

but he produces no evidence to establish either of the above allegations.

The only evidence in the case, which seems to bear upon this question, are the Plaintiff's exhibits at enquete "F." "G." and "H." being letters addressed by the Plaintiff to the Defendant, under the respective dates of May, 2nd, May 4th and May 6th, 1875; in the first of which the Plaintiff states to the Defendant, the terms by which the Agreement of August 18, 1875 may be paid and cancelled, to wit: "*The payment of \$2,300 cash, and the Defendant's note at sixty days for \$1,250, and another for the same amount at ninety days; which, with the \$200 paid to Mr. Colston, will close up the first instalment of \$5,000, due on the 24th December last; also for the other instalments of \$5,000 each, the Defendant's four notes of \$2,500 each, payable respectively Jan. 1, 1877, July 1, 1877, Jan. 1, 1878, and July 1, 1878; all of which notes to be made payable to the Defendant's order.*" In the second of these letters, the Plaintiff acknowledges to have received from the Defendant two notes, similar to those described in the Defendant's allegation. And in the third letter, after referring again to the receipt of the same two notes; and stating that he, the Plaintiff, was quite at a loss to understand the Defendant's motive for sending the notes, the Plaintiff makes the following statements respecting the two notes, and also the amount alleged to have been paid to Mr. Colston; together with a full statement of his account with the Defendant, at that date.

"Upon consulting with my Attorney, however, the same evening; and looking over our previous correspondence respecting my claims against you, as per your Agreements