendant at Ottawa, the sum of \$1084, being the sum due this defendant on the 1st day of July 1854, with interest on the sum to the time of such tender together with the sum of thirty dollars for the costs & charges of this defendant, and this defendant also admits that this defendant did by his attorney M. C. Hallister Esquire cause said described premises to be advertised for sale on the 10th day of September instant & that it was & is the intention of this defendant to proceed to sell said premises ^{for} the entire amount of the balance ^{due by} the condition of said Bond & Mortgage that is not paid & said defendant denies that the power of sale in said Mortgage contained is delegated to any person or persons whatever

And this defendant denies all combination & confederacy charged against him in said Bill of Complaint, without that, that any other matter, or thing in the said Bill of Complaint contained, and not herein, & hereby well & sufficiently answered and, confessed and avoided, traversed or denied, is true

to his knowledge or belief. All which matters & things
this defendant is ready, to aver, prove, and maintain
as this Honorable Court shall direct & pray, to be
hence dismissed with his costs & charges in this
his behalf most wrongfully sustained.

John E. Winman

No. 1

Mr John E. Winman

Wm New York

Dear Sir:

you hold a mortgage
from W^m S. Easton to you, on his Mills (Accorded Mills)
in Ottawa County, this mortgage contains a clause
that if payments are not made as they become due
all is due. Claims of ours "George A. Gibbs & Co"
as security on advances in flour, are certain & que trus
in a deed of trust made by Easton to Henry H.
Carnes this deed of Trust authorizes George A. Gibbs & Co
to pay any of the payments owing to you, as they become
due. Mr Easton has agreed to pay your claim as it
becomes due. What we want from you is, that you
will advise us, of the nonpayment of the \$400, or part
due, before you declare all due, & enable our Clients
to pay it. of course Messrs George A. Gibbs & Co does not
wish to pay the \$400, if Mr Easton will, but upon your
notifying them, they will immediately remit the funds
to you. We shall esteem this a great favor. Please
let us hear from you.

Very truly,

Wm. H. F. Wright

No. 2

Chicago June 29th 1852

Mr John E. Winman

Dear Sir:

Enclosed you have draft-
"W. A. Tucker & Co" on Wadsworth & Sheldon for \$16,540
dollars to ^{pay} the installments due July.

We deduct \$30, of 1,000 \$4,880 premium of
Insurance for the reason that Mr Canton says it
is not due under 4^{mo}, & said by that time he should
be able to meet it. Our Clients prefer Geo. A. Gibbs & Co
want to pay all that is due as it becomes due.

Please sign the enclosed receipt. Thanking
you for your exceeding kindness.

We are very truly,

Yours & Co's

P.S. Should the insurance money be due, advise
us, & our Clients will remit & advise us if not due,
when it does become due.

No 3.

Chicago March 5 1853

Wt for E. Winmon

Wm. C. Ry.

Dear Sir:

My Clients Messrs Geo. A.
Gibbs & Co purchased in under their deed of trust
the Canton property, subject to your mortgage. -
Please do me & Mr Gibbs the favor, whenever there
is anything to be paid or done by them to notify
them, before making any forfeiture; upon your
doing so, they will immediately remit. - I ask this,
for the reason, that in the multiplicity of engage-
-ment; matters occasionally escape the most attentive
We are still in hopes to effect some arrange-
-ments with the property, that will be for Mr Canton's
benefit, and all my clients want is their pay.

Very truly Yrs. J. H. Wait

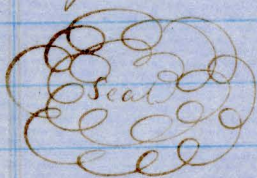
State of New York
Onondaga County ss.

John C. Hinman

On this twenty eighth day of September 1854 before me personally appeared the above named John C. Hinman & made oath that he had heard read the above answer subscribed by him & knows the contents thereof, that the same is true of his own knowledge, except as to the matters which are therein stated on his information & belief & as to those matters he believes it to be true.

Wm. J. Bacon
Jus. Sup Court
of the State of
New York

State of New York }
Onondaga County }
I, Richard Harburt - Clerk
of said County, do hereby
certify, that William J. Bacon
Esq. whose name is subscribed to the above certificate
was at the time of taking such proof or affidavit
a Judge & Justice of the Supreme Court for said
State, now dwelling in said County, sworn & duly
authorized to take the same. And further that
I am well acquainted with the hand writing of
such Judge & Justice & verily believe that the signa-
ture to the Certificate of said proof is genuine. And
further that said instrument is executed accor-
ding to the laws of the State of New York.



In Testimony whereof I have hereunto set
my hand and affixed the seal of said Supreme
Court and seal of the County of
Onondaga this 28th day of September 1854

Richard Hulbert Clerk

On the 13th day of November 1834 M. E. Hollister
affidavit was filed in the words & signs following of
State of Illinois } In E. Hollister being first
La Salle County } ^{Sworn} duly sworn on oath, that
Michael Tierman did not
pay to this affiant nor to any other person so
far as this affiant is informed & believes nor
offer to pay to him for or on behalf of John
& Hermann the amount due said Tierman
on his bond and mortgage executed by
W. S. Easton & dated the 1st day of July A.D. 1831
on the 1st day of July A.D. 1834 and the amount
of insurance money paid by said Tierman
on the property mentioned and described in said
mortgage up to said 1st day of July A.D. 1834, at
any time until the 6th day of September A.D. 1834
although this affiant had informed said Tierman
sometime in the month of July last of the amount,
and the time the same became due, and was in
frequent correspondence with said Tierman on the
subject of said payments from early in July until
the last day of August last.

And further this defendant saith not.

Subscribed & sworn to before

me this 13th day of
Nov^r A.D. 1834

R. Lindley Clerk

M. E. Hollister

And on same day the following letter, agreement &c
was filed in the words and signs following to wit:

No 1

Chicago Feb, 14, 1852

Mr John C. Winman

Wichita, Kansas

Dear Sir,

You hold a mortgage from Mrs L. Easton to you ~~on~~ on his mills (Sawmill) in Ottawa Centre LaSalle Co Ill; this mortgage contains a clause that if payments are not made as they become due, all is due; Claims of ours "George A. Gibbs & Co" as security on advances on flour, are certain you trust! in a deed of trust made by Easton to Henry F. James this deed of trust authorizes George A. Gibbs & Co to pay any of the payments going to you, as they become due. Mr Easton has agreed to pay your claim as it becomes due. What we want from you, is that you will advise us, of the non-payment of the \$400 next due, before you declare all due & enable our clients to pay it. Of course Messrs George A. Gibbs & Co do not wish to pay the \$400, if Mr Easton will; but upon your notifying them, they will immediately remit the funds to you. We shall esteem this a great favor. Please let us hear from you.

Very truly,

Gerrard & H. F. Wait

No 2

Chicago June 29 1852

Mr John C. Winman

Dear Sir

Enclosed you have draft "H. A. Tuckers & Co" on Washburn & Sheldon for \$516.³⁴/₁₀₀ Dollars, to pay the installments due July 1/4

We deduct \$50. life 1.00 = \$48.83 premium of Insurance
for the reason that Mr Easton says it is not due
until 4^{mo}, & find by that time he should be able
to meet it. Our clients Messrs Geo A. Gibbs & Co want
to pay all that is due as it becomes due. Please sign
the enclosed receipt. Thanking you for your ex-
ciding kindness.

We are very truly,

Yours man & partner

P.S. Should the Insurance money be due advise
us, & our clients will remit; & advise us if not due,
when it does become due.

"O"

Wm S. Easton

To John C. Wineman Dr

To amt of principal due on bond

& mortgage July 1/4 52 secured on

lots described in said mortgage in Block No 11

in Ottawa Centre Lot 10 Co All with

with them on standing

\$400.00

To paid July 3^d 51 premium on

his initial policy of Insurance

No 1020 of \$25.00 for 2 years

in Utica Actua Co Cash

60.00

" 1 years interest on de (adding

4.20

3 days grace,

" Cash paid same Co on policy

1021, (Cash policy for \$2500 per

one year from Oct 31, 1881

50.00

" 8 mo interest

2.34

\$516.54

Rec^d of Messrs George A. Gibbs & Co subsequent

lien holders on the said property, mortgaged to me, the above amount (\$516.⁵⁴/₁₀₀) which they pay off by virtue of having a subsequent lien thereon.

No 3

Chicago March 3, 1853

Mr Jas E Hinman

Wica Wy

Dear Sir,

My Clients Messrs Geo A. Gibbs & Co purchased in undivided and of trust the Eastern property; Subject to your mortgage. Please do me & Mr Gibbs the favor whenever there is anything to be paid or done by them to notify them, before making any payment; upon your doing so, they will immediately remit. I ask this, for the reason that in the multiplicity of engagements, matters occasionally escape the most attention. We are still in hopes to effect some arrangement with the property, that will be for Mr Gibbs benefit; and all my clients want, is their pay

Very truly

H. F. Wait

Michael Hinman } In Chancery
 " } LaSalle County, Circuit Court
 John A. Hinman }

It is hereby stipulated and agreed that the accompanying letters marked 1, 2, 3 & Statement "C" were written and sent by H. F. Wait to said debt, and that

the same may be used in evidence in
said cause, without any further proof of
the same.

Blackwell & Beckwith
Sols for Creditors

And on said 13th of November the affidavits of Mr. E.
Hollister was filed in the aforesaid and signed following to wit:

State of Illinois } In E. Hollister being first
Solemn County } duly sworn on oath says that
he has been in correspondence
with John C. Hinman of the City of Utica
N.Y. and Mr. Pierson of Chicago Illinois, in
relation to a Mortgage executed by Wm. S. Easton
& Sarah his wife to the said Hinman, to secure
the payment of the purchase money for lots
6, 7, 8, 11, 12 & 13, in Block 11 in Ottawa Center, dated
July 1st 1854, and also the Insurance money paid
by said Hinman, on said premises according
to the conditions expressed in said Mortgage, and
a certain Bond of the same date, executed by
the said Easton, and payable to the said Hinman.

That in the course of said correspondence he
has rec^d from said Hinman a letter, of which
the following is a copy, viz

Utica July 6, 1854

Dr Sir

On rec^d of this, do you the favor
to call at the office of the Clerk of the Circuit Court
of Solemn County, and ascertain and if any
person has deposited for me \$850 as a payment
on my Bond & Mortgage against William S. Easton

(Shall properly, Ottawa) also \$222,38 for cash advanced for insurance. If paid into the office or any part thereof, I wish you would draw the money for me & in my name, as my attorney, without delay, & procure a draft on the City of New York for the amt, and oblige yours"

Jos. C. Harrison

"P.S. Should the money not be paid, I wish you would demand the whole ^{amount} of the Bond & mortgage, as due and payable on demand, according to the terms of the Bond, a copy of which is enclosed, also demand the payment of the money advanced for insurance & the interest due thereon. Counsellor W. C. Hollister will know what is to be done in the matter better than I can advise - If I can enforce the collection of the whole debt (balance) he will do it."

J.C.H."

"To M. C. Hollister, Esq. }
Henry F. Barnes Esq. }
Ottawa Land Co. Ltd. }

Whole debt due on Bond & mortgage
July 1, '34 \$850,00
Insurance (Errors &c) 222,38
\$1072,38"

"Should nothing have been deposited with the Clerk, then the amount will be of

principal - val \$4,607,50
Paid for insurance, ^{interest} on do 222,38
\$4,829,88"

This affidavit further says, that upon the receipt of said letter, he made inquiry of the Clerk of the Circuit Court of said County, whether any money had been deposited

with him for by any person for John C. Hinman, and that he was informed by said clerk there had not, which information this affiant believes to be true. That shortly after, probably about the 10th or 12th of July, this affiant spoke to James Kuler the lessee of the premises mentioned in said mortgage & who was then in possession thereof, about the payment of the installment due said Hinman on the 1st day of July, 1834, and that he was then informed by said Kuler that a Mr. Firman of Chicago, on the dissolution of the partnership firm of Geo A. Cuthb. & Co of which Mr. Firman had been a member, had become the owner of said premises, to whom Mr. Kuler then promised this affiant, he would write in relation to said payment. This affiant further says that some few days thereafter he rec^d a letter purporting to be written by, Mr. Firman, & which this affiant verily believes was written by him, of which the following is a copy, viz

Chicago July 15, 1834

Mr. Hesterton

Ottawa D^r Sir

I am in receipt of a letter from Jas. Kuler Esq. advising you of instructions you had from Mr. Hinman to commence foreclosure of mortgage on the mill property, now belonging to me. I was aware of something being due Mr. Hinman on the property, but as to the amt, and time of payment, I have never been advised. You will very much oblige me if you will send me a memorandum of the pay-

munt. In regard to foreclosing, I will say, it is entirely unnecessary. It is my intention to pay, in what is due him, at present I am altogether unable to attend to anything, death in the family of a dear friend, and the care of his family, even, have brought pickup into my own. At present I am physically unable to attend to any business, but as soon as I get better I will attend to the payment of what is due Mr. Hinman. Mr. Kuler can inform you of my ability to perform any engagements I make. Please let me hear from you what course you will take.

Yours in haste

W. T. Fierman

This affiant further swears, that very soon after the receipt of the last mentioned letter, he gave to Mr. J. Kuler the amt of the payment due, including the insurance money paid by said Hinman, and also furnished him with a copy of the mortgage aforesaid, at his own request, and as he informed, me for Mr. Fierman, and also a memorandum of the several payments to become due. That in an interview thereafter had with Mr. Fierman, he Fierman, informed this affiant he had the copy of the mortgage furnished as aforesaid to Mr. Kuler. This affiant further says, that since said interview he has rec^d the said copy, in a letter dated at Chicago, written to this affiant by said Fierman.

This affiant further says, that on the 17th day of July, 1854, he wrote to said Hinman a letter containing substantially the matter embraced in the letter of Mr. Fierman, dated July, 15 1854, a copy of which is given above, and that some

days thereafter, he rec^d a letter dated July 24th 1854, from the said Hinman containing, (amongst other things) the following viz:

"I rec^d a letter from a M^r Turnam of Chicago dated on the 19th instant stating (among other things) that it is inconvenient for him to pay at present - ~~to pay~~ any thing on the Eastern mortgage, also that the property is renting for \$2000, water rent \$250, taxes, and wished me to purchase it of him &c."

This affiant further says, that in an interview with M^r Turnam on or about the 14th day of August inst, he spoke to said Turnam of Hinman's letter last mentioned, and of his Turnam's proposition to sell to said Hinman the mortgaged property, and that said Turnam admitted he had made such proposition.

This affiant further says that in a letter dated July 21st 1854, from said Hinman, he was authorized to make a new arrangement with the owners of said mortgaged property, on condition that further & adequate security should be given to secure the payment which was as follows

Cash down \$1500 - Cash 1st July 1855 \$1500 - and the balance 1st July 1856, the whole drawing interest from the 1st July 1854, together with the cost of advertising the property for sale, and Hinman's attorneys fees - the amount of which was not named. And on the further condition that ~~the~~ the new arrangement should be made before the day of the sale of the property; & embrace the amt. of insurance paid by said Hinman, as near as this affiant now recollects.

This affidavit further reveals, that thereafter he received from Mr. Piernan a letter of which the following is a copy, viz:

Chicago July, 27, 1854

"M^r C Hollister }
Ottawa } }

Sir

I am in receipt of a Com-

munication from M^r Piernan saying if I would pay him \$1500, before the day of sale \$1500, 1st July, 1855 & balance 1st July, 1856 he would make such an arrangement:

I accept his proposition, and will do as he desires. It is impossible for me to go down to your place immediately, but I think I will do so some time during the coming week, or week following and make the necessary arrangements with you. I should dislike to have the property advertised, and if you have not done so, I wish you would not do it. I will attend to the matter as M^r Piernan desires and will settle it up as soon as possible, at all events before the four weeks expire which the Mortgage requires, & if I fail to do so, I will waive my right under that condition. Please let me hear from you at once, what steps have been taken."

Respy, Yours

M. Piernan"

This affidavit further says that before the receipt of the last mentioned letter he had caused the mortgaged property to be advertised for sale on the 28th day of August 1854 in the

Ottawa Free Trader, a newspaper printed in the city of Ottawa, in said County. This affiant further says that - after the receipt of the last above mentioned letter, to wit on the 31st day of July, last as near as he now recollects, he wrote to said Tiernan, communicating to him the proposition of said Hiirnan for a new arrangement of the claim on the mortgaged property, and the instructions of this affiant in relation thereto, as herein before set forth, and also advising the said Tiernan that the premises were advertised to be sold,

That some few days thereafter this affiant received a letter of which the following is a copy viz

"Mr C. Hollister Esq
Ottawa
Dear Sir

Chicago Aug 3/54

"Yours of the 31st

Just was rec^d, as there appears to be some difference between my understanding of Hiirnan's proposition and the instructions which you communicate to me as having received from him, I write now so that we may better understand each other.

Mr^r Hiirnan wrote me under date of July 26th that according to the bond & mortgage given by Carlton, the bal. of said bond \$4,607.⁵⁰ had become due by failure to make payment on 1st July - but that if I would pay him before the day of sale \$1500, and \$1500 more on 1st July, 1855 and the balance (which, as I understand

it, is \$1607³²) on 1st July, 1856, he would consent to such arrangement, and referred me to you.

This seemed reasonable and I made up my mind to accede to the terms, and wrote you not to advertise the property and I would settle it with you either this, or the following week, and if I failed to do so would waive all right I might have had under the condition in the Mortgage to advertise 4 weeks - I think under the circumstances you did not treat me fairly, in not advising me beforehand of your intention to advertise the property.

You say the terms prescribed for you are \$1500 Cash. \$1500 - 1st July, 1855 & bal 1st July, 1856 with int at 6% per

With regard to the matter of interest, I would ask you how much of the sum of \$4607³² which Hinman claims as due July 1st 1854 is interest, and how much is of the principal sum for which the Bond & Mortgage were given?

Mr Hinman has certain rights in this matter and so have I, my means are not so limited nor am I so hard up as to submit to anything I do not consider fair - Of necessity I can pay the whole amt - sum without a great deal of trouble, I hope however to settle the matter with you pleasantly and satisfactorily. In a few days I will make you a proposition which I trust will be satisfactory to all interested."

Respy Yours &
M. Tiernan

This affidavit further proves that no further communication passed between this affiant & David Tiernan in relation to Hinman's matter, until the 9th day of August instant, - on which day this affiant recd from David Tiernan a letter of which the following

is a copy viz:

Chicago Aug 8/84

Mr C. Hollister Esq

Ottawa

S^r Sir

I wrote you last week in reply to yours of 31st July, since which time I have not heard from you.

In regard to the claim which Hinman has against the mill property owned by me, I write to make you the following proposition.

I will pay you the installments due 1st July last with interest to date, and go on and follow up the other payments as they were to have been made by, Weston.

Although the rate of interest charged is illegal and could not be collected, still I will make the payments.

Or take the original amount of the incumbrance, without interest - (which was 4750 Dollars) and reckon the interest at 6% from July, 1851 to date, and deduct therefrom what has been paid to Hinman already by G. A. Cobb & Co, and the balance I will pay cash - or on short time with interest and security. I have no idea of paying Mr Hinman or any one else over \$1000. - more than they are entitled to. I am willing and anxious to have the matter settled amicably, but if compelled to become belligerent - I will take and fight for all the law will give me. The matter of taking 8% interest (contrary to law) shall be investigated for my benefit. As I said before, it is my anxious wish to settle this matter in a friendly way. If Mr Hinman desires at all to do what is fair, he will accept my proposition to comply with the terms of the Mortgage. It was altogether an oversight on my part first in not meeting the

payment promptly, and I am willing to do what I can to repair it, but as far submitting to the foregoing terms he has ^{dictated to} ~~dictated to~~ you, I will do no such thing. I think you will advise him to accept one of the propositions I have made you. If driven into fighting this matter, I will do so in earnest, and may probably in the end cause him to lose more than he has an idea of now.

If either of the propositions I have made meet your favor please advise me at once. If they do not I should be glad to know of it immediately. I think of leaving Chicago for a short time, some time next week, and would like to arrange this matter one way or another before doing so.

Expecting to hear from you promptly, I am
Yours Obt Serv^t
Wm. T. Furman

This affidavit further reveals that on the day of the receipt of the last mentioned letter he wrote in answer to said Furman, declining his propositions therein contained.

This affidavit further says that on the 14th day of August instant, said Furman made a tender to him for said Hinman of the sum of \$3,875 in full discharge & satisfaction of the Bond & Mortgage afore said and the cost of advertizing the property mentioned in said Mortgage for sale which this affiant declined to accept, advising to said Furman that he was not the agent or attorney of said Hinman for such purpose, having rec^d no authority from said Hinman to receive any sum less than what appeared to be due by said Bond & Mortgage, and by the account rendered by the said Hinman for money

sum for the insurance of the mill property, which amount then appeared to be \$4607.⁵⁰ due on the Bond & Mortgage, and \$222.³⁸ on the Insurance account, the whole sum being \$4829.⁸⁸ exclusive of interest thereon from the 1st day of July next preceding, the day on which by the terms of said Bond & Mortgage the same became due & payable, in case default had been made in the payment of the installment due on that day, unless said Hinman should agree to make the new arrangement heretofore mentioned, in which case this affiant was authorized to receive the sum of \$1500. in hand, and further this affiant refused to accept said tender because it was for a far less sum than appeared to be due, and which this affiant believed was due, to said Hinman. This affiant further says he believes the sum due said Hinman from said Hinman on said Bond & Mortgage and for the insurance on said mill property on the 14th day of Aug^r 1854 was the sum of \$4829.⁸⁸ besides the interest thereon from the first 1st day of July, 1854 to the 14th day of August instant.

and this affiant further says, he believes from the instructions given by said Hinman to him, that he was not said Hinman's agent or attorney to accept the said tender of \$3875- in satisfaction of the debt aforesaid. This affiant further swears that he has examined the records of the Recorder's office of Laclede County, in order to ascertain the terms and conditions of the sale of the above described premises from the said Hinman to said Carter and particularly the amount of the consideration money paid

therefor by the said Carter to said Hinman and that he finds on said records, in Book No 23 page 576, a deed from said Hinman & Mary, his wife to William S. Carter for said mortgaged premises, to wit, Lots 6, 7, 8, 11, 12 & 13 in Block 11 in Ottawa. Carter except so much thereof as has been taken & appropriated for the Illinois & Michigan Canal, and also the right to dig a tail race in a right-line to Fox River across any lot owned by said Hinman, which deed is a warranty-deed, with covenants against the lawful claims of others, and incumbrances, except taxes to the date thereof, which deed bears date July 1st 1851, and was filed for record in said Recorder's office on the 23^d day of August A.D. 1851 - as appears by said record.

And this affiant further swears, that it appears by the record in said Recorder's office contained in said Book No 23, on pages 577 & 578, that on the said 1st day of July, 1851 said Carter & wife executed to said Hinman, the mortgage heretofore mentioned, on said premises, to secure the payment of the sum of \$6507.⁵⁰ then due for the premises aforesaid, to said Hinman according to the conditions therein named, which said mortgage was only filed for record in said Recorder's office on the 23^d day of August 1851 as appears by said record in said Book No 23, page 578.

This affiant further says, that he has also examined the records in said Recorder's office, with a view to ascertain the terms and conditions upon which G. A. Gibbs & Co loaned to said Carter any sum or sums of money, and to determine whether at the time when such loan was made said Gibbs & Co had notice of the lien or, in encumbrance on said premises,

Created by said Easton & wife in favor of said Hin-
man, & of the extent & nature of such notice, if any,
and thus he finds recorded in said office in Book
No 24 on page 6, of Mortgages, a Mortgage made
and executed by said Easton & wife to said Gibbs
& Co thereby conveying to said Gibbs & Co with a con-
dition of defeasance the above described Lots, to secure
the payment of the sum of \$1500, according to the conditions
of a Bond executed by said Easton to ^{said} Gibbs & Co. which
Mortgage contains on the part of said Easton covenants
of Seizen & Warranty against all incumbrances ex-
cept a Mortgage given by said Easton & wife to said
Hinman, to secure the payment of \$650 & 30¢ which
the said Easton & wife expressly declare in & by their
said Mortgage given to said Gibbs & Co to be a part
of the purchase money on said Hinman from said
Easton, for the above described Lots, and this affiant
further says that the said Mortgage to said Gibbs & Co
bears date on the 27th day of August 1851, and
that the said Easton & wife, the Mortgagors therein
named, acknowledged the execution thereof on the
3rd day of September following and that the same was
filed for record in said Recorder's office on the 4th day
of September 1851, as appears by said record in said
Book No 24, on page 6.

This affiant further says that he has further ex-
amined the records of the Recorder's office of said
County, with a view to ascertain whether said Hin-
man, ^{or said P. A. Gibbs & M. Tiernan} ever advanced to said Easton any money
on the strength of any property or rights said Easton
had in ~~lots~~ & to said mortgaged premises, or gave
to said Easton any credit, or made to him any
advances upon any security said Easton could give

them or either of them, upon the strength of any such property, or rights in said premises. And that he finds recorded in Book No. 26 page 349, a deed of Trust-dated Feb 2^d 1852, executed by said Easton & wife, conveying to Henry D. Carnes the premises mentioned in said Hinman's Mortgage, in trust to receive the payments of the \$1500, secured to be paid as above set forth in the Mortgage of said Easton & wife to said Gibbs & to certain other sum or sums advanced or to be advanced by said Gibbs & to said Easton to carry on the Milling business &c. in which said deed of Trust there was contained a power under & by virtue of which the said Carnes was to sell said premises, in case of the default of said Easton to make any of the payments when the same become due, subject however to said Hinman's Mortgage, and providing for the payment of the money which might be raised from the sale of said premises, in a manner therein pointed out, and particularly for the payment of the amount amount due said Hinman on said Bond & Mortgage, and giving to the purchaser or purchasers of said property at such sale, the right to pay said sum so on to said Hinman at the times and on the conditions stipulated in his said Mortgage, as a part and parcel of the purchase money by him her or them, to be paid for said premises.

and this affiant further swears that it is his belief that the tender above mentioned was not made by Geo. A. Gibbs & Mr. Turrain, nor on their account, that at the time said tender was made this affiant drew up a paper of which the following is a copy viz:

"\$3,875 - tendered by Mr. Turrain to Mr. C. Halliday, for Geo. A. Hinman in satisfaction

of the mortgage given by Euston & wife on the
Aqueduct Mills at Ottawa, July 1st 1851, Hallister
devising that he is the agent or atty, for Hin-
man, authorized to receive any tender except
\$1500 - on an arrangement proposed by Hinman
& which Mr. Fierman refuses to make.
In C. Hallister"

And that he read the same to and in the hearing
of said Fierman, at the time, and that soon
after, said Fierman, took a copy of said paper,
and that at no time did Mr. Fierman claim that
said tender was made by any person other than
himself.

This affiant further saith that the said
Fierman never made any application to him
to pay the debt due said Hinman, nor did
said Fierman offer to pay him said debt; at any
time before the 15th day of July last; nor did he
at that time fix upon any day when ~~any~~ said
payment would be made, nor did the said
Fierman up to the 27th day of July last, make
any offer to this affiant to pay said debt, nor any
other sum of money, but the sum of \$1500. on
a proposition from said Hinman for a new
arrangement of their business matters, nor did
said Fierman, on the 27th day of July, offer to pay
said sum of \$1500. on that day, nor on any other
day certain, nor did ~~said~~ said Fierman at any
time before the 8th day of August instant offer spe-
cifically to this affiant to pay the installments
due on the 1st July 1854 to said Hinman, nor did
he offer on that day to pay said sum of \$222³⁴
then due for insurance money on said mill property;

paid by said Hissman, in addition to the amt due the 1st July, as one of the instalments of the purchase money.

Subscribed & sworn to before

me this 28th day of August
A.D. 1834

Attest
Just Sup Court All

M. E. Hollister

Said afterwards to sit; on Monday November 13th 1834 the same being one of the days of said November term of said Court the following motion was entered of record viz:

"Michael Tiesman

vs
John E. Hissman } Injunction
his attorney & moved the Court to dissolve the Injunction herein"

This day came the defendant by Hollister & Cooley

Said afterwards to sit; on Wednesday November 15th the same being one of the days of said term of said Circuit Court the following further motion was entered of record in said cause to wit:

"Michael Tiesman

vs
John E. Hissman } Injunction
his attorney & moved the Court to continue the hearing ~~next~~ Term of the motion to dissolve the injunction herein until the next term of the

This day came the complainant by Glover & Cook his solicitors & moves the court to continue the

Court which motion is overruled by the Court
and after hearing the evidence & arguments of
counsel the Court takes the consideration of the
motion under advisement."

And afterwards to wit, on the same day the following
further order was entered & recorded in said cause
that is to say

Michael Freeman }
vs } In Jurisdiction
John E. Williamson } This day the plaintiff
comes by John Clerk his
attorney and moves the Court to postpone the hearing
of the motion to dispose the Jurisdiction herein
to the next term of this Court."

And afterwards to wit, on November 17th the same
being one of the days of said term the
Complainant filed his replication as follows viz:

Michael Freeman }
vs } Sabbath Co. Circuit Court
J. E. Williamson } In Chancery

And now comes the said com-
plainant & says that the answer of said of said de-
fendant filed herein is untrue, uncertain & insuffi-
cient to be replied unto by this replicant and that
the bill of Complaint is ^{true} ~~uncertain~~ & sufficient
to be answered unto without this that any other
matter or thing in said answer contained and
not herein answered confessed & avoided traversed
or denied is true & this he is ready to aver

Maintain & frame as this Hon^d Court shall direct - & he prays as by his bill he has already prayed

Glover & Look

Compt^s Sol^{rs}

The affidavits of James Keeler was filed Dec^r, 21st 1854 in the following words, that is to say;

In the LaSalle Co Circuit Court
to Nov Term AD 1854

Michael Tirmann

John E. Winman

In Chancery Bill of Exemption

State of Illinois }
LaSalle County }

James Keeler being first duly sworn on oath says that M. T. Tirmann sometime about the middle of July last, furnished this affiant with a copy of a mortgage on the acquired mill property, in Ottawa executed by William S. Gordon & wife to John E. Winman, and also a statement of the amount due said Winman for insurance money paid by said Winman on said mill property, for Michael Tirmann the above named complainant, and that soon thereafter this affiant sent said copy of said mortgage & a copy of said statement of insurance money, by mail directed to said Tirmann at Chicago in said State - and further this deponent swears not.

Subscribed & sworn to
before me this 16th day
of Nov AD, 1854

J P Lindley Clk

James Keeler

The following notice of sale and affidavits of M. E. Hollister was filed August 28th 1854 to wit;

Mortgage Sale.

Whereas, default has been made in the payment of eight hundred and fifty dollars, due on the first day of July, A.D. 1854, and also of the insurance on the mill situated on the premises described below, according to the conditions of a mortgage on said premises, executed by William J. Easton, and Sarah J. Easton, his wife, to me and dated July, 1st 1851 to secure the payment of the purchase money for said premises.

Now, therefore, in pursuance of a power contained in said mortgage, and in default of the payment of the said sum of money, due thereon as aforesaid, and the taxes and insurance money, according to the terms and conditions of said mortgage, I shall sell at public auction, at the door of the Court ^{House}, in the city of Ottawa, in Leflore County and State of Illinois, between the hours of 10 o'clock A.M. and 4 o'clock P.M., on the 28th day of August A.D. 1854, the following described premises. (It being the same mentioned and described in said mortgage) for cash in hand, to wit: Lots six, seven, eight, eleven, twelve, and thirteen, in block eleven, in Ottawa Center, in said County of Leflore, except so much thereof as has been taken and appropriated for the Ill and Michigan Canal. The above sale is to be made to satisfy the whole amount due on said mortgage, and also costs and insurance money paid.

John E. Keimman, Mortgagee
Hollister & Cawsey, his attys

ac 12-4 w

State of Illinois

La Salle County

S.S. Mr. C. Hollister, being first duly sworn deposeth and saith that the printed notice hereto annexed, is the notice which John E. Hinman, the defendant in the suit in Chancery pending in the Circuit Court of said County, in which Michael Tierman is complainant, caused to be published for the sale of the premises mentioned & described in the complainant's Bill of Complaint aforesaid. Subscribed & sworn to before me this 23^d day of Nov^r 1854. Mr. C. Hollister

J. P. Ludley, clerk

The affidavit of Mr. Tierman was filed November 23, 1854 in the mode and figures following viz:

Michael Tierman } La Salle County, Circuit Court
vs }
John E. Hinman } In Chancery

I Michael Tierman the Complainant in the above entitled cause, ^{do} depose & testify, say, that on or about the 12th day of July, A.D. 1854 I received a letter from James Keeler of Ottawa, informing me, that he was informed by Mr. C. Hollister, that said Hinman had instructed said Hollister to proceed and sell the premises mentioned in the bill of complaint in the above entitled cause, which was the first intimation I ever had from said Hinman or his atty, of any forfeiture being claimed by said Hinman on the mortgage in said bill mentioned. At that time I did not

know of the proviso in said mortgage by which the whole sum thereby secured, became due, upon the non-payment of any one installment, but immediately wrote to Kuler to send me a copy of the mortgage - which he did within a few days thereafter after receiving a copy of the mortgage & then immediately wrote either to Mr Hollister, offering to pay the installment due 1st July, with interest on the sum from that time, and all arrearages of interest, or to Mr Kuler, requesting him to make that offer to Mr Hollister - I have no copy of the letter aft, and cannot now state to which it was written - This was about the 17th of July, as near as I can recollect. The aforesaid offer was made to said Hollister within a day or two of that time, and he communicated the same at once to Mr Hinman, asking for instructions whether he should receive the sum as Mr Hollister informed Mr Kuler and my atty, C. Beckwith. - I further say that about that time I wrote to said Hinman, making him the same offer. I further say, that before the said Hollister had received an answer from said Hinman, the same offer was again renewed to said Hollister by my atty, C. Beckwith, but was declined on the ground that said Hollister had not heard from said Hinman - The said Hinman in answer to my offer through Mr Hollister as afo, refused to accept of my offer but was willing to give day of payment, if I would secure him for the whole ^{sum} secured by the mortgage, which was unpaid, with interest thereon - which I declined doing - Mr Hollister received from Hinman his answer to my proposition according to my recollection in the month of July, and

he delayed advertising the paper, from the time
his letter was written, until after he received Mr
Himmans reply thereto

Michael Tierman

Subscribed & sworn to
before me this 20th day
of November A.D. 1854

Edw D
Clerk

Witness my hand & the seal of the
Cook County Court of Common Pleas
at Chicago the day & year last aforesaid
Walter Kimball Clerk
Cook Co Ct of Com Pleas

C. Beckwith's affidavit was filed under day as
last above in the following words to-wit:

Michael Tierman vs La Salle County Circuit Court
John C. Himmans vs Chancery

I Cordeus Beckwith of
Chicago, testify & say that in the month of July,
A.D. 1854, I was consulted by the complainant in
the above entitled cause, relative to the mortgage
of Barton to Tierman in said bill mentioned -
I then understood from said Tierman, that he
had sent to Mr Himmans through Mr Hollister
an offer to pay the installment due July 1st 1854
with interest from that time, and all arrears
of interest - The same evening of this consulta-
tion I went to Ottawa, and the next day, or
within a few days thereafter I saw Mr Hollister
in the court room at Ottawa and spoke to him
on the subject - I then learned from Mr Hollister
that such offer had been made, which he had

forwarded to Mr Hinman, but had not then
received an answer from Hinman. I also
learned from said Hollister that he would take
no step in the matter, until he heard from Hinman,
and until he received instructions from Hinman he
was not prepared to say what he would do. In the
conversation with Mr Hollister, I stated to him
that I was acting for Tirmen and that Tirmen
was ready & willing to pay as he had offered as afo.
to which Mr Hollister replied, that he could say
nothing until he heard from Hinman. I went
East from Chicago July 31st being Monday, and
this conversation took place before Saturday
July 29th and I think several days before - after
having the above conversation, and before the
29th of July, I learned from Mr Keiser that
Hollister had received an answer from Hinman
refusing Tirmen's offer, but offering to give day
of payment, upon Tirmen's paying interest on
the whole ~~amount~~ sum unpaid on the mort-
gage, and giving satisfactory security, & further
say not.

Corydon Beckwith

Subscriber & Sworn to
before me this 20th day of
November A.D. 1854

Wm. C. Beckwith

Witness my hand & the seal of the
Cook county Court of common Pleas
at Chicago the day & year last afore-
said.

Walter Kimball Clerk
Cook Co Court of Com Pleas

On the said 23^d day of November 1854 the plaintiffs attorneys filed an affidavit for a continuance in the words & figures following viz:

Michael Turnam } LaSalle Co, Cir Court
 " } Nov Term 1854 In Chancery
 John C. Hinman }
 } Michael Turnam Complainant
 in the above entitled cause being first duly sworn saith that he can prove by the said from William L. Dutton & wife to George A. Gibbs and affiant that the conveyance was made as stated in the Bill of Complaint; he can prove by H. F. Carnes who resides in LaSalle Co, Illinois, but it is now & has been for some 10 days as affiant is informed gone to the State of New York that the premises mentioned in said Bill were sold under said trust deed & conveyed to affiant & said Gibbs as stated in said bill. He can prove by the said from George A. Gibbs, ^{& wife} ^{that the conveyance of Geo. A. Gibbs to affiant} was made as stated in said bill. He can also prove by said Carnes that the amount stated in said bill as due from said Dutton & wife to said G. A. Gibbs & affiant on said trust deed is truly stated in said bill. Affiant can prove by H. F. Warrick of Chicago that the statements in said bill as to the correspondence between said Warrick & Dorman & Warrick as attorneys for Geo A Gibbs & affiant & said Hinman is truly stated in said bill, and also that the remittances stated in said bill to have been made by said Geo A Gibbs & affiant were made as stated in said bill at the times therein stated, and also that said Warrick was during last summer absent from Chicago as stated in said bill & that the reason

for his said absence is truly stated in said bill.
He can also prove by Joseph Stockton who resides
in Chicago that the statements in said bill in relation
to the Chalisa in Chicago & the sickness and death of
the friends of affiant as stated in said bill & affiant's
necessary attendance upon them is truly stated in
said bill.

Affiant further states that he can prove by said
writ that no notice was received by him from said
Hirman that the payment of July 1854 to him from
from Barton had become due, or the amount of
said payment until after the time of payment
had elapsed as stated in said bill, & he can prove
by Geo A Gibbs of Chicago that no such notice was
ever received by him or by Geo A Gibbs &c.

Affiant further saith that he has not had time
since the filing of the answer in this cause & notice
to him of the same to procure the above proof.
He further states that he has not had time since
the filing of said answer to procure his proof, but
that he can show if time is allowed that every
statement of his bill is true. He further saith
that at the time this bill was filed he paid to said
Hirman Eleven hundred & fourteen dollars in
full for all the claim of said Hirman for the
amount due him on his Mortgage July 1st 1854
with interest on the same with all his costs & charges
in relation to the same for advertising which sum
said Hirman received in full for such payment -
interest - expenses & costs - }

Subscribed & sworn to before } Michael Hirman
On this 14th day of November A.D. 1854

J.P. Lindley Clerk

The following further affidavit of James Kuler
was filed on said 28th day of November last:

State of Illinois

Salath County & Circuit Court thereof
Michael Tarnan vs John L. Hinman ^{2^d} to. Term A. D. 1854

James Kuler being duly sworn saith that
prior to the time mentioned in his former affidavit
in this cause when he received a copy of the
mortgage & statement of amount due, as stated
in said affidavit said Hollister informed this
affiant that he had instructions to immediately
advertise & sell the property mentioned said mortgage.
said Hollister did not then or ever to affiant's
knowledge offer to take the amount of the payment
due on 1st July 1854 & stop proceedings to sell said
property. Affiant acting on behalf of said Tarnan
enquired of said Hollister if he would receive the
amount due on said mortgage & insurance money
on the 1st day of July 1854 in satisfaction of said
payment which said Hollister refused to do offering
to receive said amount & credit the same on said
mortgage but ^{not} to stay proceedings to advertise &
sell said property for the balance of the mortgage.
When said Hollister gave the affiant the amount
due on said mortgage & for insurance money as
stated in affiant's former affidavit, he gave to
affiant the original statement sent by Hinman
for affiant to copy, upon the bottom of said
paper affiant believes there was a pencil writing
in substance, directing said Hollister to push
on & sell the mortgaged property as quickly as
possible & if the whole amount could be collected

to collect it, said Hallister said he had over-
looked said final writing and that he had no
option but must go on immediately & advertise
& sell said property. Affiant said, said July
payment would be paid and asked for further
time to communicate with said Tiersman, said
Hallister said he could not let another Saturday
pass without advertising.

Subscribed & sworn to this } James Keller
23^d day of Nov 1854 }
J. Lindley Clerk

On the first day of December 1854, the same
being one of the days of said November term the
following further affidavit of M. E. Hallister
was filed in the records and figures following to wit:

State of Illinois }
LaSalle County } M. E. Hallister being first duly
sworn on oath with that the
paper hereto annexed marked "A", is the statement
of the Insurance money paid John C. Hinman
on the Aqueduct built property mentioned and de-
scribed in Michael Tiersman's Bill of Complaint in
the case in Chy now pending in the LaSalle Circuit
Court, in which the said Hinman is defendant, which
was furnished by this affiant on or about the 15th
July last, to James Keller for the said M. Tiersman,
and that it contains all the writing or statement
now, which it did at the time it was so furnished
said Keller, without any alteration, abatement or
amendment either on the face or on the back
thereof, and this affiant believes & states, that at

that time there was no pencil or pen writing on any part thereof, more than there is now.

This affiant further swears that the letters hereto annexed numbered "A." "C." "D." "E." & "F." are the original letters rec^d by this affiant from said Tiersman, and are all he has rec^d from him so far as he now recollects or believes, relating to John E. Hinman's business, and contain all the offers of the payment of the money due said Hinman from said Tiersman except the tenders made ^{to} this affiant on the 14th day of Aug^t last; and on the 6th day of September last. That at no time, so far as this affiant now remembers or believes, has he rec^d for said Hinman from said Tiersman or from any other person for him any payment or offer of payment of the whole amount due said Hinman from said Tiersman including insurance money paid by said Hinman.

This affiant further says he has no recollection of any such conversation as is stated by Jas. Keeler in his affidavit on file in this case, in relation to Hinman's business and therefore cannot state anything in relation thereto, but this ~~affiant~~ affiant states that he never knew or was advised by said Keeler or by In^r Tiersman, or any one for him, that said Keeler was the agent of said Tiersman, or authorized by him to act in the Hinman business as his agent or to make or to receive any propositions, offers or declarations, and to act upon them for and in behalf of said Tiersman, or to do anything in relation to said business that would bind the said Tiersman, and this affiant therefore states it as his belief that if he made any such statement - as is sworn to by said Keeler in regard to the Hinman business

it was a more casual statement, and made with no view to bind either party, or to influence the action of Mr. Tiernan or Mr. Hinman in their business, and that this affiant, has in no wise, so far as he now recollects or believes, followed the course which such statement, if made, would seem to indicate as to refusing to receive any payment of the amount due on the 1st day of July last - including the insurance money.

This affiant further says that - since the filing of the said Kuler's affidavit above alluded to, he has had an interview with said Kuler, and has distinctly put the question to Mr. Kuler, whether he acted as said ^{Tiernan's} ~~Hinman's~~ agent, and was authorized to receive or make any propositions that would bind him, and this affiant understood him, said Kuler to say he did not consider he had any such authority; or was agent for said Tiernan for such purpose.

This affiant further avers that - he recollects having ^{had} some conversation with Mr. Beckwith, sometime in July last, in relation to Tiernan's business with Hinman, that said conversation, this affiant believes, was held soon after this affiant had received the letter hereto annexed marked "B" from said Tiernan, or the letter hereto annexed marked "C" and referred to the same or one of them, and that this affiant did not - nor could he ~~last~~ have stated to said Beckwith that - he had rec'd any other offer of payment from said Tiernan, than such as was made in the former or latter of said letters by said Tiernan, and it is this affiant's belief that - if Mr. Beckwith understood him as acknowledging

the receipt of any other or different offer, he mis-
represented this affiant.

This affiant further swith, that according to
his recollection and belief, he made no answer
to the letter hereto annexed marked "B" except to
furnish Jas Kiefer for said Tierman, the statement
of the insurance money, hereto annexed marked
"A" and a copy of the Mortgage mentioned in the
Bill of Complaint in this case, nor did he refuse
to accept or receive from said Tierman, on the
rec^t of said letter, the amount of money due
Tierman nor did he on the receipt thereof take
any steps toward selling the mill property, but
on the contrary suspended all proceedings & wrote
to said Tierman, a letter containing in substance
the matters and things contained in said letter
hereto annexed marked "B" and it was not
until after the receipt of Tierman's letter commu-
nicating the fact that Tierman had proposed to
sell to said Tierman the mill property in a letter
of said Tierman dated July 19th 1854 that this
affiant proceeded to advertise the property for
sale - having been instructed by said Tierman
to sell in case the negotiation then pending, &
which has been mentioned in a former affidavit
of this affiant - now on file in this case, should
fail to be perfected, nor was it until nearly
the last of July that the property was advertised
for sale.

This affiant further swith, that so far as he
now has any recollection or belief, did he refuse
to receive the amount of money due including
insurance money or intimate to said Tierman
that it would be of no avail to make a tender

or offer thereof, until on the rec^d of the letter of said Torman hereunto annexed marked "E" which was on the 9th day of August last, and that it was then & is now the understanding of this affiant, that the proposition of the said Torman contained in said letter embraced a proposition to pay only the instalment-due on the 1st day of July 1854 of the original purchase money, and did not include a proposition to pay the insurance money which had theretofore been paid out by the said Hinman.

This affiant further saith, that the said Keller kept the aforesaid statement-furnished him by this affiant, several days, and as this affiant believes until after the 19th day of July last; and that if any conversation such as the said Keller speaks of in his affidavit, occurred it was held after the 19th day of July last.

Subscribed & sworn to before

me this 1st day of Dec^r

A.D. 1854

J. L. M. M.

M. E. Hollister

"A"

Wm. L. Carter

Bond & Co
To J. E. Hinman

Dr

July 3rd
1851

To paid Abner Insurance co for Insurance on \$2,500 Mutual

\$ 60.00

To Interest on same to 1854

12.60

October 31st
1851

To paid same co for Insurance off \$2,500

21217-43

for 1 year. Cash Policy

\$ 50.00

	To 1 year Interest on do	3.79	
	Making	\$ 53.79	
1852 Nov. 17	By draft	50.30	
	Balance	\$ 3.49	3.49
1852 Oct. 31	To fire Insurance the cash policy for 1 year		50.00
	To 1 year 3 of M. Ints. 1854		5.13
1853 Oct. 31	To fire for do. Cash policy		50.00
"	To Interest 8 months, 1854		2.32
"	To demand of Mutual policy for 6 months. Paid		25.00
	To 6 months Interest		.87
1854 June 30	To Renewal of last policy for 4 months & paid		12.50
			\$ 221.91
	A few cents discrepancy in the 2 calculations viz		.47
			\$ 222.38

"J"

Chicago July 15th 1854

M^r Kallister

Ottawa

Dear Sir

I am in receipt of a letter from Jas. Kuler Esq. - advising me of instruction you had from M^r Hinman to commence foreclosure of mortgage on the mill property now belonging to me -

I was aware of something being seen M^r Hinman on the property, but as to the amt and time of payment I have never been advised. You will very much oblige me if you will send me a Memorandum of the payments. As regard to foreclosing I will say it is entirely unnecessary. It is my intention to pay M^r H. what is due him - at present I am

altogether unable to attend to anything - death
in the family of a dear friend, and the care of his
family since have brought sickness into my own.

At present I am physically unable to attend to any
business; but as soon as I get better I will attend to
the payment of what is due Mr Hinman. Mr Kuler
can inform you of my ability to perform any engage-
ment I make. Please let me hear from you what
course you will take.

Yours in haste

Wm Sherman

"C"

Chicago July 27. 1854

Mr C. Hallibur Esq

Ottawa

Sir

I am in receipt of a com-
munication from Mr Hinman saying, if I would
pay him \$1500, before day of sale \$1500 1st July 1855
& balance 1st July 1856 he would make such an arrange-
ment. I accept his proposition and will do as he
desires. It is impossible for me to go down to your
place immediately but I think I will do so some-
time during the coming week or week following, and
make the necessary arrangements with you. I should
desire to have the property advertised and if you
have not done so I wish you would not do it.
I will attend to the matter as Mr Hinman desires,
and will settle it up as soon as possible - at all events
before the four weeks expire, which the mortgage
expresses, & if I fail to do so I will waive my right under
that condition. Please let me hear from you at once
what steps have been taken.

Ruf. Jones &
M. Hinman

"J."

Chicago Aug 31 54

M. C. Hollister Esq.

Ottawa

Sir

Yours of 31st Inst. was rec^d as there appears to be some difference between my understanding of Hinman's proposition and the instructions which you communicate to me as having received from him, I write now so that we may better understand each other.

M^r Hinman wrote me under date of July 24th that according to the Bond & Mortgage given by Easton the bal. of said Bond \$4607.⁵⁰ had become due by failure to make payment on 1st July - but that if I would pay him before the day of sale \$1500 and \$1500 more on 1st July 1855 and the balance (which as I understand it is \$1607.⁵⁰) on the 1st July 1856, he would consent to such an arrangement and refer me to you. This seemed reasonable and I made up my mind to accede to the terms, and wrote you not to advertise the property and I would settle it with you either this or the following week - and if I failed to do so would waive all right I might have had under the condition in the Mortgage to advertise in 4 weeks - I think under the circumstances you did not treat me fairly in not ~~advertising~~ advising me beforehand of your intention to advertise the property.

You say the terms prescribed for you are \$1500 cash, \$1500 1st July 1855 & bal - 1st July 1856 with sub-junction. With regard to the matter of Inst-

I would ask you, How much of the sum of \$4607⁵⁰ which Hinman claims as due July 1st 1854 is interest - and how much is of the principal sum for which the Bond & Mortgage were given?

Mr Hinman has certain rights in this matter and so have I, - My means are not so limited, nor am I so hard up as to submit to anything I do not consider fair - If necessary I can pay the whole amt due without a great deal of trouble.

I hope however, to settle the matter with your pleasant, and satisfactory, - In a few days I will make you a proposition which I trust will be satisfactory to all interested.

Respy Yours &c
J. M. Turner

"C"

Chicago Aug 8/54
M. E. Wallister Esq.
Ottawa

Dr Sir

I wrote you last week in reply to yours of 31st July, since which time I have not heard from you -

In regard to the claim which Hinman has against the Mill property - owned by me I wish to present you the following propositions -

I will pay you the instalment - due 1st July last with Inter to date, and go on and follow up the other payments - as they were to have been made by Carter - Although the rate of Inter charged is illegal, and could not be collected still I will make the payments - Or take the original amt. of the incumbrance without Interest - (which was \$750

dollars) and reckon the interest-at 6% from July 1856 to date and deduct therefrom what has been paid to Hinman already by G. A. Gibbs &c - and the balance I will pay cash - or on short-time with interest and security - I have no idea of paying Mr Hinman, or anyone else over \$1000 more than they are entitled to. I am willing and anxious, to have the matter settled amicably, but if compelled, to become beligerent - I will take and fight for, all the law will give me. The matter of taking 8% interest (contrary to Law) shall be investigated for my benefit.

As I said before it is my anxious wish to settle this matter in a friendly way - If Mr Hinman desires at all to do what is fair he will accept my proposition to comply with the terms of the mortgage - It was altogether an oversight on my part in not meeting the foreman promptly - and I am willing to do what I can to repair it, but as for submitting to the foregoing terms he has dictated to you, I will do no such thing - I think you will advise him to accept one of the propositions I have made you - If driven into fighting this matter I will do so in earnest, and may probably in the end cause him to lose more than he has an idea of now -

If either of the propositions I have made meet your favor advise me at once. If they do not I should be glad to know of it - immediately - I think of leaving Chicago for a short time sometime next week - and would like to arrange this matter, one way or another before leaving so

Expecting to hear from you promptly

I am your obt. servt.
M. Tinnem

And Aug 9/51 enclosing propositions,
Wrote Col Hinman Aug. 9/51 with a copy of
this letter.

"Yr"

Chicago Aug 20/54
Messrs Hollister & Currenby
Attorneys
Gent^l

Enclosed I send you
a copy of the Mortgage of Easton & Me to Hinman
which belongs to you - I owe you an apology for
not returning it sooner, but it was among some
other papers in the hands of my Lawyers which were
not returned to me until yesterday - Please accept
my thanks for use of same.

Respectfully
M. Tinnem

The following stipulation was filed Dec. 18, 1854
viz:
Michael Tinnem
vs
John C. Hinman
Lo Salle Co Cir Court
Nov Term 1854

It is stipulated in this case that
the affidavit mentioned A. B. C. & v now on file in said
cause be used in evidence for complainant in
this cause and that the letters to which the stipulation
of Blackwell & Puckwith solicitors is attached be read

in evidence and that the affidavits marked 1, 2, 3, 4 & 5 be severally read in evidence for disproof in said cause and that this can be heard on bill answer replications & cross it is also stipulated that if there be any affidavit now on file which has been read in evidence on the motion to dissolve the injunction other than the affidavits above named that the same be read in evidence on the final hearing. That this stipulation ^{signed} ~~signed~~ Glover & Loock now on file be evidence on the hearing & also the receipt signed Hollister & Cavenby dated Sept 9th 1854 & also the deeds & copies of deeds, mortgages & bonds which are now on file & marked Exhibits be read in Evidence on the hearing of this cause & that this stipulation be made part of the record. It is understood that the affidavit of complainant for a continuance of the motion to dissolve the injunction be evidence to the same extent that it would be on the hearing of said motion if admitted to avoid a continuance of the hearing of said motion.

The bill & answer may be read in evidence on the final hearing having the same effect & being evidence to the same extent that they would be on the hearing of a motion to dissolve the injunction as the separate affidavits of the parties. This stipulation is made pending a motion to dissolve the injunction.

Glover & Loock Compt. Solicitors
Hollister & Cavenby, Sept. 14th 54

And again afterwards to wit: on the 18th day of December 1854 the same being one of the days of said term

of five hundred dollars lawful money for
the payment of which will and truly to be
made we bind ourselves our heirs executors
and administrators jointly, severally, & finally
by these presents sealed with our seals & sealed
this 25th day of December A.D. 1854.

The condition of this obligation
is such that whereas in the suit of Michael Tier-
nan vs John C. Hinman lately depending in
Chancery in the Circuit-Court of LaSalle County,
Illinois the said Circuit-Court on the 18th day
of December A.D. 1854 rendered judgement that
the bill of said Tiernan (who was complainant
in said suit) be satisfied and that said
Hinman recover from said Tiernan his costs
& charges in said suit-expended and that he
have execution therefor from which judgement
of the said Circuit-Court the said Tiernan
has prayed for and obtained an appeal to
the Supreme Court of said State of Illinois.

Now if the said Michael Tiernan
shall prosecute his said appeal with effect
& without delay and shall pay the said judg-
ment with all costs interest & remains in case
the said judgement shall be affirmed in said
Supreme Court then this bond to be void
otherwise in force.

Michael Tiernan 
J. C. Glover 

Michael Swinan

is

Appeal from LaSalle

Com Etienne

And now comes the said Appellant by Gloverston
his atty and says that in the record and
proceedings aforesaid and in the rendition
of the Judgment aforesaid there is manifest error
in this to wit

The court erred in dismissing the
bill of the complainant

The court erred in rendering
a decree against the complainant

The court erred in decreeing
a dissolution of the marriage in the case

The court erred in rendering
the decree aforesaid in manner & form aforesaid
for which errors and others in said
record manifest he prays that said decree
be reversed

Gloverston
for Appellants

And now comes the ^{appellee} ~~defendant~~ ^{respondent} in error
and says there is no error in the proceedings
& judgment of the court below aforesaid &
in the rendition of the decree aforesaid
& that he prays may be assigned of the
Hollister & Company
for Deft Appellee

German as German

Assignment of errors

Filed July 3^d - 1854
S. Leland Oth.

State of Illinois J. Q. White Sheriff of
LaSalle County to the Circuit Court in and
for said County and State
do hereby certify that the above and foregoing
is a true, full, perfect and complete record
in the case of Michael Freeman vs John C.
Freeman as the same appears on record and
file in my office.

In Witness Whereof I have hereunto
set my hand and Seal of said
Court at Ottawa this 19th day
of March A.D. 1855
J. Q. White Sheriff

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vs

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1855

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Filed June 11. 1855.
H. Ireland W.D.

Carte

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pub. by M.H.