No. 14750

Supreme Court of Illinois

Wayman

---

vs.

Cochrane

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STATE OF ILLINOIS,

SUPREME COURT,

THIRD GRAND DIVISION.

No. 64

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

Sept. T. 1864

(Reporter)

Mayron

vs

Cochrane

1864

SUPREME COURT OF ILLINOIS

APRIL TERM, 1864.

WILLIAM WAYMAN, et. al.

vs.

ISABELLA COCHRANE.

I.

Service of the summons by William Wayman, a Deputy Sheriff, upon his wife, a co-defendant, was good.

The rule contended for by the counsel for the plaintiff, applies only when the person serving the process has an interest against that of the person served; and, even then, it applies only when there is some opportunity for oppression, and not when the process is a mere summons to appear.

Bennett vs. Fuller, 4 John. Rep., p. 486.

II.

The notice of the rule for the defendant to answer the amended bill, contained the substance of the rule, and gave the defendant all the notice that a copy would have done. The notice was served more than ten days before Wayman's default was entered.

The Statute cited by the plaintiff, applies to an answer to an original bill, and not an answer to an amended bill. The defendant does not necessarily have until the next term after the filing of an amended bill, in which to answer it.

R. S. Chap. 21, Sec. 34.

III.

The defendant being in default, and the bill being taken as confessed against him, he was not entitled to notice of the hearing before the Master.

IV.

From the report of the Master, it appears that everything was allowed that Wayman claimed at any time should be allowed. The only matter he complains of is, that interest was allowed at ten per cent. instead of six, from the time the judgment had been entered in the suit upon the bond.

V.

The omission in the decree to direct that the Receiver should give bonds, is not error. It was discretionary with the Court to say whether any, and if any, what bond should be given.

VI.

The mortgage was given to secure the payment of the money borrowed, and interest at the rate of ten per cent. per annum until paid. The mortgagee was entitled to his lien upon the land until that contract was performed. The taking of a judgment upon the debt was a collateral proceeding. This is a proceeding in equity, and the Court will give the mortgagee what he is in equity entitled to.

VII.

If the court are of opinion that the decree should have allowed but six per cent. interest from the time the judgment was rendered, the error can be corrected without sending the cause back to the court below.

FARWELL & SMITH

Solicitors for Defendant.

6 4. 145

Supreme Court
Apl Term 1864

Haywood
vs
Cochrane

Defts Points

Filed May 21. 1864
L Leland Clk

Jarnell & Smith
Solrs for Defts

Know all Men by these Presents, That William Wayman ~~and George~~ as principal, and George Lomax as security, are held and firmly bound unto Isabella Cochrane in the penal sum of Seven thousand Dollars good and lawful money of the United States, for the payment of which, well and truly to be made, the said William Wayman and Thomas bind themselves their heirs, executors and administrators, jointly, severally and firmly by these Presents.

Witness, our Seals hereunto set and affixed this Seventh day of May A. D. 1863.

The Condition of the above Obligation is such, That, whereas the above named Isabella Cochrane did, at the March Term of the Supreme Court, of Chicago held in and for the County of Cook in the State of Illinois, A. D. 1863 recover a judgment against the above bounden William Wayman & Foreclosure in a certain suit wherein said Isabella Cochrane was Complainant and said William Wayman, Jane Wayman, and John Cozzens were Defendants for the sum of Seven thousand One hundred and forty seven dollars and sixty nine cents $7.147.69 to reverse which said judgment, the said William Wayman has sued out a Writ of Error from the Supreme Court, within and for the Third Grand Division of said State, which Writ of Error is made a Supersedeas. Now if the said William Wayman shall duly prosecute said Writ of Error, and pay, or cause to be paid, the amount of said judgment, and all judgments, costs, interest and damages which the said Supreme Court shall adjuge against the said William Wayman and abide the order and judgment of said Supreme Court in this behalf, then this obligation is to be void, otherwise to remain in full force and effect.

Wm Wayman [SEAL.]

George Lomax [SEAL.]

[SEAL.]

[SEAL.]

No. 226.

SUPREME COURT,

THIRD GRAND DIVISION.

William Haynes use

vs.

Isabella Coleman

SUPERSEDEAS BOND.

Filed June 11. 1863.

L. Leland Clerk.

Nathan A. Bridges.

In the Supreme Court of Illinois.
3rd Grand Division. Ottawa.
April Term A.D. 1863.

William Heyman
June Heyman
Plffs in Error.
vs
Isabella Corbyne
Deft in Error

William Holdsworth being first duly sworn, doth, that he is a Wholesale Merchant living and doing business in Chicago, Ills. And that he is personally acquainted with George Sumner who is prosecuting said Heyman in the above entitled Case; that said Sumner is a Manufacturer and Wholesale dealer in Soda in Chicago.

This affiant personally knows the circumstances and property said Sumner is followed to:

Said Sumner is the owner in fee without any incumbrance of a Fifty feet front on West Madison Street Chicago, improved and productive, and worth in cash the sum of Fifteen Thousand Dollars and upward. Also Fifty feet on West Monroe Street in Chicago without incumbrance worth the sum of Five Thousand Dollars and upwards in cash; Also part of a Lot on Canal Street in Chicago without incumbrance worth two thousand dollars in cash; also Five Acres near the City of Chicago worth at least

one thousand Dollars in cash without in-
-cumbrance. That said Sunday is in pros-
-perous circumstances, and clear from
debt. And further he saith not.

Wm Holdsworth

Subscribed and sworn to
before me this 29th 1869.
Witness my hand and seal
Wm Lo. Whitehead
Not. Pub.

Sup. Court U. S.

William Maynard
et al.
by
Isabella Columbus

Middleton & Sullo.
for Ds.

William M. Riddle

64 75

SUPREME COURT OF ILLINOIS.

WAYMAN vs. CHANDLER.

ADDITIONAL BRIEF FOR PLAINTIFF IN ERROR.

The Court erred in allowing interest at ten per cent. on the debt, when the record shows that a year and a half before a judgment had been entered on the bond.

The bond and debt became both merged in the judgment, and ceased thereafter to exist as a source of legal obligation.

It no longer bound Wayman to any legal duty. It could not be observed or noticed, or affected by any act of either of the parties. It had passed out of the world of existing things. It was buried in the record.

White vs. *Haffaker*, 27 Ills. 349—352.

From that time six per cent. interest only could be allowed.

White vs. *Haffaker*, 27 Ills. 349—352.

The mortgage is but a collateral security for the debt; not a substantive obligation.

The debt is the principal and the mortgage but an incident, particularly in equity.

Olds vs. *Cummings*, 31 Ills.

Filed May 28. 1864
L Leland Clk

The bond was the debt.

Scott vs. *Nesbitt*, 2 Bro. Ch. Cas. 641.

There could not be two rates of interest—one on the bond debt, the judgment, and a second higher rate on the mortgage. The agreement to pay ten per cent. was merged in the judgment, which afterwards drew interest solely by force of the statute.

White vs. *Haffaker*, 27 Ills. 349.

The judgment debt—the bond, could at any time, can now, be wholly discharged by paying its face with interest since, at six per cent.

The mortgagee therefore is not bound, and cannot be made to pay more. How then can ten per cent. be charged against the land, a mere security? Suppose the land is held by an assignee of the equity of redemption, shall he be made to pay one rate, and his vendor a different one, and less? Or, in case of his death, while his administrator can discharge the whole debt by paying the face of the judgment with six per cent., shall the heir, purchaser or devisee of the land be made to pay ten per cent.?

The land is but a surety for the debt: would be so regarded and dealt with in bankruptcy, administration, or in any other condition calling for a marshaling of assets. It would violate every rule of proceeding and recognized principle, to make the surety pay a higher rate of interest than his principal. Otherwise, there must be two accounts taken, of what is due for the debt, and what is reckoned on the mortgage. But a mortgagor, and those who represent his interests, have a right to be protected against a double account of what is due on the same debt.

Fisher Mortgages, 145.
Beckford v. *Kemble*, 1 Sim. &c., St. 7.

The interest on the mortgage must be the same interest as that secured by and payable on the bond.

Per Master in Scott vs. *Nesbitt*, 2 Br. Ch. 505.

But it is said that interest at ten per cent. can be recovered in covenant on the mortgage. *Which see.*

There is no express covenant for the payment of interest. The clause relied on is nothing but a mere recital of the terms of the bond in that particular.

But even if there was an express covenant, the position taken would be untenable.

Back interest might have been recovered in an action on the covenant, if suit had been brought on it prior to the judgment on the bond. But a recovery on the bond will bar a recovery in covenant.

Platt Covenants, p. 547–8–9.

The bond, as the record shows, was a penal bond for double the debt, $12,000. The judgment on the bond was for that amount, for the entire penalty, covering all damages that could ever possibly accrue. It was therefore a complete satisfaction for the whole debt and all possible damages. So held in a case identical in principle, decided by Lord Mansfield,

Bird v. *Randall*, 3 Burrowes, 1345.

It is therefore a rule of law, based on equity, that where a covenant is given to do a certain act, or pay a given sum of money, and also a penal bond, that a judgment on the bond for the whole penalty agreed upon by the parties themselves, shall bar a subsequent action of covenant.

Without proceeding on the bond, the party may bring his action of covenant *toties quoties*. So here. Covenant would have lain every six months for the non-payment of interest, and at last for the non-payment of principal. But until the principal had matured, covenant would not lie for it, although debt did, and judgment in it was recovered for the whole debt, principal as well as interest, before maturity. It is assumed that the foreclosure is an equitable action of covenant, the absurdity of which is manifest. The covenant in

the mortgage (if any) was wholly superseded, and recovery on it rendered impossible as a rule of law, by the recovery in debt of judgment for the entire penalty of the bond.

It was never heard of that equity would enforce a remedy in excess of the legal obligation or debt, or go beyond the penalty in the bond and the obligation existing upon it for a debt and the payment of interest, thereby clogging an equity of redemption, and increasing the difficulty of redeeming it.

The legal right of the defendant in error is to have her debt paid. The mortgage is nothing but a security. There are not two debts. There is but one debt and but one rate of interest.

The covenant in the mortgage binds only to the payment of the debt according to the terms of the bond. The remedy sought on this mortgage, the allowance of ten per cent. interest since the entry of judgment on the bond, is inconsistent with the operation of well settled rules of law. The judgment was for the whole penalty, double the debt. It embodies in it interest on the debt to the date of its entry. Since then, interest has been accruing on that interest. The party has her satisfaction of the covenant contained in the mortgage, in the judgment for the full penalty of the bond. To allow her the benefit of all these accumulated remedies, and inconsistent advantages, is not authorized by any recognized rule.

The decree violates all these considerations and principles of law, and should therefore be reversed.

ARTHUR W. WINDETT,
for Pl'ff in Error.

In Supreme Court Rec. Book 7

Illinois. Ch. June A.D. 1843.

William Wayman
Jane Wayman
v
Isabella Cochran

Nathan W. Kinsell being first duly sworn says that Alexander White, and J. C. Corbett of Cook County are both residents of that County. That they are both the owners of large valuable and highly productive Real Estate in Chicago. and affiant is informed, and believing this, avers that the amount in controversy herein exceeds the sum of twenty-five thousand dollars, exclusive of costs and interest.

Nathan W. Kinsell

Subscribed and sworn before me
this 24th of April 1843.
L. Leland Clk.

Motion for a Supersedeas in this cause
Suggest Alex. White, and J. C. Corbett
of Cook Co. Ills County as Real Parties.
Nathan W. Kinsell
Complts. Solr.

Feb. 64 Circ. 224

Washington Arc

?

D. Cochran

Martin & Mid.

- and for

Superseder.

Filed Feb. 25. 1863

S. Sloan

Clk

Letters to Marshall

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the Second day of March in the year of our Lord One Thousand Eight Hundred and Sixty Three and of the Independence of the United States of America the Eighty Seventh

Present, The Honorable John M Wilson Chief Justice of the Superior Court of Chicago.

Van H Higgins and Grant Goodrich Judges.

Joseph Knox Prosecuting Attorney.

David S Hammond Sheriff of Cook County.

Attest, Thomas B Carter Clerk.

1 Be it remembered that heretofore Court, on the Seventeenth day of March in the Year of our Lord One Thousand Eight Hundred and Sixty Two there issued out of the office of the Clerk of the Superior Court of Chicago the Peoples Writ of Summons - which said Writ with the Sheriffs Return thereon endorsed are in words and figures following to wit

State of Illinois }
County of Cook } ss.

The People of the State of Illinois
to the Sheriff of said County: Greeting

We Command You that You Summon, William Raymond, Jane Raymond and John P Crozier

2

if they shall be found in your County personally to be and appear before the Superior Court of Chicago of said County of Cook on the first day of the next term thereof, to be holden at the Court House in the City of Chicago in said County on the first Monday of June next to Answer unto Isabella Cochrane in her Certain Bill of Complaint filed in the said Court in 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 Thomas B Carter Clerk of our said Court, and the Seal thereof at the City of Chicago aforesaid this 17th day of May A D 1862

Seal

Thomas B Carter Clerk

Served this writ by delivering a Copy thereof to June Waymire this 31st day of May 1862. the within named defendant not found in my County

A C Herring Sheriff by Wm Waymire Deputy

Served this writ: on the within named Wm Waymire by delivering a Copy thereof to him the 19th day of May 1862

Anthony C Herring Sheriff by A Bruning Deputy

2.

And afterwards to wit on the same day and year aforesaid the Complainant thereby by Carlos Ives Solicitor filed in the office of the Clerk aforesaid her Certain Bill of Complaint in words and figures following to wit

1st

3.

State of Illinois }
Cook County ss }

To the Hon John M Wilson Van H. Higgins and Grant Goodrich Judges of the Superior Court of Chicago In Chancery sitting.

Humbly complaining Showeth unto your Honors your Oratrix Isabella Cochran of the City of New York in the State of New York that heretofore to wit on or ~~about~~ about the twenty eighth day of March in the years Eighteen Hundred and sixty one William Nayman of the City of Chicago in the County of Cook and State of Illinois applied to your Oratrix to lend him the sum of Six thousand ($6000.) dollars on security of the premises, and peices and parcels of land Situate in said City of Chicago, Known and discribed as follows to wit Lots Numbered ten (10) and eleven (11) in Block Eleven (11) in the Original Town of Chicago in said County of Cook and State of Illinois. And thereupon your Oratrix consented to make said loan and accordingly advanced the said sum of Six thousand ($6000) dollars to the said William Nayman and paid the same to him, Whereupon and in order to secure the repayment of the said sum of Six thousand ($6000) Dollars with interest at the rate of ten per cent per annum to your Oratrix by deed of Mortgage bearing date the day and year aforesaid to wit the 28th day of March AD 1861 and made and executed by the said William Nayman and Jane Nayman his Wife. They the said William and Jane Nayman did grant, bargain Sell, alien, release convey and confirm unto your Oratrix heirs and assigns forever all those certain lots peices or parcels

of land situate lying and being in the City of Chicago aforesaid and known and discribed as follows to wit lots numbered ten (10) and eleven (11) in Block eleven (11) in the Original Town of Chicago. To have and to hold the same with the appurtenances unto your Oratrix her heirs and assigns forever. Subject nevertheless to a proviso for the redemption of the said premises on payment by the said William Neyman his heirs executors or administrators to your Oratrix her executors administrators or assigns the said sum of six thousand ($6000) dollars with interest for the same as herein before set forth as by the said Mortgage deed reference being there to had will more fully appear. Which said mortgage deed is recorded in the Recorders office of said County of Cook in Book 58 of Mortgages at page 209 and a copy of the said Mortgage deed is hereto attached and marked "Exhibit A" and is hereby made a part of your Oratrix's bill of complaint.

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And your Oratrix further shows that at the same time of executing the said mortgage and bearing even date therewith the said William Neyman Executed and delivered to your Oratrix his certain penal bond in the penal sum of Twelve Thousand dollars and conditioned for the payment to your Oratrix of said sum of Six thousand dollars in five years after the date thereof together with interest at the rate of ten per cent per annum which said interest was to be paid yearly to wit on the Twenty Eighth day of each of the months of September and March which should be in each and every year until the said principal sum of Six thousand dollars together with the interest thereof as aforesaid

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should be fully paid, according to the tenor and effect. true interest and meaning of said bond a copy of which is here to attached and marked "Exhibit "B" and by reference thereto is made a part of this bill of complaint

And your Oratrix further shows that among other things it is expressly provided in and by the said Bond and Mortgage that if default should be made in the payment of any of the interest on the said principal sum of Six thousand ($6000) dollars and any portion thereof should remain due and unpaid for the space of twenty days after the same should become due and payable according to the interest and meaning of penal bond and Mortgage then and in that event the said principal sum of Six thousand dollars together with all arrearages of interest thereon should at the option of your Oratrix become due and payable and might be demanded and collected immediately thereafter.

And your Oratrix shows that said Mortgage deed reciting in substance said penal bond was made, executed and delivered to your Oratrix as security for the condition in said bond contained and that therein and thereby as well as by said bond said principal sum as well as the interest thereof as aforesaid becomes due and payable for the non payment of interest as aforesaid.

And your Oratrix further shows unto your Honors and unto that to wit on the Twenty Eighth day of September Eighteen Hundred and Sixty one, there became and was due and payable to your Oratrix by said William Mayrnen the sum of Three Hundred dollars, being the amount payable

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on that day for interest on said principal sum. and and that afterwards to wit on the twenty eighth day of March Eighteen Hundred and Sixty two there became and was due and payable to your Oratrix by said William Wayman the further and additional sum of three Hundred dollars being the amount payable on the day last aforesaid on said principal sum and being for the interest for the half year ending on the day last aforesaid. And your Oratrix avers that said William Wayman nor any one for him has ever paid said interest or any part thereof to your Oratrix or to any of her authorized agents, although more than twenty days have passed since said interest became due and payable Whereby and by reason thereof, in pursuance of the option of your Oratrix, said principal sum of Six thousand dollars, together with all arrearages of interest thereof has become due and payable and may be now demanded and collected by your Oratrix And your Oratrix further Shows and avers that no sum of money whatever has ever been paid to her by said Wayman on account of interest or principal of said loan, but that now the whole of said principal sum of Six thousand dollars together with the interest thereof as aforesaid remains due-owing and payable to your Oratrix by said William Wayman.

And your Oratrix further Shows unto your Honors and avers that on or about the thirteenth day of November Eighteen Hundred and Sixty one your Oratrix caused a judgment at law to be entered in the Law side of this Court in favor of your Oratrix and against the said William Wayman for

544

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the sum of Six thousand two Hundred and Ninty Eight dollars and costs of suit, said sum less twenty five dollars attorneys fees included therein being the amount of principal and interest due and owing on the day last aforesaid unto your Oratrix on said penal bond above recited.
And your Oratrix further Shows that a writ of Execution was afterwards issued on said Judgment but that no part or portion of said Judgment has ever collected or paid. that said Execution has returned by the Sheriff in no part satisfied and that the amount of said Judgment together with the interest thereon and costs of said suit and the Attorneys fees aforesaid remain owing and payable to your Oratrix. And your Oratrix further Shows that one John P Crozier on or about the Ninth day of January AD. 1862 in the Circuit Court of said Cook County against said William Raymon for the Sum of ten Thousand dollars debt to be discharged on payment of five thousand seven Hundred & fifty nine dollars & Seventy two cents & Costs of Suit And of your Oratrix is informed that said John P Crozier claims to have some interest in said Mortgaged premises under & in virtue of said Judgment & your Oratrix prays that said Crozier may be a party Defendant hereto & by his answer set forth what interest if any he claims to have & to have his rights, if any in said Mortgaged premises ad judicated by this Hon Court, And your Oratrix hath frequently of late by herself and otherwise applied to the said William Raymon and requested him to pay your Oratrix the said several and respective

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-ive sums of money and interest so due owing and payable to your Oratrix as aforesaid or to release his right and Equity of redemption of said several tracts peices & parcels of Land to your Oratrix, And if your Oratrix hoped that said Several Requests should have been complied with, But how so it is may it please your Honors that the said William Neyman has refused and neglected either to pay your Oratrix the said Sum of Six thousand dollars and the interest thereon or any part thereof payable as aforesaid or to release to your Oratrix his right and equity of redemption in and to said Mortgaged premises and Lands, And said William Neyman and his said Wife combining and confederating together and with other persons unknown to your Oratrix whose names when discovered your Oratrix prays she may be at liberty to insert herein as defendants with apt words to charge them as defendants hereto and contriving how to injure your Oratrix in the premises and continuing such refusal at times pretend that there is some other incumbrance upon or affecting said Mortgaged premises or some part thereof prior to your Oratrix's said security but what is the nature thereof or in whom the same is vested said defendants refuse to discover. Whereas your Oratrix charges the contrary thereof to be true but yet said defendants persist in such refusal, all which actings and doings and pretences are contrary to Equity and good conscience and tend to the wrong, injury, and oppression ~~of said~~

yr

of your Oratrix in the premises. In consideration whereof and since your Orator is without remedy save in this Honorable Court of Equity where matters of this sort are cognizable and relievable. To the end that the said William Brayman Jane Brayman & John P Bogies and the rest of the Confederates when discovered may upon their several and respective corporal oaths true direct and perfect answers make to all and singular the matters herein before stated and charged as fully and particularly as if the same were herein after repeated and they thereunto directly interrogated and that an account may be taken by and under the direction of this Hon. Court of what may be due owing and payable to your Oratrix on account of said bond and mortgage and that a decree may be made in pursuance of law for the sale of said mortgaged premises and for the payment of the amount due your Oratrix for principal and interest according to the meaning and effect of said bond and mortgage and for payment of costs of this suit by defendants and that said defendants and all persons claiming under them subsequent to the Commencement of this suit and all other persons through not parties to this suit who have any liens by Judgment or decree upon the mortgaged premises subsequent to the said mortgage of your Oratrix or any liens or claims thereon by or under any such subsequent judgment or decree either as purchasers incumbrancers or otherwise may be barred and foreclosed of all Equity of Redemption in said premises and that your

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Orator may have such other and further relief as the nature of her case may require and as to this Court shall seem agreeable to Equity and good conscience, May it please your Honors to grant to your Orator the peoples writ of Summons issuing out of and under the Seal of this Hon. Court to be directed to the said Defendants William Wayman and Jane Wayman his wife and the said John P Crozier therein and thereby commanding them and each of them under a certain penalty to be therein inserted and that they personally be and appear before the Judges of this Hon. Court at the Court room in the said County of Cook then and there to answer all and singular the premises and to stand to abide by and perform such order and decree therein as shall seem agreeable to equity and good conscience and as our Orator will ever pray

Isabella Cochran
Complainant

Norman L Perkens
Sol^{r} for Compt

H K Stebbings
Cl Court

q 116

11

11 Exhibit A 11

This Indenture, Made this twenty eighth day of March in the year of our Lord One Thousand Eight Hundred and Sixty one Between William Wayman and Jane Wayman his wife both of the City of Chicago in the County of Cook and State of Illinois party of the first part and Miss Isabella Cochran of the City of New-York in the State of New York party of the Second part.

Whereas the said William Wayman is justly indebted into the said party of the second part, in the Sum of Six Thousand dollars lawful money of the United States of America, on actual loan of money this day made by said party of the second part, to the said William Wayman at Chicago aforesaid in conformity to and under, and to be construed by the laws of the State of Illinois, secured to be paid by the certain Bond or obligation of the said William Wayman bearing even date herewith, in the penal sum of Twelve Thousand dollars conditioned for the payment unto the above named party of the Second part, her Executors, administrators or asigns of the sum of Six Thousand dollars on the twenty Eighth day of March which will be in the year of our Lord one thousand eight hundred and Sixty six with interest for the same to be computed from the day of the date thereof at and after the rate of Ten per centum per annum, which said interest shall be paid half-yearly, to wit; on the twenty eighth of each of the months of September and March which will be in each and every year until the said principal sum

shall be fully paid: and the said payments, both of prin=
cipal and interest, shall be made at such place in the City
of New York in the State of as the said Isabella
Cochran her executors, administrators or assigns may from
time to time, in writing, appoint; and in default of such ap=
pointment, then at the office of Messrs Cochran & Co. Num=
bers 443 and 445 Broadway in said City of New York.
with a proviso thereunder written, whereby it is expressly
agreed and fully understood, that if default be made in the
payment of any of the interest on the principal sum above
mentioned, payable half=yearly as aforesaid, and any por=
tion thereof shall remain due and unpaid for the space of
twenty days after the same shall become due and payable
according to the above condition, then, and in that case, the
principal sum above mentioned, together with all accrued ages of
interest thereon, shall, at the option of the said Isabella
Cochran her executors, administrators or assigns, thereupon
become due and payable, and may be demanded and col=
lected immediately thereafter, as if the full time for which
this loan is made had fully expired, anything therein before
expressed to the contrary notwithstanding, as by the said
Bond and the condition thereof, and the proviso thereunder
written, reference being thereto had may more fully appear

Now, therefore, this Indenture Witnesseth
that the said party of the first part, for the better securing the
payment of the said sum of money mentioned in the con=
dition of said Bond, with interest thereon according to the
true intent and meaning thereof, and also for and in consid=

eration of the sum of one dollar to them in hand paid, by the said party of the second part, the receipt whereof is" hereby acknowledged, have granted, bargained, sold, alien= ed, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, release, convey and confirm unto the said party of the second part her heirs and assigns forever, all those certain lots, pieces, or parcels of land situate lying and being in the City of Chicago aforesaid and known and described as follows to wit Lots numbered Ten (10) and Eleven (11) in Block Eleven (11) in the original town of Chicago Together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and, also, all the estate, right, title, interest, dower, and right of dower, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in and to the same, and every part and parcel thereof, with the appurtenances.

13.

To Have and to Hold the above granted, bargained, and described premises, with the appurtenances, unto the said party of the second part, her heirs and assigns forever.

Provided Always, and These Presents are Upon This Express Condition, Nevertheless, that if the said party of the first part, their heirs, executors, or administrators shall and do well and truly pay or cause to be paid unto the said party of the second part, her executors

administrators or assigns, the said principal sum of money mentioned in the condition of said Bond, and the interest thereon, at the time and times respectively and in the manner mentioned in the condition of said Bond, according to the true intent and meaning thereof, and shall and do promptly and faithfully fulfill and perform all the covenants and agreements hereinafter mentioned that then and from thenceforth these presents and the Estate hereby granted shall cease, determine and be utterly null and void, any thing herein before contained to the contrary notwithstanding.

And the said William Hayman for himself his heirs, executors and administrators, doth covenant, grant and agree to and with the said party of the second part, her executors administrators and assigns that he will well and truly pay unto the said party of the second part, her executors, administrators or assigns, the said principal sum of money mentioned in the condition of said Bond, and the interest thereon according to the said condition, and also, that he will not at any time hereafter, until the said principal sum, and the interest thereon, shall be fully paid, suffer said premises, or any portion thereof, to be sold for any tax or assessment whatsoever, nor will he do nor permit to be done to, in, upon or about said premises, any thing that may in any wise tend to impair the value thereof or to weaken, diminish or impair the security intended to be effected under and by virtue of this instrument.

And further, that he his heirs, executors and administrators, shall and will, at all times hereafter until said

13th

16.
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principal sum of money and all arrearages of interest thereon, shall be fully paid, keep all the buildings (court-houses excepted) now situated, or that may hereafter be erected upon said premises, fully insured against loss or damage by fire or other casualty, in some good and responsible insurance company or companies (the selection of such insurance company or companies to be left at the option of the said party of the second part, her heirs or assigns or her or their authorized agent) in the fair insurable value of such buildings, and will legally and properly assign to the said party of the second part her executors, administrators or assigns, and deliver to her or them or her or their authorized agent, each, all and every the policies of insurance therefor, as soon as and whenever such insurance shall be effected, and will also deliver to said party of the second part her executors, administrators or assigns, or her or their authorized agent, all premium or renewal certificates receipts for the payment of the premium upon such policy or policies of insurance, as soon as and whenever such ~~insurance shall be effected, and will also deliver to said party of the second part her executors, administrators or assigns or her or their authorized agent, all premium or renewal certificates receipts for the payment of the premium upon such policy or policies of insurance, as soon as and whenever such~~ certificates shall be issued, and in default of so doing the said party of the second part, her executors, administrators or assigns, at her or their option, may effect such insurance in her or their name or names, or otherwise, and the premium money paid therefor shall be a charge upon said

Comm. Mtge
T.B. Carter Elmo

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premises, and shall be secured by this instrument in the same manner as the said principal sum of money above mentioned is secured, and such premium money shall be paid by said William Raymon his heirs and legal representatives to said party of the second part her executors, administrators or assigns, on demand, and may be collected at any and all times after the same shall have been paid, with interest thereon at the rate of ten per centum per annum from the time the same shall be advanced, and the said party of the second part her executors, administrators or assigns shall hold each and all such policies of insurance so received by assignment or otherwise as collateral and additional security for said principal sum of money and interest and shall have the right to collect and receive any and all
X money and sums of money that may become at any time collectable or receivable upon each, all and every of such policies of insurance, and apply the same when received in the same manner, as far as possible, as is hereinafter provided for in case of a sale of said above described premises under the power of sale hereinafter contained. But nothing hereinafter contained shall be construed as requiring the said party of the second part her executors, administrators or assigns to incur any expense or make any effort to collect any money that may become due on any of such policies of insurance, but if She or they shall elect not to collect the same, they shall make such election within a reasonable time after such money shall become collectable, and on demand of said William Raymon or his legal representatives shall transfer

for thwith, after making such election not to collect, re-assign and deliver such policy or policies of insurance to said William Wayman his executors, administrators or assigns.

But it is hereby expressly agreed and understood by and between the parties to these presents, that if default shall be made in the payment of the said principal sum of money above mentioned, or if the interest that may grow due thereon, or of any part thereof, at the time and times respectively when the same ought to be paid as set forth in the said condition of said Bond, or if the said William Wayman his heirs, executors, or administrators shall at any time hereafter until said principal sum and all arrearages of interest thereon shall be fully paid, suffer said premises or any part thereof to be sold for any tax or assessment whatsoever, or shall do or permit to be done to, in, upon or about said premises, or any part thereof, any thing that may in any wise tend to diminish the value thereof, or to impair weaken or diminish the security intended to be effected under and by virtue of this instrument or shall neglect or fail to keep all the buildings (except out-houses) that now are or hereafter may be situate upon said premises, fully insured and the policies of insurance therefor assigned to said party of the second part, her executors, administrators or assigns and delivered to her or them or her or their authorized agent, together with all premium or renewal certificates decreed from time to time for the payment of the premiums upon such policies, as herein before covenanted and provided, or shall fail in any wise promptly and faithfully to fulfill, keep and perform as well in spirit as

17.

in letter, all and singular the covenants and agreements con-
tained in these presents, or if either or any of said covenants and
agreements shall at any time be broken in any respect whatso-
ever, that then and from thence forth it shall be lawful for the
said party of the second part her executors, administrators
or assigns, either in person or by attorney, to enter into and upon
all and singular the said premises hereby granted or intend-
ed to be so, and to sell and to dispose of the same, and all ben-
efit and equity of redemption of the said party of the first
part, their heirs, or assigns therein, at public auction, having
first given twenty days notice of the time and place of such
sale (such sale to be made at Chicago aforesaid) by adver-
tisement in any one of the daily newspapers that may at that
time be published in the English language in said City
of Chicago personal notice of such sale to said party of the
first part, their heirs, executors, administrators or assigns.
or any and all persons claiming by, through or under
them being hereby expressly waived and excused and either
in the name of the said party of the second part, her heirs or
assigns, or at her or their option as the Attorney of the said party
of the first part for that purpose, by these presents duly and
irrevocably authorized, constituted and appointed to make
and deliver to the purchaser or purchasers thereof, a good
and sufficient deed or deeds of conveyance in the law for the
same in fee simple, and all the recitals that may be con-
tained in such deed or deeds setting forth the fact of due notice
advertisement and sale, and any and all such other facts
and statements as may be proper to evidence the legality

of such sale and conveyance, and that the same had been duly made in all respects so as to meet all the requirements herein contained or arising in law, and as may be necessary to convey a good title, shall be deemed to be true, and shall be considered and taken as prima facie evidence of all the facts and matters set forth in such recitals, and such deed or deeds, whether made in the names of the said party of the first part, or in the name or names of the said party of the second part, her heirs, or assigns, shall be effectual to pass the title, and out of the money arising from such sale to pay and retain First— All the costs, charges and expenses of such advertisement, sale and conveyance.

Second— All premium money paid for any insurance as hereinbefore provided, and all money and sums of money which said party of the second part, her legal representatives or assigns may, at any time before such sale, pay or expend to redeem said above described premises from any sale or sales for taxes or assessments, or to save the same from such sale, or to protect the title or possession of said premises, or any part thereof, with interest on all money so advanced or expended at the rate of ten per centum per annum, from the time of so paying or expending the same, up to the time of such sale.

Third— All of said principal money and accrued interest thereon that shall at the time of such sale remain unpaid, whether due or not due, and

Fourth— Rendering the overplus of the purchase money, if any there be, unto the said William Wagman his executors, administrators or assigns; which sale so to be made shall be a perpetual bar both in law and Equity against the said party of the first part their heirs and assigns and all other persons claiming or to claim the premises or any part thereof, by, from or under them, or any of them. And the said party of the first part for the consideration above mentioned, do hereby expressly waive and release all right and benefit which they have in and to said premises, or to which they may be entitled, under and by virtue of an act entitled "An act to exempt Homesteads from sale on execution", approved February 11th, A.D. 1851, and also an act entitled "An act to amend an act to exempt Homesteads from sale on execution." approved February 17th, A.D. 1857, as well as any and all other acts of a like character, or for a similar purpose. And the said William Wagman for himself his heirs, executors and administrators, doth covenant, bargain and agree to and with the said party of the second part her executors, administrators and assigns that he is well seized of the premises above described, as of a good, sure, perfect, absolute and indefeasible estate of inheritance in the law in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free from all other and former grants, Mortgages, liens, incumbrances and tax

sales of any and every name, kind, nature, or discription whatsoever, and against all and every person or persons lawfully claiming or to claim the whole or any part thereof, will Warrant and forever Defend.

In testimony whereof the said party of the first part have hereunto set their hands and seals at Chicago aforesaid the day and year first above written.

William Wayman Seal
Jane Wayman Seal,

Know all Men by these Presents, that I William Wayman of the City of Chicago in the County of Cook and State of Illinois am held and firmly bound unto Miss Isabella Cochran of the City of New York in the State of New York in the penal sum of Twelve Thousand dollars lawful money of the United States of America, to be paid unto the said Isabella Cochran her executors, administrators or assigns, for which payment well and truly to be made, I do bind myself, my heirs, executors and administrators, firmly by these presents.

Sealed with my Seal, and dated at Chicago aforesaid this twenty eighth day of March in the year of our Lord one thousand eight hundred and sixty one.

The condition of this Obligation is such, that if the above bounden William Wayman heirs, executors, or administrators shall and do well and truly pay or cause to be paid unto the above mentioned Isabella Cochran her Ex=

Exhibit "B"

ecutors Administrators or assigns, the sum of Six thousand on the twenty eighth day of March which will be in the year of our Lord one thousand eight hundred and Sixty Six with interest for the same to be computed from the day of the date hereof, at and after the rate of ten per centum per annum, which said interest shall be paid half yearly, to wit: on the twenty eighth day of each of the months of September and March which will be in each and every year until the said principal sum shall be fully paid; and the said payments, both of principal and interest, shall be made at such place in the City of New York in the State of New York as the said Isabella Cockran her executors, administrators or assigns may from time to time, in writing, appoint, and in default of such appointment, then at the office of Messrs Cockran & Co. numbers 443 and 445 Broadway in said City of New York then, and in such case, this Bond to be void, otherwise to remain in full force and virtue.

Provided, Nevertheless, and it is hereby expressly agreed and fully understood, that if default be made in the payment of any of the interest on the principal sum above mentioned, payable half yearly as aforesaid, and any portion thereof shall remain due and unpaid for the space of twenty days after the same shall become due and payable, according to the above condition, then, and in that case, the principal sum above mentioned, together with all arrearages of interest thereon, shall at the option of the said Isabella Cockran her executors, administrators or assigns, thereupon become due and payable, and may be

demanded and collected immediately thereafter, as if the full time for which this loan is made had fully expired, any thing herein before contained to the contrary notwithstanding.

23.

It is hereby expressly declared, that this Bond or obligation is made under, and is, in all respects, to be construed by the laws of the State of Illinois, and is given for an actual loan of money, made at Chicago aforesaid by the said Isabella Eckman to the said William Wayman on the day of the date hereof.

Due bills or interest coupons for each payment of interest are given herewith.

William Wayman (Seal)

Orda June 5 1862

And afterwards to wit on the fifth day of June in the Year aforesaid said day being one of the days of the June Term of the said Superior Court of Chicago the following among other proceedings was had in said Court and entered of record to wit

26.

Isabella Cochran

vs

William Waymen; John Waymen and John P Crozer

Bill

This day Comes A H Nesbitt Solicitor for said defendants And on his motion and no objection being made it is ordered that time for said defendants to plead Answer or demur to the Bill of Complaint in this Cause be and is hereby extended from this day until the first day of the next Term of this Court

And afterwards to wit on the Fourteenth day of July in the Year aforesaid, William Waymen one of the defendants herein by A H Nesbitt his Solicitor filed herein his Ordered Answer in words and figures following to wit

Answer — Wm Wayman

27.

In the Superior Court of Chicago
July Term, A.D. 1862.

The answer of William Wayman one of the defendants to the Bill of Complaint of Isabella Cochran, Complainant.

This defendant waiving all exceptions to the said Bill of Complaint for the many insufficiencies therein contained for answer thereto says, That he admits the making of the loan set forth in said Bill; and the execution by this defendant of the said Bond and mortgage as therein named and mentioned copies of which are attached to said bill as exhibits, as security simply for the repayment of said loan of money.

This defendant admits that part of the interests due half yearly on said loan of money in September last was & is still unpaid; but this defendant avers that he paid to said Isabella Cochran by the hands of L. D. Olmsted & Co her agents the sum of one hundred dollars to be applied to and on account of said Interests or part thereof: which sum said Complainant has failed and neglected to give this defendant credit for and has claimed to keep the same upon some other account

This defendant denies that more than two hundred dollars remain due on account of the instalment of interest due on said loan the 8 of Septr. last. but this defendant admits that the accruing and non payment of the further sum of three hundred dollars for further interest on the 8 of March last, making in all now due

and in arrears for interest on said loan of the sum of five hundred dollars and not more as is untruly stated in said Bill of Complaint. But this defendant avers that said respective instalments of interest were unpaid when they became due, and this defendant was prevented and temporarily disabled from paying them by reason wholly of the great loss of his rents of said mortgaged property, and the great and wholly unlooked for depreciation of property and Real Estate in this City, caused by and immediately consequent upon the civil war and disturbances of the Country, which have existed for upwards of a year and the currency panic caused thereby in this State and city during the last year — brought about by the attempted secession of the Southern States of this union — and which are in the nature of an accident beyond human control and a ground of relief in a Court of Equity in this case as this defendant humbly insists.

This defendant contends and charges that the power of forfeiture in said bonds and mortgage contained, for a default in payment of any part of said interest instalments were inserted, and are inoperative, solely as penal clauses for the greater security of said Complainant and are not substantial parts of the contract between this defendant and her; and that this defendant is entitled to be relieved from any pretended forfeiture as claimed in said Bill upon payment of said interest monies now remaining due and unpaid; which this defendant hereby offers to pay; and prays

that under existing circumstances the court may extend for a reasonable period, the time within which defendant may be allowed to make said payments and to be saved from the hardships and great injustice of a premature foreclosure, and sacrifice of his rights in the premises, and of his said mortgaged property.

29. And that thereupon this defendant may be hence dismissed; and as in duty bound he will ever pray &c

Wm Wayman.

Arthur W. Windett
of counsel with
defft.

State of Illinois
Cook County. ss. William Wayman being first duly sworn says that he has read said answer by him above subscribed, and knows the contents thereof; and that the same are true as to all such matters as therein are stated as of his own knowledge; and as to all matters therein stated upon his information and belief; he is informed and believes all such to be true

Subscribed and sworn
to this 20 July 1862.
Thos B. Carter
clk.

Wm. Wayman

And afterwards to wit on the Twelfth day of January in the Year of our Lord One Thousand Eight hundred And Sixty three, said day being one of the days of the January Term of said Court the following entry

of the proceedings prior had in said Court and entered of record
to wit

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Isabella Cochrane

vs

Bill to Foreclose

William Waymire and Jane Waymire
and John R Crozer

And now at this day comes said Complainant by Norman Perkins her Solicitor and the personal Service of process of Summons issued in said Cause having been had on the said Jane Waymire one of said defendant in said Cause, and it appearing to the Court that the said John R Crozer another of the said defendants in said Cause has been duly served with notice of the pendancy of the Bill of Complaint in said Cause as appears by due proof of the publication of notice for four Successive weeks in the Chicago Post a daily Newspaper published in the City of Chicago and of General Circulation throughout said County of Cook and State of Illinois, the date of the first paper containing such notice being the 21st day of May A D 1862 and that of the last the 21st day of June A D 1862, affidavit of the non-residence of said defendant having been made and filed and such notice by publication being made more than sixty days before the return day of the Summons issued in said Cause, which had been duly returned not found as to said defendant, Whereupon on motion of said Complainants Solicitor it is ordered that the said defendants Jane Waymire and John R Crozer personally plead Answer or demur to the Bill of Complaint in said Cause instanter, And they being thereupon Called in open Court Come not nor does any person for them or either of them, but herein they wholly make default, and interpose

or plea Answer or Demurrer to the defence and it is
ordered that their default be and is hereby entered herein
and that the Bill of Complaint be taken as Confessed
by and against said defendants Jane Wayman and
John R Conger and each of them for want of their
31. Answer thereto

And afterwards to wit on the Sixteenth day of
January in the Year last aforesaid the Complainant
in this Cause by J C Perkins his Solicitor filed
herein his Certain Replication in words and
figures following to wit

Replication

33.

State of Illinois,
Cook County ss}

In the Superior Court of Chicago,
In Chancery.

Isabella Cochran
v
William Wayman
Jane Wayman
John P Cozzer

This repliant saving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answers of William Wayman one of said Defendants - for and by way of replication saith that his said orignal bill of complaint exhibited into this Court against the said Defendants and all and every the matters therein contained are true certain and sufficient in law to be answered unto by the said Defendants and that the answer of the said Defendant William Wayman is untrue insufficient and uncertain in the law to be replied unto by this repliant - save and except that this repliant doth admit it to be true as in the said answer of the said William Wayman is alleged that the said Defendant William Wayman did pay to this repliant the sum of one hundred dollars on account of and in reduction of the amount of the indebtedness secured to be paid to this repliant by the penal bond and mortgage mentioned & referred to

in this repliants said bill of Complaint without that, that there is any other matter or thing in the said answer of the said William Wayman Defendant contained material or effectual for this repliant to reply unto, and not herein and hereby well and sufficiently replied confessed and avoided traversed or denied is true.

All which matters and things save and except as aforesaid this repliant is ready to aver and prove as this Court shall award and prays as in and by his said bill of Complaint heretofore exhibited to this Court he hath prayed.

H.D. Stebbings. of Counsel.

Isabella Cochran
By W.C. Perkins her solicitor.

And afterwards to wit on the Twentieth day of January in the Year last aforesaid. Said day being one of the days of the January Term of Said Court the following among other proceedings was had in Said Court and entered of record to wit

Isabella Cochran
vs
William Wayman
Jane Wayman & John P. Cooper

Bill

And now again comes said Complainant by her Solicitor and on his motion it

is ordered that Complainant have leave to Amend the
Bill of Complaint in Said Cause and also withdraw
38. replication to Answer of the defendant William Waymon

And afterwards to wit on the Twenty Second day of
January in the Year last aforesaid Said day being one
of the days of the January Term of Said Court the following
among other proceedings was had in Said Court and
on Record of Record to wit

Isabella Cochrane
vs Bill to Foreclose
William Waymon
Sam Waymon and John R Crozer

And now again Comes
the Said Complainant by her Solicitor and the Said
William Waymon one of Said defendants also Comes by
his Solicitor And on motion Complainants Said Solicitor it
is ordered that Said Defendant William Waymon be
and he is hereby required to file his Answer to the bill
of Complaint as amended within ~~ten~~ ten days
after being served with notice of the entering of this rule
and Copy thereof

And on the Same day and Year aforesaid the
Complainants by her Solicitor Norman Pallen filed

Herein her Ontario Amended Bill of Complaint in words and figures following to wit

Amended Bill

State of Illinois.)
Cook County. } SS.

To the Honorable Judges of the Superior Court
37 of Chicago. In Chancery Sitting.

Humbly complaining showeth unto your Honors your oratrix Isabella Ishram of the city of New York in the State of New York that heretofore to wit on the 17th day of May A.D. 1862 she exhibited in this Court her bill of complaint against William Waymann and Jane Waymann his wife of the city of Chicago in said County of Cook and also against one John P. Croger. Defendants and now your oratrix by leave of this Hon. Court first had and obtained your oratrix doth hereby Exhibit this her amended bill of complaint in the same cause and thereupon showeth.

That heretofore to wit on or about the 28th day of March. A.D. 1861. the said William Waymann applied to your oratrix to lend him the sum of Six thousand Dollars on security of the premises and pieces and parcels of land Situate in said City of Chicago in said county of Cook and State of Illinois. and known and described as follows. to wit. Lots numbered ten (10) and eleven (11) in Block eleven (11) in the original Town of Chicago and thereupon your oratrix consented to make said loan of money and did thereupon advance lend and pay over to said William Wagnan the said Sum of Six thousand dollars. and then and there in order to secure the repayment of said sum of money and the interest thereof at the rate of ten per cent per annum according to the tenor and

effect and true intent and meaning of the certain bond and the mortgage of said William Wagman and his said Wife - He the said William Wagman did make execute duly acknowledge and deliver to your oratrix the bond and mortgage mentioned and referred to in the bill of complaint above referred to and made a part thereof and man herein again referred to and made a part hereof

Your oratrix shows the bond aforesaid was a penal bond - in the penal sum of twelve thousand dollars and a copy thereof is attached to the bill of complaint above referred to and is there marked "Exhibit B" and was made and is subject to a condition - in substance as follows and to such said condition only to wit.
The condition of this obligation is such that if the above bounden William Wagman heirs. Executors or administrators shall and do Well and truly pay or cause to be paid unto the above named Isabella Cochran her executors administrators or assigns the sum of six thousand Dollars. on the twenty eighth day of March which will be in the year of our Lord one thousand eight hundred and sixty six with interest for the same to be computed from the day of the date hereof at and after the rate of ten per centum per annum which said interest shall be paid half yearly to wit on the twenty eighth day of each of the months of September and March which will be in each and every year until the said principal sum shall be fully paid and the said payment both of principal and interest shall be made at such

place in the City of New York in the state of New York as the said Isabella Cochran her executors administrators or assigns may from time to time appoint and in default of such appointment then at the office of Miss Cochran No numbers 443 and 445 Broadway in said City of New York - then and in such case said bond to be void, otherwise to remain in full force and virtue. as is set forth in the bill of complaint before referred to.

And your oratrix shows that in and by the mortgage aforesaid the said William Wagman and Jane Wagman after reciting in substance the contents of said penal bond and for the purpose aforesaid did grant, bargain, sell, alien release, convey and confirm unto your oratrix her heirs and assigns forever not only the aforementioned lots pieces and parcels of land to wit Lots ten (10) and eleven (11) in Block eleven (11) in the original town of Chicago in said County of Cook but also together therewith all and singular the tenaments hereditaments and appurtenances thereunto belonging or in anywise appertaining - and the reversion and reversions, remainder and remainders. rents issues and profits thereof - and also all the estate right title interest dower and right of dower property possession claim and demand whatsoever as well in law as in equity of the said William Wagman and his said wife of in and to the same and every part and parcel thereof with the appurtenances. To have and to hold the above granted and

described premises with the appurtenances unto your oratrix her heirs and assigns forever. subject however to a proviso for the redemption of the said mortgaged estate on payment by said William Wagman his heirs executors or administrators to your oratrix her executors administrators or assigns the said sum of six thousand Dollars with interest for the same as herein before set forth as by the said mortgage deed reference being thereto had will more fully appear. said mortgage being of record in the Recorders office of said Cook County in Book 58 of Mortgages at page 209 reference is hereby made to said record for greater certainty

And your oratrix further shows that among other things it is expressly provided in and by the said bond & mortgage that if default be made in the payment of any of the interest on the said principal sum of six thousand Dollars and any portion thereof should remain unpaid for the space of twenty days after the same should become due and payable according to the true intent and meaning of said bond and mortgages then and in that event the said principal sum of six thousand dollars together with all arrearages of interest thereon should at the option of your oratrix become due and payable and might be demanded and collected immediately thereafter and your oratrix insists and avers that said principal sum and the interest thereof becomes due and payable for the

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non payment of interest money as aforesaid.

And your oratrix avers that to wit on the 28th day of September A.D. 1861. there became and was due and payable by said William to your oratrix the Sum of three hundred Dollars being the amount payable on that day for interest for the six months then last past on said principal sum. and that afterwards to wit on the 28th day of March A.D 1862 there became due and was payable to your oratrix by said William the further and additional sum of three hundred dollars being the amount payable on the day last aforesaid for the interest of said principal sum for six months then last past and ending on the day last aforesaid.

41.

And your oratrix avers that in and by said mortgage said William Wagman among other things did covenant and agree that from and after the time of making said mortgage as aforesaid he would at all times until said principal sum of money and all arrearages of interest thereon should be fully paid, keep all the buildings (out houses excepted) then situated or that should thereafter be erected upon said mortgages premises fully insured against loss or damage by fire or other casualty in some good & responsible insurance Company or Companies the election of such insurance Company or Companies to be left at the option of your oratrix her heirs or assigns or her or their authorized agent in the fair insurable value of such buildings and will legally

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and properly assign to your oratrix her executors administrators or assigns and deliver to her or them or her or their authorized agent each all and every the policies of insurance therefor as soon as and whenever such insurance shall be effected and will also deliver to your oratrix her executors administrators or assigns or her or their authorized agent all premium or renewal certificates received for the payment of the premium upon such policy or policies of insurance as soon as and when ever such certificates shall be issued and in default of so doing it was agreed that your oratrix her executors administrators or assigns at her or their option might effect such insurance in her or their name or names or otherwise and the premium money paid therefor should be a charge upon said premises and should be secured by said mortgage in the same manner as the said principal sum of money above mentioned is secured and that such premium money should be paid by said William Wagman his heirs and legal representatives to your oratrix her executors administrators or assigns on demand and may and might be collected at all times after the same should have been paid with interest thereon at the rate of ten per centum per annum, from the time the same should be advance and that your oratrix should hold each and all such policies of insurance so received by assignment or otherwise as collateral and additional security for said principal sum of money and

interest and shall have the right to collect and receive any and all money and sums of money that may at any time become collectable or receivable upon each all and every of such policies of insurance and apply the same when received in the same manner as far as possible as is in the said mortgage provided for in case of a sale of said above described premises under the power of Sale therein contained.

And your orator avers that among other things it is further provided in said mortgage and therein expressly covenanted and agreed that if default should be made in the payment of the said principal sum of money or of the interest that may grow due thereon or of any part thereof at the time and times respectively when the same ought to be paid as set forth in the condition of said bond, or if the said William Wagman his heirs executors or administrators should at any time until said principal sum and all arrearages of interest thereon should be fully paid do or permit any thing upon or about said premises which might tend to impair or weaken the security intended to be effected under or by virtue of said mortgage or should neglect or fail to keep all the buildings (except out houses) that were or might be situate on said premises fully insured and the policies of insurance therefor assigned as aforesaid together with all premium or renewal certificates received from time to time for the payment of the premium upon

such policies - or shall fail in any way promptly to fulfill and keep and perform as well in spirit as in letter
44 all and singular the covenants and agreements contained in said mortgage or if either or any of said covenants should be broken in any respect that then and from thenceforth it should be lawful for your oratrix to enter into the primises by said mortgage granted, and to sell and dispose of the same and all benefit and equity of redemption of the said William Wagman and Jane Wagman their heirs and assigns at public auction, having first given twenty days notice of the time and place of such sale in manner and form as proscribed in said Mortgage.

Your oratrix avers that said Bond and mortgage together considered, exhibit and set forth in detail the contract between your oratrix and said William Wagman in relation to said loan of money and the repayment of the same with the interest thereof and the security therefor and for the breach of which said contract on the part of said William Wagman Your oratrix doth herein rest her complaint and claim her relief.

Your oratrix avers that on or about the first day of September A.D. 1861 there were three insurable buildings situate on said mortgaged estate viz: The two story wooden dwelling house known as No 92 North Desplaines Street, also, The frame dwelling known as No 90 North Desplaines Street and

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the Brick Hotel or Boarding House situate on the South east corner of Carrol and Des Plaines Street. that from and after the date last aforesaid the said William Wagman failed and neglected to procure any insurance against fire of said buildings and that at the date aforesaid your oratrix caused the said buildings to be insured and has kept the same insured since that time as follows; to wit.

The dwelling house first above named in the City Fire insurance Company of New Haven Connecticut insured for six hundred Dollars.

The building second above named in the same Insurance Company insured for seven hundred Dollars.

The Brick building above named in the same Insurance Company for two thousand dollars. and that afterwards to wit on the 6th day of April A.D. 1862. your oratrix caused additional Insurance of said buildings to be made in the Home Insurance Company of New Haven Connecticut for the sum of twelve hundred distributed on said Mortgaged estate as follows to wit. four hundred Dollars on said house no 92. three hundred dollars on said house no 90. and five hundred Dollars on said brick Hotel or boarding house.

And your oratrix avers that she has paid the sum of one hundred and nine Dollars in premium for such Insurance from time to time. and that said Wil-

liam Wagman hath not hitherto repunded your oratrix or paid her the said one hundred and nine dollars
16 or any part thereof but hath wholly refused and neglected to pay the same or any part thereof.
Your oratrix shows and admits that at one time to wit on or about the
day of
the said William Wagman paid to your oratrix the sum of one hundred Dollars which when received by your oratrix was indorsed as a payment of interest on said penal bond. and your oratrix avers that over and beyond the said sum of one hundred dollars the said William Wagman hath not at any time paid her any sum of money on account of said principal sum loaned or of the interest thereof.
And your oratrix avers that more than twenty days time hath passed since said installments of interest became due and were payable as aforesaid and that heretofore to wit on or about the twelfth day of November A.D. 1861 your oratrix elected and determined to declare and did declare the said principal sum of six thousand dollars and all arrears of interest thereof to be fully due and payable and thereupon demanded payment of the same of said William Wagman and gave notice to him of her said election and determination and afterwards to wit on the 18th day of November A.D. 1861 your oratrix.

caused a judgement at law to be entered on the law side of this court in her own favor and against said William Wayman for the sum of five thousand two hundred and ninety eight Dollars and costs of suit said sum less twenty five dollars attorneys fees included therein being the amount of principal and interest due and owing on the day last aforesaid to your oratrix on said penal bond—and your oratrix further shows that a writ of execution was afterwards issued on said judgment, but that no part or portion of said judgment was ever collected or paid—that said execution was returned by the Sheriff in no part satisfied. that the amount of said judgment together with the interest thereof and the costs of said suits and the attorneys fees aforesaid remain owing and payable to your oratrix—and that the said John P Croger named as Defendant in said original bill of complaint claims some interest in said mortgaged estates as your oratrix is informed and believes under some judgment at law or otherwise and although said Croger has suffered a default to be taken against him in this suit your oratrix continues him herein as Defendant in order that whatever right by judgment lien or otherwise in said mortgaged premises he may claim may be hereafter fully adjudicated in this cause.

47.

And your oratrix hath frequently of late both before and since the filing of the aforesaid bill of complaint requested

the said William Wagman to pay here the said several sums of money and interest so due and payable as aforesaid but said Wagman neglects and refuses to pay the same or any part thereof except only the sum of one hundred dollars aforesaid and your oratrix shows that said mortgaged estate is a scant and meagre security for the said principal sum and the interest thereof now in arrear and the cash advances so made as aforesaid by your oratrix on account of insurance now due and payable and secured to be paid to your oratrix by said bond and mortgage.

And your oratrix charges that the interest in the said mortgaged premises which the said John Rhorger has or claims to have in said mortgaged premises or any part thereof accrued subsequent to the lien of the said mortgage of your oratrix and is subject thereto.

And your oratrix further shows unto your Honors that by the terms of said mortgage the rents and profits of said mortgaged premises were expressly pledged to your oratrix as security for said debt so due to your oratrix as aforesaid, and that said William Wagman is now in possession of said mortgaged premises and doth appropriate the said rents and profits to his own use and refuses to apply the said rents and profits towards the keeping down the accruing interest upon said debt so due to your orator as aforesaid.

a13

4

29.

Your orator further shows that your oratrix is in danger of losing a portion of said money so due to your oratrix on the security of said mortgaged premises with the rents issues and profits thereof unless a Receiver be appointed by this Court to collect receive and hold such rents issues and profits for the purpose of applying the same towards the payment of said debt so due your oratrix as aforesaid.

All which actings and doings of said Defendants are contrary to equity and good conscience and tend to the manifest wrong & injury of your oratrix in the premises.

In consideration whereof and since your orator is without remedy at common Law and can only have relief in a court of equity. To the end therefore that the said Defendants if they can show why your orator should not have the relief hereby prayed may upon their several corporal oaths full true direct and perfect answers make to all and singular the said premises as fully and particularly as if the same were here repeated and they there to particularly interrogated according to the best of their several and respective knowledge remembrance recollection information and belief and that an account may be taken under the direction and decree of this Hon. Court of what is due and owing to your orator under said bond and mortgage for principal money and interest

and disbursements for insurance as aforesaid on security of said mortgaged premises and that the said Defendants or some of them may be decreed to pay your oratrix what shall be found due and owing to your oratrix on taking such account together with your oratrixs reasonable costs and charges in this behalf sustained by a short day to be appointed by this Court for that purpose and in default of such payment within the time limited that the said Defendants and each of them and all persons claiming or to claim by through from or under them or any of them may be absolutely barred and foreclosed of and from all benefit and equity of redemption and claim of in and to the said mortgaged premises and every part and parcel thereof with the appurtenances and that all and singular the said mortgaged premises with the appurtenances may by such decree be sold by some special Commissioner or by one of the Masters in Chancery of this Court. and that out of the money arising from such sale your oratrix may be paid the full amount of money due owing and pay able to her and secured to be paid by said bond and mort gage and that by such decree your oratrix may be authorized to become the purchaser at such sale of some portion or all of the said mort g aged estate in satisfaction wholly or in part of the indebtedness found to be due

57

and payable to her as aforesaid. and that the said defendants and all persons claiming or to claim under them or either of them or who

51. have come into possession of said mortgaged premises or any part thereof, during the pendency of this suit deliver and yield up possession thereof to your oratrix or to whomsoever else shall become the purchaser or purchasers of said premises at such sale on your oratrix or their producing to such person or persons in possession or to such defendants the deed or deeds executed by such master or commissioner for the conveyance of said premises or any part thereof to your oratrix or to the purchaser or purchasers thereof pursuant to such sale as aforesaid and also a certified copy of the order of this Court confirming such sale. after such order has become absolute

And that a Receiver may in the meantime be appointed by this Court to take Charge of and let the said mortgaged premises and to collect in and receive all the rents issues and profits of the same and to hold such rents issues and profits subject to the order of this Court.

And that your oratrix may have such other and further relief in the premises as shall be conformable to equity and good conscience.

And may it please your honors to grant your oratrix the writ of summons issuing out of and under

seal of this Court to be directed to said Williams Wayman. Jane Wayman and John P. Crozer therein and thereby commanding them and each of them at a certain day and in a certain penalty to be therein inserted to be and appear before your Honors then and there to answer all and singular the premises and to stand to abide by and perform such order & decree as your Honors shall make & as shall be agreeable to equity and good conscience.

And your oratrix will ever pray

Isabella Cochran

Complainant.

By Norman E. Perkins.

her Solicitor.

W. K. Stebbings Jr.

of Counsel.

53.

And afterwards to wit on the Second day of February in the Year last aforesaid the Complainant in this Suit by N C Perkins his attorney filed herein a Cetain Notice and affidavit, which are in words and figures following to wit

Law Office of Norman C Perkins
North East Corner Lake & LaSalle Sts
Chicago ——— 186

Superior Court of Chicago

Isabella Cochrane
vs
William Waymans et al

In Chancery

Arthur W Birkett Esq
Sol for said Defendant William Waymans

Please take Notice that on this 22d day of January A D 1863 a Subpoena ad respondendum in the above entitled Cause requiring said Defendant William Waymans to Answer the Bill of Complaint as Amended heretofore filed in this Cause within ten days after Service of Notice of such Rule

Norman C Perkins
Sol for Complainant

Chicago January 22 1863

574.

State of Illinois }
Cook County } ss. Horace R Stebbins being
sworn on oath says that on the 22d day of Jan-
uary A D 1863 he served a notice on the within
named Arthur W Winslett Solicitor. the said
notice being a transcript Copy of the within notice

H R Stebbins

Subscribed and Sworn to before
me this 2nd day of Feby 1863
Thos B Carter Clerk

55.

And on the Same day and Year last aforesaid Said day being one of the days of the February Term of Said Court the following among other proceedings was had in Said Court and entered of record

Isabella Cochran

vs Bill to Foreclose

William Wayman
Jane Wayman and John D Crozer

And now again Comes Said Complainant by her Solicitor and the Said William Wayman one of the Said Defendants in Said Cause having failed to file his Answer to the Amended Bill of Complaint in Said Cause as required to do by the Rule entered against him herein at the January Term last past of this Court to wit on the Twenty Second day of January A D 1863 and he being now Called in open Court Comes not but makes default, and it is ordered that his default be and is hereby entered herein of record, and the Bill of Complaint as Amended Stands as Confessed against him for want of his Answer,

And thereupon on Motion of Complainants Solicitor it is further ordered that the Cause be referred to Jno Scott one of the Masters in Chancery of this Court to Compute and ascertain the Amount due on the Mortgage mentioned in the Bill of Complaint and report the Same to this Court

56.

And afterwards to wit on the Twenty Sixth day of February in the Year last aforesaid, Ira Scott Master in Chancery of the Court filed his Report with Exhibits Numbered One & two hereto attached which are in words and figures following

1 Masters Report

State of Illinois
County of Cook } ss

In the Superior Court of Chicago
In Chancery

Isabella Cochran

vs.

William Wayman
Jane Wayman &
John P. Chozen

57.

To the Honorable the Judges of the
Superior Court of Chicago.

In pursuance and in virtue of an order of this Court heretofore ~~named~~ made in the above cause by which it was referred to the subscriber one of the masters in chancery of this court to take proof of the material facts set forth in the bill of complaint as amended in this cause and report the same to the court &

I the said master do respectfully report that on this sixteenth day of February A.D. 1863 appeared before me the above named complainant by her counsel in this cause Mr. H.B. Stebbings at my office in Chicago at which time and place I proceeded to hear and examine the matters embraced in said order of reference

The complainant produced in evidence the Bond mentioned and set forth in the said Bill of complaint in this cause bearing date the twenty eighth day of March A.D. 1861.

Executed by the said defendant William Hayman
to the above named complainant in the penal sum
58. of Twelve Thousand dollars, conditioned for the
payment to the complainant her executors, admin-
-istrators or assigns of the sum of Six Thousand Dol-
lars on the twenty eighth day of March A.D. 1866
with interest from the date thereof at the rate
of ten per cent pir annum payable half yearly,
to wit— on the twenty eighth day of each of the
months of September and March in each and
every year until said principal sum should
be fully paid— and that such payments both of
principal and interest should be made at such
place in the city of New York in the State of
New York as the said Isabella Cochran her executors,
administrators or assigns might from time to
time, in writing appoint; and in default of such
appointment then, at the Office of Messrs Cochran
& Co Numbers 443 and 445 Broadway in said city
of New York. It being expressly provided in and
by said Bond that if default should be made
in the payment of any of the interest on the
principal sum above mentioned, payable half
yearly as aforesaid and any portion thereof should
remain due and unpaid for the space of twenty
days after the same should become due and payable
according to the above condition, then and in that
case the principal sum above mentioned together

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with all accarages of interest thereon, should at the option of the said Isabella Cochran, her executors, administrators or assigns, thereupon become due and payable and might be demanded and collected thereafter, as if the full time for which the loan in said Bond mentioned had fully expired, anything therein before to the contrary notwithstanding.

To which said Bond is affixed a guaranty in writing bearing even date therewith, executed by Thos. Shergold under his hand and seal, guaranteeing the payment thereof according to the conditions ~~of~~ said Bond which said Bond is herewith returned marked exhibit-1.

The complainant also produced in evidence Ten interest coupons or promissory notes bearing even date with the said Bond, executed by the said William Waymark, and payable to the said Isabella Cochran or order, each for the sum of Three Hundred Dollars and payable respectively upon the date of the maturity of the half yearly interest payments upon said Bond as aforesaid.

which said coupons numbered from one to ten inclusive, in the order in which said half yearly interest payments mature are herewith returned— Upon coupon No. 1 due and payable September 28th 1861 is the following endorsement "Nov 1-1861. Recd on the within coupon One Hundred Dollars" (Signed) "L.D. Olmstead & Co. Agts for Isabella Cochran"

The complainant also produced in evidence the mortgage mentioned and set forth in the said Bill of complaint in this cause, bearing date the said twenty eighth day of March A.D. 1861 executed between William Wayman and Jane Wayman his wife, of Chicago Illinois, party of the first part and Miss Isabella Cochran of the city and state of New York party of the second part= In which said mortgage is contained a full recital of the Bond bearing even date therewith above described= In and by which said mortgage the said party of the first part to secure the payment of the said sum of money mentioned in the condition of the said Bond, with the interest thereon according to the true intent and meaning thereof, conveyed the mortgaged premises to the party of the second part therein named as mentioned and set forth in said complainants Bill of complaint to wit;

All those certain lots pieces or parcels of land situate lying and being in the city of Chicago aforesaid and known and described as follows to wit;

Lots Numbered Ten (10) and Eleven (11) in Block Eleven (11) in the original town of Chicago together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions and remainder and remainders, rents, issues and profits thereof &c. as stated in said Bill of complaint.

61.

In and by which said mortgage the said William Wayman covenanted and agreed to and with the party of the second part thereto that he would well and truly pay unto the said party of the second part, her executors, administrators or assigns the said principal sum of money mentioned in the condition of said Bond, and the interest thereon according to the said condition, and that he would not at any time thereafter, until the said principal sum and the interest thereon should be fully paid suffer said premises or any portion thereof to be sold for any tax or assessment whatsoever, nor permit to be done in, upon or about said premises anything that might in anywise tend to impair the value thereof or to weaken, diminish or impair the security intended to be effected under and by virtue of the said mortgage, and that he would at all times thereafter until said principal sum of money and all arrearages of interest thereon should be fully paid, keep all the buildings (out-houses excepted) thereon situate or that might thereafter be erected upon said premises fully insured against loss ~~by fire~~ or damage by fire or other casualty, in some good and responsible insurance company or companies (the selection of such company or companies to be left at the option of the said party of the second part, her heirs or assigns, or her or their authorized agent) in the fair insurable

insurance

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value of such buildings, and would legally and promptly assign to the said party of the second part her executors, administrators or assigns and deliver to her or them, or her or their authorized agent, each and all and every the policies of insurance therefor as soon as and whenever such insurance should be effected, and would also deliver ~~also~~ to said party of the second part, her executors administrators or assigns or her or their authorized agent all premiums or renewal certificates received for the payment of the premium upon such policy or policies of insurance, as soon as and whenever such certificates should be issued and in default of so doing, the said party of the second part, her executors, administrators or assigns at her or their option might effect such insurance in her or their name or names, or otherwise and the premium money paid therefor should be a charge upon said premises, and should be secured by said mortgage in the same manner as the said principal sum of money above mentioned is secured, and that such premium money should be paid by said William Wayman, his heirs and legal representatives to said party of the second part, her executors administrators or assigns on demand, and might be collected at any and all times after the same should have been paid with interest thereon at the rate of ten per cent per annum from the time

63.

the same should be advanced— It was also expressly agreed and understood by and between the parties to said mortgage according to the provision therein expressed that if default should be made in the payment of the said principal sum of money above mentioned or of the interest that might grow due thereon, or of any part thereof at the time and times respectively when the same ought to be paid as set forth in the said condition of said Bond or if the said William Wayman, his heirs executors or administrators should at any time thereafter until said principal sum and all arrearages of interest thereon should be fully paid, suffer said premises or any part thereof to be sold for any tax or assessment whatever or should do or permit to be done in, upon or about said premises or any part thereof anything that might in anywise tend to diminish the value thereof or to impair, weaken or diminish the security intended to be effected under and by virtue of said mortgage or should neglect or fail to keep all the buildings (out houses excepted) that then were or thereafter might be situate upon the said premises fully insured, and the policies of insurance thereon assigned to said party of the second part, her executors, administrators or assigns and delivered to her or them, or her or their authorized agent together with all premiums or renewal certifi-

Ct4

icates received from time to time, for the payment of the premium upon such policies as therein before in said mortgage covenanted and provided, or should fail in anywise promptly and faithfully to fulfill, keep and perform as well in spirit as in letter, all and singular the covenants and agreements contained in said mortgage or either or any of said covenants and agreements should at any time be broken in any respect whatsoever, that then and from thenceforth it should be lawful for the said party of the second part, her executors administrators or assigns either in person or by attorney to enter into and upon all and singular the said premises and to sell and dispose of the same, and all benefit and equity of redemption of the said party of the first part, their heirs or assigns therein, at public auction, having first given twenty days notice of the time & place of such sale (such sale to be made at Chicago aforesaid) by advertisement in any one of the daily newspapers that might at that time be published in the English language in said city of Chicago. Personal notice of such sale to said party of the first part, their heirs, executors, administrators or assigns, or any and all persons claiming by, through or under them, being by said mortgage expressly waived, and either in

the name of the said party of the second part her heirs or assigns, or at her or their option as the attorney of the said party of the first part for that purpose by said mortgage duly and irrevocably authorized, constituted and appointed, to make and deliver to the purchaser or purchas-ers thereof a good and sufficient deed and deeds of conveyance in the law for the same in fee simple &c.

65.

Said mortgage being in all respects as set forth in complainants Bill of complaint.

That the said mortgage was filed for record in the office of the recorder of said county of Cook on the third day of April A.D. 1861 and was recorded in Book 58 of mortgages page 209 the said mortgage being herewith returned marked Exhibit-No. 2—

James H. Rees a witness produced, sworn and exam-ined on the part of the complainant-deposes and says

My age is fifty years, reside in Cook county, have been engaged in the real estate busines in Chicago for over twenty years & am acquaint-ed with the value of real estate in Chicago. I am acquainted with lots numbered Ten and Eleven in Block Eleven in the original town of Chicago, and with the improvements thereon

I consider the cash value of this property about-

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sixty five hundred dollars, which I make up as follows— The ground twenty five hundred dollars, The brick building on the corner Three Thousand and the frame building at one Thousand Dollars. The property is worth not to exceed Seven Thousand Dollars, That would be my highest estimate— My estimate of the value of this property, given above is that which I suppose it to be worth under the most favorable opportunity for sale.

James H. Rees

Subscribed and sworn to
this 16th day of February
A.D. 1863 before me

Ira Scott
Master in Chancery of
the Superior Court of Chicago

Samuel H. Kerfoot a witness produced, sworn and examined on the part of the complainant deposes and says

My name is Samuel H. Kerfoot, age thirty nine years, reside in Cook county, have been engaged in the real estate business in Chicago for the past ten years and upwards, am acquainted with the value of real estate in Chicago. Am acquainted with the premises known as Lots Ten and Eleven in Block Eleven in the original Town of Chicago— I consider the said Lots worth in cash without improvements about Three Thousand Dollars. I have never examined the improvements with especial reference to their value but have been in the buildings and from my general knowledge think the improvements worth about Fifteen Hundred Dollars. The ground in any event I do not consider worth over Three Thousand Dollars. I refer to voluntary and not forced sale in estimating the value, my estimate of the value of the improvement does not include the two frame dwellings, but does include the frame structure attached to the brick building of the two frame dwellings, of which I know nothing

I think the whole property worth about forty five hundred dollars, and not more than five thousand dollars, under favorable conditions of sale.

Saml H. Kerfoot

Subscribed and sworn to
this 16th day of February
A.D. 1863 before me
68

Ira Scott
Master in Chancery of
the Superior Court of Chicago

Lyman Baird a witness produced, sworn and examined on the part of the complainant deposes and says

My name is Lyman Baird age thirty three, occupation loan collections and insurance agency, reside in Chicago. I am acquainted with the premises known as lots Ten and Eleven of Block Eleven original town of Chicago.

It is a part of my business to loan money upon real estate, our firm made the loan in question the firm of L.D. Olmsted and Company of which firm I am a member. I think I am acquainted with the present cash value of the premises in question and with the improvements thereon

The ground without improvements I think is worth not less than two thousand dollars nor

more than twenty fine hundred dollars_

The improvements are worth not lyss than thirty eight- hundred dollars nor more than forty two hundred dollars_ Under the most favorable conditions of sale I dont think the property would bring more than the highest estimate I have given

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Our firm have been the agents for the complainant for the collection of the interest upon the mortgage indebtedness and in every thing connected with this loan, from the time the loan was made, and have procured the policies of insurance marked Exhibit No. 3. 4 & 5. & 6

The Defendant about the time of the loan paid seventeen dollars upon the policy dated April sixth 1861 and issued by the Home Insurance company of New Haven, and has made no further payment for the insurance of the premises subsequently, pursuant to the agreement contained in the mortgage our firm acting as the agents of complainant procured further insurance upon the premises, and renewal of the policy aforesaid as was represented by said policies above named for which insurance we have paid as agents for complainant the sum of one hundred and nine dollars as follows_

Viz: To city fire insurance company New Haven September 1st 1861 forty six dollars, September 1st

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1862 forty six dollars and to the Home Insurance company of New Haven April 5th 1862 seventeen dollars— The Defendant Wayman nor any one else has refunded this money paid for insurance to complainant

The Defendant has not paid upon the mortgage indebtedness any more than the one hundred dollars endorsed upon one of the coupons. The defendant Wayman has continued in possession of the mortgaged premises ever since the loan was made

Lyman Baird

Subscribed and sworn to
this 16th day of February
A.D. 1863 before me
Ira Scott
Master in Chancery of
the Superior Court of Chicago

1863 Feb 17th

Norman C. Perkins a witness produced sworn and examined on the part of the complainant deposes and says—

My name is Norman C Perkins reside in Chicago, age thirty years, Occupation Lawyer as the agent of the complainant and for and in her behalf, I did on or about the twelfth

71.

day of November eighteen hundred and sixty one notify the defendant in this suit William Wayman at the city of Chicago that the said complainant had by reason of the non payment of interest due and payable on the twenty eighth day of September 1861 within the space of twenty days after the same became due and payable according to the terms of the Bond mentioned in the ~~condition of~~ ~~said~~ Bill of complaint in this suit, elected to declare the principal sum mentioned in the condition of said Bond together with all arrearages of interest thereon to be due and payable, and thereupon demanded of the said Wayman payment of the same, which said payment said Wayman did not make and has hitherto neglected to pay the same. I had said Bond with me and at the time of such demand I notified said Wayman of the amount that was then due and payable thereon

Norman B Perkins

Subscribed and sworn to
this 17th day of February
A. D. 1863 before me

Ira Scott
Master in Chancery of
the Superior Court of Chicago

And I do further report that from the evidence I find that by reason of the non payment of the half yearly interest due and payable upon the said Bond and mortgage on the twenty eighth day of September 1861 and the election of the party of the second part to said mortgage as set forth in complainants said Bill of complaint, the whole of said principal sum secured by said Bond and mortgage together with all arearages of interest became due and payable as set forth in complainants said Bill. That no part of said mortgage indebtedness for principal or interest has been paid by the Defendant William Wayman, nor by any one for him, excepting said payment of one hundred dollars endorsed upon said interest coupon No. 1 of November 1st 1861—

That the complainant in pursuance of the provisions and terms of said mortgage has advanced the following sums of money for the insurance of the buildings upon said premises to wit: To the city insurance company New Haven Connecticut September 1st 1861 forty six dollars, and September 1st 1862 forty six dolla and to the Home Insurance Company of New Haven aforesaid April 5th 1862 Seventeen Dollars amounting in all to the sum of one hundred and nine dollars on part of which said sum has been paid or refunded to complainant, and the same by the terms of said mortgage has become a part of the indebtedness secured thereby, and due and payable to the complainant

73.

with interest at the rate of ten per cent per annum from the date of said advances respectively, reference being hereby made to the policies of insurance marked exhibits Nos 3-4-5 and 6 attached to the deposition of Lyman Baird herewith returned.

And I do further report that from the evidence I find that the said mortgaged premises with the improvements thereon are not worth this amount now due and payable to the complainant upon said Bond and mortgage and that the same are an ~~inade~~ inadequate security for said mortgage indebtedness

And I do further report that I have computed and ascertained the amount due the complainant upon the said bond and mortgage for principal and interest up to and including the date of this report, and that the amount so due as aforesaid is the sum of seven thousand one hundred and forty four dollars and sixty nine cents $7144 69/100 And I do further report that the schedule herewith annexed Marked A and making a part of this my report contains a statement and account of the principal and interest moneys due to the complainant as aforesaid the period of the computation of the interest and its rate and to which for greater certainty I refer—

All which is respectfully submitted

Dated Chicago February 20th 1863

Masters fee $10

(stamp)

Ira Scott
Master in Chancery
of the Superior Court of Chicago

71.

Schedule A Referred to in above Report

Principal Sum due under decree	$6000.00
Interest thereon from date of Bond & Mortgage March 28. 1861 to this date Feb 20 1863 1 Year 10 Mos & 23 days at rate of ten per Cent per Annum	1138 31
Insurance Payment Made September 1 1861	46.00
Interest thereon to this date at rate of ten per Cent per Annum being 1 Year 5 Mos & 19 days	6 76
Insurance Payment Made Sept 1st 1862	46.00
Interest thereon to this date at rate of ten per Cent per Annum being 5 Mos & 19 days	2.16
Insurance Payment Made April 5th 1862	17.00
Interest thereon to this date at rate of ten per Cent per Annum being 10 months & 15 days	1 49
	$7257.72
Or	
By Payment endorsed on Coupon No 1 Nov 1st 1861	$100
" Interest thereon to this date at rate of 10 per Cent per Annum being 1 Year 3 months & 19 days	13.03 113.03
Principal & Interest due this Feb 20th 1863	$7144.69

Ira Scott Master in Chancery
of the Superior Court of Chicago

1

Isabella Cochran
vs
William Wayman et al
(Exhibit No 1)

Defendants Cmt of Chicago
& Amount
Sad Sett Amts in Equity
Who Defendants Cmt of Chicago

75.

Know all men by these presents, that I William Wayman of the city of Chicago in the County of Cook and state of Illinois am held and firmly bound unto Miss Isabella Cochran of the city of New York in the State of New York in the penal sum of twelve thousand dollars lawful money of the United States of America, to be paid unto the said Isabella Cochran, her executors, administrators or assigns, for which payment well and truly to be made I do bind myself, my heirs, executors and administrators, firmly by these presents.

Sealed with my seal, and dated at Chicago aforesaid this twenty eighth day of March in the year of our Lord one thousand eight hundred and sixty one.

The condition of this obligation is such, that if the above bounden William Wayman, his heirs, executors or administrators, shall and do well and truly pay, or cause to be paid unto the above named Isabella Cochran, her executors, administrators or assigns, the sum of six thousand dollars on the twenty eighth day of March which will be in the year of our Lord one thousand eight hundred and sixty six with interest for the same to be computed from the day of the date hereof, at and after the rate of ten percentum per annum, which said interest shall be paid half yearly, to wit: on the twenty eighth day of each of the months of September and March which

will be in each and every year until the said principal sum shall be fully paid; and the said payments both of principal and interest, shall be

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made at such place in the city of New York in the State of New York as the said Isabella Cochran, her executors, administrators or assigns may from time to time, in writing, appoint, and in default of such appointment, then, at the office of Messrs Cochran & Co. Numbers 443 and 445 Broadway in said city of New York then, and in such case, this Bond to be void, otherwise to remain in full force and virtue. Provided nevertheless, and it is hereby expressly agreed and fully understood, that if default be made in the payment of any of the interest on the principal sum above mentioned, payable half yearly as aforesaid, and any portion thereof shall remain due and unpaid for the space of twenty days after the same shall become due and payable, according to the above condition, then and in that case, the principle sum above mentioned together with all arrearages of interest thereon, shall, at the option of the said Isabella Cochran, her executors, administrators or assigns, thereupon become due and payable, and may be demanded and collected immediately thereafter, as if the full time for which this loan is made had fully expired, anything hereinbefore contained to the contrary notwithstanding.

It is hereby expressly declared, that this bond or obligation is made under, and is in all respects to be construed

by the laws of the State of Illinois, and is given for an actual loan of money made at Chicago aforesaid by the said Isabella Cochran to the said William Wayman on the day of the date hereof.

Due Bills or interest coupons for each payment of interest are given herewith.

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William Wayman (Seal)

For value received I hereby guarantee the payment of the principal sum named in the above bond and the interest thereon promptly and punctually as the same may from time to time become due, and at the places appointed for the payment of the same according to all the conditions named in the said Bond, as by reference thereto may more fully appear.

In testimony whereof I have hereunto set my hand and seal, this the twenty eighth day of March A.D. 1861 at Chicago Illinois

Thos Shergold (Seal)

$300.00 No. 10

Due Miss Isabella Cochran or order Three Hundred Dollars on the twenty eighth day of March A.D. 1866 without grace, payable at such place in the city of New York, in the State of New York as she her legal representatives or assigns may in writing appoint and in default of such appointment, then, at the office of Messrs. Cochran and Co. Nos 443 and 445 Broadway in said

city of New York, being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date, conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

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Chicago March 28th 1861

Wm Wayman

$300,00 No. 9

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of September A.D. 1865 without grace, payable at such place in the city of New York in the State of New York as she her legal representatives or assigns may in writing appoint and in default of such appointment, then, at the Office of Mess^rs Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

Chicago March 28th 1861

Wm Wayman

$300,00 No. 8

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of March A.D. 1865 without grace, payable at such place in the

city of New York in the State of New York as she her legal representatives or assigns may in writing appoint, & in default of such appointment, then, at the Office of Mess Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

Chicago, March 28th 1861

Wm Wayman

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$300,00 No 7

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of September A.D. 1864 without grace, payable at such place in the city of New York in the State of New York as she her legal representatives assigns may in writing appoint; and in default of such appointment, then, at the Office of Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

Chicago March 28th 1861

Wm Wayman

$300,00 No 6

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of March A.D. 1864 without grace, payable at such place in the city of New York in the State of New York as she her legal representatives or assigns may in writing appoint and in default of such appointment, then, at the Office of Messrs Cochran and Co. Nos. 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

Chicago March 28th 1861

Wm Wayman

$300,00 No. 5

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of September A.D. 1863 without grace payable at such place in the city of New York in the State of New York as she her legal representatives or assigns may in writing appoint; and in default of such appointment, then, at the Office of Messrs Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars

on the Twenty Eighth day of March A.D. 1866

Chicago March 28th 1861

Wm Wayman

$300,00 No. 4

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of March A.D. 1863 without grace, payable at such place in the city of New York in the State of New York as she her legal representatives or assigns may in writing appoint; and in default of such appointment then at the Office of Messrs Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

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Chicago March 28th 1861

Wm Wayman

$300,00. No. 3

Due Miss Isabella Cochran or order Three Hundred Dollars on the twenty eighth day of September A.D. 1862 without grace, payable at such place in the city of New York in the State of New York as she her legal representatives or assigns may in writing appoint and in default of such appointment then at the

Office of Mess" Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

Chicago March 28th 1861

Wm Wayman

$300,00 No. 2

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of March A.D. 1862 without grace, payable at such place in the city of New York in the State of New York as she, her legal representatives or assigns may in writing appoint; and in default of such appointment then, at the Office of Mess" Cochran and Co. Nos 443 and 445 Broadway in said city of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this Date, conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A.D. 1866

Chicago March 28th 1861

Wm Wayman

(On the back of which is written the following)

"Pay to Mess" Cochran & Co. or order

Isabella Cochran"

"Pay to the order of Mess" L. P. Olmsted & Co.— Cochran & Co."

$300,00 No. 1

Due Miss Isabella Cochran or order Three Hundred Dollars on the Twenty Eighth day of September A. D. 1861 without grace payable at such place in the City of New York in the State of New York as she, her legal representatives or assigns may in writing appoint; and in default of such appointment, then at the Office of Mess" Cochran and Co. Nos 443 and 445 Broadway in said City of New York being for the payment of the half yearly interest due that day on my Bond to said Isabella Cochran of this date conditioned for the payment of Six Thousand Dollars on the Twenty Eighth day of March A. D. 1866

Chicago March 28th 1861

Wm Wayman

(On the Back of which is written the following)

Nov 1. 1861 Recd. on the within coupon One Hundred Dollars

L. D. Olmsted & Co.

agents for

Isabella Cochran

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Whereas I William Wayman of the city of Chicago in the county of Cook and State of Illinois am justly indebted unto Miss Isabella Cochran of the city of New York in the State of New York in the sum of Six Thousand Dollars an actual loan of money made to me in Chicago aforesaid and secured to be paid by my Bond, bearing even date herewith payable in the penal sum of Twelve Thousand Dollars ~~on the Twenty Eighth day of March in the year of our Lord one thousand eight hundred~~ but conditioned in effect for the payment of the sum of Six Thousand Dollars, on the Twenty Eighth day of March in the year of our Lord one thousand eight hundred and sixty six with interest for the same at the rate of ten per centum per annum, payable half-yearly; both principal and interest payable at such place in the city of New York in the State of New York as the said Isabella Cochran her executors, administrators or assigns, may from time to time, in writing appoint; and in default of such appointment, then, at the Office of Messrs Cochran and Co. Nos 443 and 445 Broadway in said city of New York, with a proviso thereunder written that if default be made in the payment of the interest payable half-yearly as aforesaid, and any portion thereof shall remain due and unpaid for the space of twenty days after the same shall become due and payable according to said condition

them and in that case the principal sum aforesaid with all arrearages of interest thereon, shall, at the option of the said Isabella Cochran, her executors administrators or assigns, thereupon become due and payable, and may be demanded and collected immediately thereafter as if the full time for which this loan is made had fully expired, anything therein before expressed to the contrary notwithstanding.

Now therefore know all men by these presents that I the said William Wayman for the further purpose of securing the prompt and punctual payment of said Bond or Obligation, with the prompt and punctual payment of the interest payable half yearly, as aforesaid, at the time and times, and at the places respectively mentioned in said Bond, have made, constituted and appointed, and by these presents do make, constitute and appoint Mark Skinner or any other Attorney of any Court of Record in the United States of America, to be my true and lawful attorney, irrevocable, for me, and in my name, place and stead, to appear in any Court of Record, in term time or vacation, in any of the States, Territories or Districts of the United States, at any time after default shall have been made in the payment of the principal, or either or any part of the payments of interest to be made half yearly as aforesaid, according to the true intent and meaning of

said condition of said Bond and the proviso thereto, to waive service of procs, accept a declaration and confess a judgment in favor of the said Isabella Cochran, her executors administrators or assigns, upon said Bond, for so much of principal and interest as shall at the time of the entry of such judgment due or not due according to the true intent and meaning of the condition of the said Bond be and remain unpaid upon said Bond and the proviso thereto, together with all costs, charges, and twenty five dollars in addition thereto, as an attorney's fee; and for such purpose to file a cognovit for such amounts, with an agreement therein that execution may ijsue forthwith, and that no writ of error or appeal shall be prosecuted upon such judgment nor any bill in equity filed, or any other proceeding had to intefere in any manner with the operation of such judgment, nor any motion made to quash, set aside or stay any execution that may be ijsued thereon: And further, the said Attorney is hereby empowered at his option, in case of default being made or suffered in the payment of any of the interest coupons or promissary notes, when due and payable, to waive service of procs and confess a judgment in favor of said Isabella Cochran, her executors, administrators or assigns, upon such of the coupons given with said Bond for the payment of the interest thereon as shall at such time be due by the terms thereof, and then remaining unpaid, for so much money as may then be due thereon, according

to the tenor thereof, together with all costs, and charges and ten dollars in addition for each of such coupons, as an attorneys fee. And for the purpose of confessing any such judgment or judgments upon any of the coupons given with said bond, as above provided, a copy of this power of attorney may be filed in the office of the Clerk of any Court of Record, and when so filed, and certified to by such Clerk, shall be deemed and taken as sufficient for all the purposes contemplated by these original presents, and shall have the same force and effect as would this original warrant of attorney if so filed as aforesaid, the said filing whereof being hereby expressly waived: and to release all errors that may intervene in the entering up of all or any of said judgments, or issuing execution or executions thereon, or in any of the proceedings had thereunder. Hereby ratifying and confirming all that my said attorney may legally do under and by virtue hereof.

87.

Witness my hand and seal, at Chicago aforesaid this twenty eighth day of March A.D. 1861.

Wm Wayman (Seal)

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State of Illinois }
Cook County } ss

Adolph Loob being duly sworn says that he is well acquainted with the hand writing of William Wayman and that the signature to the bond and Warrant of Attorney hereto annexed are in the own proper hand writing of the said William Wayman

Adolph Loob

Subscribed and Sworn to before
me this 10th day of
November A D 1871

Seal Robt C Wight
Notary Public

9105 - Isabella Cochran & Chicago
to Exhibit
Isabella Cochran
vs
William Wayman
et al
(Exhibit No 2)

Sept Sett Minutes in
Chancery Book Volume
Court of Chancery

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This indenture made this twenty eighth day of March in the year of our Lord one thousand eight hundred and sixty one between William Wayman and Jane Wayman, his wife both of the city of Chicago in the county of Cook and State of Illinois party of the first part and Miss Isabella Cochran of the city of New York in the State of New York party of the second part, Whereas, the said William Wayman is justly indebted unto the said party of the second part in the sum of Six Thousand Dollars lawful money of the United States of America, an actual loan of money this day made by said party of the second part to the said William Wayman at Chicago aforesaid in conformity to, and under, and to be construed by the laws of the State of Illinois, secured to be paid by the certain Bond or Obligation of the said William Wayman bearing even date herewith, in the penal sum of Twelve Thousand Dollars conditioned for the payment unto the above named party of the second part, her executors, administrators or assigns of the sum of Six Thousand Dollars on the twenty eighth day of March which will be in the year of our Lord one thousand eight hundred and sixty six with interest for the same to be computed from the day of the date thereof, and after the rate of ten per centum per annum, which said interest shall be paid half yearly, to wit: on the

twenty eighth day of each of the months of Sep-
tember and March which will be in each and
every year until the said principal sum shall
be fully paid: and the said payments both of
principal and interest shall be made at such
place in the city of New York in the State of
New York as the said Isabella Cochran, her ex-
ecutors, administrators, or assigns may from time
to time in writing, appoint, and in default of
such appointment, then, at the Office of Moses
Cochran & Co. Numbers 443 and 445 Broadway in
said city of New York, with a proviso thereunder
written, whereby it is expressly agreed and fully
understood that if default be made in the
payment of any of the interest on the principal
sum above mentioned, payable half yearly
as aforesaid, and any portion thereof shall
remain due and unpaid for the space of twenty
days after the same shall become due and
payable according to the above condition, then
and in that case, the principal sum above
mentioned together with all arrearages of interest
thereon, shall at the option of the said Isabella
Cochran, her executors, administrators or assigns,
thereupon become due and payable, and may
be demanded and collected immediately there-
after, as if the full time for which this loan
is made had fully expired, anything therein before

expressed to the contrary notwithstanding, as by the said Bond and the condition thereof, and the proviso thereunder written, reference being thereto had may more fully appear.

Now therefore this indenture witnesseth, that the said party of the first-part, for the better securing the payment of the said sum of money mentioned in the condition of said Bond, with interest-thereon according to the true intent and meaning thereof and also for and in consideration of the sum of

91. one dollar to them in hand paid, by the said party of the second part, the receipt-whereof is hereby acknowledged, have granted, bargained, sold, aliened, released, conveyed and confirmed, and by these presents do grant, bargain, sell, alien, release, convey and confirm unto the said party of the second part, her heirs and assigns forever all those certain lots pieces or parcels of land situate lying and being in the city of Chicago aforesaid and known and described as follows, to wit:—

Lots numbered Ten (10) and eleven (11) in Block Eleven (11) in the Original Town of Chicago—

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, dower and right of dower, property, possession,

claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of in and to the same, and every part and parcel thereof, with appurtenances.

To Have and to Hold the above granted, bargained and described premises, with the appurtenances, unto the said party of the second part, her heirs and assigns forever.

Provided always, and these presents are upon this express condition, nevertheless, that if the said party of the first part, their heirs, executors or administrators, shall and do well and truly pay or cause to be paid unto the said party of the second part, her executors, administrators or assigns, the said principal sum of money mentioned in the condition of said Bond, and the interest thereon, at the time and times respectively and in the manner mentioned in the condition of said Bond, according to the true intent and meaning thereof, and shall and do promptly and faithfully fulfill and perform all the covenants and agreements hereinafter mentioned, that then and from thenceforth these presents and the estate hereby granted shall cease, determine and be utterly null and void, anything hereinbefore contained to the contrary notwithstanding.

And the said William Wayman for himself

his heirs, executors and administrators, doth covenant, grant, and agree to and with the said party of the second part, her ~~heirs~~ executors, administrators and assigns that he will well and truly pay unto the said party of the second part, her executors, administrators or assigns, the said principal sum of money mentioned in the condition of said Bond, and the interest thereon according to the said condition, and also, that he will not at any time hereafter, until the said principal sum, and the interest thereon, shall be fully paid, suffer said premises, or any portion thereof, to be sold for any tax or assessment whatsoever, nor will he do nor permit to be done to, in upon or about said premises, anything that may in anywise tend to impair the value thereof, or to weaken, diminish or impair the security intended to be effected under and by virtue of this instrument. And further that he, his heirs, executors and administrators, shall and will, at all times hereafter, until said principal sum of money and all arrearages of interest thereon shall be fully paid, keep all the buildings (out-houses excepted) now situate, or that may hereafter be erected upon said premises, fully insured against loss or damage by fire or other casualty, in some good and responsible insurance company or companies, the selection of such insurance company

93.

or companies to be left at the option of the said party of the second part, her heirs, or assigns or her or their authorized agent,) in the fair insurable value of such buildings, and will legally and properly assign to the said party of the second part her executors, administrators or assigns and deliver to her or them or her or their authorized agent, each, all and every the policies of insurance therefor, as soon as and whenever such insurance shall be effected, and will also deliver to said party of the second part her executors, administrators or assigns, or her or their authorized agent, all premium or renewal certificates received for the payment of the premium upon such policy or policies of insurance, as soon as and whenever such ~~premium upon~~ certificates shall be issued; and in default of so doing, the said party of the second part, her executors, administrators or assigns, at her or their option, may effect such insurance in her or their name or names, or otherwise, and the premium money paid therefor shall be a charge upon said premises, and shall be secured by this instrument in the same manner as the said principal sum of money above mentioned is secured, and such premium money shall be paid by said William Wayman, his heirs and legal representatives, to said party of the second part her executors, administrators or assigns on demand, and may be collected at

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any and all times after the same shall have been paid, with interest thereon at the rate of ten per centum per annum from the time the same shall be advanced, and the said party of the second part, her executors, administrators or assigns shall hold each and all such policies of insurance so received by assignment or otherwise as collateral and addition=al security for said principal sum of money and interest, and shall have the right to collect and receive any and all money and sums of money that may at any time become collectable or receiv=able upon each, all and every of such policies of insurance, and apply the same when received in the same manner, as far as possible, as is herein=after provided for in case of a sale of said above described premises under the power of sale herein=after contained. But nothing herein contained, shall be construed as requiring the said party of the secon part, her executors administrators or assigns, to incur any expense or make any effort to collect any money that may become due on any of such policies of insu.=rance, but if she or they shall elect not to collect the same, they shall make such election within a reasonable time after such money shall become collectable, and on demand of said William Wayman or his legal representatives shall thereupon forthwith, after making such election not to collect, assign and deliver such policy or policies of insurance

to said William Wayman, his executors, administrators or assigns.

96.

But it is hereby expressly agreed and understood by and between the parties to these presents, that if default shall be made in the payment of the said principal sum of money above mentioned or of the interest that may grow due thereon or of any part thereof, at the time and times respectively when the same ought to be paid as set forth in the said condition of said Bond or if the said William Wayman his heirs, executors or administrators, shall at any time hereafter until said principal sum and all arrearages of interest thereon shall be fully paid, suffer such premises or any part thereof to be sold for any tax or assessment whatsoever, or shall do or permit to be done to, in, upon or about said premises, or any part thereof, anything that may in anywise tend to diminish the value thereof, or to impair, weaken or diminish the security intended to be effected under and by virtue of this instrument, or shall neglect or fail to keep all the buildings (except out-houses) that now are or hereafter may be situate upon said premises, fully insured, and the policies of insurance therefor assigned to said party of the second part, her executors, administrators or assigns, and delivered to her or them or her or their authorized agent, together with all premium or renewal certificates received from time to time for the payment of

97.

the premium upon such policies, as herein before covenanted and provided, or shall fail in any wise promptly and faithfully to fulfill, keep and perform as well in spirit as in letter, all and singular the covenants and agreements contained in these presents or if either or any of said covenants and agreements shall at any time be broken in any respect whatsoever that then and from thenceforth it shall be lawful for the said party of the second part, her executors administrators or assigns, either in person or by attorney, to enter into and upon all and singular the said premises hereby granted or intended so to be, and to sell and dispose of the same, and all benefit and equity of redemption of the said party of the first part their heirs or assigns therein, at public auction, having first given twenty days notice of the time and place of such sale (such sale to be made at Chicago aforesaid) by advertisement in any one of the daily newspapers that may at that time be published in the English language in said city of Chicago personal notice of such sale to said party of the first part their heirs, executors, administrators or assigns, or any and all persons claiming by, through or under them being hereby expressly waived and expressed, and either in the name of the said party of the second part her heirs or assigns or at her or their option as the attorney of the said party of the first part for that purpose, by these presents duly

and irrevocably authorized, constituted and appointed to make and deliver to the purchaser or purchasers thereof, a good and sufficient deed or deeds of conveyance in the law for the same in fee simple, and all the recitals that may be contained in such deed or deeds setting forth the fact of due notice, advertisement and sale, and any and all such other facts and statements as may be proper to evidence the legality of such sale and conveyance, and that the same had been duly made in all respects so as to meet all the requirements herein contained or arising in law, and as may be necessary to convey a good title, shall be deemed to be true, and shall be considered and taken as prima facia evidence of all the facts and matters set forth in such recitals, and such deed or deeds, whether made in the names of the said party of the first part, or in the name or names of the said party of the second part, her heirs, or assigns shall be effectual to pass the title, and out of the money arising from such sale to pay and retain,

First= All the costs, charges and expenses of such advertisement, sale and conveyance:

Second= All premium money paid for any insurance as hereinbefore provided, and all money and sums of money which said party of the second part her legal representatives or assigns may, at any time before such sale, pay or expend to redeem said above described premises from any sale or sales for taxes

or assessments, or to save the same from such sale, or to protect the title or possession, of said premises, or any part thereof, with interest on all money so advanced or expended at the rate of ten per centum per annum, from the time of so paying or expending the same up to the time of such sale.

Third— All of said principal money and accrued interest thereon that shall at the time of such sale remain unpaid, whether due or not due and

Fourth— Rendering the overplus of the purchase money, if any there be unto the said William Wayman, his executors, administrators or assigns; Which sale so to be made shall be a perpetual bar both in law and equity against the said party of the first part, their heirs and assigns, and all other persons claiming or to claim the premises, or any part thereof, by, from or under them, or any of them.

And the said party of the first part for the consideration above mentioned, do hereby expressly waive and release all right and benefit which they have in and to said premises, or to which they may be entitled, under and by virtue of an act entitled "An act to exempt Homesteads from sale on execution," approved February 11th A.D. 1851 and also an act entitled "An act to amend an act to exempt Homesteads from sale on execution" approved February 17th A.D. 1857, as well as any and all other acts of a like character, or for a similar purpose

And the said William Wayman for himself his heirs, executors and administrators, doth covenant bargain and agree to and with the said party of the second part her executors, administrators and assigns that he is well seized of the premises above described, as of a good, sure, perfect, absolute and indefeasible estate of inheritance in the law in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free from all other and former grants, mortgages, liens, incumbrances and tax sales of any and every name, kind nature or description whatsoever, and against all and every person or persons lawfully claiming or to claim the whole or any part thereof, will warrant and forever defend.

In testimony whereof the said party of the first part have hereunto set their hands and seals at Chicago aforesaid, the day and year first above written.

Wm Wayman (Seal)
Jane Wayman (Seal)

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State of Illinois
Cook County
City of Chicago } ss

101.

I Henry Wendt a Notary Public in and for the city of Chicago in said County, in the State aforesaid, do hereby certify that Wm Wayman and Jane Wayman his wife who are personally known to me to be the persons whose names are subscribed to the foregoing Instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument in writing as their free and voluntary act, for the uses and purposes therein set forth, and thereby conveyed all their right, title and interest in and to the premises described in said Instrument, and expressly waived and released all right, claim, benefit, privilege, advantage and exemption under any and all Homestead Exemption Laws, so called.

And the said Jane Wayman wife of the said William Wayman having been by me examined separate and apart, and out of the hearing of her husband, and the contents and meaning of the said Instrument having been by me made known and fully explained to her acknowledged that she had freely and voluntarily executed the same and relinquished her dower, and all right, title and interest to the lands and tenements therein mentioned, and all her rights under each and all of the

Homestead Exemption Laws, so called, as mentioned in the foregoing Instrument having been by me made known and distinctly explained to her, expressly waived and released all right, claim, benefit, privilege advantage and exemption under any and all of said Homestead Exemption Laws, without the compulsion of her said husband, and that she does not wish to retract the same.

Seal

Given under my hand and Notarial Seal this second day of April A.D. 1861

Henry Windt
Notary Public

This may Certify that I have this day Compared the accompanying Instrument executed by William Waymann and Jane Waymann unto the record thereof in the Recorders Office of Cook County Illinois in Book 58 of Mortgages at Page 209 and that the record thereof made is Correct in every particular

Thomas Perkins
Atty at Law

Chicago April 2d. 1861

103.

And afterwards to wit on the Twenty eighth day day of February in the Year last aforesaid the Defendant Appears by A. W. Wendell his attorney filed in the office of the Clerk aforesaid his certain Motion, affidavit and Exceptions to Masters Report in words and figures following to wit

In the Superior Court of Chicago
February Term A.D. 1863

William Wayman impleaded &c
at
Defendants
Isabella Graham
Complainant.

The said William Wayman by his Solicitor moves the Court that he may be allowed to file exceptions to the Masters Report in the Cause and that said Report may be recommitted to the Master to be reviewed by him and Corrected in accordance with the facts in said Cause as follows viz. Said William Wayman being first duly Sworn saith that neither he nor his Solicitor A. W. Wendell had any notice of said Cause being referred to the said Master, nor the time or place of the hearing and taking of the evidence in this Cause by said Master, nor any opportunity nor means of objecting to the admission of incompetent and illegal evidence by said Master or of offering evidence to show that a much less amount is in fact due on said Bond than is reported to be due

thereon by said Master

Affiant says that illegal and improper evidence in his absence was introduced by Complainant at the hearing before said Master as to the amount due on said Mortgage debt in this affiants absence, that instead of the sum of eleven hundred and thirty eight dollars and thirty one Cents being due owing and unpaid on said Mortgage debt as is erroneously stated in said Report, not more than about the sum of seven hundred dollars was then due owing and unpaid. as and for interest on the entire debt secured by said Mortgage, all of which this defendant could have established and shown by legal and competent evidence if an opportunity or notice had been given or afforded to him to be present at the hearing and taking of evidence in said Case by said Master

And this defendant states that neither he nor his Solicitor was notified or had any knowledge or information whatever that said Case had been referred to said Master or a hearing had or evidence heard or taken by said Master therein till sometime on Friday afternoon the 26th day of Feb 1863 and further this affiant saith not

Wm Wayne

Subscribed and Sworn to
before me this 28th day of Feb
1863

Thomas B Coulter Clerk

105.

In the Superior Ct of Chicago
Feb Term A.D. 1863

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Isabella Cochrane
vs
William Wagner

Compl
impleaded &
Defendant

Exceptions to
Masters Report
of In Scott
Master &c.

William Wagner
deft impleaded &c by his Solicitor Clifton H.
Winslett Excepts to the Masters Report herein for the
following Reasons

1 Because the whole proceedings before the Master were had without the knowledge of and without notice to this defendant and his said Solicitor

2 Because illegal and improper evidence was heard by the Master as to the Amount due on the debt, and legal and proper evidence thereof withheld by the Complainant

3 Because said Report is wholly erroneous and untrue and is manifestly unjust to this defendant

Clifton H Winslett
Feb 28, 63 Solr for deft

And afterward to wit on the Fifth day of March in the Year last aforesaid. Said day being one of the days of the March Term of Said Court the following among other Proceedings was had in Said Court and entered of Record to wit

Isabella Cochrane

vs

William Grayson

Impleaded &c

Bill in Chancery & Foreclosure

Mortgage

And now at this day Comes the Said defendant William Grayson impleaded &c by Arthur W Pindell his Solicitor having heretofore filed his motion supported by his affidavit that he be allowed to file exceptions to the Masters Report in this Cause and that Said Report may be recommitted to the Master to be reviewed by him and Corrected in Accordance with the facts in Said Cause, and as presented in his Said affidavit and exceptions to be filed therewith, And the Cause Coming on at this time to be heard upon the exceptions filed by Said defendant to the Masters Report presented and filed in Said Cause by Wm Scott one of the Masters in Chancery of this Court, and the Solicitor for Said defendant being heard in support of the exceptions to Said Masters Report, and Norman Perkins Solicitor for Said Complainant in opposition thereto and the Court being fully

advised in the premises, it is Considered by the
Court that the exceptions to the Said Masters
Report be and the Same are hereby overruled to
which ruling of the Court in overruling Said
108 exceptions to Said Masters Report the Said defend-
ant Williams Wagoner by her Said Solicitor then
and there excepted,

And thereupon Said Complainant by her
Said Solicitor filed her decree in Said Cause

111 Decree

104

Isabella Cochran
vs
William Wayman
Jane Wayman
John D. Crozer.

Decree
Sup. Ct.
Chancery.
8375.

And now on this Fifth day of March AD 1868 comes the said Complainant Isabella Cochran by her solicitor and presents the report of Ira Leeds one of the masters in Chancery of this court to whom was referred the bill of complaint in this cause to take proofs of the material facts set forth in the bill of complaint as amended in this cause—and the said report having been heretofore filed in this cause and being now read in open Court and it appearing from said report that said complainant doth hold and own the bond mentioned and set forth in the said bill of complaint in this cause bearing date the twenty eighth day of March in the year eighteen hundred and sixty one executed by the said Defendant William Wayman to the above named complainant in the penal sum of twelve thousand Dollars conditioned for the payment to said complainant her executors administrators or assigns of the sum of six thousand dollars on the twenty eighth day of March in the year eighteen hundred and sixty six with interest from the date thereof at the rate of ten percent per annum payable half yearly to wit on the twenty eighth day of ~~March~~ Each of the months of

September and March in each and every year until said principal sum should be fully paid and that such payments both of principal and interest should be made at such place in the City of New York as the said complainant her executors, administrators or assigns might from time to time in writing appoint and in default of such appointment then at the office of Messrs Cochran Mc Numbers 443 and 445 Broadway in said City of New York. It being expressly provided in and by said bond that of default should be made in the payment of any of the interest on the principal sum above mentioned payable half yearly as aforesaid and any portion thereof should remain due and unpaid for the space of twenty days after the same should become due and payable according to the above mentioned condition then and in that case the principal sum above mentioned together with all arrearages of interest thereon should at the option of the said complainant her executors administrators or assigns thereupon become due and payable and might be demanded and collected thereafter as if the full time for which the loan in said bond mentioned had fully expired any thing in said bond before contained to the contrary notwithstanding. Which said original bond was by said master referred to by said master as Exhibit A in his said report and was by him returned into this Court and is now on file in this cause to which said original bond as apart thereof are attached ten interest Coupons or promissory notes bearing date with said bond, Executed by the said Defendant

William Waymon and payable to the said Complainant or her order Each for the sum of three hundred dollars and each payable respectively upon the date of the maturity of the haly yearly interests payments upon said bond as aforesaid, which said Coupons numbered from one to ten inclusive in the order in which said haly yearly interest payments mature are attached to said original bond and are on file in this cause as part of said bond and it appearing further from said Repat as it is admitted in said bill of Compleint that on the first day of November Eighteen hundred and sixty one the said Defendant William Waymon paid to said Complainant the sum of one hundred dollars which was on that day endorsed on the said Coupon marked No 1 as payment on account of interest money then due and in arrear of said principal sum. And it appearing further from said Report that said Complainant doth hold and own the mortgage mentioned and set forth in the said bill of compleint in this cause bearing date the said twenty eighth day of March in the year Eighteen hundred and sixty one and executed between said William Waymon and said Jane Waymon his wife Defendants of the first part and the said complainant of the second part in which said mortgage is contained a recital of the said bond bearing even date therewith above described, in and by which said mortgage the said Dependents William Waymon and Jane Waymon his wife in order to secure the payment of said sum of money mentioned in the condition of said bond with the interest thereon according to the

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true intent and meaning thereof conveyed the mortgaged premises to the said complainant, the party of the second part therein named as mentioned and set forth in said complainants said bill of complaint to wit all those certain lots pieces or parcels of land situate lying and being in the City of Chicago in the said County of Cook and known and described as lots numbered ten (10) and Eleven (11) in Block Eleven (11) in the Original town of Chicago together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversions and remainders rents issues and profits thereof as set forth in said bill of complaint and it further appearing from said Masters Report that in and by the said mortgage the said Defendant William Wayman covenanted to and with the said complainant that he would well and truly pay unto said party of the second part thereto her executors administrators or assigns the said principal sum of Money mentioned in the condition of said bond and the interest thereon according to the said condition and that he would not at any time thereafter until the said principal Sum and the interest thereon should be fully paid suffer said premises or any portion thereof to be sold for any tax or assessment whatsoever nor permit to be done in upon or about said premises any thing that might in any wise tend to impair the value thereof or to weaken diminish or impair the security intended to be effected under and by virtue of the said mortgage and that

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he the said William Wayman would at all times there-
after until the said principal sum of money and all
arrearages of interest thereon should be fully paid keep
all the buildings (Court houses excepted) thereon situate or
that might thereafter be erected upon said premises fully
insured against loss or damage by fire & other casualty
in some good and responsible insurance Company or
Companies (the selection of such insurance Company or
Companies to be left to the option of the said party of the second part
her heirs or assigns or her or their authorized agent) in
the fair insurable value of such buildings and would
legally and properly assign the said party of the second
part her executors administrators or assigns each and
all and every the policies of insurance therefor as soon
as and whenever such insurance should be effected and
would also deliver to said party of the second part her
executors administrators or assigns or her or their au-
thorized agent all premium or renewal certificates &c-
cience for the payment of the premium upon such policy
or policies of insurance as soon as and whenever such
certificates should be issued and that in default of
so doing the said party of the second part her executors
administrators or assigns at her or their option might
effect such insurance in her or their name or names or
otherwise and the premium money paid therefor
should be secured by said Mortgage in the same man-
ner as the said principal sum of money above mentioned
is secured and that such premium money should be

paid by said William Wayman his heirs and legal representatives to said party of the second part her executors administrators or assigns on demand and might be collected at any and all times after the same should have been paid with interest thereon at the rate of ten per cent per annum from the time the same should be advanced. And it further appearing from said report of said master that in and by the said Mortgage it was further expressly agreed and understood between the parties thereto that if default should be made in the payment of the principal sum of money above mentioned or of the interest that might grow due thereon or of any part thereof at the time and times respectively when the same ought to be paid as set forth in the condition of said bond or if the said William Wayman his heirs Executors or administrators should at any time thereafter until said principal sum and all arrearages of interest thereon should be fully paid suffer said premises or any part thereof to be sold for any tax or assessment whatsoever or should do or permit to be done in upon or about said premises or any part thereof any thing that might in any wise tend to diminish the value thereof or to impair weaken or diminish the security intended to be effected under and by virtue of said Mortgage or should neglect or fail to keep all the buildings (Except out houses) that then were or thereafter might be situate upon the said premises fully insured and the policies of insurance therefor assigned to said party of the second part her Executors administrators or

assigns and deliver unto her or them or her or their authorized agent together with all premiums or renewal certificates received from time to time for the payment of the premiums upon such policies as therein before in said Mortgage covenanted and provided or should fail in any wise promptly and faithfully to fulfill keep and perform as well in spirit as in letter all and singular the covenants and agreements contained in said Mortgage or if either or any of said covenants and agreements should at any time be broken in any respect whatsoever that then and from thenceforth it should be lawful for said party of the second part her Executors Administrators or assigns to enter into and upon all and singular the said premises and to sell and dispose of the same and all benefit and equity of redemption of the said party of the first part their heirs or assigns therein at public auction having first given twenty days notice of the times and place of such sale (such sale to be made at Chicago aforesaid) by advertisement in any one of the daily newspapers that might at that time be published in the English language in said City of Chicago, personal notice of such sale to said party of the first part their heirs Executors. Administrators or assigns or any and all persons claiming by through or under them being by said Mortgage expressly waived and either in the name of the said party of the second part her heirs or assigns or at her or their option as the attorney of the said party of the first part for that purpose by the said Mortgage

duly and irrevocably authorized constituted and appointed to make and deliver to the purchaser or purchasers thereof a good and sufficient deed or deeds of conveyance in the law for the same in fee simple, The said Mortgage being in all respects as set forth in said complainants said bill of complaint was filed for record in the office of the Recorder of said County of Cook on the third day of April A.D. 1861, and was recorded in Book 38 of Mortgages page 209 to which record reference is hereby made for greater certainty and the Original thereof was returned by said Master in Chancery and by him marked Exhibit 2. and is now on file in this cause.

And it further appearing from the report of the said Master and the proofs therein referred to & contained & therewith returned and now on file in this cause that by reason of the non payment of the half yearly interest due and payable upon the said bond and Mortgage on the twenty eighth day of September in the year Eighteen hundred and sixty one and the election of the party of the second part to said Mortgage as set forth in said complainants bill of complaint the whole of said principal sum secured by said bond and Mortgage together with all arrearages of interest became due and payable as set forth in complainants said bill of complaint and that no part of said Mortgage indebtedness for principal or interest has been paid by said William Wagman nor by any one for him excepting said payment of one hundred dollars endorsed

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upon said interest Coupon No 1. of November 1st A.D 1866.

and it further appearing that in pursuance of the provisions and terms of said Mortgage said Complainant has advanced the following sums of money for the insurance of the buildings upon said premises to wit to the City Insurance Company New Haven Connecticut September 1st 1861 forty six dollars, and September 1st 1862 forty six dollars - and to the Home Insurance Company of New Haven aforesaid April 5th 1862 seventeen dollars amounting in all to the sum of one hundred and nine dollars No part of which said sum has been paid or refunded to Complainant and the same by the terms of said Mortgage has become a part of the indebtedness secured thereby and due and payable to the Complainant with interest at the rate of ten per cent per annum from the date of such advances respectively reference being hereby made to the policies of insurance mentioned and referred to in said Masters Report marked Nos 3. 4. 5. & 6 and therewith returned into this Court and now on file in this cause

And it further appearing from said report and the evidence therewith returned that the said Mortgaged premises are not-worth the amount now due and payable to said Complainant upon said bond and mortgage and that said mortgaged premises are an inadequate security for said mortgage indebtedness and that the entire sum of money secured by said bond and mortgage to be paid to said Complainant upto

and including the twentieth day of February A.D. 1863 is seven thousand one hundred & forty four dollars & sixty nine cents and no more

Now therefore on motion of said complainant Solicitor Norman B Perkins Esq it is ordered adjudged and decreed by this Court that the said Dependant William Nayman is indebted unto said complainant in the just and full sum of Seven thousand one hundred and forty four dollars and sixty nine cents upon the bond and mortgage above mentioned at and on the said twentieth day of February A D 1863 and it is further ordered adjudged and decreed that the said William Nayman pay to the said complainant the sum of money last aforesaid together with the interest thereon until the same is paid and also pay all the costs of this suit on or before the tenth day of March next and in default of such payment being made within the said time limited the said Master in Chancery after publishing a notice of sale in one of the daily newspapers published in said City of Chicago for twenty days shall sell so much and such part of said mortgaged premises to wit Lots Numbered ten (10) and Eleven (11) in Block Eleven (11) in the Original town of Chicago together with all and singular the tenements hereditaments and appurtenances thereunto belonging or in any wise appertaining and the reversion and reversions remainder and remainders, rents issues and profits thereof and also all the Estate, right title interest dower

and right of dower property possession claim and demand whatsoever as well in Law as in Equity of the said William Wayman and Jane Wayman his wife of in and to the same and every part and parcel thereof with the appertinances And that the said complainant may become the purchaser at such sale of the said Mortgaged premises so to be sold at said sale and that out of the money arising from such sale the said Master pay first of all the costs of this suit including his own fees and disbursements Second that he pay to said Complainant the amount found due and payable to her by this decree, and that on making such sale the said Master shall issue certificates of sale to purchaser or purchasers of said Mortgaged premises so to be sold as aforesaid in due form of Law certifying the fact of sale and purchase and also the time when he or they will be entitled to a deed in case the same shall not be redeemed according to Law.

And it is further ordered adjudged and decreed that the Defendants and each and every of them and all persons claiming or to claim under them or either of them or who have come into possession of said Mortgaged premises or any part thereof during the pendency of this suit be forever barred and foreclosed of and from all Equity of redemption and claim of in and to said Mortgaged premises herein before described and every part and parcel thereof from and after the Expiration of fifteen months from the date of said sale unless

premises shall be sooner redeemed according to law and that at the expiration of fifteen months unless said premises shall have been sooner redeemed according to law said Master in Chancery or his successor in office execute to and deliver to the purchaser at such sale or his assignee or assignees a deed of said premises sold and it is further ordered that the purchaser or purchasers at said sale or his or their assignees to whom said deed shall be executed and delivered upon the execution and delivery of such deed be let into the possession of said mortgaged premises or so much thereof as shall be included by proper description in such deed.

And that any of the parties to this suit who may be in possession of said mortgaged premises and any person who since the commencement of this suit has come into the possession under them or either of them deliver possession thereof to such purchaser or purchasers or their assigns or assignees on production of the Masters deed for such premises and a certified copy of the order of this Court confirming the report of such sale.

And that said Master report to this Court in writing for its approval and confirmation the manner in which he hath executed this decree.

And it is further ordered, adjudged and decreed that Seyman Baird be and he hereby is appointed to take the care and custody of the said Mortgaged Estate pendente lite and after the date of the entry of this decree. That all the tenants now in

possession or who may hereafter come into possession of said mortgaged premises or any part or portion thereof do account with said Lyman Baird and pay to him all sums of money payable by them respectively for rent of any portion of said mortgaged premises until the sum of money found to be due to said Complainant as aforesaid with the interest thereof shall be fully paid & satisfied and that it shall be the duty of said Lyman Baird to pay first out of any money so received by him all taxes and assessments levied or imposed on said mortgaged premises

Second to pay all sums ~~of~~ necessary to keep the buildings & tenements (out houses excepted) insured in their fair insurable value for the ~~benefit~~ use of said Complainant and for her better security, and to pay any and all expenses necessary for the preservation of said buildings situate on said mortgaged Estate in as good a condition and state of repair as they now are, and to pay any excess of receipts of cash to the order of this Court for the satisfaction of this decree. And in the absence of any special requirement to report to this Court in writing the State of his account as to receipts and disbursements once in any three months

In the Supreme Court of the State of Illinois
Second Grand Division. Sept. T. 1863.

William Wagoner
June Wagoner
Complainants in Error.

v.

Isabella Cochrane
Respondent in Error.

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And now come the said William Wagoner and June Wagoner by Arthur H. Mindell their Solicitor and say that in the said Record proceedings and judgment & the Court gave and manifest Error in this to wit:

First. The Court below erred in rendering a Decree against the said June Wagoner in said Case without Legal process having been served upon her in a Legal way.

Second. In entering a default against said William Wagoner on the Second day of February 1863 for want of an answer &c

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State of Illinois }
County of Cook } ss

I Thomas B Carter Clerk of the Superior Court of Chicago within and for the Said County and State aforesaid do hereby Certify that the foregoing is a full true and Complete transcript of all the pleadings on file and the orders and judgment entered of Record in Said Court, together with the Masters Report and Exhibit No one and two thereto annexed, in a Certain Cause wherein Isabella Cockrane was Complainant, and William Wayman, Jane Wayman & John P Cozzer were defendants

In Testimony whereof I have hereunto Set my hand and affixed the Seal of Said Court at Chicago in Said County this Fourteenth day of March A D 1863

Thomas B Carter
Clerk

SUPERIOR COURT OF CHICAGO
ILLINOIS

Seal a supersedeas issue Bond $1,000
Geo Somers surety

L D Eaton

124 In the Supreme Court of the State of Illinois.
Third Grand Division. April T. 1863.

William Wayman
Jane Wayman
vs Complainants in Error
Isabella Cochrane
Respondent in Error

And now come the said William and Jane Complainants in Error by their Solicitor Arthur Winslett, and say that in said Record Proceedings and Decree of the Court below, there are divers great and Manifest Errors in this wit:

First. In entering a Decree against the said Jane Wayman when it appears from said Record, that she had not been lawfully summoned or served with process to appear and Answer the Bill.

Second. In entering a default against said William Wayman for want of an answer to said Amended Bill on the second day of February A.D. 1863. being the first day of the

February Term 1863. when he was not in default: and when as it appears from the Record, the Rule upon him to answer in ten days, had not been complied with & was complied.

Third. The Court below erred in ~~not~~ overruling defts. exceptions filed to the Masters Report; and his notice to have said Report reviewed and corrected by the Master and in requiring said ~~day was to pay~~ $7,144.69 within five days pendency order

Fourth. In decreeing that said William Haymond was indebted Dixie Complainant in $7,144.69. on Feb. 19. 1863 on said Bond; when it appears from the Record that Defendant owed her nothing on said Bond, and the same had been merged in a judgment recovered upon it, and had ceased to bear a legal existence and in allowing and computing interest on said debt from its beginning & the date of said Decree at ten per cent per annum, when in law, it only bore six per cent from the date of the judgment on said Bond.

Fifth. In appointing ~~Patrick~~ Reeder, and in ~~refusing~~ requiring him to give Bond before entering upon the exercise of his powers as such

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Wherefore and because of certain other gross and manifest Errors in said Decree and proceedings of the Court below, this said Complainants pray that said Decree may be reversed and set aside.

April 17. 1863. Arthur N. Waddell
Sol. for Complts in Error.

Supreme Court. 3 Grand Session

Isabella Cochrane
ads
William Wayman
et al

And now Comes the said Isabella Cochrane defendant in Error in this Cause by Dorwell & Smith her attorneys and says that in the record & proceedings aforesaid & in rendering the decree before said there is no Error

Dorwell & Smith
attys for said Defts

Error & Appeal filed April 23 1863 L. Leland Clk

Sup. Court No. 64 1865
2226
William Wayman
Isaac Wayman
&
Isabella Cochran

Filed April 23 1863
L. Leland Clk

Arthur N. Waddell