

4443

STATE OF ALABAMA
BALDWIN COUNTY

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

WE COMMAND YOU, that you summon Frank Stagner, in Baldwin County on the Mobile Causeway at Appalachee River, Gerald S. Crane, 2103 North General Gorgas Drive, Mobile, Alabama, and Maurice A. Downing, whose business address is 319 First National Bank Building Annex, Mobile, Alabama, his residence being 3053 Calais, Mobile, Alabama, to be and appear before the Judge of the Circuit Court of Baldwin County, Alabama, exercising Chancery jurisdiction within thirty days after the service of the summons, and there to answer, plead or demur without oath to a bill of complaint, lately exhibited by Wallace M. Johnston against the said Frank Stagner, Gerald S. Crane and Maurice A. Downing, and further to do and perform what the said Judge shall order and direct in that behalf, and this the defendants shall in no wise omit, under penalty of the law. And we further command that you return this writ with your endorsement thereon, to our said court immediately upon the execution thereof.

WITNESS, Alice J. Duck, Register of said Circuit Court
this the 25 day of November, 1958,

Alice J. Duck
Register

WALLACE M. JOHNSTON,	{	IN THE CIRCUIT COURT OF
COMPLAINANT	{	
VS	{	
FRANK STAGNER, GERALD S.	{	BALDWIN COUNTY, ALABAMA,
CRANE and MAURICE A.	{	
DOWNING,	{	
DEFENDANTS	{	IN EQUITY

TO THE HONORABLE H. N. HALL, JUDGE OF THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA, IN EQUITY SITTING:

Comes your complainant, Wallace M. Johnston, and humbly
complaining against Frank Stagner, Gerald S. Crane and Maurice
A. Downing, respectfully shows unto your Honor as follows:

FIRST: That your complainant, Wallace M. Johnston, is over
the age of twenty one years and a resident of Baldwin County,
Alabama, that the defendant, Frank Stagner, is over the age of
twenty one years and a resident of Baldwin County, Alabama on the
Mobile Causeway at Appalachee River, that defendant, Gerald S.
Crane, is over the age of twenty one years and a resident at 2103

North General Gorgas Drive, Mobile, Alabama, that the defendant, Maurice A. Downing, who is over the age of twenty one years, is a resident of Mobile, his business address being 319 First National Bank Building Annex, Mobile, Alabama, his residence being 3053 Calais, Mobile, Alabama.

SECOND: That on March 24, 1958 your complainant and defendant, Gerald S. Crane, acting together as partners purchased from the defendant, Frank Stagner, the following property now located at Blue Gill Lodge in Baldwin County, Alabama, on the Mobile Causeway where the Appalaches River intersects with Highway 90 East, in Baldwin County, Alabama, to-wit: 1 Cafe Building, 3 complete booths, 5 ice boxes, 1 dish washer, 1 draft beer box, complete, 1 hot water heater, 13 stools, one 30 foot counter, 38 rental boats and paddles, 2 butane tanks, heaters, and all other stocks and belongings at a place known as Slims Fishing Camp on said Causeway, being Highway 90, East of Mobile in Baldwin County, Alabama, with the exception of 2 shrimp boats, 1 small boat and 2 motors, and paid a portion of the purchase money thereon, leaving a balance owing from your complainant, Wallace M. Johnston, and defendant, Gerald S. Crane, to Frank Stagner in the sum of \$9,275.00, which said sum, together with interest at the rate of six per cent was payable to the said Frank Stagner in monthly installments of \$150.00, commencing May 1, 1958, and your complainant, Wallace M. Johnston, and the said Gerald S. Crane, undertook to give to the said Frank Stagner a mortgage on the said properties to secure the said sum of money payable as aforesaid; that the said instrument and the note intended to be secured thereby were executed in triplicate, one copy of each being retained by the complainant, Wallace M. Johnston, one copy of each by Gerald S. Crane, and one copy of each being retained by Frank Stagner; that a copy of the said instrument executed by Gerald S. Crane and your complainant, Wallace M. Johnston, was also signed by Frank Stagner, a photostatic copy of

which said instrument is hereto attached marked Exhibit A and made a part of this complaint; that the copy of the note executed by complainant, Wallace M. Johnston, and left with him was also signed by Gerald S. Crane and Frank Stagner, a photostatic copy of which is hereto attached, marked Exhibit B, and made a part of this complaint; that a copy of said instrument, unsigned by your complainant, Wallace M. Johnston, but signed by Gerald S. Crane and Frank Stagner was by Gerald S. Crane filed for record in the office of the Judge of Probate of Baldwin County, on March 29, 1958 at 11:30 A.M. and recorded in the office of the Judge of Probate of Baldwin County in Mortgage Book 293 at pages 429-30, a photostatic copy of which is hereto attached, marked Exhibit C, and made a part of this complaint.

THIRD: This complainant further shows that any and all payments owing for the purchase of the said property by this complainant, Wallace M. Johnston and Gerald S. Crane to the said Frank Stagner have been paid in full, principal and interest, and each of said payments have been paid, namely: \$150.00 on May 1, 1958, \$150.00 on June 1, 1958, \$150.00 on July 2, 1958, \$150.00 on August 1, 1958, \$150.00 on September 1, 1958, \$150.00 on October 1, 1958 and \$150.00 on November 1, 1958; that any and all agreements made in and by said paper writing purporting to be a mortgage and in and by the agreement of the said Wallace M. Johnston and Gerald S. Crane, together with Frank Stagner in and about the purchase of the said property have been kept, fully met and performed and there does not exist and there has not existed at any time since their purchase as aforesaid of the said property from the said Frank Stagner any default in the terms of the said mortgage and the same is not now and has not at any time been subject to foreclosure.

FOURTH: That the defendant, Frank Stagner, acting through and by his attorney, Maurice A. Downing, defendants aforesaid, are undertaking and propose to foreclose the said alleged mortgage, Exhibit C aforesaid, on November 28, 1958 at 12:00 o'clock noon in front of the courthouse door of Baldwin County in Bay Minette and in and by such foreclosure and sale at the said time and place the above described property and as a part of such foreclosure they have

published notice of such foreclosure and of such sale in words and figures as appear in Exhibit D hereto attached and made a part of this complaint.

FIFTH: Complainant further shows that he is not and has not been at any time from the date of the purchase of the said property down to now in default in the payment of the purchase money as agreed to, or any other default in and by the agreement made relating thereto, and that the defendant, Frank Stagner, should not be permitted himself, or through his attorney, the defendant, Maurice A. Downing, to foreclose the said mortgage or to sell the said property as they are preparing so to do, that irreparable injury will result to this complainant, and Gerald S. Crane if such foreclosure and sale is accomplished by the said defendants, Frank Stagner and Maurice A. Downing.

SIXTH: Complainant further shows unto this Honorable Court that the defendant, Gerald S. Crane is with complainant a joint owner of the said property described herein; that he has failed and refused to make any payments thereon, that all such payments have been made by this complainant, Wallace M. Johnston, that the said Gerald S. Crane has failed and refused to join in this action to do irreparable injury to this complainant and himself, by the sale of the said property and that, hence, he is made a party defendant hereto, and complainant offers to indemnify him against any and all damage that may result to him by this action.

WHEREFORE, complainant prays that this Honorable Court will take jurisdiction of the cause made by this bill of complaint and make the said Frank Stagner, Gerald S. Crane and Maurice A. Downing party defendants hereto and by appropriate process require them to plead, answer or demur to the same within the time and under the pains and penalties prescribed by law and the practice of this Honorable Court.

Complainant further prays that this Honorable Court will forthwith issue or cause to be issued a temporary writ of injunction directed to Frank Stagner and Maurice A. Downing, restraining and enjoining them and each of them from foreclosing that certain alleged mortgage from Wallace M. Johnston and Gerald S. Crane to Frank Stagner dated March 24, 1958, and from selling or attempting to sell the whole or any part or parcel of the following described property now located at Blue Gill Lodge in Baldwin County, Alabama, on the Mobile Causeway where the Appalachian River intersects with Highway 90 East, in Baldwin County, Alabama, to-wit: 1 Cafe building, 3 complete booths, 5 ice boxes, 1 dish washer, 1 draft beer box, complete, 1 hot water heater, 13 stools, one 30 foot counter, 38 rental boats and paddles, 2 butane tanks, heaters, and all other stocks and belongings at a place known as Slims Fishing Camp on said Causeway, being Highway 90, East of Mobile in Baldwin County, Alabama, with the exception of 2 shrimp boats, 1 small boat and 2 motors, being the properties sold by Frank Stagner to Wallace M. Johnston and Gerald S. Crane on the 24th day of March, 1958;

And complainant further prays that upon the hearing of the cause made by this bill of complaint this Honorable Court will issue a permanent writ of injunction directed to Frank Stagner and Maurice A. Downing, restraining and enjoining them and each of them from foreclosing that certain alleged mortgage from Wallace M. Johnston and Gerald S. Crane to Frank Stagner dated March 24, 1958, and from selling or attempting to sell the whole or any part or parcel of the following described property now located at Blue Gill Lodge in Baldwin County, Alabama, on the Mobile Causeway where the Appalachian River intersects with Highway 90 East, in Baldwin County, Alabama, to-wit: 1 Cafe Building, 3 complete booths, 5 ice boxes, 1 dish washer, 1 draft beer box, complete, 1 hot water heater, 13 stools, one 30 foot counter, 38 rental boats and paddles,

2 butane tanks, heaters, and all other stocks and belongings at a place known as Slims Fishing Camp on said Causeway, being Highway 90, East of Mobile in Baldwin County, Alabama, with the exception of 2 shrimp boats, 1 small boat and 2 motors, being the properties sold by Frank Stagner to Wallace M. Johnston and Gerald S. Crane on the 24th day of March, 1958;

And your complainant prays for such other, further or different relief as in equity he may be entitled to receive in the premises;

And complainant places himself wholly within the jurisdiction of this court and offers to and will do and perform whatsoever this court shall in equity and good conscience require of him.

Beebe & Swearingen

By *W. A. Beebe*
Solicitors for complainant

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned Notary Public in and for said State and County, this day personally appeared Wallace M. Johnston, who being by me duly sworn deposes and says, that he has read the foregoing petition of Wallace M. Johnston against Frank Stagner, Gerald S. Crane and Maurice A. Downing, and knows the matters therein alleged and that the facts therein alleged are true.

Wallace M. Johnston

Sworn to and subscribed before me this the day of November, 1958.

Maddie S. Bryars
Notary Public, Baldwin County, Ala.

Comes Maurice A. Downing individually and as attorney for Frank Stagner and accepts service this 26 day of November 1958
Maurice A. Downing

I have accept service

Gerald S. Crane 11-26-58

CHATTEL MORTGAGE

SOLD BY BIDGOOD STATIONERY CO. S-55187

State of Alabama, }
BALDWIN County

Exhibit A

I, Wallace Johnston and Gerald S. Crane, in consideration of Nine Thousand, Two Hundred Seventy-five (\$9,275.00) Dollars paid by Wallace Johnston & Gerald S. Crane, do bargain, sell, deliver and convey to said Frank Stagner the following personal property now in Baldwin County, Alabama, to wit:

See page attached hereto marked exhibit "A" and made a part hereof.

I warrant that the said property is free from all encumbrances and that I have a good right to sell the same.

Upon condition, however, that if I pay my certain promissory note bearing even date herewith, given to the said Frank Stagner or order, for the said sum of Nine Thousand, Two Hundred Seventy-five (\$9,275.00) Dollars, with interest at the rate of 6% per cent, according to the tenor of said note, then this mortgage shall be void; but if default should be made in the payment of the principal or interest above mentioned, or any part thereof, then said Frank Stagner is hereby authorized, to take possession of the above described personal property and advertise and sell the same at public sale to the highest bidder for cash, after giving 30 days notice of the time and place of said sale by one notice posted at the court house door of Baldwin County, Alabama, the said sale to take place either in front of the court house door of said Baldwin County, Alabama or where the property is situated at the time of the default. It is agreed that the said

Frank Stagner has the right to choose one of the above mentioned places as the place of sale of said property, and his choice shall be final and binding upon me. It is further agreed that the said property shall be at the place of sale at the time of the sale, whether sold at the court house door of said Baldwin County, Alabama, or where the property is situated at the time of default. The proceeds of said sale shall be applied, first, to the payment of all costs of said sale, including a reasonable attorney's fee; second, to the amount due upon said note and interest; third, if any surplus remains, to be paid to the undersigned.

It is further agreed that the mortgagor herein shall retain possession of the property as the agent of the mortgagee, until default in the payment of the mortgage debt hereby secured.

Executed this _____ day of March, 19 58

NOTARIAL
Witnesses:
[Signature]
[Signature]

Frank Stagner (Seal)
Gerald S. Crane (SEAL)
Wallace M. Johnston

Exhibit A.

- 1 Cafe Building, Located on Mobile Bay Causeway, being Highway 90.
3 Complete Booths
5 Ice Boxes
1 Dish Washer
1 Draft Beer Box, Complete
1 Hot Water Heater
13 Stools
1 30foot counter
38 Rental Boats and Paddles
2 Butane Tanks heaters

and all other stocks and belongings at a place known as
Slims Fishing Camp on said Causeway, being Highway 90,
East of Mobile in Baldwin County, Alabama, with the
exception of 2 shrimp boats, 1 small boat and 3 motors.

March 10, 1958

Exhibit B

\$ 9,275.00

Mobile, Alabama

For value received the undersigned jointly and severally promise to pay to The First National Bank of Mobile, Mobile, Alabama or order, the principal sum of

with interest from date, at the rate of **six (6)** ^{amounting to} per cent per annum. The said principal and interest shall be payable at the banking house of The First National Bank of Mobile, Mobile Alabama, in monthly installments as follows, namely:

One Hundred Fifty Dollars a month at six (6%) per cent interest. The first payment due and payable on the 15th day of May, 1958 and a like payment thereof due and payable on the 15th day of each and every month thereafter until the full amount shall have been paid in full. The payments first to be applied to the interest and then to the principal until the full amount shall have been paid in full.

Interest	1st. year	556.50
"	2nd. year	448.50
"	3rd. year	340.50
"	4th. year	232.50
"	5th. year	141.00
Total Interest		<u>1,719.00</u>

Each maker and endorser waives the right of exemption under the Constitution and laws of Alabama, and each maker and endorser waives demand, protest, and notice of protest and all requirements necessary to hold them liable as makers and endorsers.

It is further agreed that the undersigned shall pay all costs of collection, including a reasonable attorney's fee on failure to pay any installment of principal and interest of this note on the date thereof.

This note to be construed according to the laws of the State of Alabama, and is secured by a **Chattel Mortgage** on **property** executed to **Frank Stagner** by the undersigned on **personal property**

Upon failure to pay any installment of principal and/or interest when due or if any of the conditions and requirements in said **Chattel Mortgage** be not complied with, the entire principal sum at the option of the holder, shall become due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

Privilege is given to make additional payments on said principal sum at any interest payment date; such additional payments, however, to be made in multiples of **150.00 Dollars of more at any time.**

Frank Stagner (SEAL)
Walter S. Crowl (SEAL)
Alverson M. Johnston

State of Alabama, }
BALDWIN County

Exhibit C

I, Wallace Johnston and Gerald S. Crane, in consideration of Nine Thousand, Two Hundred Seventy-five (\$9,275.00) Dollars paid by Wallace Johnston and Gerald S. Crane, do bargain, sell, deliver and convey to said Frank Stagner the following personal property now in Baldwin County, Alabama, to-wit:

See page attached hereto marked exhibit "A" and made a part hereof.

I warrant that the said property is free from all encumbrances and that I have a good right to sell the same.

Upon condition, however, that if I pay my certain promissory note bearing even date herewith, given to the said Frank Stagner or order, for the said sum of Nine Thousand, Two Hundred Seventy-five (\$9,275.00) Dollars, with interest at the rate of 6% per cent, according to the tenor of said note, then this mortgage shall be void; but if default should be made in the payment of the principal or interest above mentioned, or any part thereof, then said Frank Stagner is hereby authorized, to take possession of the above described personal property and advertise and sell the same at public sale to the highest bidder for cash, after giving 30 days notice of the time and place of said sale by one notice posted at the court house door of Baldwin County, Alabama, the said sale to take place either in front of the court house door of said Baldwin County, Alabama or where the property is situated at the time of the default. ~~It is agreed that the said~~

Frank Stagner has the right to choose ~~one of the above mentioned~~ places as the place of sale of said property, and his choice shall be final and binding upon me. It is further agreed that the said property shall be at the place of sale at the time of the sale, whether sold at the court house door of said Baldwin County, Alabama, or where the property is situated at the time of default. The proceeds of said sale shall be applied, first, to the payment of all costs of said sale, including a reasonable attorney's fee; second, to the amount due upon said note and interest; third, if any surplus remains, to be paid to the undersigned.

It is further agreed that the mortgagor herein shall retain possession of the property as the agent of the mortgagee, until default in the payment of the mortgage debt hereby secured.

Executed this 10th day of March, 1917.

W.H. Hall
W.H. Hall

Frank Stagner (Seal)
Gerald S. Crane (SEAL)

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LEGAL NOTICE

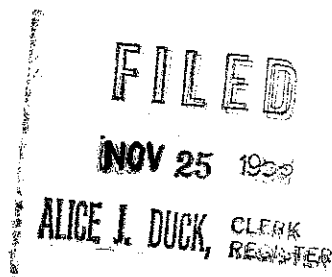
Exhibit D

Default having been made in the payment of that certain chattel mortgage heretofore executed by Wallace Johnston and Gerald S. Crane to Frank Stagner, dated March 24, 1958, and recorded in Mortgage Book 293, page 429-30 on March 29, 1958 in the Probate Court records of Baldwin County, Alabama, and said default continuing, the undersigned will sell at public outcry, for cash, to the highest bidder, in front of the Court House door, Baldwin County, Alabama at 12 o'clock noon, on November 28th, 1958, the following property located at the Blue Gill Lodge, which is located where the Appalachian River intersects with Highway 90, East, Baldwin County, Alabama, to-wit:

- 1 Cafe Building
 - 3 Complete Booths
 - 5 Ice Boxes
 - 1 Dish Washer
 - 1 Draft Beer Box, complete
 - 1 Hot water Heater
 - 13 stools
 - 1 30 foot Counter
 - 38 rental Boats and paddles
 - 2 Butane Tanks Heaters
- And all other stocks and belongings at a place known as Slims Fishing Camp on said Causeway, being Highway 90, East of Mobile in Baldwin County, Alabama, with the exception of 2 shrimp boats, 1 small boat and 2 motors.

Said sale is made for the purpose of paying the debts secured by said mortgage, and the costs and expenses of foreclosure, including a reasonable attorney's fee.

Frank Stagner, Mortgagee



WALLACE M. JOHNSTON
COMPLAINANT

VS

FRANK STAGNER, GERALD S.
CRANE and MAURICE A.
DOWNING,

DEFENDANTS

IN THE CIRCUIT COURT OF


BALDWIN COUNTY, ALABAMA,

IN EQUITY

This cause being submitted to the court upon application by the complainant for a temporary writ of injunction, as prayed for in the original bill of complaint filed in this cause, and upon consideration thereof the court is of the opinion that the same should be granted;

IT IS THEREFORE ORDERED, ADJUDGED and DECREED By the Court that upon the complainant entering into a good and sufficient bond, conditioned as provided by law, in the sum of \$500.00 to be approved by the Register of this court, that the Register of this court issue a temporary writ of injunction as prayed for in the said bill of complaint filed in this cause.

Ordered and done on this the 20 day of November, 1958.



Judge

4443 -

FILED

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ALICE J. DUCK, CLERK
REGISTERS

WALLACE M. JOHNSTON,)	IN THE CIRCUIT COURT OF
COMPLAINANT)	
VS)	BALDWIN COUNTY, ALABAMA,
FRANK STAGNER, GERALD S. CRANE and MAURICE A. DOWNING,)	IN EQUITY
DEFENDANTS)	

TO: Frank Stagner and Maurice A. Downing.

Whereas, Wallace M. Johnston, has exhibited his bill of complaint in equity, in the Circuit Court of Baldwin County, and has obtained from the Honorable H. M. Hall, Judge of the 28th Judicial Circuit, an order for the issuance of an injunction to enjoin you as hereinafter mentioned; and whereas, the said complainant has, in accordance with said order, entered into bond, with security, in the sum of \$500.00, payable to Frank Stagner, Gerald S. Crane and Maurice A. Downing and approved by the Register of said Court, and conditioned according to law.

Now, therefore, you, the said respondents are hereby enjoined and restrained from foreclosing that certain alleged mortgage from Wallace M. Johnston and Gerald S. Crane to Frank Stagner, dated March 24, 1958 and recorded in Mortgage Book 293 at pages 429-30 on March 29, 1958 in the Probate Court of Baldwin County, Alabama, and from selling on November 28, 1958 at 12:00 o'clock noon in front of the courthouse door of Baldwin County, or at any other time or place the following property now located at Blue Gill Lodge, which is located where the Appalachian River intersects with Highway 90 East, in Baldwin County, Alabama, to-wit: 1 Cafe Building, 3 complete booths, 5 ice boxes, 1 dish washer, 1 draft beer box, complete, 1 hot water heater, 15 stools, one 20 foot counter, 38 rental boats and paddles, 2 butane tanks, heaters, and all other stocks and belongings at a place known as Slins Fishing Camp on said Causeway, being Highway 90 East of

Mobile in Baldwin County, Alabama, with the exception of 2 shrimp boats, 1 small boat and 2 motors, and this Injunction you are required to obey under the penalties of law, until the further order of this Court.

WITNESS my hand, this 25 day of November, 1958.

Cliff J. Wessick
Register

TO ANY SHERIFF IN THE STATE OF ALABAMA; GREETINGS;

You are hereby commanded to execute this writ, and return the same with your endorsement thereon, to this Court, with all convenient speed.

Witness my hand, this 25 day of November, 1958.

Cliff J. Wessick
Register

*Maurice A. Weaving individually
and as Attorney for Frank Stagner
accepts service of the above
this 26th day of Nov. 1958*

Maurice A. Weaving

filed Nov. 25, 1958

4443

FILED
NOV 25 1958
ALICE J. DUCK, CLERK
REGISTER

STATE OF ALABAMA

BALDWIN COUNTY

KNOW ALL MEN BY THESE PRESENTS, that, Whereas, Wallace M. Johnston, as principal, and Harold Sage and John F. Murray, as surety, are held and firmly bound unto Frank Stagner, Gerald S. Crane and Maurice A. Downing, in the sum of \$500.00, for the payment of which we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with out seals and dated this the 25 day of November, 1958.

That, Whereas, the said Wallace M. Johnston, has filed his bill of complaint against the said Frank Stagner, Gerald S. Crane and Maurice A. Downing in the Circuit Court of Baldwin County, Alabama, in equity, and has obtained thereon an order for the issuance of an injunction to restrain the said Frank Stagner, and Maurice A. Downing from foreclosing that certain alleged mortgage from Wallace M. Johnston and Gerald S. Crane to Frank Stagner, dated March 24, 1958 and recorded in Mortgage Book 293 at pages 429-30 on March 29, 1958 in the Probate Court of Baldwin County, Alabama, and from selling on November 28, 1958 at 12 o'clock noon in front of the courthouse door of Baldwin County, or at any other time or place the following property located at Blue Gill Lodge, which is located where the Appalachian River intersects with Highway 90 East, in Baldwin County, Alabama, to-wit: 1 Cafe Building, 3 Complete Booths, 5 Ice Boxes, 1 Dish Washer, 1 Draft Beer Box, complete, 1 Hot water heater, 13 stools, one 30 foot counter, 38 rental boats and paddles, 2 Butane Tanks, Heaters, and all other stocks and belongings at a place known as Slims Fishing Camp on said Causeway, being Highway 90 East of Mobile in Baldwin County, Alabama, with the exception of 2 shrimp boats, 1 small boat and 2 motors;

NOW THEREFORE, the condition of the above obligation is such that if the said Wallace M. Johnston, shall pay or cause to be paid all damages which any person may sustain by the suing out of the said injunction, if the same is dissolved, then this obligation to be void; otherwise, to remain in full force and effect.

Witness, our hands and seals on this the day and year first above written.

Wallace M. Johnston (SEAL)
Principal

Harold Sage
John F. Murray (SEAL)
Harold Sage (SEAL)
Surety

Taken and approved on this the 25 day of November, 1958.

Alice J. Dicks
Register

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ALICE J. DUCK, CLERK
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