

38

NEW-JERSEY
COURT OF ERRORS AND APPEALS,

IN THE LAST RESORT IN ALL CAUSES.

FANNY GOODFELLOW,
Appellant,
AND
JOHN B. INSLEE, WILLIAM
INSLEE, and CHARLES T.
INSLEE, Executors, &c., of
Gage Inslee, deceased,
Respondents.

} On appeal from
decree in Chancery.

A bill of foreclosure was filed by Gage Inslee, in common form, against Fanny Goodfellow, on the 15th day of August, 1856, to foreclose, &c., mortgage dated 19th October, 1842, and subpoena thereon issued, tested 18th day of August, 1856, and service thereof acknowledged on the day of the test. The said Gage Inslee having died, the suit was revived in the names of the Executors of his Will; and on the 3d day of February, 1857, a decree by default was therein entered, and an order of reference made to George C. Ludlow, Esq., to report, with direction that defendant be summoned to appear before the Master: the defendant was duly summoned to appear. And, on the 14th day of February, 1857, the Master made report, in common form, that 20 there was due on the bond and mortgage recited in the bill, the sum of \$935 86.

On the 24th day of February, 1857, the defendant, by her petition verified, alleged :

That the petitioner was made a defendant in a suit of foreclosure of a certain indenture of mortgage, described in the bill of complaint filed by Gage Inslee, the mortgagee therein named, and acknowledged the service of the subpoena therein issued, that the said mortgage is the only lien on the premises therein contained ; and that the said mortgaged premises are a very ample security for the payment of the whole debt claimed by the said Gage Inslee to be due on said mortgage ; that she is informed that a decree by default hath been recently entered in said suit, and an order of reference therein made to a master of this Court to ascertain and report the amount due on said mortgage ; and that she received a notice of the hearing and examination of the matters referred, for the fourteenth day of the present month of February, and that such account hath been taken by such master. That this defendant verily believes that she hath a just and equitable defence upon the merits in said suit to make against a very considerable amount of the sum reported to be due on the mortgage aforesaid, and that she is advised by counsel that it is material, in order to obtain the full benefit of such defence, that the matters constituting the same should be presented by plea and answer or by answer alone ; and that other matters of defence to the whole claim should be presented in manner aforesaid ; that she hath refrained hitherto from making and filing such plea and answer in said suit under the supposition and opinion that she should first procure the attendance of her daughter, Cornelia Ayres, who is a material witness in said cause for this defendant, as she verily believes, and who, shortly before the institution or commencement of this suit, went from the State of New Jersey to the State of Ohio ; that she has written several times to her said daughter desiring her to return, and hath forwarded money to her for that purpose, but that she hath hitherto been detained in said State of Ohio by sickness, but that she confidently expects to procure such return and attendance of her said daughter at no distant day.

She therefore prays that the decree and report aforesaid may be vacated and time allowed her to make and file plea or answer, or both, in said cause, as she shall be advised by counsel. (Signed,) FANNY GOODFELLOW.

Sworn, &c.

W. H. LEUPP, of Counsel with Petitioner.

Due notice was given. The hearing was had on the 7th day of March, 1857, and the Chancellor refused to vacate the decree, or allow said defendant to plead or answer; but by an order dated March 24, 1857, referred said report back 10 to said Master with direction that the account therein stated be opened, and a restatement made and taken of the amount due, if anything, for principal and interest upon said mortgage, with leave to the defendant to adduce any proofs of the payment or satisfaction of the bond accompanying said mortgage.

A hearing in pursuance of said second reference was had before said Master, who thereupon made report dated June 3d, 1857, as follows, to wit:

That in pursuance of said order, I have been attended by 20 the solicitors of the complainants and defendant, and in their presence have considered of the matters referred to me as aforesaid; and that the said parties, respectively, produced before me witnesses, who were examined in relation to the matters referred as aforesaid, and whose depositions, taken in said cause, are annexed hereto, and made a part of, this, my report.

The complainants' solicitor produced the bond and mortgage described in their said bill, which are executed according to law; said mortgage being acknowledged and 30 recorded as in said bill mentioned—(see endorsements thereon)—which said bond and mortgage are marked Exhibits A and B, on the part of complainants.

The solicitor of defendant produced before me and proved (see deposition of Moses Coddington, the first witness sworn on part of defendant) certain receipts of Gage Inslee for monies paid by defendant, on account of said bond, and not indorsed thereon; which receipts I have marked Exhibits

No. 1, No. 2, No. 3, and No. 4, on the part of the defendant. He also produced before me certain memoranda, which
 10 I have marked Exhibits **A**, **B**, **D**, and **E**, of May 5th, 1857, on the part of defendant; and also a certain other receipt in receipt-book of defendant, which I have marked Exhibit **C**, of May 5th, 1857, for defendant, which receipt bears date June 16, 1849, and the signature thereto is proved (see deposition of Abraham P. Provost) to be the signature of Gage Inslee, and in reference thereto I report that the amounts at present stated in said receipt, viz: \$83 and \$94 50, which are claimed by defendant, by inspection, are evidently the
 20 result of alterations by erasures, additions, &c., which, being unexplained by any evidence in the cause, I have allowed the defendant, in making account of the monies due on said bond, only so much as, in my opinion, and by inspection, was originally contained in said receipt, viz: \$34 50. (See Exhibit **C** for defendant, and schedule hereto annexed.)

Upon examination and inspection of the various Exhibits produced by the respective parties in the said cause, and upon the evidence adduced before me as aforesaid, I find, and do report, that there is due to the complainants on their said bond and mortgage, for principal and interest, on this
 30 day, the sum of \$541 52; and I do certify and report that the schedule hereto annexed, and made a part of this, my report, contains a statement and account of said principal and interest monies due to complainants on said bond and mortgage, and for greater certainty I refer thereto.

And I do further certify and report, that by inspection of the receipts indorsed on said bond, (Exhibit **A** for complainant,) it is apparent that alterations have been made in many of them, by erasures, &c., by reason whereof it is difficult to ascertain precisely the exact amounts of the original indorse-
 40 ments; and where such alterations are unexplained by evidence in the cause, in making the account of monies due thereon, I have allowed the defendant what, in my opinion, and by inspection, appears to have been the original indorsements. (See Exhibit **A** for complainant, and schedule hereto annexed.)

Dated June 3d, 1857.

SCHEDULE

REFERRED TO IN FOREGOING REPORT, AND A PART THEREOF.

		Bond bearing date October 19, 1842, in the penal sum of \$2,000, 10 conditioned for the payment of \$1,000 in one year, with interest, and secured by the mortgage in the complainants' bill mentioned. Interest paid in full to October 19, 1844. See receipt indorsed.	
Oct. 19, 1844,	\$1,000 00	Principal then due.	
		Interest on \$1,000 from Oct. 19, 1844, to Jan. 22, '45,	\$15 50 20
		Amount then paid, (see receipt indorsed,	150 00
	<u>134 50</u>		<u>\$134 50</u>
Jan. 22, 1845,	\$865 50	Principal then due.	
		Interest on \$865 50 from Jan. 22, 1845, to May 17, 1845,	16 70
		Amount then paid, (see receipt indorsed,)	30 100 00
	<u>83 29</u>		<u>\$83 29</u>
May 17, 1845,	\$782 21	Principal then due.	
		Interest on \$782 21 from May 17th, 1845, to March 3d, 1846,	\$37 27
		Amount paid March 31, 1846, (see receipt in-	40

May 17, 1845, \$782 21	Brought forward, \$37 27 dorsed,) 40 00
<u>2 73</u>	<u>\$2 73</u>
March 3, 1846, \$779 48	Principal then due. Interest on \$779 48 from March 3d, 1846, to March 31, 1846, \$3 63 Amount then paid, (see receipt indorsed,) 100 00 <u>96 37</u> <u>\$96 37</u>
March 31, 1846, \$683 11	Principal then due. Interest on \$683 11 from March 31, 1846, to De- cember 26, 1846, \$30 28 Amount then paid, (see receipt indorsed,) 100 00 <u>69 72</u> <u>\$69 72</u>
Dec. 26, 1846, \$613 39	Principal then due. Interest on \$613 39 from December 26, 1846, to July 18, 1849, \$94 19 Amount paid June 16, 1849, (see receipt marked Exhibit C, of May 5, 1857, for de- fendant,) \$34 50. Amount paid July 18, 1849, see receipt in- dorsed on bond, (al- tered,) \$60 00, 94 50 <u>31</u> <u>31</u>
40 July 18, 1849, \$613 08	Principal then due. Interest on \$613 08 from July 18, 1849, to Aug.

		6, 1850,	\$38 61
		Amount paid Jan'y 5,	
		1850, (see receipt in-	
		dorsed,) \$12.	
		Amount paid Aug. 6,	
		1850, (see receipt in-	
		dorsed, altered,) \$30,	42 00
	3 39		<u>\$3 39 10</u>
Aug. 6, 1850,	\$609 69	Principal then due.	
		Interest on \$609 69 from	
		August 6th, 1850, to	
		June 27th, 1851,	\$32 58
		Amount paid at that	
		date, (see receipt in-	
		dorsed, altered,) 70 00	
	37 42		<u>\$37 42 20</u>
June 27, 1851,	\$572 27	Principal then due.	
		Interest on \$572 27 from	
		June 27, 1851, to Oct.	
		10, 1851,	\$9 81
		Amount then paid, (see	
		receipt, Exhibit No.	
		2, for defendant,) 38 00	
	28 19		<u>\$28 19</u>
Oct. 10, 1851,	\$544 08	Principal then due.	30
		Interest on \$544 08 from	
		Oct. 10, 1851, to Oct.	
		25, 1851,	\$1 36
		Amount then paid, (see	
		receipt, Exhibit No.	
		1, for defendant,) 84 00	
	82 64		<u>\$82 64</u>
Oct. 25, 1851,	\$461 44	Principal then due.	40

		Interest on \$461 44 from Oct. 25, 1851, to June 29, 1852,	\$18 74	
		Amount paid June 29, 1852,(see receipt, Ex- hibit No. 3, for de- fendant,)	29 00	
10	<u>10 26</u>		<u>\$10 26</u>	
	June 29, 1852,	\$451 18	Principal then due.	
			Interest on \$451 18 from June 29, 1852, to June 3, 1857, date of this report,	\$133 34
			Amount paid July 18, 1855,(see receipt, Ex- hibit No. 4, for de- fendant,	\$30 00.
20			Amount admitted by complainant, \$13 00,	43 00
				<u>\$90 34</u>
		90 34	Interest due at date of report, (Principal \$451 18.)	
	<u>\$541 52</u>		The amount due the complain- ants of principal and interest on said bond and mortgage, this 3d day of June, 1857.	
30				

Moses Coddington, a witness produced on the part of the defendant, being *sworn* according to law, on his oath says, I knew Gage Inslee; have seen him write, am acquainted with his hand-writing; have been several years Cashier of the State Bank at New-Brunswick; during the time I have been in said Bank I have critically examined hand-writings, and said Inslee's in particular.

Witness being shown paper writing, marked Exhibit 10 No. 1, on the part of defendant, and paper writing, marked Exhibit No. 2, on the part of the defendant, says, these papers are in the hand-writing of said Inslee;—paper writing, marked Exhibit No. 3, and also paper writing, marked Exhibit No. 4, on the part of defendant, says, these papers are signed by Gage Inslee in his proper hand-writing.

Sworn the 14th day of April, 1857.

William M. Brundage, a witness on the part of the defendant, being sworn, on his oath says, I knew Gage Inslee; remember being at his house with Mrs. Goodfellow, the 20 defendant, once, about the year 1845; she wanted me to go along to see her make a payment; I recollect counting some money for her at that time; she made a payment, I believe; I do not recollect that he gave her any receipt for it, or endorsed it on the bond: I don't remember the amount of the payment; I remember only counting some money; don't remember the time in the year except that it was in the Winter.

Witness being shown a paper, says, from this paper I fix the time, which is January 22, 1845, but I cannot fix 30 the amount, nor whether the amount on it is the amount then paid by her; there was some talk about a note at that time. This paper does not enable me to fix the amount.

Question.—What is the amount upon this paper?

Answer.—One hundred and fifty-six dollars upon principal.

(Question and answer excepted to.)

This paper is in my hand-writing; I can't recollect whether I made the statement on it at my house or at Mr. Inslee's; nor can I recollect when it was made out. It has 40 been in my house for several years. This paper is not the original—the old paper I made out, and this paper is a copy of it. The old paper was in my hand-writing; and is the one which was in my house for years; I don't recollect when or where it (the original) was made out. She took them both; this paper was made out last Spring or Summer, I recol-

lect she wanted me to see her pay money; but I do not recollect of her wanting me to go for any other object; nor do I know from whence I got the amounts from which I
10 made up this paper.

Cross-Examined:—

At the time we were there, I recollect he said to her when she was making the payment, that the amount of the note should be taken out first; the amount of the note was thirteen dollars.

Sworn and subscribed, &c.

WM. N. BRUNDAGE.

Isaac Morris, a witness produced on the part of the defendant, being sworn, on his oath says, I remember making
20 a payment for Mrs. Goodfellow to Mr. Inslee, on account of Mr. Inslee's bond and mortgage; as near as I can recollect it was about twelve years ago; can't say positive; I don't recollect the whole amount of money I took; he took out something in the first place for interest, and credited about \$90 on the bond on the principal, as near as I can think: I can't say certain whether or not he credited any other amount on the bond than the \$90; I am satisfied I paid him something beyond the \$90 for the interest; I remember his figuring up the interest, and suppose he made the
30 interest up square up to the day I paid him; I was never present at any other time when Mrs. Goodfellow, or any other person for her, paid money on this bond.

Cross-Examined:—

This was about twelve years ago as near as I can recollect. I gather this from some circumstances which took place about that time—my getting married for one; the money was paid at Mr. Inslee's; Mrs. Goodfellow paid me the money at her house; I saw the bond when I went there; I don't remember seeing him endorse the interest on the
40 bond; he endorsed \$90 of principal; I took no receipt for the money on behalf of Mrs. Goodfellow; I saw him endorse \$90 on the bond as near as I can recollect: can't tell

about how much I took to him; Mr. Inslee got out the bond and made a calculation about the interest.

Sworn and subscribed, &c.

ISAAC P. MORRIS.

Henry Noë, a witness produced on the part of the defendant, being *sworn*, on his oath says, I knew Gage Inslee; I remember having a conversation with him about the amount due on the bond and mortgage which he held against Fanny Goodfellow; it was three or four years ago; he said the balance of principal and interest then due was about \$500. 10

(Mrs. Goodfellow was not satisfied with that amount.)
Excepted to.

Cross-Examined, says:—

This conversation took place before Mrs. Goodfellow's door; he was sitting there in his wagon; I don't know whether he had the bond and mortgage with him or not. Mrs. Goodfellow was not there; I fix the time because I have dates of that time from which I fix it. It was three or four years ago; think it was 1854. I know I was there at that time by dates; I know it from recollection; from notes which I had at that time to collect; I have them in my pocket; it was a note of James Latcher. My attention has not been called to this thing recently. Mr. Inslee produced no paper or calculation about it; I asked him how much she owed him; he said about \$500; I wanted to know what he would say; I had some notion of buying the bond and mortgage myself, but it went beyond my calculation, and I had nothing more to do with it. Mrs. Goodfellow is my aunt. Wm. M. Brundage, the former witness, is Mrs. Goodfellow's son-in-law. Mr. Isaac P. Morris is also a son-in-law of Mrs. Goodfellow; Mrs. Morris, his wife, is now dead. 20 30

Sworn and subscribed, &c.

HENRY NOE.

Abraham P. Provost, a witness on the part of the defendant, being *sworn*, on his oath, says: I knew Gage Inslee; am acquainted with his hand-writing; have seen him write.

Witness being shown a receipt in receipt-book, says that
 10 signature is a little different from some of his signatures; the first part resembles it more than the latter; I should think that signature is Gage Inslee's; I can't say that the body of the receipt is in his hand-writing; I am not familiar with his hand-writing other than his signature; I have no standard in my mind by which I can judge of his hand-writing apart from his signature.

Cross-Examined :—My particular attention was called to his hand-writing about three years ago; it may have been four years ago; think I have seen it since.

20 Witness being shown Exhibit No. 1, on part of defendant, says: I think the signature to this is his; I think there is a mixture or variety of hand-writing in the receipt in this receipt-book. Sworn and subscribed, &c.

ABRA'M P. PROVOST.

Isaac P. Morris, being recalled, says:

Question.—Did your deceased wife inform you in her lifetime that she had made a payment to Mr. Inslee on account of his bond and mortgage; and if so, to what amount?

(Question objected to.)

30 *Answer*.—She told me she had paid her mother something like eighty or ninety dollars for a piece of land, and Mrs. Goodfellow paid it at the same time to Mr. Inslee. (Answer objected to.) The eighty or ninety dollars came from divers sources; some from sale of cedars, some from huckstering. This is all hearsay. That payment, as near as I can think, was about eight years ago. (This evidence of the witness was all objected to.)

Sworn and subscribed, &c. ISAAC P. MORRIS.

Counsel for complainants objected to this witness being recalled.

40 On application made by counsel for defendant, the further examination of witnesses in this matter was adjourned to Tuesday, the 28th of April, 1857, at 10 A. M., at the same place.

On application made by counsel for defendant the further

examination of witnesses in this matter is adjourned to Tuesday, the 5th day of May, 1857, at 10 A. M., at the same place.

The further examination, by consent of parties, adjourned to Tuesday, the 5th day of May, A. D. 1857, 2 o'clock P. M.

Cornelia B. Ayres, a witness on the part of the defendant, being sworn, on her oath says, that she is a daughter of the 10 defendant. I knew Gage Inslee; I remember of his having a bond and mortgage on the property of my mother, the defendant; I know he used to take payments from her on account of that bond and mortgage.

Question.—Do you know of any payments being made by your mother to Mr. Inslee on account of that bond and mortgage?

Answer.—I recollect that he used to ask her for money, and promised to give her credits in payment on his bond and mortgage. 20

Question.—Were you present when any payments were made?

Answer.—Yes.

Question.—By whom were the payments made, and what amounts?

Answer.—She paid him herself some of the payments; Morris' wife (Mrs. Frances P. Morris) made payments; don't know that I ever saw any one else make payments. On the 18th of July Mrs. Morris paid \$60; can't fix the year; it was somewhere about the time that Simon Daley married his 30 second wife; Mrs. F. P. Morris is dead; I saw her, the defendant, at one time when he wanted \$10, hand him \$13.

Question.—Did Mr. Inslee give a receipt to Mrs. Morris or your mother when they made these payments?

Answer.—I cannot say; he did not give a scratch of the pen for that money to my recollection; I don't remember any other payment made by my mother than the \$13; I don't remember any payment of \$12 by my mother; I saw him (Inslee) destroy receipts on two occasions; I don't remember what he said when he destroyed them. 40

Question.—What amount is written on the partition in your mother's house?

(Question objected to.)

Answer.—One hundred and twenty-two dollars.

Question.—Did Mr. Inslee examine that memorandum?

Answer.—He was sensible of its being there, and he made some observation about the dates.

Question.—Did he say whether it was a correct or incorrect amount of payments?

10 *Answer.*—He said nothing against it; did not seem to be uneasy about it.

Question.—Was there a charge or memorandum also on the wall of Mrs. Goodfellow's house of payments made to Mr. Inslee? (Excepted to.)

Answer.—That was credit to go on the mortgage.

Question.—What was the amount on the wall?

Answer.—I can't say what the amount was exactly—sixty, seventy, or one hundred dollars—can't say exactly; Mr. Inslee examined that charge on the partition, and on the wall,
20 too; Inslee made a remark about the dates, which is about all I can recollect about it; he did not make any objections; he said not a word; I recollect of Mr. Inslee's taking a cow and calf on account of the bond, and of his coming with Simeon B. Drake to drive them home; can't say as to the value of them, nor what he was to give for them; I don't remember whether he gave any receipt for them or not; I remember of my mother felling and cutting timber off her land to sell, and pay the proceeds thereof to Inslee on account of this bond and mortgage; and I recollect of her
30 selling land for this purpose—I can't say as to the amounts.

Witness being shown a paper, marked Exhibit B, of May 5th, 1857, says: the indorsements thereon are in my hand-writing; they are taken from receipts given by Inslee to Goodfellow; the receipts are in his own hand-writing. (Objected to.)

I was acquainted with the hand-writing of Inslee.

Witness being shown receipt-book (marked Exhibit —) says: the receipt in that book is in Inslee's hand-writing.

Inslee once expressed satisfaction that all the money he had got from my mother had been good money; he said this 10 just before I went] to the West; don't know whether it was two or three years ago; can't say exactly; I don't remember of any money being paid when Mr. Inslee went to the West.

Witness being shown a memorandum marked Exhibit A, of May 5th, 1857—

Question.—Your attention being directed to that memorandum, are you now satisfied that Inslee borrowed money of your mother when he went to the West?

Answer.—I have every reason to believe that he did. 20

(Question and answer excepted to.)

Question.—Can you state the amount?

Answer.—Twenty dollars.

Witness being shown a memorandum (marked Exhibit A, of May 5th, 1857,) says: these figures are in the hand-writing of Joseph Miles; I don't know where he (Miles) is now: I saw him at my mother's house in 1846; I do not know where he is now; nor have I heard of his being in this State since 1846.

Being *cross-examined*, says:

30

I do not know of Inslee holding a note for \$100 against my mother, or any other note; I was with Mrs. Frances P. Morris when she paid the \$60, and don't remember of being with her when she made any other payment; sometimes my mother keeps pen, ink, and paper in the house; this receipt-book has been in the house a great many years, and before I was born, I suppose; my mother was in the habit of writing her receipts on the walls and partitions—if you were in the house you would see plenty of them. The land my mother sold, and spoken of in my direct examination, was 40 in Essex County, and was sold to Ichabod Ayres; I know that it was sold to pay Mr. Inslee, because I heard her say so, and I heard other people say so; I don't know exactly when I made this memorandum, (Exhibit marked A, of May 5th, 1857,) think it was about five years ago; I did not see the money loaned to Inslee when he went to the West, but still I believe he had it.

Question.—And is your belief your only authority for saying that he borrowed it?

Answer.—I have heard others speak of it, and I think I
10 heard him speak of having money about that time from her.

Question.—Is the whole of the receipt in the receipt-book, which receipt-book is marked Exhibit —, and which receipt you have testified is in the hand-writing of Gage Inslee, in the hand-writing of Gage Inslee?

Answer.—I said it was his hand-writing, and I say it yet.

Question.—Were the proceeds of the land sold, and the wood which was cut, paid to Mr. Inslee on account of this bond?

Answer.—I believed they were; I have heard enough
20 from people to convince me that they were.

Question.—Do you know it in any other way?

Answer.—I heard her say that she was obliged to sell her land to pay him.

Question.—Any other way than that?

Answer.—Well, I could see it was for that.

Question.—Is that all you know about it?

Answer.—I heard some of them exult in the triumph, that she was obliged to sell her land in Essex County to pay for the land which she bought of him in Middlesex County.

Question.—Have you any other answer to give to the last
30 four questions, or any one, or more of them, than you have given?

Answer.—Well, I don't know as I have.

Direct examination resumed:—

Question.—Were there not other lands sold to other persons for the same purpose?

Answer.—It appears to me there were other lands in Essex County sold to Hazel Noe for that purpose; it seems to me there were three lots sold; there was one sold to Mrs. Morris; I cannot say what was the amount of land sold to
40 Noe or to Mrs. Morris, nor can I say as to the amount of money paid by them; I cannot say what was the amount of receipts destroyed.

Sworn and subscribed the 5th day of May, A. D. 1857.

CORNELIA B. AYRES.

Mary Ann Brundage, a witness on the part of the defendant, being sworn according to law, on her oath says: I am a daughter of the defendant; when Mr. Inslee took the bond and mortgage spoken of, he said he would not take less sums than \$100; this was at the time when he first took the bond and mortgage, and when he sold the land to her; I was present when one payment was made on the bond; there was \$100 paid then, and a note of \$13, and the interest on the whole bond was first taken out up to the date, and the balance went on account of principal; the interest was deducted on the \$13 as well as on the bond; there was no one in the room but Mr. Inslee's son, Inslee's wife; my husband was there; he counted the money.

Question.—What amount of principal was paid after payment of \$13 and interest, and the interest due upon the bond? 20

Answer.—\$100; There was a statement at that time made of the credits on the bond at that time by my husband.

Question.—Is that paper a copy of that statement?

(Question objected to.)

Answer.—Yes, sir, I think it is.

[The paper shown to the witness at this time, and meant in last question, is marked Exhibit D, of May 5, 1857.

My husband wrote a copy of that paper from the bond and mortgage at the time that he was there; this paper is not the original, and this is copied from the original; this paper was made at or about the time when Mr. Inslee demanded his money of my mother, and put the papers in the hands of Mr. Blauvelt for collection; this paper was made because the old paper had on it certain accounts of my own, and my mother thought it was better to have it on a clean paper.] 30
(Excepted to.)

Question.—Have you been requested to conceal or put away that other paper, in any way?

Answer.—No, sir. I heard Mr. Inslee speak of having received money which he had not credited on the bond; the last time I heard him speak of it he said there was \$20 that he had not given credit for; that was after he put the papers in the hands of Mr. Blauvelt for collection. 40

Question.—Do you remember of Mr. Inslee making any statement in reference to the amount due upon the bond?

(Question objected to as leading.)

Answer.—It was \$600. I was in the road, and no one was there but Inslee and myself; this was in the spring of 1855; I remember my mother cutting wood and paying the proceeds to Mr. Inslee on account of the bond; I recollect of her cutting off seventy dollars worth twice, and the money, I expect, went to him; heard her say she was going to pay it to him; I don't know that she paid it or not; I know that there was \$70 of the proceeds of the wood paid to him by my mother; four acres of land were sold to Mrs. F. P. Morris; don't know how much per acre; the salt meadow was sold for, I think, \$30.

Witness being shown paper, marked Exhibit **E**, of May 5, 1857, says: this paper is in my hand-writing, and is a statement of receipts which my mother had which he said were his; these receipts, when I made that paper, were in my mother's possession; Mr. Inslee said that my mother had receipts; I have seen Inslee write once, and I have often seen his hand-writing; the receipts which I saw looked like his hand-writing.

(The testimony thus far of this witness is excepted to by the complainants' solicitor.)

✧ I never heard of, nor do I know, that my mother ever gave Mr. Inslee a note for \$100 for that land.

30 *Question.*—When was the statement made of which you have spoken, in answer to the first interrogatory in chief?

Answer.—(Witness here takes up and looks at paper, marked Exhibit **D**, of May 5, 1857, and with that in her hand, says:) It was in December or January; it was in 1845, in January.

Question.—Do you fix it from this paper, or from your recollection?

Answer.—Partly from this paper and partly from the time I was there; the time I fix must have been the time that I was there, because I was never there at any other time when money was paid; I did not see the \$70 of which I have spoken paid to Mr. Inslee.

Question.—Do you personally know that \$70, of which you have spoken in your direct examination, of the proceeds of the wood, was paid by your mother, or anybody else, to Mr. Inslee?

Answer.—I heard her say that he had it; that she went to pay it to him, and did pay it to him, and it was paid to him.

Question.—Do you know in any other way than you have 10 stated in your last answer, that the said \$70 was paid to Mr. Inslee?

Answer.—I did not see it paid to him, but heard Isaac Morris say that he paid it to him for my mother.

Question.—Do you decline or refuse, or are you unable to give any farther and more satisfactory answers to the last two questions?

Answer.—I don't know that it is necessary for anything more; I had every reason to believe that he paid it; that is all that is necessary.

20

Sworn and subscribed, &c.

MARY ANN BRUNDAGE.

John S. Blauvelt, a witness on the part of the complainants, being sworn, on his oath says: I am the solicitor of the complainants in this case, and Gage Inslee put in my hand the bond and mortgage set forth in the complainants' bill, for collection; my recollection has been that it was in August, 1856, but, upon looking at a memorandum that I made, I conclude that it was prior to August—probably in July. According to that memorandum, Mrs. Goodfellow called 30 upon me on the 30th day of July, 1856; Mr. Inslee (Gage Inslee) was present at the same time with her; the defendant made several claims as credits on the bond and mortgage. The claims were, cash \$13; for a cow, \$29; for salt meadow lot, \$30; which three claims, amounting to \$72, Mr. Inslee said were correct, and were to be allowed upon the bond. The defendant further claimed a credit, June 16, 1849, of \$83, and \$94 50 in the receipt-book, which Inslee denied as being his receipts, and ever having received such monies.

10 She claimed a further credit, October 10, 1851, of \$38, for which she produced a receipt, (Exhibit No. 2, for defendant,) which Mr. Inslee denied to be his receipt. She claimed a credit, 14th of January, 1843, of \$100, and October 25th, 1851, of \$84—both of which he (Inslee) denied. These were all the credits that she claimed to be allowed her upon the bond and mortgage; and, as I understood her, she was willing to settle upon an allowance of these credits. The defendant and Mr. Inslee talked these matters all over; Mr. Inslee offered, by way of compromise, and for the mere purpose
 20 of settlement and avoiding controversy, to allow the \$38 in the receipt, (Exhibit No. 2, for defendant,) but refused to recognize that receipt, or to allow the amount of it, if he were driven to a suit to collect his bond and mortgage; defendant refused the offer. During the conversation between Inslee and the defendant, I understood them both to agree that at the time the bond and mortgage was given the defendant also gave to Mr. Inslee a note for \$100, which was a part of the consideration of some land sold by Inslee to defendant, and that this claim of \$100, of January 14, 1843,
 30 either was, or must have been, the payment of that note, if the \$100 were paid. Mrs. Goodfellow admitted that she had given such note, but I cannot say with certainty that she admitted expressly that the \$100 she claimed was paid for that note, though the impression left on my mind was, and is, from all that was said by her and Mr. Inslee, that it was paid for that note. The receipt endorsed on the bond of the 22d of January, 1845, in which there is an erasure of the word "six," was spoken of to me by Mr. Inslee, and my belief is, in the presence of Mrs. Goodfellow. As to her being
 40 present, I am not exactly certain, and he may have spoken to me about it alone; I called his attention to the erasure of the word "six."

(The counsel of defendant here objected to any further statement of Mr. Inslee's sayings or doings not in the presence of defendant.)

He told me that he erased the "six" because six dollars of the money proved bad, and he returned it to the defend-

ant; this statement, my belief is, was made in the presence of the defendant, and was either assented to or not dissented from.

10

Being *cross-examined* :

This interview I have spoken of was had between the parties to make a settlement, not by way of compromise, but to ascertain the amount that was justly due to Mr. Inslee upon his bond and mortgage, and the amount of just credits thereon due to the defendant; I do not think it was an interview had in pursuance of my advice, although it may have been, judging from my ordinary practice, that upon my suggestion to Mr. Inslee, and notice given either by me in some way or other to the defendant, not now recollected, 20 that the interview took place between the parties; I have some recollection, not very distinct, at this minute, that I did suggest to him that he had better see her and have a meeting at my office upon the subject. My recollection is, that I gave her no notice, except it may have been in the way before mentioned; I do not think any one was present at that interview except Inslee, the defendant, and myself; the memorandum I spoke of was made at the time when Mr. Inslee, the defendant, and myself were in my office at the interview, and in their presence. She must have seen 30 me writing. I think she was apprized that I was making a memorandum of what she claimed. After I made the memorandum, I enquired of them both from the memorandum in my hand.

Question.—At this time, or afterwards, did you inform Mrs. Goodfellow that you were making, or had made, such a memorandum?

Answer.—If by informing Mrs. Goodfellow in words addressed to her, or spoken in her presence, is the meaning of the words "inform Mrs. Goodfellow" in the interrogatory, 40 that "I had made such memorandum," I think not; but she knew the fact at that time.

Question.—Have you any other reason for believing that she knew the fact, than, that you referred to the memorandum?

Answer.—I know that Mrs. Goodfellow, upon that occasion, produced to me the receipt-book, the voucher for \$38, (Exhibit No. 2, for defendant,) some other papers, and, I think, the papers Exhibits **A** and **B**, of May 5, 1857, and
 10 she claimed a credit of \$13, of \$29, and \$30, for cash, the cow, and the salt meadow. In her presence, and from her lips, I made the memorandum of the last three items; and in her presence made the memorandum in regard to the others: my recollection is, that after I made the memorandum, I enquired of both the parties from the memorandum in respect to each item; it was then that Mr. Inslee admitted the three items, \$13, \$29, and \$30, and rejected all the rest, except, as before stated, in respect to the \$38.

Question.—Have you any further answer to make to that
 20 last preceding question?

Answer.—Mrs. Goodfellow saw the memorandum in my hand; she saw me write it: I neither read the contents of the memorandum to her, nor did she read them herself; I merely inquired of the parties from the memorandum with respect to the allowance of credits claimed by Mrs. Goodfellow therein set down; Mrs. Goodfellow had not the paper in her hand I think; she may have had it, but I do not know it if she did.

Question.—Have you any knowledge, recollection, or belief that she had that memorandum in her hand, or read it during the interview?

Answer.—I have not. I cannot say how long the interview continued; it may have been an hour, perhaps more; they got into a high quarrel before they got through with it; there was a charge of crimination; Mrs. Goodfellow made charges, I think, and Inslee also made a charge against her.

Question.—Did Mrs. Goodfellow charge Inslee with having destroyed receipts?

40 *Answer.*—I think not. I do not think that she charged him with having altered receipts on the bond; Mr. Inslee examined the receipt in the receipt book, and also paper Exhibit No. 2, for defendant.

Question.—Did he examine the paper marked Exhibit No. 1, for defendant, and did he reject severally these and receipts, pronouncing them not to be his hand-writing?

Answer.—Upon reflection, I think the paper Exhibit No. 1, for defendant, with Nos. 3 and 4, were there produced; he rejected No. 1 as not being his hand-writing; he spoke doubtingly of No. 2; rather thought he didn't sign it, but 10 agreed to allow it in the way that I have spoken of; Inslee rejected the receipt in the receipt-book.

Question.—Did he speak doubtingly of the body of paper, Exhibit No. 2?

Answer.—I think he spoke doubtingly of the whole of it.

Question.—How soon did you become aware that alterations had been made in the receipts endorsed on the bond, other than the six dollars of which you have spoken?

(Question objected to, among other reasons, that it assumes a fact not proved.) 20

Answer.—I do not know that alterations have been made in the endorsements on that bond any further than is evidenced by an inspection of them. If any such alterations have been made on that bond, I cannot recollect to have been aware of the suspicion thereof, I think, until more than probably six or eight weeks after the bill was filed; for my recollection is, that my attention was not called to them until some time after filing the bill.

(Question and answer objected to by solicitor of complainants as not being within the reference to the Master.) 30

Question.—[Will you examine the bond, (Exhibit A, for the complainants,) and state whether alterations have been made in the receipts thereon?

Answer.—I do not know whether they have been altered or not. There are appearances in some of these receipts that seem to me to show alterations.

Question.—From inspection is it not manifest that sums have been altered, and other sums written over the erasures?

Answer.—I think it is manifest. Whether a part of the bond has been cut off or not, I cannot say, except that a part 40 of the bottom seems to have been cut off with some sharp instrument, and is not in a straight line; from the size of the

margin I cannot judge so as to speak with any reasonable certainty; the bond is before the Court, and its inspection in that respect is the only guide that I know of.

Question.—If a prior receipt had been endorsed on that bond, would it not have occupied the space that has been cut off?

Answer.—It is possible. There would have been room for a prior receipt, if the bond was cut off, to have put a receipt.]

(Excepted to by counsel of complainants.)

I understood that the land was sold by Mr. Inslee to Mrs. Goodfellow, and that in paying for the land he took her note for \$100, and the balance by this bond and mortgage; but I cannot say certainly with regard to the consideration of the mortgage, but I understood there was some sort of connection between the note and the mortgage out of which they both grew, but what it exactly was I cannot state. Mrs. Goodfellow claimed \$100, which is on one of these Exhibits.

20 *Question.*—Did she not claim that the first payment which was made on that bond was the \$100.

Answer.—I think not.

Question.—What was Gage Inslee's reputation for truth and veracity, under oath or otherwise?

(Excepted to by solicitor of complainants.)

Answer.—My acquaintance with Gage Inslee personally was of late years, perhaps ten years back, and I think commenced with the Bird suit; I have known him by sight for a great many years, and until I heard him impeached upon
30 some trial in Middlesex County—only a small part of which I heard—I always took him to be a reputable man; and I cannot say what his character for truth and veracity was, except impressions made from what I heard of, and what was told me about that trial, and what I heard in taking the testimony in the Bird suit against him: I have heard him spoken of in the last few years with regard to his character generally, but I think that what I have heard said of him has mostly come, and it may be all, from persons who were directly or indirectly concerned, either in interest or

sympathy, with the parties involved in these suits; I can 10 therefore only say that from the sources above stated, there appears to have been a strong opinion, or rather feeling, against his character generally; I am not now aware that I have ever heard his character for truth spoken of. If the defendant's counsel can remind me of anything being said to me, or by me, in reference to his truth, I am willing to make such answer thereabout as I can.

(Adjourned to half-past two P. M., at the same place.)

The witness states: although I have the papers in that Bird suit in my possession, I have not had an opportunity 20 of examining them for want of time.

Question.—Have you any reason for saying that the persons from whom you have heard unfavorable statements respecting Gage Inslee, were opposed to him, except they were called as witnesses against him?

Answer.—I cannot answer this question with any more certainty than is expressed in my last answer; I cannot say that every witness who was before me in the Bird suit spoke to me of Gage Inslee's character, or said anything about it; in the Bird suit there was a good deal of feeling on both 30 sides in taking the testimony, and I cannot say at this day, who were the witnesses or who were the persons examined in that suit that spoke of the character of Gage Inslee, or what other persons spoke of it, except that I have a distinct recollection of Hampton Cutter speaking about it; I think he was a witness; the papers in the Bird suit are in my possession, all of them, as I suppose, but I have not had opportunity to inform myself who the witnesses were.

Question.—Can you state any persons whom you have heard speak of Inslee's character, except those who were 40 witnesses in that suit?

Answer.—Not recollecting the names of all the witnesses in that suit, I do not recollect of any person speaking of Mr. Inslee's character, except it may have been Mr. Leupp; if Mr. Leupp has made any statement to me about it, it was in a very general way, and I can't recall the time, place, or the particulars of it. It seems to dwell in my memory just now,

not with entire distinctness, that after the trial in Middlesex Court I saw Mr. Leupp and expressed to him my surprise
 10 that Mr. Inslee had been so severely attacked in his character, as I understood he had been upon that trial, as well from the little I heard of it, as from what I was told of it; when Mr. Leupp, in substance, said that he was a man of bad character. I do not pretend to use Mr. Leupp's words, but only mean to give the substance of my present recollection on the subject.

Question.—From what you have since heard of Mr. Inslee, has that estimate of his character been confirmed or disproved?

20 (Objected to.)

Answer.—All that I have heard of Mr. Inslee's character since, I think I have heard from very few persons, and those persons that I believe were not at all friendly to him, and I presume that if I were to yield my belief to what they may have said, it would tend to confirm the truth of what I had previously heard; I do not think I ever spoke to Mr. Inslee about the alleged alterations in the receipts on the bond; I desired this morning, when the cross-examination was on the 16th page, and near the bottom of that page, to make a
 30 correction with regard to my cross-examination at the foot of the 15th page, to which desire the counsel for the defendant would not then yield, in which I stated, "I do not think that any person was present at that interview,"—referring to the time when I made my memorandum—"except Inslee, the defendant, and myself;" upon farther recollection it strikes me that Lawrence Boggs came in, got in conversation with us in reference to that receipt in the receipt-book, (Exhibit, of May 5, 1857.) It is possible that Mr. Min-
 40 turn and Mr. DeRussy came in my office, remaining for a short time, having nothing to do with it, saying nothing about it. I have no farther statement to make on this subject that I think of at present.

The master having commenced reading over the examination of Mr. Blauvelt, and having read down to the 17th line of page 14, the witness requested the Master to put in

the place of the word "denied," at the end of said 17th line, the word "doubted;" which request was objected to by defendants counsel, and refused by the Master, against the protest of the witness.

The defendant's counsel states that said correction of the word "denied" was objected to at that place and at that time, and that such correction and alteration properly should be added at the close of the examination of the witness, if he desired. 10

Sworn and subscribed by the said John S. Blauvelt, except as to the said word "denied," in the 17th line of the 14th page, hereinbefore referred to, on the 6th day of May 1857. J. S. BLAUVELT.

The defendant here offers to recall Abra'm P. Provost, for the purpose of examining as to the receipt (Exhibit C, of May 5, 1857) in the receipt-book, and as to the habit of intemperance of Gage Inslee, and the complainants, by their counsel, object to his being recalled because he has been examined as a witness once in this cause, and on this hearing, and, by the rule, cannot be recalled unless under an order of the Court or the consent of the complainants' counsel, which order is not now produced, nor consent given. 20

Besides, the facts proposed to be proved by the defendant by this witness were within the witness' knowledge at the time of his previous examination.

Abra'm P. Provost being recalled, and being shown receipt (Exhibit C, of May 5, 1857) in the receipt-book, says: I have been examined previous to this in this examination about that receipt, and I do not know that I can say any-different now from what I said then; I think I said on my other examination that I believed this to be his signature, but that it was different from what I had seen him write, particularly the last part of the name; I say the same of the body of the receipt as I would of the name; I have known Gage Inslee for about fifteen or twenty years, perhaps more. 30

- 10 [From my observation, more particularly the latter part of my acquaintance with him, led me to believe that he was intemperate; I mean to say by the latter part of my acquaintance, the last ten years; I was very intimately acquainted with a son of his in this place, and consequently frequently met with the old gentleman; I have met him at the Court House in this place, and on two or three occasions at Rahway, and I think I met him on two or three occasions at Perth Amboy; no where else to my recollection.]

(Objected to by solicitor of complainants.)

- 20 Being *cross-examined*, says:

From inspection of the receipt (Exhibit C, of May 5, 1857) in receipt-book, I cannot say as to any alteration; it appears that different ink has been used, but as to its being altered in words I cannot say; my opinion is that some of the letters have been inked over, but whether done at the time or subsequently I don't know; I think the figure 16 in the date has never been altered; all I can say in regard to the figure 4 in the date of the year is that that figure (4) is of darker ink, but whether anything has been rubbed out in
30 that date or not, I cannot say; I cannot say what the word is which is interlined between the second and third lines of that receipt; the figure 8, or a part of it, of the figures 83, in the third line of that receipt, appears to have been inked over—a part of it is of darker ink; the other figure (3) appears to be as it was originally written; I think, on further reflection, that the interlineation before referred in said receipt, appears to be the fractional part of a dollar, viz: 59-100.

Sworn and subscribed, &c.

40

AB'M P. PROVOST.

Elias Ross, a witness on the part of defendant, being *sworn*, on his oath, says: I have known Gage Inslee since about 1815—along in that neighborhood; I lived in the township of Woodbridge, about three or four miles from where he lived, until about 1827, when I moved here.

Question.—During the latter part of his life, say fifteen or

twenty years, what was his reputation for truth and veracity, under oath or otherwise, in his neighborhood?

(Objected to.)

Answer.—Well, part of that time I was somewhat acquainted in the neighborhood, but for the last ten years I have not known but very little about him in that neighborhood, for I have had not much opportunity of knowing him. All I knew of him was mere hearsay.

(Excepted to.)

Question.—During the whole of that period, have you heard him frequently spoken of by persons who did reside in the neighborhood?

Answer.—Yes, I have.

Question.—From such information what was his character for truth and veracity, under oath or otherwise?

(Excepted to.)

Answer.—I think it was bad.

Question.—What was his character for integrity and fair dealing?

(Excepted to.)

Answer.—My experience with him has been that he was not to be depended upon in any way; from what I have heard I was confirmed in that opinion; I have heard a great many persons speak of him for a great many years back, and they confirmed my opinion; I don't suppose I met many people who were friendly to him, but when I met any person from that neighborhood, they always spoke of him in that way.

Question.—Do you remember any trial when his character was impeached for truth when under oath, in the Middlesex Quarter Sessions?

(Objected to.)

Answer.—I don't remember the Court. I remember being there at the trial when his character was talked about, and was called upon as a witness; I think I then expressed the same opinion that I do now; whether I expressed it then or not, I had the same opinion then that I have now, and never have changed it; I can't say how many years since that

trial; I have heard but little about him since then; I have freighted some wood for Mrs. Goodfellow, and bought some of her; can't say as to the quantities, but numbers of cords at different times; don't think I have freighted any for her for the last ten years; I can't say what was the amount in 10 money; at one time I think I paid her about \$100, perhaps more; I think I have paid her at other and different times for wood, but can't state as to the amounts of these monies.

(The complainants' solicitor excepts to the whole of the foregoing testimony.)

Sworn and subscribed, &c.

ELIAS ROSS.

Henry Acken, a witness on the part of the defendant, being sworn, on his oath says: [the examination of this witness is excepted to] I am Sheriff of Middlesex County; I knew 20 Gage Inslee very nearly as long as I have known myself; lived for many years in his neighborhood.

Question.—During the last ten or fifteen years of his life, what was his reputation in his neighborhood for truth and veracity, when under oath or otherwise?

(Objected to.)

Answer.—For the last ten or twenty years he had got to drinking very much, and people got out with him, and disgusted with him from his manner of dealing and trading, &c., and I have frequently heard people say—and it was the 30 general talk about Woodbridge and his neighborhood—that they wouldn't believe his word, or believe him under oath.

Question.—What was his reputation for integrity and fair dealing?

(Objected to.)

Answer.—It was as the old saying has it, he would "keep all he had, and get all he could;" that he would take advantage of a man whenever he could; that was his general character.

40 *Question.*—From '48 and '49 up to the time of his death, have you seen him grossly intoxicated?

(Question objected to, and answer.)

Answer.—From, say fifteen years ago, he was hardly ever sober when from home; in the last three or four years I don't think he has drank as much; I have n't seen as much of him during that time; I should think that during these times he was in a condition, by reason of intoxication, that he could not transact any business; I have seen him drunk, and so drunk that he had to hold on to something in order to keep up, and repeatedly. 10

(The entire testimony of this witness is excepted to by solicitor of complainants.)

Sworn and subscribed, &c.

HENRY ACKEN.

SUPPLEMENT TO THE REPORT.

The Master is respectfully requested to append to his report, made in the above stated cause, dated the 3d day of June, 1857, answers to the interrogatories following, viz :

(1.)—On the taking of the testimony in the above stated matter, and on the hearing, did not the defendant, by her 20 solicitor, except to the validity of the bond, &c., in the bill described, because

1.—It had been fraudulently mutilated, and

2.—Because the receipts endorsed thereon had been fraudulently changed and tampered with ?

(2.)—On the hearing, did not the defendant, in like manner, offer to withdraw Exhibits marked **A**, **B**, **D**, and **E**, for the defendant, of May 5th, 1857, and was not such offer rejected and opposed by the solicitor of the complainants, and such Exhibits accordingly retained ? 30

(3.)—After the examination of the solicitor of the complainants, was not the defendant offered as a witness in said cause, and, by the solicitor of the complainants, such offer declined, and the taking of her deposition objected to ?

Submitted by

W. H. LEUPP, Solicitor of Defendant.

To GEORGE C. LUDLOW, Esq.

June 8, 1857.

The report upon the matters referred to me in the cause
 10 within mentioned having been closed, and delivered to the
 solicitor of the defendant, and he having requested answers
 to the within written interrogatories, I reply to the first,

That the solicitor of defendant did except to the bond de-
 scribed in the bill, and as mentioned in said interrogatory,
 but at what time I am unable to say.

To the second—

That at the close of the testimony, and at the hearing, the
 solicitor of defendant offered to withdraw certain papers,
 which had been marked Exhibits **A, B, D, and E**, for de-
 20 fendant, of May 5, 1857, as not being proved; to which the
 solicitor of complainants objected, and that said papers were
 retained by me.

To the third—

That at the close of the testimony, and at the hearing, the
 solicitor of defendant stated that the defendant was present,
 and was willing to be sworn in the cause, and that if the
 solicitor of complainants wished to use her as a witness, he
 was at liberty to do so.

GEO. C. LUDLOW,
 Master in Chancery.

30 June 8th, 1857.

[EXHIBIT No. 1.]

\$84. Received 25th of October, 1851, from Miss Fanny
 Goodfellow, eighty-four dollars on account of her bond, which
 I hold. GAGE INSLEE.

[EXHIBIT No. 2.]

\$38. Received, Perth Amboy, 10th Oct., 1851, from Miss
 Fanny Goodfellow, thirty-eight dollars on account of bond.
 GAGE INSLEE.

[EXHIBIT No. 3.]

Perth Amboy, June 29th, 1852. 10

Bought of Miss Fanny Goodfellow, one brinley cow and calf, at twenty-nine dollars, for which I will allow her on her bond and mortgage which, I now hold for one thousand dollars, dated 19th day of October, 1842. G. INSLEE.

[EXHIBIT No. 4.]

Received July 18th, 1855, of Fanny Goodfellow, by the hand of Jacob Martin, the sum of thirty dollars, which I agree to endorse as part payment of interest on a bond accompanying a mortgage on a lot of salt meadow and other lands, which said lot of meadow I have this day released. 20
GAGE INSLEE.

[EXHIBIT A.]

Jan'y 14, 1843,	\$100.	
Dec. 15, —	40 09.	
Oct. 19, 1844,	54.	
Jan'y 22, 1845,	150.	
May 17, —	100.	
March 3, 1846,	40.	
— 31, —	100.	
	\$584 09.	30
December 29, 1846,	100.	

[EXHIBIT B.]

July 18th, 1850, received 60 dollars,	
Do. August 1850, 37 dollars,	
Received June 27th, 1851, 70 dollars,	
From F. Goodfellow to G. Inslee, on a mortgage bond.	
Oct. 10th, 1851,	38.
Oct. 25th, 1851, do,	84.
June 29th, 1852,	28.

[EXHIBIT D.]

10	Amount of mortgage,	\$1,000
	October 19th, principal,	100
	January 4th, principal,	100
	Do. 22d, principal,	156

Principal reduced to \$644 22nd January, 1845.

19 of October, 1842, paid \$100, gave a note for \$13 of same.

4 of January, 1843, paid \$100 principal.

15 December, '43, interest paid, \$54—note taken
out—note, 13

20		41 00
	Interest on note,	90 cents,
	Leaving	40 10.

22 January, 1845, paid interest for one year, \$44, and remainder of the last year's, \$13, with interest on the same, amounting to \$68.

22 January, 1845, paid \$156 on principal.

[EXHIBIT E.]

Received 25th Oct. 1851.

1851, \$84 00 cts.

30 Received 10th, 1851, \$38.

Received June 29th, 1852, cow and calf, twenty-nine dollars, \$29.

Received July 18th, 1855, thirty dollars, sold a lot of salt meadow.

Thirteen dollars had when went out West, 13 dollars.

	\$84.
	38.
	29.
	30.
	13.
40	
	\$100 00

COMPLAINANTS' EXCEPTIONS.

1st—Because the said Master, in his said report, has credited the defendant, under the date of June 16, 1849, with the sum of thirty-four dollars and fifty cents, when, in point of fact, the defendant was entitled to no such credit, and the only voucher therefor is a forged or altered receipt in the receipt-book, Exhibit C, for the defendant; and the said money was never paid to these complainants' Testator.

2d—Because the said report is, in many other respects, unjust, inequitable, and illegal. 10

For these reasons, the complainants except to the said report, and pray that the errors aforesaid may be corrected.

J. S. BLAUVELT, Solicitor,

and of counsel with the complainants.

New-Brunswick, July 5, 1857.

DEFENDANT'S EXCEPTIONS.

First exception:—

Because a payment of one hundred dollars, alleged and proved to have been made by the defendant on said bond, on or about the date of said bond, to wit: on the 14th day 20 of January, 1843, is not allowed and credited by said Master, whereas the same should have been allowed, and stated in part payment of said bond.

Second exception:—

Because the payment of one hundred and fifty-six dollars, credited on said bond, of the date of January the 22d, 1845, is not stated and allowed at the first, just and true amount thereof, but for one hundred and fifty dollars only, whereas the same should have been stated and allowed at the said full amount thereof.

30

Third exception:—

Because the payment of the date of August 6th, 1850, is not stated and allowed at the first, just, and true amount thereof, of thirty-seven dollars, but at and for thirty dollars

only, whereas the same should have been allowed for said full amount thereof.

Fourth exception :—

Because of the joint receipt, dated June 16, 1849, in book marked Exhibit C, for the defendant, for eighty-three dollars, and ninety-four dollars and fifty cents, thirty-four dollars and fifty cents only is allowed, whereas the same should have been allowed for the aforesaid amounts of eighty-three dollars and ninety-four dollars and fifty cents.

Fifth exception :

Because of the several sums of one hundred and twenty-two dollars, and twenty dollars, charged and proved to have been paid on account of said bond and not thereon credited, no allowance or credit is made or given, whereas said payments should have been credited and allowed.

20 Sixth exception :—

Because, inasmuch as it manifestly appears, as well by inspection as otherwise, that said bond was, by the said Gage Inslee, fraudulently mutilated, and that several receipts for divers large sums of money thereon endorsed were, by him, fraudulently altered to lesser amounts respectively, such mutilations and alterations should have been considered and reported by said Master.

And the defendant in said several matters and respects hereinabove particularized, excepts to the said report, and
30 the schedule accompanying the same, and humbly conceives that the said Master hath erred, and that the said report and accompanying schedule are wrong, unjust, and inequitable, and therefore prays that the said report, and accompanying schedule, so far as regards the several particulars above specified, may be disallowed, rejected, and set aside, and a new report ordered to be taken ; or that said report and schedule may be corrected in the said several particulars, and that the said bond may be inspected by the Court, the proofs relative thereto heard and examined, and for the causes assigned,
40 if the same shall be found sustained, said bond may be altogether vacated, and, with the accompanying mortgage, set

aside and annulled, and ordered by the decree of this Court to be delivered to the defendant for cancellation.

W. H. LEUPP, Solicitor,
and of counsel with Exceptant.

Dated June 18, 1857.

FINAL DECREE.

This cause having been argued before the Court by the respective counsel of the parties, upon the exceptions to the Master's report, made and taken as well by the complainants 10 as the defendant, and the Court having duly considered the same.

It is on this sixth day of November, in the year of our Lord one thousand eight hundred and fifty-seven, at a Court of Chancery holden at Trenton in and for said State, by his Honor Benjamin Williamson, Chancellor of said State, ordered, adjudged, and decreed—

1st—That the exception of the complainants to said Master's report be allowed, and the said sum therein charged against them, of thirty-four dollars and fifty cents, is not a 20 proper credit to the defendant, and ought not to have been allowed to the defendant.

2d—That the first exception of the defendant to said Master's report be disallowed and overruled.

3d—That the second and third exceptions of the defendant be allowed, and that the said several sums of six dollars and seven dollars therein named, in all thirteen dollars, be credited to the defendant.

4th—That the other exceptions of the defendant be overruled and disallowed.

5th—That the sum of thirty-four dollars and fifty cents be added to the amount reported to be due the complainants, on their said mortgage, of five hundred and forty-one dollars and fifty-two cents, whereby it appears that there was due to the complainants, on their said mortgage, on the third day of June, eighteen hundred and fifty-seven, the sum of 30

ive hundred and seventy-six dollars and two cents, less a deduction of thirteen dollars, as above stated.

6th—That the true amount due the complainants on their
 10 said mortgage on the said third day of June, after deducting the said sum of thirteen dollars, is five hundred and sixty-three dollars and two cents, and that the complainants are entitled to have the same, with the interest thereof, to be computed from the said third day of June, A. D. eighteen hundred and fifty-seven, and the complainants' cost in this case to be taxed, and interest thereon from the date of this decree, raised and paid from the said mortgaged lands and premises, by a sale thereof.

And it is accordingly further ordered, adjudged, and de-
 20 creed, that the said mortgaged lands and premises be sold to raise and pay said monies, and that for that purpose a writ of *feri facias* do issue out of this Court, directed to the Sheriff of the County of Middlesex, commanding him to make sale, according to law, of the said mortgaged lands and premises to satisfy the said monies so due the complainants, with interest, and costs and interest thereon, as aforesaid, and that he pay the same to the complainants solicitor. If more money be raised by such sale than shall be sufficient to answer such payment, such surplus money shall be brought
 30 into this Court, and deposited with the Clerk, to abide the further order of this Court, unless otherwise disposed of by the order of this Court. And that the said Sheriff make return of his proceedings, by virtue of the said writ.

And it is further ordered, adjudged, and decreed, that the defendant stand absolutely debarred and foreclosed of and from all equity of redemption and claim of, in, and to the said mortgaged lands and premises when they shall have been sold, by virtue of this decree.

B. WILLIAMSON, C.

40 Notice of appeal, in usual form, duly filed.

To the Honorable the Court of Errors and Appeals in the last resort in all causes :—

The humble petition of Fanny Goodfellow, the appellant in the above stated cause, respectfully shews that your petitioner finds herself aggrieved by a final decree made in the Court of Chancery, by his Honor Benjamin Williamson, Chancellor of New Jersey, bearing date the sixth day of November, in the year of our Lord eighteen hundred and fifty-seven, wherein your petitioner was defendant, and John B. Inslee, William Inslee, and Charles T. Inslee, Executors 10 of the last Will and Testament of Gage Inslee, were complainants, in these respects.

First—That by the said decree the exception of the complainants to the Master's report therein referred to, was allowed, and the sum of thirty-four dollars and fifty cents, the subject matter of said exception, adjudged not a proper credit to this defendant.

Secondly—That the first exception of the defendant to said report, was by the said decree disallowed and overruled.

Thirdly—That the further exceptions of the defendant to said report, other than the second and third, by said decree were overruled and disallowed, whereby it was adjudged that there was due to the complainants, on the 2d day of June, 1857, the sum of five hundred and sixty-three dollars and two cents, which the complainants were entitled to have with interest and costs, and that the mortgaged lands of the defendant should be sold to pay the same; and that for such purpose a writ of execution should issue accordingly, and that said defendant should be foreclosed of, and 20 from, all equity of redemption of, in, and to said mortgaged lands.

And your petitioner humbly appeals from the said decree, in said several respects, on the grounds—

That the said exception of the complainants was not sustained by the proofs, and should have been overruled; and that the said several exceptions made and taken to said report by the defendant were valid exceptions, and were

sustained by the proofs and Exhibits made, offered, and
 10 received in said cause; and by the first, fourth, and fifth
 exceptions, respectively, large payments and receipts on
 said bond and mortgage, should have been thereon credited,
 whereby the amount claimed to be due thereon would have
 been greatly reduced, if not entirely paid and satisfied.

And upon the further ground—That by said sixth ex-
 ception, inasmuch as the matters therein charged were sus-
 tained by proofs, for the causes therein assigned, the bond
 and accompanying mortgage in said decree referred to,
 should, by the decree of the Chancellor, have been set aside
 20 and annulled, and ordered to be delivered to the defendant
 for cancellation, the same having ceased to be a valid and
 subsisting lien on said mortgaged premises.

Your petitioner therefore prays that the said decree of
 the Chancellor may be, in the particulars aforesaid, reversed,
 set aside, and for nothing holden; and that your petitioner
 may have such relief in the premises as to this honorable
 Court shall seem meet; and that any decree by the Chan-
 cellor antecedently made in said cause, by default or other-
 wise, affirming the validity of said bond and mortgage, may
 30 also be set aside and annulled.

Dated the ninth day of March, in the year of our Lord
 eighteen hundred and fifty-eight.

W. H. LEUPP, Solicitor of Appellant.

I conceive there is good ground for appeal in the above
 stated cause.

W. H. LEUPP, of counsel with Appellant.

Joinder in the usual form.

OPINION OF THE CHANCELLOR.

The bill was filed for foreclosure and sale of mortgaged
 40 premises, upon a mortgage given by the defendant to the
 complainants' testator, Gage Inslee. A decree, *pro confesso*,

was taken, and a reference to a Master to take an account of the amount due upon the mortgage. The defendant appeared before the Master, and there was quite a contest in reference to the payments claimed by the defendant. Both parties have filed exceptions to the Master's report.

There are several receipts endorsed on the bond, two of them have been altered from larger to smaller amounts. The margin of the bond has been cut off with a sharp instrument, taking off just enough of the paper to contain a receipt occupying a like space with other receipts on the instrument.

The defendant produces her receipt-book, which contains one receipt of Gage Inslee purporting to be a payment on the bond, which receipt has evidently been altered from "*thirty-four dollars and fifty cents for interest,*" to "*eighty-three dollars in full of interest.*" The evidence shows that both parties intended, and have endeavored, to take every advantage, the one of the other, in every way possible.

On the part of the defendant it is insisted that as the endorsements of the several payments on the bond have been altered, the Court should declare the bond vitiated, and should reject it entirely. The receipts for interest endorsed on the bond are no part of the bond itself. When an obligee pays interest on his obligation, he has a right to demand a receipt. He cannot compel the obligee to endorse it on the bond. The obligee is under no obligation to keep an account of payments made to him. The receipts being made on the bond are precisely the same as if the obligee had kept them on a separate paper, they cannot affect the validity of the bond itself.

The complainants have specified but one particular in which they except to the report. The Master gives the obligor or defendant credit for thirty-four dollars and fifty cents June 16, 1849. The defendant claims this credit upon a receipt in her receipt book. The receipt has been materially altered. It has been altered from a smaller sum to the sum of eighty-three dollars. It has been altered from a receipt "*for interest*" to a receipt in "*full of interest.*" Upon inspection, it

10 is impossible to tell, with certainty, whether the amount was originally thirty-four dollars and fifty cents, although it has more of the appearance of that sum, than any other. There is no explanation given as to the alteration, nor any evidence as to the amount the receipt ought to read for. It is evident from inspection that the receipt has been improperly altered; under such circumstances the receipt must be totally rejected. Where a material alteration has been made in an instrument of writing, it is for the Court, or if in a case before a Court and jury, for the jury, to decide
 20 cide whether such alteration has been made, with or without the consent of the party who is bound by the writing. If the conclusion is that the alteration has been made without such consent, it vitiates the instrument. *Maybee v. Sniffen*, 1, E. D. Smith's Rep. 1, and cases cited. There is nothing to warrant me in reaching the conclusion that the receipt was altered, with the consent of Gage Inslee, by whom it is signed. From the appearance of the receipt, I believe it was not. The exception is sustained.

On the part of the defendant, the first exception is not
 30 sustained. It is clear that a slip has been cut from the bond, and the probability is that it contained a receipt. There is no evidence to be relied upon that it was one hundred dollars, as is contended for the defendant, nor what the amount really was. The Master has very properly considered the receipt of the 19th of October, 1844, as in full for interest up to that date. In doing so, he has looked upon the slip cut off from the bond as containing a receipt which covered the interest not contained in one other receipt, from the date of the bond up to the 19th of October, 1844. The re-
 40 ceipt of the 19th of October, 1844, is for sixty-four dollars, and was originally written a receipt in *full* for interest. The word *full* is altered to *part*. At that date the interest due was \$120. There was only one receipt prior, which was for \$40 09. The Master has considered the slip of paper cut off from the bond as containing a receipt for \$79 91. I do not think he could, in justice, have done more.

The second exception is well taken. The receipt of Jan-

uary 22, 1845, was originally written for one hundred and fifty-*six* dollars. The Master was not justified in striking off the six dollars upon the explanation given by Mr. Inslee 10 that six dollars of the money turned out bad. He had no right to alter the receipt. He was under no obligation to put the receipt on the bond, but when once there, it was for the benefit of the person who paid the money.

For the same reason I think the third exception should be allowed.

I do not think there is any ground for the other exceptions taken by the defendant; they are therefore overruled.

There is no necessity of this matter going back to the Master. It will only create unnecessary expense and delay. 20 A special order may be drawn to avoid the necessity of a further reference.

