

No. 12900

Supreme Court of Illinois

Steele, et al

vs.

Biggs

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Preceding. Several questions are raised on this
head which we will notice in their order.
First and most important is, was time of the
use of this contract? and if so, does the failure
to perform at the time, necessarily work a forfeiture
of the contract, and if the money is paid upon it?

George Steele et al

vs

Thos R. Biggs.

} Appeal from Court Circuit Court

And now on this day come the said appellants—and say that in the record and proceedings and in the rendition of judgement there is manifest error—and as error especially assign the following causes viz: —
First That the Court below found an offer by a stranger, without having any money or the means of raising it to be a good & sufficient tender by the defendant.

Second The Court found the issues and facts in favor of the defendant without sufficient evidence

Third The Court rendered a decree in favor of the defendant and against appellants—

Wherefore for the errors aforesaid and others apparent upon the record & proceedings the appellants pray judgement and that the decree be in all things reversed, annulled, and for nothing

estimated, and that they may be in
all things ^{restored} to their rights so unjustly
taken from them - and for their
reasonable costs in this behalf
expended.

Seater McAllister & Jewett
Counsel for Appellants

Supreme Court -

Thomas S. R. Biggs
vs

George Steele et al }

And now to wit at the April term of
said Court comes the said Biggs
by Williams, Woodbridge & Grant his
Solicitors And says that in the ^{record &} proceed-
ings & findings of the Court & in the decree
rendered herein there is no error & that
the appellee says that said decree
may be in all things affirmed -

Williams, Woodbridge & Grant
for appellee

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Seater McAllister & Jewett
Counsel for Appellants

Supreme Court -

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rendered herein there is no error & that
the appellee says that said decree
may be in all things affirmed -

Williams, Woodbridge & Grant
for appellee

United States of America }

STATE OF ILLINOIS, COUNTY OF COOK, S. S. }

Pleas, before the Honorable George Manierre

Judge of the Seventh Judicial Circuit of the State of Illinois, and Sole Presiding
Judge of the Circuit Court of Cook County, in the State aforesaid, and at a term thereof
begun and held at the Court House in the City of Chicago, in said County, on the
Third Monday, (being the Twenty First day) of
February in the year of our Lord one thousand eight hundred and
Fifty Nine and of the Independence of the said United States the
Eighty Third.

Present, Honorable George Manierre Judge of the 7th Judicial
Circuit of the State of Illinois. }

Charles Haven States Attorney.

John Gray Sheriff of Cook County.

Attest:

Wm. L. Church Clerk.

Be it remembered that heretofore to wit, on the twenty second day of April, in the year of our Lord, One thousand, eight hundred and fifty six, Thomas R. Biggs, assignee of Mc. Cullough, Morris & Co. Complainant, by Williams & Woodbridge his Solicitors, filed in the office of the Clerk of the Court aforesaid, on the Chancery side of said Court, his certain Bill of Complaint, and bond for costs, in the words and figures following to wit-

In Chancery-

To the Honorable Judge ^{George} Manierre, Judge of the Cook Circuit Court, within and for the County of Cook and State of Illinois, in Chancery sitting-

Humbly complaining, sheweth unto your Honor, your Orator, Thomas R. Biggs (assignee of Mc. Cullough, Morris, & Co) of the City of Cincinnati in the State of Ohio- That Orrington Lunt of the City of Chicago, in the County of Cook and State of Illinois, one of the defendants hereinafter named, was in and before the tenth day of March, in the year of our Lord, one thousand, eight hundred and fifty three, seized to him and his heirs, of the following real estate and property, to wit- Lots twenty (20) twenty one (21) and twenty two (22) in Block Sixty two, and Lots one (1) two (2) and three (3) in Block Sixty three (63) in the Illinois and Michigan Canal Trustees Subdivision of lots and blocks in the West part of the South West quarter of Section nine (9) in Township Thirtynine (39) North Range fourteen (14) East, in the

Old Town of Chicago, in said County of Cook, and
State of Illinois—

And your Orator further sheweth that the said
~~land~~ ^{Hunt}, being desirous to dispose of said property, enter-
ed into an agreement with one George Mc. Cullough
of said Cincinnati, for the sale thereof, to him, and
which agreement was reduced into writing, and sign-
ed and sealed by the said defendant Hunt, and
by said George Mc. Cullough, and is in the words and
figures, or to the purport and effect following, that is
to say— "Articles of Agreement made and concluded
the tenth day of March, in the year one thousand,
eight hundred and fifty three— Between Orrington
Hunt of Chicago, Illinois, of the first part, and George
Mc. Cullough of Cincinnati, Ohio, of the second part,
Witnesseth— that the party of the first part, at the
request of the party of the second part, and in con-
sideration of the money to be paid and the covenants
as herein expressed to be performed by the party of the
second part, hereby agrees to sell to the said party of
the second part, all that certain lot and parcel of
land, situate in Chicago, Cook County, Illinois—
Known and distinguished as follows, to wit, Lots
twenty (20) twenty one (21) twenty two (22) in Block
Sixty two (62) and Lots one (1) two (2) and three (3) in
Block Sixty three (63) in the Illinois and Michi-
gan Canal Trustees Subdivision of Lots and Blocks in
the West part of the South West Quarter of Section (nin-
(9) in Township thirty nine (39) North Range fourteen

(14) East, in the old town of Chicago, with the
privileges and appurtenances thereunto belonging—
"And the said party of the second part, in considera-
tion of the premises, hereby agree to pay to the said par-
ty of the first part, his, or their executors, administrators,
or assigns, the sum of ten thousand dollars as follows,
viz—\$ 2500.00 at this date which is this day paid,
\$ 2500.00 on March 10. 1854. \$ 2500.00 on March
10. 1855. and \$ 2500.00 on March 10. 1856. for which
three last payments, said Mr. Cullough has execu-
ted his notes of \$ 2500. each with interest at the
rate of six per cent per annum, to be paid according
to the tenor of said notes at the Marine Bank,
Chicago. And also, that he will well and faith-
fully, in due season, pay or cause to be paid, all tax-
es and assessments, ordinary and extraordinary
for any purpose whatever, upon the said premises
or appurtenances—"

And the said party of the first part, further cove-
nants and agrees with the said party of the second part,
that upon the faithful performance by the said
party of the second part, of his undertaking in this
behalf, and of the payment of principal and in-
terest of the sums above mentioned, in the manner
specified, he, the said party of the first part, shall
and will, without delay, well and faithfully execute,
and deliver, in person or by attorney, duly authorized,
a good and sufficient deed or deeds, and hereby as-
sign and convey to the said party of the second part,

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his heirs and assigns, a good, perfect and unencumbered title in fee simple, to the above described premises, with their appurtenances—

"And it is mutually covenanted and agreed by and between the parties hereto, that in case default shall be made in any of the payments of principal or interest, at the time, or any of the times above specified, for the payment thereof, and for sixty days thereafter, this agreement, and all the preceding provisions hereof, shall be null and void, and no longer binding, at the option of the said party of the first part, his representatives or assigns—and all the payments which shall then have been made hereon, or in pursuance hereof, absolutely and forever forfeited to the said party of the first part—or at the election of the said party of the first part, his representatives and assigns, the covenants and liability of the said party of the second part, shall continue and remain obligatory upon the said party of the second part, and may be enforced, and the said consideration money, and every part thereof, with the annual interest as above specified, be collected by proper proceedings at law or equity, from the said party of the second part, his heirs, executors, administrators or assigns—"

"And it is further mutually covenanted and agreed by and between the parties hereto, that in case of default in the payments stipulated to be made, by the said party of the second part, or any part thereof, and

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the election of the party of the first part, his representatives or assigns, to consider the foregoing contract of sale at an end, and prior payments forfeited, the said party of the second part, his heirs, representatives or assigns, who may have possession, or the right of possession, of said premises, at the time of such default, or at any time thereafter, shall be considered, and are hereby agreed and declared to be in law and equity, the tenant or tenants at will of the said party of the first part, his representatives and assigns, on a rent equal to an interest of ten per cent per annum, on the whole amount of the purchase money above specified, payable quarter yearly, from the day of such default in payment of principal or interest" - And after such default in payment and the election to consider the above contract of sale, as void, the said party of the first part, his representatives and assigns, shall and may have and exercise all the powers, rights and remedies provided by law or equity, to collect such rents, or to remove such tenant or tenants, the same as if the relation of landlord and tenant hereby declared, were created by an original, absolute lease, for that sole purpose on a specified rent, payable quarterly, on a tenure at will. And that in such case, the said tenant or tenants shall and will pay, or cause to be paid, all taxes and assessments, ordinary and extraordinary, which may be laid or assessed on said premises, or any part thereof, during the continuance of such tenancy, and will not commit or suffer any waste or damage to said.

premises, or the appurtenances, but will keep and deliver up on the termination of such tenancy, the said premises and appurtenances, in as good order and repair (ordinary wear and decay, and unavoidable injury by the elements excepted) as they were in at the commencement of such tenancy."

"In witness whereof, the party of the first part, and the party of the second part in proper person, have here unto respectively set their hands and seals, on the day and year first above written—"

Executed and Delivered }
In Presence of }
}

(Signed) Orrington Lunt 

George Mc. Cullough 

And your Orator sheweth that said agreement was acknowledged by said Lunt ~~and~~ by said Lunt and Mc. Cullough, before Henry W. Clarke, a Notary Public within and for said Cook County, and that a certificate of acknowledgement according to the form of the Statute in such case made and provided, was thereupon appended to said agreement by said Clark, and said agreement was thereupon delivered to said Mc. Cullough, and that said agreement and said certificate of acknowledgement on the day of the date of said agreement, were filed for record in the Recorder's office of said county, and recorded in the records of said office in Book No Sixty (60) of Deeds, on page one hundred and seventy-three (173) as in and by said agreement, and the certificates of acknowledgment, and

record when produced, will appear—

And your Orator sheweth unto your Honor, that said Mc. Cullough entered upon said real estate, under and by virtue of said agreement, that he made the first and second payment thereon, to the satisfaction of said Lunt, that he paid taxes thereon, that on the sixteenth day of June, A.D. Eighteen Hundred and fifty three, said Mc. Cullough entered into articles of agreement with Frederick Becker, of said Chicago, in and by which, for a price therein named, the said Mc. Cullough contracted and agreed to convey to said Becker, the North twenty-five feet of said lots one (1) two (2) and three (3) in said Blocks Sixty Three (63) that under and by virtue of said articles, said Becker immediately entered upon said premises, and erected a store, and made other valuable improvements thereon, and the said Mc. Cullough occupied and enjoyed the remainder of said real estate as his own property, until the transfer of said agreement from said Lunt, hereinafter mentioned— And your Orator further sheweth that on the seventeenth day of July, the said Mc. Cullough, and one Calvary Morris, composing the firm of Mc. Cullough, Morris & Co. made a general assignment of all their property real and personal, owned by them as partners, to your Orator, to be managed and disposed of by your Orator, for the benefit of the creditors of said Concern—

And your Orator sheweth that the interest in said real estate nominally vested in said Mc. Cullough, by virtue of said agreement, was really owned by said

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firm of Mc. Cullough, Morris & Co. composed as aforesaid
of said Mc. Cullough and said Morris, and that by
virtue of said assignment, the equitable interest of
said firm to said Real estate, passed to your Orator, for
the benefit of the condition of said firm -

And your Orator sheweth that the said Mc. Cul-
lough (the said firm joining in order to express their
assent) for the purpose of making a formal trans-
fer of said contract or agreement to your Orator, did
on the nineteenth day of August, A D. Eighteen Hun-
dred and fifty four, transfer and assign, in writing
under his hands and seal, the said agreement, and
all right and title to said real estate, to your Orator,
that said transfer was appended to said agreement,
was properly acknowledged, and was recorded in the
registry of Deeds, of said Cook County, in Book Eighty
six, (86) of Deeds, page one hundred and forty one (141),
as in and by said agreement, and the transfer and
assignment thereof, when produced, will appear -
and by virtue of said assignment and transfer,
all the rights of the said Mc. Cullough, and of said
firm, to the said real estate vested in your Orator -
And your Orator sheweth that immediately after
the making of said assignment to your Orator, said
real estate was attached as the property of said
Mc. Cullough, at the suit of certain creditors of the
firm of Mc. Cullough, Morris & Co. and that for the
purpose of protecting himself from the effect of
said attachments, your Orator employed Counsel in

said City of Chicago, with whom he left all the papers, relative to said real estate, that your Orator had no memoranda informing him when said payments became due, on said agreement, and relied on his said Counsel to inform him—

And your Orator sheweth that at the time of said assignment, he was a resident of Cincinnati in the State of Ohio, and has so remained up to the present time. That he was always ready and desirous to make the payments on said agreement punctually, and that he left particular directions with his said Counsel, to inform him when said payments became due, in season to enable him to meet them—

And your Orator sheweth that his said Counsel addressed a letter to the agent of your Orator, at said Cincinnati, bearing date the 16th day of January A.D. Eighteen Hundred and fifty-five, requesting said agent to inform your Orator, of the payment which fell due on the spring then ensuing, and also stating the day on which it fell due, and the grace reserved thereon, and said Counsel afterwards, and from time to time, wrote to said agent before the grace expired on said payment, requesting immediate alteration, to the discharge thereof—

And your Orator states that said agent, either through mistake, or inadvertence, failed to inform your Orator of either of said letters, or of the

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contents thereof, and your Orator did not know that said payment had become due, until on or about the 9th day of May, A. D. 1855. when he was informed thereof, for the first time. And your Orator states that he thereupon immediately telegraphed to his said Counsel at Chicago, authorizing him to draw on your Orator at sight, for the amount of said payment, and interest, and your Orator states on information and belief, that said dispatch arrived at its destination, on the ninth of said May, after bank hours, and that on the morning of the ensuing day, said Counsel, or some other person representing the interests of your Orator, in the premises, called on said Lunt, and offered to pay the payment which was then due, and all sums of money which were then due to said Lunt, on said agreement, and said Lunt absolutely refused to take the said payment.

And your Orator further sheweth that said counsel immediately wrote either to your Orator, or his said agent at Cincinnati, informing him of said Lunt's refusal to receive said payment, and requesting your Orator to tender the same to said Lunt, in specie. That immediately upon the receipt of said letter, or as soon thereafter as his business engagements would permit, your Orator came to said Chicago, and that on the 28th day of said May, (being the earliest day possible) your Orator called on said Lunt, and tendered to him the sum

of twenty eight hundred and forty dollars, in current coin of the United States of America, in payment of the amount then due upon said agreement - that said Lunt then informed your Orator that he would not receive said money, that your Orator need not produce it, that he, said Lunt, had assigned all his interest to George Steele, one of the defendants hereinafter named, and a resident of said Chicago, that your Orator thereupon called upon said Steele, and made a formal tender of the same money tendered to said Lunt as hereinbefore stated, and said Steele refused to receive it - and your Orator then called for said notes at said Marine Bank, and was told by the note clerk, that they were not there. And your Orator further sheweth that on the said 9th day of May, A.D. 1855. after bank hours, said Lunt (his wife joining with him) made a pretended transfer and sale of all his interest in said agreement, and in the said notes of the said McCullough (collateral thereto) to the said George Steele, for the alleged sum of five thousand, six hundred and eighty five dollars, being the amount then remaining unpaid on said agreement, and said notes - And your Orator states that at the time of said transfer, the real value of said premises, was upwards of twenty thousand dollars, and the said pretended transfer was made with the view of facilitating a forfeiture of said agreement, whereas the said Lunt thereby confirmed the said agreement,

and the rights of your Orator thereunder, and expressed his election to waive all rights resulting from mere lapse of time, and the said Steele, by accepting the said transfer, assented to the terms thereof, and he thereby acquired no right to prevent your Orator from paying the consideration money for said land, as its full due, by the terms of said agreement, and from receiving a deed therefor.

And your Orator further sheweth that on the tenth day of March, A. D. 1856. the last payment became due on said land by the terms of said agreement, and that on said day, your Orator, by his agent, tendered to said Lunt, the sum of five thousand, nine hundred and fifty dollars, in current coin of the United States of America, for the purpose of completing the purchase of said land, in accordance with the terms of said agreement, that said Lunt refused to receive said money, and said as before, that he had assigned all his interest in said agreement, to said Steele, that your Orator by his agent, then tendered the same coin last named, to said Steele, and said Steele refused to receive the same, and your Orator, by his agent, called for said notes, at the said Marine Bank, on the day the grace expired on the last of said notes, and was informed by the note clerk of said bank, that neither of said notes were there.

And your Orator sheweth unto your Honor, that both of said sums of money tendered as aforesaid, have been in the possession of your Orator ever since the

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Same were respectively tendered, subject to the order of said defendants, and that your Orator now holds said money subject to the order of this Honorable Court.

And your Orator further sheweth that on the occasion of the last named tender, he demanded a deed for said premises, and that he hath repeatedly applied to the said Lunt, and hath requested him specifically to perform his aforesaid contract as contained in said agreement.

And your Orator well hoped that the said defendant would have complied with such your Orator's reasonable request, as in justice and equity he ought to have done. But now so it is, may it please your Honor, that the said Lunt combining and confederating with said Steele, and with divers other 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 parties defendants hereto, and contriving how to wrong and injure your Orator in the premises, he, the said Lunt, absolutely refuses to comply with said request. And your Orator charges that before said pretended transfer of said agreement, by said Lunt to said Steele, said Steele was fully advised of the rights of your Orator in the premises, and that he became a party to such transfer with the express view of enabling said Lunt to defraud your Orator, and to deprive him of the benefit of said agreement.

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All which actings and doings of the said defendants, are contrary to equity and good conscience, and tend to the manifest wrong, injury, and oppression of your Orator, in the premises.

In consideration whereof, and inasmuch as your orator is entirely remediless in the premises, according to 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 Orrington Lunt and George Steele, and the rest of the confederates when discovered, may, without oath, (their oath being hereby expressly waived) ^{true} full, direct and perfect answer make to all and singular, the matters hereinbefore stated and charged, as fully and particularly as if the same were hereinafter repeated, and they thereto distinctly interrogated - and that not only as to the best of their respective knowledge and remembrance, but also as to the best of their several and respective information, hearsay and belief. And that the said defendants may answer the premises - and that the said agreement so made between said Lunt and said Mc. Cullough and assigned by said Mc. Cullough to your Orator, may be specifically performed, and that the said pretended transfer of said agreement by said Lunt, to said Steele, may be cancelled, and that said Lunt may be desired to make a proper and sufficient deed of said real estate to your orator - your orator

Specific
Prayer

being ready and willing, and hereby offering specifically to perform the said agreement, in all things, on his part and behalf, and that your orator may have such other and further relief in the premises, as the nature of the case shall require, and to your Honor shall seem meet—

May it please your Honor to grant unto your Orator, the most gracious writ of Summons, of the People of the State of Illinois, to be directed to the said Orrington Lunt and George Steele, and the rest of the confederates when discovered, thereby commanding them, and every of them, at a certain day and under a ^{certain} pain therein, to be specified, personally to be and appear before your Honor in this Honorable Court, and then and there to answer all and singular, the premises, and to stand to, perform and abide such order and decree therein, as to your Honor shall seem meet, your orator shall ever pray—

Williams & Woodbridge.

for Complainant—

State of Illinois
Cook County

We do hereby enter ourselves security for costs in said cause, and acknowledge ourselves bound to pay or cause to be paid all costs which may accrue in this action, either to the opposite party, or to any of the officers of this Court, in pursuance of the laws of this State—

Dated this 24th day of April, A D. 1856.

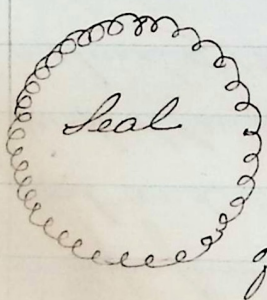
Williams & Woodbridge

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And thereupon afterwards to wit, on the day and
year last aforesaid, the said Complainant sued
out of the office of the Clerk of the Court aforesaid,
the People's ^{certain} writ of Summons, directed to the Coroner
of said County (the Sheriff being dead) to execute,
and clothed in the words and figures following to
wit—

State of Illinois }
County of Cook } ss.

The People of the State of Illinois,
to the Coroner and ex officio acting Sheriff of said
County, Greeting— We command you that you
summon Orrington Lunt and George Steele, if they
shall be found in your County, personally to be and
appear before the Circuit Court of Cook County, on
the first day of the next term thereof, to be holden at
the Court House in Chicago, in said County, on the
first Monday of May next, to answer unto Thomas
B. Biggs, assignee of Mc. Cullough, Morris & Co. in his
certain Bill of Complaint, filed in the said Court,
on the Chancery side thereof—

And have you then and there this writ, with an
endorsement thereon, in what manner you shall
have executed the same



Witness, Louis D. Hoard, Clerk of our
said Court, and the seal thereof, at
Chicago aforesaid, this twenty second day
of April, A. D. 1856.

L. D. Hoard, Clerk.

And afterwards, to wit, on the 23rd day of April, in the year aforesaid, said writ was returned into the Court aforesaid, by said Coroner, endorsed as follows, to wit: "Served this writ on the within-named Orrington Lunt and George Steele, by delivering a copy thereof, to him, the 23rd day of April, 1856. Fees - 2 Services, 1.00 - 2 Copies, 1.00 - 2 Miles, 10 - 1 Return, 10 - \$ 2.20. James L. Beach, Coroner and acting Sheriff - By John W. Dart, Deputy."

And afterwards to wit, on the day of in the year last aforesaid, the said defendant George Steele, by C. Beckwith, his solicitor, filed in the Court aforesaid, his separate answer to the said Complainant's bill, in the words and figures following, to wit:

In Chancery.

The separate answer of George Steele, one of the defendants to the Bill of Complaint, of Thomas R. Biggs, complainant, wherein Orrington Lunt and George Steele, are defendants in a certain Cause now pending in the Circuit Court of Cook County.

This defendant saving and reserving to himself, all and all manner of benefit of exception to the said Complainant's said bill of complaint, for answer thereto, or to so much thereof as he is advised is necessary or material for him to answer unto, answering saith that this defendant admits that on or before the tenth day of March, A. D. 1853. one Orrington Lunt of the

City of Chicago, in the County of Cook, and State of Illinois, was seized unto himself, and his heirs, of the certain lots, parcels or pieces of Real Estate, and property, in said Complainant's said Bill of Complaint, described, and lying and being in the old town of Chicago, in the County of Cook and State of Illinois—

And this defendant further answering admits that afterwards, to wit, on the tenth day of March, A. D. 1883, the said Lunt entered into an agreement with one George Mc. Cullough, of Cincinnati, for the sale of said premises, above described, of the purport and to the effect as the same is in and by said bill of complaint set forth, but whether the same was acknowledged and recorded as is in said bill alleged, this defendant does not know, nor has he sufficient information to form a belief—

And this defendant further answering, admits that said Mc. Cullough made the first and second payments thereon, to said Lunt, but this defendant does not know whether said Mc. Cullough entered upon said land, or paid the taxes thereon, as in and by the said agreement, he had undertaken and covenanted to do, and therefore this defendant denies the same, and leaves the said Complainant to the proof thereof, as he may be advised—

And this defendant further answering, says that he does not know of his own knowledge, nor has he

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sufficient information to form a belief, whether on
the 17th day of July, 1855 or at any other time, the
said Mc. Cullough and one Calvez Morris, com-
posing the firm of Mc. Cullough, Morris & Co. ever made
any assignments, as is set forth in said bill.

And this defendant further answering, says that
he does not know of his own knowledge, nor has he
sufficient information to form a belief, whether the
interest in said real estate rested in said Mc. Cul-
lough, by virtue of said agreement, was really owned
by said firm of Mc. Cullough, Morris & Co. nor whether
or by virtue of any assignment the same ever passed
to said complainant, for the benefit of the creditors
of said firm, as is alleged in said bill, and this de-
fendant therefore leaves said Complainant to the
proof thereof, as he may be advised -

And this defendant does and will insist that if
it be true as alleged in the Orator's bill, that said
George Mc. Cullough and Calvez Morris were inter-
ested in said contract, so that by the assignment
in said bill mentioned, any interest in said con-
tract or claim to said premises, passed to said com-
plainant, as is in said bill alleged, then said Mc.
Cullough and Morris are necessary parties to this suit,
and this defendant insists upon the failure to
make them parties, as fully as though he had demur-
red to said bill upon that ground -

And this defendant further answering says that
he does not know of his own knowledge, nor has he

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sufficient information to form a belief whether the said Real Estate was ever attached as the property of said Mc. Bullough, by any creditors of the firm of Mc. Bullough, Morris & Co. as is charged in said Complainant's ^{Bill} bill of complaint, nor whether said complainant left all the papers relative to said Real Estate with his Counsel in the City of Chicago, nor whether said Complainant was without memoranda informing him ~~whether~~ when the payments would become due, on said agreement, and therefore this defendant denies the same, and leaves the said complainant to prove the same.

And this defendant further answering says that he admits that at the time when said firm of Mc. Bullough, Morris & Co. are said to have made the assignment in said Bill mentioned, and since that time, that the said Complainant was and has continued to be a citizen and resident of Cincinnati, and State of Ohio, but this defendant denies that said complainant has always been ready and desirous to make the payments on said agreement punctually, but says that although said complainant was repeatedly informed several months previous to the maturity of the payment of \$2500. and interest due on the tenth day of March, 1855. that on that day, the said sum of \$2500, and interest as aforesaid, would fall due, but nevertheless the said complainant was not on the day and year last aforesaid, nor within sixty days thereafter, ready to, nor

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did he, the said complainant, ^{or} said 10th day of March, 1855. nor at any time within sixty days thereafter, pay or offer to pay to this defendant, or to the said Orrington Lunt, said sum of \$2500. and interest as aforesaid, or any part thereof, as this defendant is informed and verily believes to be true -

And this defendant further answering says that he does not know of his own knowledge, but he is informed and believes that neither the said complainant, nor any one in his behalf, ever offered or tendered to said Lunt, said sum of \$2500. with the interest due, in and by said contracts, so due on the 10th day of March, 1855. either on said 10th day of March, or on the 10th day of May, 1855. as is charged in said Complainant's said Bill of Complaint.

And this defendant further answering says that he admits that on or about the 28th day of May, 1855. said complainant, or some other person unknown to him, called upon this defendant, and tendered him a certain sum of money, but the precise sum, this defendant is not now able to state, and that this defendant did thereupon refuse to receive the same, for the reason, that in and by the said contract, so made and entered into by and between said Lunt and said Mc. Bullough, it was and is provided, that in case any default should be made in any of the payments, of principal or interest, in said contract specified, at the time or at any of the times in the said contract specified, for the payment thereof, and

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for sixty days thereafter, that the said agreement and every part thereof, should be null and void, and no longer binding, at the option of said party of the first part, his representatives or assigns, and that all payments before such default made on said contract, should be absolutely and forever forfeited, as is in the said agreement provided - and this defendant avers that on the 10th day of March, 1855 there was due on said contract, or agreement, to said Lunt and his assigns, the sum of Twenty-five hundred dollars besides annual interest at that time due on the unpaid purchase money, of said lots and premises - that before that time, to wit, on the 9th day of March, 1855. this defendant purchased in fee, of said Lunt, the said premises in said contract mentioned, and took an assignment of said contract, to himself, which said assignment, and the conveyance of said premises, were afterwards, to wit, on the tenth day of May, 1855. filed for record in the Recorder's office of the County of Cook, whereof the said complainant then and there had notice - and this defendant avers that default was made by the said Mc. Cullough, and by the said complainant, in the payment so due on the said 10th day of March, 1855. on said contract, and that neither said complainant, nor the said Mc. Cullough, on said last-mentioned day, nor within, nor at the end of sixty days thereafter, had the said payment ready to be ~~payment~~ paid, to this defendant, nor did the said Complainant, or any one in his

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behalf, or in behalf of said Mc. Cullough, offer to make said payment at the time or times aforesaid, although the said Complainant, and said Mc. Cullough were respectively notified, as this defendant believes, and is informed, by said Lunt, that if said payment was not made upon the day when the same became due according to said contract, that he, the said Lunt, would immediately take measures to declare, and would declare said contract null and void, as soon as the same could be done, in the manner provided therein - and this defendant says that subsequently, and upon the day and year aforesaid, he purchased said premises as aforesaid, and also the said contract, and thereupon became seized of, and entitled to all the rights, privileges and benefits in and to said premises, and to said contract, and all and every of the provisions thereof - and this defendant says that at the end of sixty days after said tenth day of March, 1855. to wit, on the tenth day of May, 1855. this defendant being such assignee of said contract, did elect to consider, and did consider the said contract or agreement to be null and void, and no longer binding upon this defendant - and that the said tender so alleged to have been made to this defendant, was not made until long after said contract was wholly at an end, as aforesaid, and this defendant no longer bound thereby -

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And this defendant further answering, denies that said tender was made to him, on the earliest day

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possible, as is in said bill alleged, and this defendant admits that said complainant did call at the Marine Bank, but whether for the purpose of paying the said notes, in said bill mentioned, or for some other purpose, this defendant does not know, nor has he sufficient information to form a belief, and therefore leaves the same to be proved.

And this defendant further answering, says that he denies that on the 9th day of May, 1855, or at any other time, said Lunt conjointly with his wife, or alone by himself, ever made any pretended transfer and sale of all his interest in said agreement, and in the said notes collateral thereto, to this defendant, as is in the said bill charged, but says that said transfer was a real and bona fide transaction, and that this defendant then and there actually paid to said Lunt, the full sum of five thousand, six hundred and eighty-five dollars, lawful money, for the premises described in said contract, which said sum of money was all that said Lunt pretended to ask this defendant, or demanded to have of him, therefor. And this defendant expressly denies that said sale and transfer so made by him to said Lunt, was to the knowledge, information, or belief of this defendant, in any manner made to facilitate a forfeiture of said agreement, but was made for the sole and only purpose of effectually vesting in this defendant, all the right, title, interest, claim and demand of said Lunt, in and to said premises.

and the said contract of sale with the said notes
so given, as collateral thereto, so that the same should
absolutely become the property of this defendant, to wit
on said 9th day of May, 1858. as fully and completely
as the same before that time had been the property
of said Lunt.

And this defendant further answering this, denies
that the said Lunt, either by making the said sale
to this defendant, or in any other manner ever elect-
ed to waive all or any rights accruing to him, in or
concerning said contract, or so resulting to him from
mere lapse of time, but on the contrary thereof, this
defendant, on information and belief, says that said
Lunt repeatedly by letter and otherwise, gave notice
to said Complainant, and also to said Mc. Cullough,
that unless said payment was made at the time
when the same should become due, that said
Lunt would thereupon declare said contract forfeited.

And this defendant further answering says that
on or about the 29th day of March, 1858. and before
said sixty days had expired, at the end of which,
this defendant would be at liberty to consider said
contract at an end, and would send John Wood-
bridge jr. of the City of Chicago, as this defendant is
informed and believes, addressed a letter to said com-
plainant, requesting him, the said complainant,
to give immediate attention to the payment of said
instalment then due on said contract, And this
defendant avers that said Complainant received

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said letter which was so sent through the mail directed to him at Cincinnati, his place of residence at that time - and this defendant further avers that said complainant well knew the day on which said payment would fall due, previous thereto, and also well knew that if the same was not paid at the proper time, to wit on said 10th of March, 1855. that said Lunt, and this defendant also, would declare said contract, void, and treat it as at an end, provided that default should be made for sixty days, in the payment of said sum as aforesaid, and therefore this defendant denies that said Complainant was not informed, when said payment became, or would become due, until said 9th day of May, 1855. as is in the said bill of complaint charged -

And this defendant further answering, says that he was, before said purchase, so made by him as aforesaid, fully advised of the matters and things aforesaid, and not otherwise or differently, and this defendant denies that he became a party to said transfer, with the view in any manner, of enabling said Lunt to defraud said complainant, or any other person, or of depriving him, the said complainant, of any benefit whatsoever of said agreement, but on the contrary thereof, that this defendant purchased said premises with a view to his own benefit and advantage exclusively, and that immediately upon said payment falling due, on said 10th

day of March, 1855. and not being made within sixty days thereafter, this defendant then being the owner of said Lunt's interest in said contract, declared the same forfeited, by reason of such non-payment, and still insists that the same is wholly void. - And this defendant says that had the said complainant carried out and performed the said agreement, on his part, in the manner, and at the time therein provided, that then and in such case, this defendant would have been ready and willing to perform and carry out the said agreement, although this defendant avers that he was in no manner bound, or in any way obliged, by any manner of agreement whatsoever, so to do.

And this defendant further answering says that in and by the said contract so made, between said Lunt and the said Mc. Bullough, he, the said Mc. Bullough, covenanted and agreed, that he would faithfully, and in due season, pay, or cause to be paid, all taxes and assessments, ordinary and extraordinary, for any purpose whatever, which might be assessed upon said premises, or the appurtenances thereunto belonging, nevertheless this defendant avers that after the making of said contract, and up to the time he so purchased said premises, and since that time, neither the said Mc. Bullough, nor any one on his behalf, has, in due season, or at any time, paid all taxes and assessments, ordinary or extraordinary, as in and by said contract, he

had agreed to do, but from time to time, has failed and neglected to do by means whereof and of the election of both, the said Lunt, previous to his making a sale of said premises, as aforesaid, and of this defendant since that time, to that effect - as well as by the default of the said Mc. Bullough, and the said Complainant claiming under him, in making the payments according to the terms of said contract, and at the times therein specified therefor, the said contract, by the election of said Lunt, and of this defendant, to that effect, became wholly at an end, and no longer chargeable on said premises, or obligatory upon the said Lunt, or this defendant, from and after said 10th day of May, 1855. and this defendant insists that by reason of the premises, he holds the said lots and premises so purchased by him from said Lunt, wholly discharged from said agreement so made with the said Mc. Bullough, and from any claim by reason thereof, by whomsoever the same may be interposed -

And this defendant denies all and all manner of unlawful combination and confederacy, whereunto he is by said bill charged - Without this that there is any other matter, cause or thing, in said Complainant's said bill of complaint, contained, necessary or material, for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, avoided or denied, is true, to the knowledge or belief of this defendant.

all which matters and things, this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct, and prays to be hence dismissed with his reasonable cost and charges in this behalf most wrongfully sustained.

(signed) George Steele.

By his Solicitor, C. Beckwith

And afterwards, to wit, on the day and year last aforesaid, the said defendant Lunt, by C. Beckwith, his Solicitor, filed in the Court aforesaid, his separate answer to the Complainant's said Bill of Complaint, in the words and figures following, to wit—

In Chancery—

The separate answer of Orrington Lunt, one of the defendants to the Bill of Complaint, of Thomas R. Biggs, Complainant, wherein Orrington Lunt and George Steele are defendants, in a certain Cause now pending, in the Circuit Court of Cook County—

This defendant saving and reserving to himself, all and all manner of benefit of exception to said Complainant's said Bill of Complaint for answer thereto, or to so much thereof as he is advised is necessary or material for him to answer unto, answering saith—

That this defendant admits that on or ~~about~~ and before the 10th day of March 1853. he was seized unto himself, and his heirs, of the certain lots, pieces and parcels of real estate and property in said complainant's said bill of complaint, described; and this defendant admits that on the said 10th day of March,

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he entered into an agreement with one George Mc.
Cullough, of Cincinnati, for the sale thereof, as is
charged in said bill of complaint, and of the pur-
port and to the effect in said bill set forth, but
whether the same was ever recorded, this defendant
does not know, nor has he sufficient information
to form a belief, and therefore he leaves the said com-
plainant to his proof thereof, as he may be advised.
And this defendant further answering, denies that
said Mc. Cullough ever entered upon said real estate
under and by virtue of said agreement, or that he, the
said Mc. Cullough, ever paid the taxes on said prem-
ises, according to the provisions thereof, but this defend-
ant admits that the first and second payments
on said premises ^{were made on said premises,} as is charged in said bill.

And this defendant further answering, denies that
said Mc. Cullough and one Calvery Morris, composing
the firm of Morris & Co. ever made a general assign-
ment of all their property, real and personal, owned
by them as partners, to the said complainant, for the
benefit of the creditors of said firm, as is charged in
said bill of complaint - and this defendant denies
that the interest in said real estate only nomi-
nally vested in said Mc. Cullough, while the same
was really owned by said firm - but says that the
interest in said premises, wholly vested in said
Mc. Cullough alone, and this defendant denies that
any interest whatsoever, in or to said agreement,
either by any pretended assignment, to him by said

firm, or by said Mc. Bullough alone, ever became vested in the same complainant-

And this defendant does and will insist that if it be true as alleged in the orator's bill that said George Mc. Bullough and Calvery Morris were interested in said contract, so that by the assignments in said bill mentioned, any interest in said contract or claim to said premises, passed to said complainant, as in said bill, alleged, then said Mc. Bullough and Morris are necessary parties to this suit, and this defendant insists upon the failure to make them parties, as fully as though he had demurred to said bill, upon that ground-

And this defendant further answering denies that after said pretended assignment of said agreement, by said firm to the said complainant, as set forth in said bill, that the said complainant left all the papers relative to said real estate, with his Counsel in Chicago- and denies that said complainant was without any paper or memoranda informing him when the payments on said premises would grow due, according to the tenor of said agreement, but says that he, the said complainant, had at all times between the said pretended assignment to him, and the default made in the performance of said agreement hereinafter more particularly set forth, been fully advised when the payments to be made on said contract, would fall due-

And this defendant further answering admits that

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Said complainant now is, and at the times herein mentioned, was a resident of Cincinnati, in the State of Ohio, but denies that said complainant has been always ready and desirous to make the payment on said agreement, punctually, and at the several times when the same became due, according to the tenor thereof—

And this defendant admits that on or about the 16th day of January, 1855. the said complainant addressed a letter to his said Counsel or Agent at Chicago, requesting said agent to ~~inform him~~, to inform him, the said complainant, of the payment which fell due in the spring then coming, and this defendant says that prior to the 20th day of March, 1855. the said complainant was informed by his agent or attorney, at Chicago, that the payment of \$2500 and interest, had already become due, on said premises, by virtue of said agreement, and at the same time, the said agent requested the said complainant, to give the matter his immediate attention and therefore this defendant denies that either through mistake or inadvertence, the said complainant did not know that said payment had become due, until on or about the 9th day of May, A.D. 1855. as is charged in said bill of complaint—

And this defendant further answering, says that on the 9th day of January, 1855. having heard that said Mr. Bullough had made a pretended assignment, he, this defendant, addressed a letter to him, informing

him that a payment would become due on said premises, on the 10th day of March, then next, and that this defendant should rely upon having the money as soon as it became due, that afterwards, and in the latter part of January, this defendant received a letter from said Mr. Cullough, bearing date at Cincinnati, January 25. 1855. in reply to this defendant's letter of said 9th January, 1855. and amongst other things, acknowledging the receipt thereof—

And this defendant further answering, says that he also on said 9th day of January, addressed a letter to said complainant at Cincinnati, informing him that on the 10th day of March, 1855. a payment would become due on said premises, and notifying said complainant that unless payment was made on the day that said contract would be forfeited and declared such, to which said letter, the said complainant replied on the 8th day of March, 1855. saying amongst other things, that he had the money to make said payment and that in about 10 days from said 8th March, he would send on the same—

This defendant further answering saith that afterwards, and on the 28th day of March, 1855. he the said defendant replied to said letter last above mentioned, sending the same by mail to the said complainant, and addressed to him at Cincinnati, Ohio, where in this defendant informed him the said Complainant, of the great ~~inconvenience~~ inconvenience which

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this defendant had suffered and notified the said complainant, that he, the said defendant, had taken measure to have said contract forfeited, by reason of the default in making the payment due thereon as aforesaid, which said last mentioned letter, was, as this defendant charges, received by the said complainant, at Cincinnati aforesaid.

And this defendant says that said last mentioned letter was so written and forwarded to the said complainant, about or upwards of forty days previous to the time when said contract would become absolutely forfeited according to the terms thereof, to wit the 10th day of May, 1855. and by reason whereof, this defendant alleges that the said complainant well knew the time when said payment became due, and was fully apprised by this defendant that if said payment was not made on or before the said 10th day of May, 1855. that said agreement would be declared forfeited, according to the terms thereof - nevertheless this defendant alleges that the said complainant did not until after said agreement had become wholly forfeited, ever offer to pay, nor did he ever at any time, pay the said sum so due on said contract on said 10th day of March, as aforesaid.

And this defendant further answering denies that on said 9th day of May, 1855. said complainant telegraphed his said Counsel at Chicago, authorizing him to draw on said Complainant at sight, for the amount of said payment, and interest, or that any

such despatch ever was received by said Counsel, either upon that day, or the following day, and this defendant denies that said Counsel, or any other person representing the interests of the said Complainant, called on this defendant as is charged in said Bill, and offered to pay the amount then due to said Lunt, on said agreement, or any part thereof. And this defendant further answering, denies that the counsel of said complainant, or his agent at Cincinnati, ever wrote said complainant, informing him, of said Lunt's, this defendant's refusal to receive said payments, and requesting said complainant to tender the same to said Lunt, in specie and this defendant denies that said complainant ever received any such letter, or that immediately upon the receipt thereof, or as soon thereafter as business engagements would permit, the said complainant came to Chicago, and that on the earliest day possible, that is to say, on the 28th day of May, 1855. made a tender to said Lunt, this defendant of \$2840 in current coin of the United States, in payment of the amount then due on said agreement, but this defendant says that on or about the 28th of May aforesaid, the said complainant made a tender to him of a large sum of money, on account of said agreement, but the exact amount is now unknown to this defendant, and this defendant avers that said tender was not made at the earliest day possible, but was made long after said complainant had forfeited all rights under said

agreement, by the election of this defendant, and not before - and this defendant admits that he did then inform the said complainant, that he, this defendant, would not receive such money at that time, and that he could not receive the same, in as much as he had previously assigned all his, this defendant's interest in said contract, to George Steele, one of the defendants in this cause, which said statement was, and is true - but whether said Complainant ever called up on said Steele, or made any tender to him, or whether said Steele ever refused the same, or whether said Complainant ever called at the Marine Bank, for said Notes, this defendant cannot state, and he denies the same in every particular -

And this defendant further answering, denies that on the 9th day of May, A.D. 1855. after Bank hours, said Lunt (his wife joining with him) made a pretended transfer and sale of all his interest in said agreement, and in the said notes of the said Mc. Cullough (collateral thereto) for the alleged sum of \$5685 being the amount then remaining unpaid on said agreement, and said notes - but this defendant says that on said 9th day of May, said transfer was made by himself and his said wife to the said George Steele, and that the same was a real and bona fide transaction, and that said Steele then and there, actually paid to this defendant, the full sum of Five Thousand, six hundred and Eighty five Dollars for the said premises, which was all this defendant

asked, or demanded to have therefor - and this defendant expressly denies that said sale and transfer so made by him, was in any manner made to said Steele, in order to facilitate a forfeiture of said agreement but was made for the sole and only purpose of vesting in said Steele, all the right, title and interest of this defendant, in and to said premises, and the said Contract with the notes so given as collateral thereto, so that the same should absolutely become the property of that defendant, on said 9th day of May, 1855. as fully and completely as the same before that time had been the property of this defendant.

And this defendant further answering says that it is provided in said contract, that in case of default in the payments in said contract stipulated to be made, or any part thereof, at the time when the same should become due, and for sixty days thereafter, then at the election of this defendant, his representatives or assigns, that the said contract should be at an end, and the prior payments forfeited, and the defendant denies that either by making said sale or in any other manner, he ever elected to waive all or any rights accruing, or which had already accrued to him under said contract, resulting from lapse of time, or otherwise, but this defendant on the contrary repeatedly gave notice to said Mc. Cullough, and to the said Complainant, that unless said payment of the 10th of March, was made at the proper time, that he, this defendant, should declare said contract

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forfeited, according to the provision therein contained,
in that behalf, and this defendant says that what-
ever right of forfeiture had accrued to him on
said 9th day of May, by reason of the non-performance
of said contract, and the failure to make the pay-
ments thereon at the time when the same became
due, he this defendant intended to, and did transfer
and assign to the said George Steele, so that the said
Steele would become entitled to the benefit thereof,
and not otherwise, or differently, and this defend-
ant denies that said Steele, by accepting of said trans-
fer, ever assented to waiving any rights resulting to
this defendant, by and from the mere lapse of time,
but says that said Steele, by the said purchase, so made
by him as aforesaid, became entitled to all and every
of such rights, either accrued, or to accrue on said 9th
day of May, or afterwards, and this defendant says
that said Steele did thereupon, and thereafter, ac-
quire a right, after the expiration of said sixty days,
from and after the 10th day of March, 1855. to pre-
vent said Complainant from paying any considera-
tion money on account of said agreement, whatsoever,
and also for receiving a deed for said premises-
And this defendant further answering says that
he admits that on or about the 10th day of March,
A.D. 1856. the last payment mentioned in said
agreement, would by the terms thereof, become due, and
that on or about said last mentioned day, the said
Complainant called upon this defendant, and

made him a tender, but of what sum this defendant ~~does~~^{does} not recollect - and this defendant then and there refused to receive said money on account of said agreement, and then informed said complainant that he had assigned all his interest in said agreement to said George Steele - but this defendant does not know whether said complainant, upon the day and year aforesaid, or at any other time, ever made any tender to said Steele, or whether said Steele ever refused the same, or whether said complainant, by his agent, ever called at the said Marine Bank, at any time, for said notes, or was there informed ~~in~~^{formed} that the same were not at said Bank, and this defendant denies the same in each and every particular, and leaves the said Complainant to his proof thereof -

And this defendant further answering denies that both or either of said sums so alleged to have been tendered, have since the time of such alleged tender, or at any time been, or now are subject either to his own order, or the order of said Steele -

And this defendant further answering admits that on the occasion of said last tender alleged to have been made to him, the said Complainant demanded a deed of said premises, and requested this defendant specifically to perform said agreement, but this defendant says that he, at that time, declined so to do, because he had not at that time, nor has he since the said 9th day of May 1855. had any interest

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in said contract or agreement, or in any of the sums
at that time, or since, due thereon, or any interest in
the said premises, whereof the said complainant
on the 10th day of May, 1855. had notice, by the record
of a certain instrument bearing date the 9th day
of May, 1855. made by the said Lunt, conjointly with
his wife, to the said George Steele, as is hereinbefore
set forth, which said instrument was on said 10th
day of May, 1855. filed for record, in the Recorder's of-
fice of Cook County and State of Illinois—

And this defendant further answering saith he ad-
mits that before said transfer of said agreement
by him, to said Steele, he, the said Steele was advised
of the pretended rights of said Complainant, and
this defendant says that at the time of said trans-
fer, he, the said Steele was also fully advised of the
rights already accrued to this defendant, by reason
of such agreement, and the failure on the part of
said Mc. Cullough, and also of said complainant,
to make the payment then due on said contract,
according to the provisions thereof, and also of the rights
to accrue, or which might accrue to the assigns of
this defendant, by reason thereof—

And this defendant further answering denies that
said Steele became a party to such transfer and sale
as aforesaid, with the view of enabling this defend-
ant to in any way defraud said complainant, or
in any manner to deprive him of said agreement, or
the benefit thereof, because this defendant says that

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Said sale and transfer were absolutely and in good faith, made by him to said Steele, and with the intent to vest in said Steele, all the right, title and interest of this defendant, in the premises, and that said Steele with that view, in entire, purchased the same, and became entitled thereto, as well as to all rights which could in any manner, accrue under said agreement, after said 9th day of May, 1855. as by the said instrument so executed, signed, sealed and delivered, to said Steele by this defendant, and his said wife, on that day, will more fully appear, when the same is produced—

And so this defendant says that by reason of the premises hereinbefore set forth, the said agreement so made between said Lunt, and said Mc. Cullough; and alleged to have been assigned by said Mc. Cullough to the said Complainant, should not be decreed to be specifically performed, nor can this defendant perform the same—nor should said transfer of the said agreement by said Lunt, this defendant, to said Steele, be decreed cancelled, as is prayed in said Complainant's said Bill of Complaint—

And this defendant denies all and all manner of unlawful combination and confederacy, wherewith he is, by said Bill charged—without this, that there is any other matter, cause or thing in said Complainant's said Bill of Complaint, contained, necessary or material for this defendant to make answer unto, and not herein and hereby, well and sufficiently

answered, confessed, traversed, avoided or denied, is true, to the knowledge or belief of this defendant - all which matters and things, this defendant is ready and willing to aver, maintain and prove as the honorable Court shall direct, and prays to be hence dismissed, with his reasonable costs and charges, in this behalf, most wrongfully sustained -

(signed) Orrington Lunt,

by his Solicitor, C. Beckwith

And afterwards to wit, on the 30th day of October, in the year last aforesaid, the said Complainant, by his said Solicitors, filed in the Court aforesaid, his Replication to the several answers of the said Defendants, in the words and figures following, to wit -

"The replication of J. R. Biggs, Complainant, to the separate answer of Orrington Lunt, one of the defendants to the Bill of Complaint of the above Complainant -

This Repliant saving and reserving to himself, all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, says that he will aver and prove his said Bill to be true, certain and sufficient in the Law, to be answered unto, and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto, by this Complainant, without this, that any other matter or thing whatsoever, in said answer contained, material and effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true -

All which matters and things this repliant is, and will be ready to ~~prove~~ aver and prove as this honorable Court shall direct, and humbly prays as in and by his Bill, he has already prayed—

Williams & Woodbridge

Solicitors for Complainant—

"The Replication of E. R. Biggs, Complainant, to the separate answer of George Steele, one of the defendants to the Bill of Complaint of the above Complainant— This Repliant saving and reserving to himself, all and all manner of advantage of exception to the manifold insufficiencies of the said answer for replication, sheweth, says that he will aver and prove his said Bill to be true, certain and sufficient in the Law to be answered unto— and that the said answer of the said defendant is uncertain, untrue and insufficient to be replied unto by this Complainant, without this that any other matter or thing whatsoever in said answer contained material and effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true— All which matters and things this repliant is, and will be ready to aver, and prove, as this honorable Court shall direct, and humbly prays, as in and by his Bill he has already prayed—

Williams & Woodbridge—

Solicitors for Complainant—

And afterwards to wit, on the 16th day of November, A.D. 1857. the said Complainant by his said Solicitors filed in the Court aforesaid, certain depositions

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to be read in evidence on the hearing of said Cause,
in the words and figures following, to wit:-

"Depositions of Witnesses taken on the second day of
June, A.D. 1857. at 9 o'clock. A.M. at the office of
Calvin D'Wolf, a Justice of the Peace in and for the
County of Cook, in the City of Chicago, in pursuance
of a notice hereto attached, to be used in a cause pend-
ing in the Cook Circuit Court, on the Chancery side
thereof, in which Thomas R. Biggs assignee &c. is com-
plainant, and Orrington Lunt and George Steele are
defendants, taken on behalf of the Complainants,
John Woodbridge jr being present for Complainants,
and W. K. Mc. Allister for defendants and
Witness Nathaniel P. Iglehart being produced, and
first duly sworn to testify the truth in relation to the
matter in controversy so far as he should be inter-
ested, and in answer to interrogatories deposed as fol-
lows viz-

Question 1st by Complainant's Solicitor - What is your
name, residence, occupation, and do you know the
parties to this suit?

Answer - My name is Nicholas P. Iglehart, residence
Cook Co. Ill. I am a general dealer in Land &c. I think
I know all the parties to this suit.

Question 2nd Were you acquainted with the value
of Lots 20, 21, and 22, in Block 62, and Lots 1, 2
& 3, in Block 63, in the Illinois and Michigan Ca-
nal Trustees Subdivision of Lots and Blocks in the
West part of the South West $\frac{1}{4}$ of Section 9, in

Township 39. N. 12. 14. E. in the Old Town of Chicago, in the month of May 1855. in the month of March, 1856. and are you acquainted with their value at the present time, if so, state their value per foot front, and their aggregate value at each of the times mentioned?

Answer—I was and am acquainted with the value of said property at the several times specified. In May 1855. said lots were worth seventy five dollars per foot front on Fulton Street, and in the aggregate \$13.500. In March 1856. they were worth \$100 per foot front on said street, and in the aggregate, \$18.000, at the present time I put them at \$125 per foot front on Fulton Street, and in the aggregate \$22.500. upon the usual terms of sale.

As examined by Mr. Allister for defendants.

Question 1st How far do said lots lie from the Court House, and which side of the North Branch of the Chicago River?

Answer—About $\frac{3}{4}$ of a mile from the Court House, and on the West side of the North Branch of the Chicago River—

Question 2nd Do you now recollect of any sales of Real Estate in May 1855. in the vicinity of these lots, and if so, what were the average prices—

Answer—I do not remember any sales that I can quote at this moment—

Question 3rd Can you now quote any sales made in that vicinity, at any subsequent time, if so, state

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what they were—

Answer— I have no memoranda by me now by which I can quote definitely—

Question 3rd When you state that the lots in question, were worth \$75 per foot front in May 1855. do you mean at cash, or on time, and if on time, what time

Answer— I mean on time, one fourth cash, balance one, two and three years with 6 per cent annually—

Question 4th What would said lots have brought in May, 1855, in cash?

Answer— About 20 per cent less than the prices before mentioned—

Question 5th If said lots had been sold at auction for cash at that time, would not there have been a greater difference than 20 per cent deduction?

Answer— I think not for the reason that in that location there was a good demand for lots since the Canal sale of 1854. at which sale lots in the immediate vicinity sold for over \$66 per foot—

Direct resumed—

Question 1st Are the prices you have named for said Lots at the several times above mentioned, their fair value irrespective of improvements?

Answer— They are— N. P. Iglehart—

Witness James W. Kees being in like manner being duly sworn to testify the truth in relation to the matter in controversy, so far as he should be interrogated, testifies and deposes as follows—

Question 1st by Woodbridge, Complainant's Soli—

What is your name, age, occupation, residence, and do you know the parties to this suit?

Answer—My name is James A. Rees, age 44 years—Occupation, conveyance—Residence, Town of Lake View, Cook Co, Illinois—I know defendant, and do not know Complainant—

Question 2nd Are you acquainted with the value of Real Estate in the City of Chicago, and if so, how long have you been acquainted with it?

Answer—I am acquainted with the value of Real Estate in Chicago, and have been for the last 18 or 20 years—

Question 3rd Were you acquainted with the value of Lots 20, 21 and 22, Block 62, and Lots 1, 2 and 3, Block 63, in the Illinois and Michigan Canal Trustees Subdivision of Lots and Blocks, in the West part of S. W. 1/4 Section 9, T. 39, Range 14 E. in the Old Town of Chicago, in May 1855, and if so, what was their value, per front foot, and what the aggregate?

Answer—I was acquainted with the value at that time—I consider it was worth \$75 per foot front on Fulton street, aggregate value, \$13,500. Canal time, and about \$60 per foot front, cash

Question 4th Were you acquainted with the value of the same lots in March 1856, if so what was their value per front foot, and what their aggregate value—give the time and cash value—

Answer—I was acquainted with such value on

Canal time - they were worth \$100 per foot front, in the aggregate \$18,000. and the Cash value was \$80 per foot front -

Question 5th Are you acquainted with the value of the same lots at the present time? if state their value per foot front, and their aggregate value on time and for cash -

Answer - I am - They are worth now on Canal time \$125 per foot front - aggregate value, \$22,500. Cash value \$100 per foot, and \$18,000 in the aggregate -

Question 6th - Are your estimates of value, of the ground, or of Ground and improvements?

Answer - They are of the ground, irrespective of improvements -

Questions by Mc. Allister for Defts -

Question 1st Are you nowable to quote any sales of property in that vicinity made, in May 1855.

Answer - I am not -

Question 2nd How far does this property lie from the Court House in Chicago, and on which side of the North Branch of the Chicago River?

Answer - Nearly $\frac{3}{4}$ of a mile from the Court House in a straight line, and west of the junction of the North and South Branch, and North Branch of the Chicago River -

James H. Rees -

Witness Charles Ditchcock, being in like manner duly sworn to testify the truth in relation to the matter in controversy, so far as he should be interrogated, testified and deposed as follows -

Question 1st By Woodbridge Complainant's Solicitor
What is your name, age, occupation - where do you reside, and do you know the parties to this suit?

Answer - My name is Charles Hitchcock, my age is over twenty-one years, I am an Attorney at Law - reside at Chicago, Illinois, and know the parties to this suit.

Question 2nd Where were you in the winter of 1854-5, and in the Spring of 1855. and where employed -

Answer - I was in the office of Williams and Woodbridge till about the 1st of April, 1855. and occasionally employed by them in their business as attorneys &c. and was occasionally employed by them after that time -

Question 3rd Do you know where the Contract between Orrington Lunt and George Mc. Cullough, a copy of which is set forth in the Bill of complaint filed in this Cause, was, in the winter of 1854-5 and in the Spring of A.D. 1855. and if you say it was in the possession of Williams and Woodbridge, state how it came into their possession, and what they did with it -

Answer - I do know that the contract which is substantially set forth in the Bill of Complaint filed in this Cause, in the Winter of 1854-5 and the Spring of 1855. was in the possession of Williams and Woodbridge, 84. Dearborn St. Chicago. Various Creditors of Mc. Cullough, Morris & Co. of Cincinnati, Ohio had attached the property described in the Contract, and Williams and Woodbridge had

possession of the Contract to enable them remove the attachments, and to release the property from the attachments—

Question 4th—Where did the Complainant reside, in the winter of 1854. and 5. and where has he resided since that time, and have you known of his exercising any acts of control over the property described in said Contract, and if so, what?

Answer—Complainant resided at or near Cincinnati in the winter of 1854–5. I do not know that he has left Cincinnati since that time. I know that he gave instructions to his attorneys, Williams & Woodbridge, in regard to the prosecution of the suits to release the property from the attachments, and incurred obligations as to payment of Taxes, he gave directions to Rees and Kerfoot as to payment of Taxes, and promised to repay them, and made tender of money at different times, to Lunt, on the contract, described in the Bill of Complaint.

Question 5th Do you remember whether or not Williams and Woodbridge, or either of them, during the month of May, 1855. received a telegraphic despatch from Complainant, or any one in his behalf, and if so, what day of May, and at what hour of the day?

Answer—I know that there was a telegraphic despatch received from Complainant, by Mr. Woodbridge, on the 9th May, 1855. late in the afternoon, towards dark—I think it was the 9th, pretty decidedly, but it might have been the 10th.

Question 6th—Do you know what has become of that

despatch, and if you say you do not, have you, or have you not searched for it, and if you have, where? and how particularly, and what was the result?

Answer— I do not know what has become of said despatch— I do not know that I ever searched for that particular despatch, except to look over the files of the papers, in relation to this case, in Woodbridge's office, about the time this suit was commenced, and did not find it— I looked over the files today, and did not find it— I have not made thorough search for it.

Question 7th After receiving said despatch, did you, or did you not have an interview with defendant Lunt, and what occurred, and when was it?

Answer— On the next morning after receiving said despatch, I went to Lunt's office on Clark Street, and told him that Mr. Biggs had telegraphed Mr. Woodbridge to raise the money by Draft on him, and make the payment on the Contract, and told him that Mr. Woodbridge was out of town, and that I would raise the money, that day, and pay him, unless Mr. Woodbridge returned, and attended to it himself— Mr. Lunt replied that it was too late, that he had assigned the Contract to Geo. Steele; that if any money was to be paid, it was going to Steele— That he, Lunt, claimed no interest in the Contract, that he (Lunt) had seen Biggs at some previous time, and that he had promised to pay it, but had failed to do so— I do not remember at what time Lunt said Biggs had agreed to pay it—

Question 8th Did you have any other interview with

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Lunt, during the month of May, 1855. if so on what day, who was present, and what occurred?

Answer—On the 28th of May, 1855. I had an interview with Lunt, Thomas R. Biggs, the Complainant, was present— he had with him the Contract set forth in the Complaint in this suit, and \$2840 in American Gold, which he tendered to Mr. Lunt, as a payment on said Contract, showing him the assignment and contract, and telling him, that he, Biggs was the assignee— Lunt said he should not receive the money, that he had assigned the contract to George Steele, and he need not take the trouble to count it, or words to that effect—

Question 9th Did you have any interview with defendant Steele, if so, on what day, who was present, and what occurred?

Answer—On the 28th May, 1855. I went with Mr. Biggs Complainant, to Geo. Steele's house, and met Mr. Steele— Biggs there produced to Mr. Steele, the contract mentioned in complaint and assignment, and tendered him, Steele, the same \$2840 American gold that he had tendered to Lunt— Steele said he should not receive it, and should insist on a forfeiture— He said his Lawyers advised him to file a Bill to declare a forfeiture, and he should do it— that he bought the Land on speculation, and intended to make some money out of it—

Question 10th Did you go to the Marine Bank of Chicago, in May, 1855— if so, on what day, and what did

you do there?

Answer—On the 28th May, 1855. I went with Mr. Biggs, Complainant, and he there enquired for the note signed by Mr. Cullough mentioned in the Contract described, the note to fall due March 10. 1855. The ^{receiving} teller replied that there was no such note there. Mr. Biggs had with him the same \$2840. that he had tendered to Lunt and Steele—

Question 11th Did you have an interview with Defendant Lunt, during the month of March, 1856. if so, who was present, on what day was it, and what occurred?

Answer—On the 10th March 1856. I had an interview with Lunt, defendant, and Mr. Flinnikin, an agent of Mr. Biggs, the Complainant, was present. Flinnikin had with him the Contract mentioned in the Bill, and the assignment thereof to Biggs, and \$5950 in American Gold, he tendered it to Lunt as the final payment, and as all the money due on the contract, and Lunt refused to receive it, saying he had assigned the Contract to the Defendant Steele—

Question 12th Did you have an interview with Defendant Steele during the month of March, 1856. if so, on what day, who was present, and what occurred—

Answer—On the 10th March, 1856. I went with Mr. Flinnigan, agent of Biggs, to Mr. Steele— and Flinnigan tendered to him the \$5950. in American Gold— Steele said we ought to pay the money into Court— That the notes and contract were in the hands of his Lawyers, and we must go to them— that he could not take

the money—

Question 13th Did you go to the Marine Bank of Chicago, in the month of March, 1856. if so, on what day, who accompanied you, and what occurred?

Answer— On the 16th March, 1856. I went with Mr. Hlinnikin aforesaid, to said Bank, and enquired of the receiving teller, if the notes, describing them according to the terms of the Contract set forth in Complaint, were in Bank, and was told by him that they were not there—

Questions by Mr. Allister for Defendants—

Question 1st— Will you state whether you know of any other tenders of money, being made to Lunt, or Steele, except those detailed by you?

Answer— I know of no others—

Question 2nd— In the first interview you had with Lunt, after receiving the telegraphic despatch spoken of by you, did Lunt say anything about the Contract before mentioned being forfeited, or about having given any notice of forfeiture, if so, what did he say?

Answer— he said the Contract was forfeited, that Biggs had been negligent, had done wrong in delaying the payment, that he had promised him he should have it at a specified time— I do not recollect of his saying anything about notice, but I think he said that he had written him more than once on the subject of the Contract—

Question 3rd— Can you state whether in the interview you had with him, on the 28th day of May, which

you have mentioned, Lunt said anything about the Contract being forfeited, if so, what?

Answer— I do not think he said anything about it.

Question 4th How soon after the first interview you had with Lunt, as mentioned by you, in which he told you the matter was assigned to Steele, was it that you went to Steele on the subject?

Answer— It was the same day I think, or next day, that I saw him— I went to his office the same day, and did not find him, and it was the next day that I saw him—

Question 5th— Did you, when you so saw him, have any conversation with him respecting the Contract in question, and if so, did he claim to be the owner of it? and did he say anything about the same being forfeited, and if so, what?

Answer— I conversed with him about the contract— he claimed to be the owner of it, and said it had been forfeited—

Question 6th About what time, did your connection with Messrs. Williams & Woodbridge, cease?

Answer— I left their office April 1. 1855— I was assisting them for several months after that time. My relations with them are now substantially the same as in winter of 1854 & 5. except that I have a separate office from them—

Question 7th How soon after the reception of the telegraphic despatch, mentioned by you, was it, that Biggs came to Chicago?

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Answer—It was about 18 days—The despatch came the 9th or 10th of May, 1855, and he came the 27th or 28th.
Question 8th Had you ever seen him before, or had you had any direct communication with him before that time?

Answer—I had never seen him—or had any direct communication with him before that time—

Question 9th Do you know whether anyone in Mr. Woodbridge's office, had informed him, (Biggs) what took place on the first interview with Lunt, and if so, who, and in what manner?

Answer—I do not know that anyone informed him—my impression is, that I wrote to Lincoln, Biggs' attorney, in Cincinnati, informing him what took place, soon after—

Question 10th How soon after the first interview with Lunt, did Mr. Woodbridge return, and did you on his return, inform him, what took place with Lunt?

Answer—Mr. Woodbridge I think, returned the day of the interview with Lunt, and I made known to him the contents of the despatch from Biggs, and what had taken place with Lunt—

Question 11th How did it happen that on the 28th of May, 1855, you went with Biggs to see Lunt and Steele, and at whose request did you go?

Answer—I was requested to go by Mr. Woodbridge, and that request arose from the fact that I had been connected with a previous suit in regard to the same property—

Question 12th - Who in Messrs. Williams and Woodbridge office, had the particular charge of this matter in question, and where was Mr. Williams at the time the telegraphic despatch came, that you have mentioned?

Answer - Mr. Woodbridge had the particular charge of this matter, as I understood it. Mr. Williams, I think and Mr. Woodbridge had gone, I think to Waukegan, when said despatch arrived.

Question 13th Was there any person at that time in their office, who had charge of their business in their absence, and if so, how did you come to have possession of said despatch -

Answer - Thomas Hoge, their clerk, was in their office at that time, and brought the despatch to my office, saying that it related to a matter of which he knew nothing, and as I had been acquainted with their affairs, he wanted to know what could be done about it, and gave me the despatch, and upon that I acted as before stated.

Charles Hitchcock -

And, ^{Witness} Samuel H. Kerfoot, being in like manner duly sworn to testify the truth in relation to the matter in controversy, so far as he should be interrogated, testified and deposed as follows -

Question 1st by Woodbridge, Complainant's Solicitor. What is your name, age, occupation, where do you reside, and do you know the parties to this suit?

Answer - My name is Samuel H. Kerfoot - I am over twenty-five years of age - Reside at Cook County, Illinois. I am a Conveyance dealer in Real Estate &c. and do

not know Biggs personally, and know defendants-
 Question 2nd Are you acquainted with the value of
 Real Estate in Chicago, and if you are, how long have
 you been acquainted with such value?

Answer - I am acquainted with such value, and have
 been for 6 or 7 years last past -

Question 3rd Were you acquainted with the value
 of Lots 20. 21. and 22. in Block 62. and Lots 1. 2. and
 3. in Block 63. in the Illinois and Michigan Canal
 Trustees Subdivision of Lots and Blocks, in the West
 part of S. W 1/4 Section 9. T. 39. Range 14 E. 3^d P. M.
 in the Old Town of Chicago, in the month of May, 1855.
 and if you state its value at that time per foot front,
 and their aggregate value - give both the cash and
 time value -

Answer - I was acquainted with the value of said
 Lots in May, 1855. Their value per foot front, was \$75.
 their aggregate value, \$13.500 - These estimates are the
 Canal time value, at that time, cash value about
 \$11.000. In these estimates, I intend only the value
 of the Canal, without improvements -

Question 4th Were you acquainted with the value of
 the same Lots in March 1856. if yea, state their cash
 and time value, per foot front, and their aggregate
 value -

Answer - I was acquainted with such value - The
 time value (Canal time) was about \$100 per foot
 front, aggregate \$18.000. Cash aggregate value about
 \$15.000 - without estimating any improvements -

Question 5th Are you now acquainted with the value of said Lots, and if yea, state their cash and time value, per foot front, and in the aggregate.

Answer — I am acquainted with such value — Their value on Canal time is about \$125. per foot front — aggregate \$22,500. and cash value is about \$18,000. without improvements in either estimate.

Question 6th Have you ever had any connection with said Lots, either as owner or agent — and if as agent, when did your agency commence? for whom did you act? what were your duties as agent? what acts did you ~~perform~~ ^{perform} as such agent? and how long did such agency continue?

Answer — I have had connection with said lots as agent, my agency commenced in March, 1853. I acted for George Mc. Bullough, and subsequently for Mr. Biggs at the instance of Messrs. Williams and Woodbridge. my duties as agent, were. making sale, and paying taxes. — I made sale as such agent to Frederick Becker of N. 25 feet of Lots 1. 2 and 3. Block 63. in said subdivision, on the 16th June, 1853. for \$1250. Canal time. I paid taxes for 1853. 1854. and did not pay them for 1855. because I found them paid. I tried to pay them, I applied to pay them in 1855. at the instance of Mr. Woodbridge — My agency is not yet terminated.

Question 7th Have you in your possession, any documents relating to the sale to Frederick Becker, of the land mentioned in your last answer, as having been sold to him, if you annex the same ~~the same~~

to your answer to this question—

Question and answer objected to by Mr. Allister, Defendant's attorney—

Answer— I have in my possession a contract relating to said sale, which is marked (A) and hereto attached, and made an exhibit to this Deposition—

Question 8th What acts, if any, did Becker perform, in reference to the land bought by him as above stated, as a reference to his said Contract of Purchase?

Objected to by Mr. Allister, Deft's Solicitor—

Answer— He has built upon the said land, a Dwelling-house and Store— he has made the first two, and part of the third payments on said Contract—

Question 9th Do you know the value of the improvements made by said Becker on said Lot purchased by him, if so state, and state also if you know, when such improvements were made by him?

Answer— I know something of their value— think they are worth about \$1500 or \$2,000. The improvements were made by Becker soon after the purchase—

Questions by Mr. Allister for Defendants—

Question 1st Can you quote any sales of Lots made in the vicinity of the lots mentioned by you, in May, 1855. if so, state—

Answer— I cannot now quote any such sales—

Question 2nd Do you not form your opinion as to the value of said Lots in May 1855. in whole or in part upon the present value of the same—

Answer— I do not—

Question 3rd When you say that your agency for said Lots, has not now terminated, do you mean that you have done any acts of agency in reference to the same, since said application to pay the taxes on 1855. if so, state what acts?

Answer— I have performed acts of agency since 1855, but only in regard to the taxes—

Question 4th At what time, if at all, did your authority to sell said Lots, or any of them, terminate?

Answer— My authority to sell has never been formally revoked, I considered my authority to sell, at an end, on hearing of the failure and assignment of Mr. Mc. Cullough.

Question 5th From what source then did you receive your authority to attend to the taxes on said Land, after the assignment and failure of Mr. Cullough—

Answer— From Williams and Woodbridge, Attorneys of Mr. Biggs—

Question 6th Have you actually paid any taxes on said Land since you received your authority from Williams and Woodbridge?

Answer— My impression is that I did not pay any such taxes for 1855. and I cannot state as to 1856.

Question 7th Will you state in what year it was, and what time in the year, you first learned that Mr. Cullough had become insolvent, and made one payment.

Answer— I think it was soon after it occurred, but do not remember the date—

Question 8th State whether Frederick Becker paid the money on his contract for said Lot, to you—

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Answer—He paid the first, second and part of the
3rd instalments to me—

Question 9th Are you able to about the time Becker
commenced to Build?

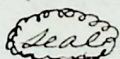
Answer—I cannot, only that it was soon after his pur-
chase—I cannot state what particular time—

Saml. H. Kerfoot.

State of Illinois }
Cook County } ss.

I, Calvin D'Wolf, a Justice of the Peace,
in and for said County, do hereby certify, that the witnesses
Nathaniel P. Iglehart, James H. Rees, Charles Hitchcock,
and Samuel H. Kerfoot, whose depositions appear above—
were severally sworn by me prior to the taking of the said
depositions as severally subscribed by them, and on the said
second day of June, A.D. 1857. to testify the truth in relation
to the matter in controversy, in the suit mentioned
in the Caption to these depositions, so far as they might
severally be interrogated in relation thereto, and that the
said depositions were at the same time reduced to writing
and taken by me at my office in Chicago, in the Coun-
ty of Cook, and State of Illinois, and were severally signed
by said witnesses, and sworn to by them severally, and in
my presence, the oath being administered by me—

Given under my hand and seal this
2nd day of June, A.D. 1857.

Calvin D'Wolf 

Justice of the Peace—

Exhib. A | Articles of Agreement, made this Sixteenth day of June,

in the year of our Lord, one thousand, eight hundred and
fifty-three, Between George Mc. Cullough, of Cincinnati,
Hamilton County, Ohio - of the first part, and Frederick Beck-
er, of Chicago, Cook County, and State of Illinois - of the sec-
ond part, Witnesseth - That if the party of the second part
shall first make the payments, and perform the covenants
hereinafter mentioned on his part to be made and perform-
ed, the said party of the first part hereby covenants and
agrees to convey and assure to the party of the second part,
in fee simple, clear of all incumbrances whatever, by a good
and sufficient Warranty Deed, the following lot, piece
or parcel of ground, viz - A Lot situated on the Corner of
Des Plaines Street, and Hulton Street, in Block Number
Sixty-three (63) Original Town of Chicago, Fronting Twenty-
five (25) feet on Des Plaines Street, and Ninety (90) feet
(more or less) on Hulton Street - and being the North Twen-
ty-five (25) feet of Lot One (1) Two (2) and Three (3) in said
Block 63 - And the said party of the second part here-
by covenants and agrees to pay the said party of the first
part, the sum of Twelve Hundred and Fifty, \$1250 Dol-
lars in the manner following - Three Hundred and Twelve
50/100 Dollars \$312.50 Cash, on delivery of these presents, the re-
ceipt whereof is hereby acknowledged, and the balance in
three equal annual payments, from date hereof - with
interest at the rate of six per centum per annum, pay-
able annually, on the whole sum remaining from
time to time, unpaid, and to pay all taxes, assessments,
or impositions, that may be legally levied or imposed
upon said land subsequently to the year 1852 and in

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case of the failure of the said party of the second part, to make either of the payments, or perform any of the covenants on his part, this contract, shall at the option of the party of the first part, be forfeited and determined and the party of the second part shall forfeit all payments made by him on this contract, and such payments shall be retained by the said party of the first part, in full satisfaction, and in liquidation of all damages by him sustained, and shall have the right to re-enter, and take possession—

It is mutually agreed that all the covenants and agreements herein contained, shall extend to, and be obligatory upon the heirs, executors, administrators and assigns of the respective parties—

In Witness whereof, The parties to these presents, have hereunto set their hands and seals, the day and year first above written—

Signed, Sealed and Delivered } George Mc. Cullough 
In Presence of } H. Becker. 

We, and each of us, do hereby assign all our right, title and interest in the within agreement, or in the real estate named therein, or the proceeds thereof, to Thomas R. Biggs, assignee of Mc. Cullough, Morris & Co. and he is authorized to make any such sale, or disposition of the same for cash, or part cash and part on time, as he may deem best— and he is authorized in his discretion to complete the same, and obtain title to the said real estate, and then sell the same either for cash, or part cash and part on time, as in his discretion may seem best, for the

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purposes of our assignment - he is authorised to make any such sale or disposition of the same, and to make any such settlement either with the said Frederick Becker, or with any other person or persons of any and all matters relating to the same, and our interest therein which he may deem wise and prudent - the same being partnership property, and to fulfill our said contract with the said Frederick Becker -

In witness whereof, the said George Mc. Cullough has affixed his hand, and the said Mc. Cullough, Morris & Co. have affixed their firm name, this 19th day of August, 1854.

George Mc. Cullough
Mc. Cullough, Morris & Co.

And afterwards, to wit, at the April term of said Court, to wit - on the 4th day of May, A. D. 1858. the following proceedings among others, were had and entered therein, in said cause, to wit -

"This day come the said Complainant, and the said defendant Steele, by their solicitors, and on motion of the said defendant, no objection being made thereto - It is ordered that the testimony of the said defendant Orrington Lunt may be taken before the Master in Chancery, to be used upon the hearing of said cause, subject to all legal exceptions thereto -"

And afterwards to wit, on the 30th day of July, in the year last aforesaid, the Master in Chancery filed in said Court, the deposition of C. Lunt, taken by leave of the Court, in the words and figures following, to wit -

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State of Illinois }
Cook County } ss.

Circuit Court Cook County,
In Chancery—

Thomas R. Biggs

Chicago July 30. 1858.

George Steele, and
Orington Lunt

The deposition of Orington Lunt, one of said defendants, taken before me at my office in the City of Chicago, on the 30th day of July, A. D. 1858. pursuant ~~to~~ written upon interrogatories and cross interrogatories propounded by the Solicitors of the respective parties, to be used on the trial of said cause, on the part and behalf of said defendants—

Interrogatories propounded to Orington Lunt, on the part of Defendants—

1—What is your name, age, occupation, and residence, and are you acquainted with the parties to this suit, or either of them, and how long have you known them, or either of them?

Answer—My name is Orington Lunt, I am 42 years of age, am one of the Commissioners of the Chicago Eoffwater works, and reside in Chicago—I know the Complainant Thomas R. Biggs, I know him by sight, and know my co-defendant Steele, have known him for twenty years, and upwards—

2—Have you any interest, directly or indirectly, in the property in controversy in this suit, and in case the defendants succeed, are you entitled to any profit, direct

or contingent, in the property, or the proceeds of any sale of the property, and in case the Complainant succeeds, have you agreed to refund any portion of the money, which said Steele paid for said property, or to pay any portion of the costs of this suit, and have you any interest in any event in the rents, issues, and profits of said property, if yes, state the same fully.

Answer — I have no interest, direct or indirect, in the property in controversy, nor am I entitled in case the defendants succeed, to any profit, direct or contingent, in the property or proceeds of any sale thereof, nor have I, in case Complainant succeeds, agreed to refund any portion of the money which said Steele paid for said property, nor have I agreed to pay any portion of the costs of this suit, nor have I any interest in any event in the rents, issues and profits of said property.

The Complainant by his Solicitors, comes and objects to the examination of said defendant Lunt, as a witness.

3 — Have you any agreement or understanding with George Steele, your Co. defendant, that you are liable over for any failure of title, in the premises, as under the assignment made by you —

Answer — I have no such agreement or understanding.

4 — Have you any interest in the event of this suit, other than your liability for costs —

Answer — I have not.

5 — State if the contract now shown you, entitled in this cause, marked Exhibit A. and hereto annexed,

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and the assignment therein, is the Original Contract between you and George Mc. Cullough, the assignee of Complainant, to you, and if you and wife, by assignment or Quit claim to defendant George Steele, and if the signatures of the respective parties thereto, are genuine—

Answer— I have looked at said contract ~~contract~~ marked Exhibit A. and the assignment or Quit claim by myself and wife, to George Steele, my co-defendant. Said Contract is the ~~assigned~~ ^{original} Contract for what it purports, and the assignment or Quit claim is the original of the instrument executed by myself and wife, to said Steele— the signatures to said contract, are the genuine signatures of myself and said Mc. Cullough—

6 Look upon the three letters purporting to be copies of letters, hereto attached, and marked Exhibit B. purporting to be written by you, one bearing date 9th day of January, 1855. addressed to George Mc. Cullough, one bearing same date, addressed to Thomas B. Biggs, and state whether they are true copies of letters written by you, and addressed as stated, and mailed postage paid, to said Mc. Cullough and Biggs, and directed to Cincinnati, Ohio, and if that was the place of residence at that time of said Mc. Cullough and Biggs—

Complainant by his Solicitor, objects to the answer and interrogatory last foregoing)

Answer— I have looked at three ^{letters} ~~copies~~ purporting to

Copies as recited in the question— they are true copies of letters written by me, so near as they can be copied from my Letter Book, on the days recited in the question— The Originals were mailed by me to the said Biggs and Mr. Cullough, postage paid, directed to Cincinnati, Ohio— The said Biggs and Mr. Cullough then resided in Cincinnati—

7— Look upon letter marked Exhibit C. and state if the same is in the handwriting of said George Mc. Cullough, and if you received the same in due course of mail from said Mr. Cullough (the said letter herewith made an exhibit, marked exhibit C. and part of this deposition—

Answer— I have looked at said letter— it is in the handwriting of said George Mc. Cullough— I received the same in due course of mail from said Mr. Cullough—

8— Look upon letter marked Exhibit D. (hereto attached, and made a part of this deposition) and state whether the same is in the handwriting of Complainant, and whether you received the same in due course of mail—

Answer— I have looked at said letter— I don't know his handwriting except by correspondence— It purports to be his handwriting— I received it from him by due course of Mail, in answer to a letter addressed by me to him—

9— Look at the letter now shown you marked exhibit E. (hereto attached, and made part of this

deposition) and state whether the same is in the handwriting of John Woodbridge Jr. Esq. and how you received the same—

Answer— I have looked at said letter— I do not know Mr. Woodbridge's handwriting— the letter was either left at my Office, or was a drop letter at the Post office— I can't say which—

Sworn to and subscribed } Orrington Lunt.
before me this 30th day of }
July, 1888. L. C. P. Freer, }
Master &c.)

I, L. C. Paine Freer, Master in Chancery of Cook County State of Illinois, do hereby certify that on the 30th day of July, 1888. at my office in the City of Chicago, I proceeded to take the deposition of Orrington Lunt, one of the defendants in the above entitled cause, upon the interrogatories and cross-interrogatories foregoing, propounded by the Solicitors of the respective parties, the said Witness having been by me first duly sworn according to Law—

L. C. P. Freer—

Master's fees \$6—

Paid by Defts Soli.

Master in Chancery
Cook Co &c.

Articles of Agreement, made and concluded the tenth day of March, in the year one thousand, eight hundred and fifty three, Between Orrington Lunt of Chicago, Illinois, of the first part, and George McCullough of Cincinnati, Ohio, of the second part—

Witnesseth, that the party of the first part, at the request of the party of the second part, and in consideration of the money to be paid, and the covenants as herein expressed, to be performed by the party of the second part, hereby agrees to sell to the said party of the second part, all that certain lot and parcel of land, situate in Chicago, Cook County, Illinois, known and distinguished as follows to wit- Lots twenty (20) twenty one (21) twenty two (22) in Block Sixty-two (62) and Lots one (1) two (2) and three (3) in Block Sixty-three, (63) in the Illinois and Michigan Canal Trustees Subdivision of Lots and Blocks in the West part of the South West quarter of Section nine (9) in township thirty-nine (39) North Range fourteen (14) East, in the old town of Chicago-with the privileges and appurtenances thereunto belonging-

And the said party of the second part, in consideration of the premises, hereby agree to pay to the said party of the first part, his or their executors, administrators, or assigns, the sum of ten thousand dollars, as follows, viz- \$2500.00 at this date, which is this day paid- \$2500.00 on March 10. 1854. \$2500.00 on March 10. 1855. and \$2500.00 on March 10. 1856. for which three last payments, said Mc. Cullough has executed his note for \$2500. on each, with interest at the rate six per cent per annum, to be paid according to the tenor of said notes, at the Marine Bank, Chicago- And also, that he will well

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and faithfully, in due season, pay, or cause to be paid,
all taxes and assessments, ordinary and extraordi-
nary, for any purpose whatever, upon the said prem-
ises or appurtenances—

And the said party of the first part, further cove-
nants and agrees with the said party of the second part,
that upon the faithful performance by the said
party of the second part, of his undertaking in this
behalf, and of the payment of principal and interest
of the sums above mentioned, in the manner
specified, by the said party of the first part, shall
and will, without delay, well and faithfully execute
and deliver, in person or by attorney duly authorized,
a good and sufficient deed or deeds, and hereby as-
sign and convey to the said party of the second part,
his heirs and assigns, a good, perfect and unencum-
bered title in fee simple, to the above described prem-
ises, with their appurtenances—

And it is mutually covenanted and agreed, by and
between the parties hereto, that in case default
shall be made in any of the payments of principal
and ^{or} interest, at the time, or any of the times above
specified, for the payment thereof, and for sixty
days thereafter, this agreement, and all the preced-
ing provisions hereof, shall be null and void, and
no longer binding, at the option of the said party
of the first part, his representatives or assigns— and
all the payments which shall then have been made
hereon, or in pursuance hereof, absolutely and forever,

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forfeited to the said party of the first part - or at the election of the said party of the first part, his representatives and assigns, the covenants and liabilities of the said party of the second part, shall continue and remain obligatory upon the said party of the second part, and may be enforced, and the said consideration money, and every part thereof, with the annual interest as above specified, be collected by proper proceedings in law or equity, from the said party of the second part, his heirs, executors, administrators or assigns -

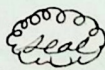
And it is further mutually covenanted and agreed by and between the parties hereto, that in case of default in the payments stipulated to be made by the said party of the second part, or any part thereof, and the election of the party of the first part, his representatives or assigns, to consider the foregoing contract of sale at an end, and prior payments forfeited, the said party of the second part, his heirs, representatives, or assigns, who may have possession or the right of possession of said premises at the time of such default, or at any time thereafter, shall be considered, and are hereby agreed and declared to be, in law and equity, the tenant or tenants at will of the said party of the first part, his representatives and assigns, on a rent, equal to an interest of ten per cent per annum, on the whole amount of the purchase money above specified, payable quarter yearly, from the day of such default in payment of principal or interest - And

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after such default in payment, and election to
consider the above contract of sale as void, the said
party of the first part, his representatives and assigns,
shall have and may have and exercise all the
powers, rights and remedies, provided by law or equity,
to collect such rent, or to remove such tenant or ten-
ants, the same as if the relation of landlord and
tenant, hereby declared, were created by an original
absolute lease, for that sole purpose, on a specified
rent, payable quarterly, on a tenure at will - And
that in such case, the said tenant or tenants shall
and will pay, or cause to be paid, all taxes, and as-
sessments, ordinary and extraordinary, which may
be laid or assessed on said premises, or any part thereof,
during the continuance of such tenancy, and will
not commit or suffer any waste or damage to said
premises, or the appurtenances, but will keep and
deliver up, on the termination of such tenancy, the
said premises and appurtenances, in as good order
and repair (ordinary wear and decay, and unavoid-
able injury by the elements, excepted) as they were in
at the commencement of such tenancy -

In witness whereof, The party of the first part, and the
party of the second part, in proper person, have hereunto
to respectively set their hands and seals, on the day
and year first above written -

Executed and Delivered

Orington Lunt 

In presence of

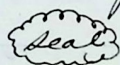
George Mc. Cullough 

Know all men by these presents, that in consideration

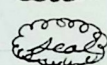
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of Nine thousand, six hundred and eighty five dollars,
now in hand paid by George Steele of the City of Chi-
cago, the receipt of which is hereby acknowledged—
We, Orrington Lunt and Cornelia A. Lunt, his wife,
parties of the first part, have this day, granted, bargain-
ed, and sold, and by these presents, do grant, bargain,
sell, assign and set over and transfer unto George
Steele, and to his heirs and assigns forever, all our
right, title and interest of, in and to the within
contract, and to the lands, tenements and heredita-
ments therein described, and the notes ^{therein} mentioned,
now remaining unpaid—being two notes of \$2500
each, with the interest thereon—one of which said
notes, is now delivered, and the other to be delivered.
To have and to hold the within-described premi-
ses, to the said George Steele, and to his heirs and
assigns forever—

Witness our hands and seals, this 9th day of May,
A.D. 1855.

Orrington Lunt—



Cornelia A. Lunt—

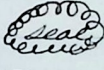


State of Illinois }
_____ County } ss.

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J. J. A. Hoisington, a Justice of
the Peace, in and for said County in the State afore-
said, do hereby certify that Orrington Lunt and Cor-
nelia A. Lunt, who are personally known to me to be
the same persons whose names are subscribed to the
annexed Assignment, appeared before me this day,
in person, and acknowledged that they had signed,

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sealed and delivered the said instrument of writing, as their free act and deed, for the uses and purposes therein expressed. And the said Cornelia A. wife of the said Orrington Lunt, having been by me examined separate and apart, and out of the hearing of her said husband, and the contents and meaning of said instrument of writing, having been by me made known and fully explained to her, she acknowledged that she had freely and voluntarily executed the same without any compulsion of her husband, and relinquished her dower to the lands and tenements therein mentioned, and that she does not wish to retract the same.

Given under my hand and official seal, this 9th day of May, A. D. 1855.

J. A. Worthington 
Justice of the Peace.

Copy of letter wrote George M. Cullough-

January 9th 1855- By Orrington Lunt-

Exhibit B.
"I notice you have made an assignment of the property to Mr. Biggs- the next payment of \$2800 is due at the Marine bank, on the 10th day of March next, and will have to be met promptly, as I have a large note falling due about the same time, and rely on this for a part of it."

Yours truly, O. Lunt-

On the same day I also wrote Mr. Biggs assignee

Copy-

Jan. 9th 1855.

Thomas R. Biggs, Esq.

Dear Sir- This will

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notify you that there will be due at the Marine
Bank in this City, on the tenth day of March next,
on Lots 20. 21. and 22 in Block 62. Lots 1. 2. and 3 in
Block 63. of Old Town of Chicago, from Geo. Mc. Cul-
lough, and from the records here, I notice he has
assigned them to you. I write to give you due no-
tice, as I must have the payment, and unless paid
on the day, said contract will be forfeited, and de-
clared as such.

Yours truly,

O. Lunt

Copy of a letter sent Mr. Biggs, by O. Lunt, March
28th 1855. as near as I can get it - the copy I have being
imperfect.

Dear Sir,

I wrote you some time since,
asking if the payments on the Mc. Cullough note, would
be delayed ten days - since that time I have heard
nothing from you, and I have had much inconven-
ience, and obliged to lay over some of my paper in
the Bank - By the delay, the whole of the payments
will become due - All I can say is, I have taken mea-
sures to declare the lots forfeited for non-payment,
in accordance with the notes -

Yours truly, O. Lunt

No answer received, but money tendered me for the
payment, May 28th 1855. being 19 days after I had
sold to Geo. Steele -

Answer to O. Lunt's letter, of Jan. 9th

Cincinnati - January 25th 1855.

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O. Lunt, Esq.

Dear Sir,

Exhibit C

Your favor of the 9th inst was duly received, but owing to circumstances out of my control, I have been prevented from answering you as I desired, until the present, I have been unable until to day, to see Mr. Biggs, who is to make you the next payment, and he informs me that he intends to do so by the time it is due - he has the money I know, and I think you may depend on it - I do not understand how it happened that the property was sold for taxes, as Messrs. Rees and Kerfoot promised me to pay the taxes - and they having sold a lot on the West, and had funds, I supposed it was done, indeed they sent or drew on me for a Tax Bill which was paid for the year 1853 - Whether it was all the taxes or not, I cannot say - but if not, it should have been, and they should have paid it - and now I wish you would call on them and make the inquiry - and get them to attend to settling of the Taxes, with the person who bought them, and they can satisfy themselves out of the payment, or money which they will receive for the Lot which they sold -

Please get them to write }
me, and give me the amount }
of Taxes on each Lot, and how }
much they will have to pay }

Your's truly

G. Mc. Cullogh

Cincinnati March 8. 1855.

Mr. O. Lunt - Dear Sir -

Exhibit D.

I received a notice of a note due
you, falling due at the Bk. House of Geo. Smith & Co.
Chicago - on the 10th prox I have the funds to meet it,
but there is some judgments against the property
farm of some of Mc. Cullough, Morris & Co's. and I want
them to agree to return the money if they gain the suit.
The arrangement is not entirely complete, but I
think will be in 10 days - then I will send you the
money -

Yours truly,

J. R. Biggs, assignee
for Mc. Cullough, Morris & Co.

P.S. I regret the delay very much, and will send the
money as soon as the contract is signed - J. R. B.

Not answered until March 28th - see copy -
Money tendered me May 28th last day of grace May 9th
Chicago March 29th 55.

Orington Lunt Esq

Dear Sir,

I have written to Thomas R.
Biggs, the assignee of Mc. Cullough, Morris and
Company, requesting him to give immediate attention
to the payment of the instalment now due on the
articles of agreement assigned by them, and shall
hear from him in a few days - He will doubtless meet
the payment at once.

Yours &c.

John Woodbridge Jr.

I called on Mr. Woodbridge, March 10th and also
in May, the day of forfeiture -

Exhibit E.

And afterwards, to wit, on the 18th day of March, A.D. 1859. there was filed in the Court aforesaid, in said Cause, a certain Stipulation, in the words and figures following, to wit-

Be it remembered that at the final hearing, the defendants introduced R. C. Rankin, who testified as follows- In May 1855. the Telegraph Company kept a Record of all messages received- I find a message registered on the book, from Biggs to Woodbridge, it was from Cincinnati- it is registered May 10th- as received at this office- The messages are registered on the day after they are received, according to the course of business in the office, under the proper date, viz- the day previous- There was no other message received at that time-

On cross-examination, witness testified- I don't know what the contents of the message were- I have been connected with this office five years- If a despatch is received late at night, I don't know of a case of its being registered in next days business- I don't know what the manner of doing business in this office, was at the time- I was not then acquainted with their business- but that is the rule of all offices, that I have ever been acquainted with-

At that time, a message received may have been sent a day or two before it was received- can't tell certainly about that-

Defendants also read in evidence the following letter from Orrington Lunt, to Thomas R. Biggs Esq. dated

March 28th 1855. viz-

Chicago March 28th 1855

Thos. R. Biggs Esq.

Dear Sir,

I wrote you in the winter, asking if the payments on the Mc. Cullough lots, would be promptly met, and understood from Mr. C. they would be, and I relied on them, having a large amount to pay. On the 8th, you wrote saying it would be delayed ten days - the cause of which I could not see, but could as well have been arranged before as after the 10th. Twice the length of time you named, has passed, and I hear nothing from you. Had I not been advised it would come, I would have made different arrangements, and not have to have my note laying over in the bank, very much to my inconvenience. By the delay the whole of the payment will become due. All I can say, is I have taken measures to declare the lots forfeited for non-payments in accordance with the notes -

Yours

Orington Lunt

Complainant also read in evidence a duplicate copy of the agreement between Orington Lunt and George Mc. Cullough, of Cincinnati, Ohio, dated 10th day of March, 1853. together with the several assignments and certificates thereon and thereto attached, as follows, viz-

Articles of Agreement, Made and concluded the tenth

day of March, in the year one thousand, eight hundred and fifty three—Between Orrington Lunt of Chicago, Illinois, of the first part, and George McCullough of Cincinnati, Ohio, of the second part, Witnesseth that the party of the first part, at the request of the party of the second part, and in consideration of the money to be paid, and the covenants as herein expressed, to be performed by the party of the second part, hereby agrees to sell to the said party of the second part, all that certain lot and parcel of land situate in Chicago, Cook County, Illinois—known and distinguished as follows, to wit—Lots twenty (20) twenty one (21) and twenty two (22) in Block Sixty two (62) and Lots one (1) two (2) and three (3) in Block Sixty three, in the Illinois and Michigan Canal Trustees Subdivision of Lots and Blocks, in the West part of the South West quarter of Section Nine (9) in Township Thirty-nine (39) North Range fourteen⁽¹⁴⁾ East, in the old town of Chicago, with the privileges and appurtenances thereunto belonging—

And the said party of the second part, in consideration of the premises, hereby agree to pay to the said party of the first part, his or their executors, administrators or assigns, the sum of ten thousand dollars—as follows, viz—\$2500.00 at this date, which is this day paid, \$2500.00 on March 10. 1854. \$2500.00 on March 10. 1855. and \$2500.00 on March 10. 1856. for which three last payments, said Mc

6. 5
Bullough has executed his notes of \$2500 each, with interest at the rate of six per cent per annum, to be paid according to the tenor of said notes, at the Marine Bank, Chicago, - And also that he will well and faithfully, in due season, pay, or cause to be paid, all taxes and assessments, ordinary and extraordinary, for any purpose whatever, upon the said premises or appurtenances -

And the said party of the first part further covenants and agrees with the said party of the second part, that upon the faithful performance by the said party of the second part, of his undertaking in this behalf, and of the payment of principal and interest of the sums above mentioned, in the manner specified, he, the said party of the first part, shall and will, without delay, well and faithfully execute and deliver, in person or by attorney duly authorized, a good and sufficient deed or deeds, and hereby assign and convey to the said party of the second part, his heirs and assigns, a good, perfect, and unencumbered title, in fee simple, to the above described premises, with their appurtenances -

And it is mutually covenanted and agreed, by and between the parties hereto, that in case default shall be made in any of the payments of principal or interest, at the time, or any of the times above specified, for the payment thereof, and for sixty days thereafter, this agreement, and all the preceding

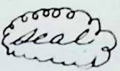
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provisions hereof, shall be null and void, and no longer binding, at the option of the said party of the first part, his representatives or assigns - and all the payments which shall then have been made hereon, or in pursuance hereof, absolutely and forever forfeited to the said party of the first part - or at the election of the said party of the first part, his representatives and assigns, the covenants and liability of the said party of the second part, shall continue and remain obligatory upon the said party of the second part, and may be enforced, and the said consideration money, and every part thereof, with the annual interest as above specified, be collected by proper proceedings in law or equity, from the said party of the second part, his heirs, executors, administrators or assigns -

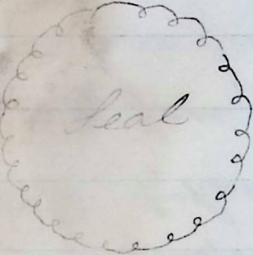
And it is further mutually covenanted and agreed, by and between the parties hereto, that in case of default in the payments stipulated to be made by the said party of the second part, or any part thereof, and the election of the party of the first part, his representatives or assigns, to consider the foregoing contract of sale at and end, and prior payments forfeited, the said party of the second part, his heirs, representatives, or assigns, who may have possession, or the right of possession of said premises, at the time of such default, or at any time thereafter, shall be considered, and are hereby agreed and declared to be, in law and equity, the tenant or tenants at

will, of the said party of the first part, his representatives and assigns, on a rent, equal to an interest of ten per cent per annum, on the whole amount of the purchase money above specified, payable quarterly yearly, from the day of such default in payment of principal or interest - And after such default in payment, and election to consider the above contract of sale as void, the said party of the first part, his representatives and assigns, shall and may have and exercise all the powers, rights and remedies, provided by law or equity, to collect such rent, or to remove such tenant or tenants, the same as if the relation of landlord and tenant, hereby declared, were created by an original absolute lease, for that sole purpose, on a specified rent, payable quarterly, on a tenure at will - And that in such case, the said tenant or tenants shall and will pay, or cause to be paid all taxes and assessments, ordinary and extraordinary, which may be laid or assessed on said premises, or any part thereof, during the continuance of such tenancy, and will not commit or suffer any waste or damage to said premises, or the appurtenances, but will keep and deliver up, on the termination of such tenancy, the said premises and appurtenances in as good order and repair (ordinary wear and decay, and unavoidable injury by the elements excepted) as they were in at the commencement of such tenancy - In witness whereof, the party of the first part, and the party of the second part, in proper person, have hereunto respectively set their hands and seals, on the day and

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year first above written—

Executed and Delivered } Orrington Lunt 
In presence of } George Mc. Cullough 
State of Illinois }
Cook County } p.

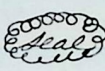
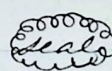
I, Henry W. Clark, a Notary Public
in and for said County in the State aforesaid, do here-
by certify that Orrington Lunt and George Mc. Cullough,
who are personally known to me to be the same persons
whose names are subscribed to the annexed agreement,
appeared before me this day in person, and acknowl-
edged that they had signed, sealed and delivered the
said instrument of writing as their free act and deed,
for the uses and purposes therein expressed—

 Given under my hand and official seal,
this tenth day of March, A. D. 1853.
Henry W. Clark,
Notary Public—

We and each of us do hereby assign all our right, ti-
tle and interest in the within agreement, or in the
real estate named therein, or the proceeds thereof, to Thomas
R. Biggs, assignee of Mc. Cullough, Morris & Co. and he
is authorized to make any such sale or disposition of
the same for cash, or part cash, and part on time, as he
may deem best, or he is authorized in his discretion
to complete the same, and obtain title to the said
Real Estate— and then sell all or any portion of the
same as he thinks best, either as a whole, or in par-
cels or town lots, either for all cash, or part cash and

for the time, as in his discretion may seem best for the purposes of our assignment—He is authorized to make any such sales and disposition of the same, and to make any such settlement either with the said Crington Lunt, or with any other person or persons, of any and all matters relating to the same—and our interest therein, which he may deem wise and prudent, and to pay or cause to be paid any and all moneys due and owing by us, to the said Crington Lunt, on the within agreement, or to his heirs, Representatives or assigns. The same being partnership property—

In witness whereof, the said George Mc. Cullough has affixed his hand, and the said Mc. Cullough, Morris & Co. have affixed their firm name, this 19th day of August, 1854—

George Mc. Cullough 
Mc. Cullough, Morris & Co. 

The State of Ohio. }
Hamilton County. }
City of Cincinnati. }

Be it remembered that on this the twenty-first day of August, in the year Eighteen Hundred and fifty-four, in the City and County aforesaid, before me, a Commissioner in and for said State, residing in said city, appointed by the Governor of the State of Illinois, to take the acknowledgement and proof of the execution of deeds, and other instruments in writing, under seal, to be used or recorded in said State, personally appeared George Mc. Cullough, who

is personally known to me to be the person whose name
is subscribed to the foregoing instrument of writing,
as having executed the same, and ~~has~~ acknowledged
that he individually, and as a member of the firm
of Mc. Cullough, Morris & Co. executed an instru-
ment for the uses and purposes therein mentioned.

In witness whereof, I have hereto set my
Seal } hand and affixed my official seal, as
Commissioner aforesaid, at Cincinnati, on
the day and year last above written—

James Binney

Commissioner for Illinois at Cincinnati

United States of America— State of Illinois— S.S.

A. Alexander Starne, Secretary of State of the said
State of Illinois, do hereby certify that James Binney,
before whom the acknowledgement of the forego-
ing instrument was taken, is now, and was at the
time of taking thereof, a commissioner of said state,
in and for the city of Cincinnati, in the State of
Ohio, duly authorized and empowered by law to take
the same, that I have compared the signature to
the foregoing certificate, and the impression of his
seal thereto attached, with the signature of said
commissioner, and the impression of his seal depos-
ited in my office, and verily believe the same to be
genuine—

In testimony whereof, I have hereunto set my
Seal } hand, and affixed the Great Seal of State,
at Springfield, this 30th day of August. A.D. 1855.
Alexander Starne, Secretary of State

49,760.

State of Illinois, Cook County— Filed for Rec-
ord March 10. 1853. Recorded in Book No 60. of Deeds
page 173.

L. D. Hoard, Clerk—

No 53,338.

State of Illinois, County of Cook, ss. The
within Agreement and assignment filed for Rec-
ord Sept. 1.st 1854. and recorded in Book 86. of Deeds,
page 140—

L. D. Hoard, Clerk—

Complainant further read in evidence, an assign-
ment of George Mc. Cullough and Calvary Morris, com-
proving the firm of Mc. Cullough, Morris & Co. to Thomas
R. Biggs, for the benefit of their creditors, dated July
17th 1854. as follows viz—

We, Mc. Cullough, Morris & Co. do hereby assign and trans-
fer to Thomas R. Biggs, all our property owned by us as
partners, and all our rights, credits and effects owned
by us as partners, in trust to pay the costs and expenses
of managing this assignment, and to divide the
remainder of the proceeds of the property and effects
hereby so assigned, after payment of the costs and ex-
penses aforesaid, equally among all the creditors of the
partnership—

And the said Thomas R. Biggs is hereby authorized
to convert the property and effects hereby assigned, into
money, in such manner as to him shall seem best,
and in selling property at public or private sale, and
in compromising claims, and in all other acts done un-
der this assignment, he shall not be responsible for

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the exercise of a fair discretion without fraud—

Cincinnati July 17th. 1854.

George Mc. Cullough—

Calvary Morris—

Composing the firm of Mc. Cullough, Morris & Co

No 53. 258.

State of Illinois, County of Cook, ss. Filed
for Record, August 26. 1854. and Recorded in Book
76. page 660.

L. D. Hoard, Clerk—

It is stipulated and agreed that the foregoing evi-
dence was read and considered on the hearing,
with the other testimony in the cause—and shall be
entered of Record in this cause, without the judge's
certificate—and that the clerk transcribe the same,
in making up a complete record in this cause for
the Supreme Court—

Williams, Woodbridge & Grant—

Solicitors for Complainant—

Solicitor for Complainant—

Skates, Mc. Allister & Jewett—

Solicitors for Defendants—

And afterwards, to wit, at the February Term of said
Court, to wit, on the 18th day of March, A.D. 1859. the
following proceedings among others, were had and en-
tered of Record therein, in said Cause, to wit—

Thomas R. Biggs, assignee	} In Chancery Bill—
vs	
George Steele, & Orrington Lunt	

This cause having been
brought to a hearing, upon the bill of complaint,

answers, replication, and the several depositions of witnesses filed herein—And it now appearing to this Court, that the Articles of Agreement set forth in the bill of complaint, in this cause, were duly executed on the tenth day of March A.D. 1853. by the said George Mc. Cullough and Orrington Lunt, one of the said defendants, and that the same were at the time of their execution, delivered by the said Lunt to the said Mc. Cullough—that under and by virtue of the same, the said defendant Lunt, for the consideration therein stated, agreed to sell to said Mc. Cullough, Lots twenty (20) twenty (21) and twenty two (22) in Block Sixty two (62) and Lots one (1) two (2) and three (3) in Block Sixty three (63) in the Illinois and Michigan Canal Trustees Subdivision of lots and blocks, in the West part of the South-west quarter of Section Nine (9) in township thirty-nine (39) North of Range fourteen (14) East of the third Principal Meridian, in the old town of Chicago—in the county of Cook and State of Illinois—and to execute and deliver in person or by attorney duly authorized, a good and sufficient deed or deeds, and thereby assign and convey to the said George Mc. Cullough, his heirs and assigns, a good, perfect and unencumbered title in fee simple, to the above described premises, with their appurtenances. And it further appearing to this Court that the said George Mc. Cullough did by the said Articles of agreement, and in consideration of the prem

ises, agree to pay to the said Lunt, his executors, administrators or assigns, the sum of ten thousand dollars (\$10,000) as follows, viz- twenty-five hundred dollars (\$2500) at the date of said articles - twenty-five hundred dollars (\$2500) on March 10th A D. 1854 - twenty-five hundred dollars (\$2500) on March 10th A D. 1855 - twenty-five hundred dollars (\$2500) on March 10th A D. 1856. the three deferred payments to bear interest at the rate of six per cent per annum, and to be paid according to the tenor of three certain notes of the same date with said articles, each for the sum of twenty-five hundred dollars, payable respectively in one, two and three years, from the date thereof, with interest, at the Marine Bank of said Chicago -

And it further appearing to the Court, that said Mr. Cullough took possession of said several lots about the time of the execution of said Articles of Agreement, and paid taxes thereon - that on or about the 16th day of June, A D. 1853. said Mr. Cullough contracted, with one Frederick Becker, to sell him a part of said lot - that said Becker entered under said agreement, contract, and made improvements upon said lots, of the value of fifteen hundred dollars - that the said Mr. Cullough paid to the said Lunt, twenty-five hundred dollars, at the date of said articles, and twenty-five hundred dollars, one year thereafter, with all the interest which was then due said Lunt, under and by virtue of said articles - And it further appearing that the said Mr. Cullough

about the 19th day of August, A.D. 1854. By his
deed of that date, assigned and conveyed to the
complainant, all his right, title and interest in
said Articles of agreement, and in said premises -
that on the tenth day of May, A.D. 1855. the com-
plainant offered to pay said Lunt, the amount of
the third payment due by virtue of said Articles of
agreement - that said Lunt refused to receive the
same - that on the 28th of May, A.D. 1855. said Com-
plainant tendered to both of said defendants, in
full of said third payment in said Articles, and
interest, the sum of twenty eight hundred and forty
dollars (\$2840) in American Gold, which both of
said defendants refused to receive - that on the 9th
day of May, A.D. 1855. said Lunt endorsed upon his
copy of said articles of agreement, an instrument
which purports to convey the interest of said Lunt
in said articles, and the premises therein named,
to said George Steele - that on the 10th day of March
1856. the Complainant tendered to both defendants
in full, of the residue of said purchase, the sum of fifty
nine hundred and fifty dollars (\$5950) which both
of said defendants refused to receive - that on the occa-
sion of the last of said tenders, the complainant de-
manded a deed of said lots, from said defendants,
which both of them refused - And it further appear-
ing that there is now due upon said Articles of agree-
ment, of principal and interest, to complete the pur-
chase of said lots, the sum of six thousand, eight

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hundred and eight dollars and thirty four cents-
thereupon it is ordered, adjudged and decreed, and
the Court doth hereby order, adjudge and decree
that the said articles of agreement be specifically
performed - being the whole amount due on said
articles of agreement, with interest to date -

And it is further ordered and decreed that the
Complainant pay the said sum of \$6808.³⁴ into
Court, within 40 days of the entry of this decree, and
that the said defendant Steele, upon such pay-
ment into Court of the said sum of six thousand,
eight hundred and eight dollars, and thirty four
cents, or within thirty days thereafter, execute and
deliver to the Complainant, a good and sufficient
deed ^{of the said lots,} conveying to the said ~~defendants~~ complainant,
a good, perfect and unencumbered title in fee sim-
ple thereto, to be approved by L. C. Paine Treer, Mas-
ter in Chancery of Cook County, in case the parties
differ respecting the same, and in which convey-
ance, the said Orrington Lunt, and all other prop-
er parties, are to join - And in case the said defend-
ants shall fail to execute such conveyance, upon
payment or tender of said money, and for thirty
days thereafter as aforesaid, then the said Master
is hereby directed to execute and deliver to the com-
plainant, a good and sufficient deed of said prem-
ises, and of the right, title and interest of the de-
fendants therein - And it is further ordered and
decreed that said defendants do pay to the said

complainant, the costs of this suit to be taxed and
that the Complainant have execution therefor—

State of Illinois, }
COUNTY OF COOK. } s. s.

I, WILLIAM L. CHURCH, Clerk of the Circuit
Court of Cook County, in the State aforesaid, do hereby
certify the above and foregoing, to be a true, perfect and complete
copy of the Original Writ papers & proceedings
in a certain cause Latity pending in said Court on the
Chancery side thereof, wherein Thomas R
Biggs assignee to was Complainant and
Lynton Bank & Co were dependents

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the seal of our
Court at Chicago, this Eighth day of April A. D. 1859

W. L. Church

Wm L Church
Clerk.

R. Biggs

Record

Filed Apr. 20, 1859
L. Leland Clk.