

796

STATE OF ALABAMA,  
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,  
IN EQUITY.

TO ANY SHERIFF OF THE STATE OF ALABAMA - GREETING:

WE COMMAND YOU, that you summon BALDWIN COUNTY SAVINGS AND LOAN ASSOCIATION, a corporation, 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 summons, and there to answer, plead, or demur, without oath to a bill of complaint lately exhibited by WALTER C. WARD, as Executor of the Estate of Vina Ward, deceased, against said BALDWIN COUNTY SAVINGS AND LOAN ASSOCIATION, and further to do and perform what said Judge shall order and direct in that behalf. And this the said Respondent shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, R. S. DUCK, Register of the said Circuit Court, this 12 day of January, 1942.

R. S. Duck  
Register.

-----  
WALTER C. WARD, as Executor of  
the Estate of Vina Ward, deceased,

IN THE CIRCUIT COURT OF

Complainant,

BALDWIN COUNTY, ALABAMA,

VS.

BALDWIN COUNTY SAVINGS AND LOAN  
ASSOCIATION, a corporation,

IN EQUITY.

Respondent.

TO HONORABLE F. W. HARE, JUDGE OF THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA,  
IN EQUITY:

And now comes your Complainant, Walter C. Ward, as Executor of the Estate of Vina Ward, deceased, and humbly complaining against the Respondent, the BALDWIN COUNTY BUILDING & LOAN ASSOCIATION, a corporation, respectfully represents and shows unto our Honor and this Honorable Court as follows:

FIRST:

That your Complainant, Walter C. Ward, is over twenty-one years of age, and the executor of the estate of Vina Ward, deceased, having been duly appointed by and qualified in the Probate Court of Baldwin County, Alabama, on May 30, 1939; that a copy of Letters Testamentary, issued to him, is hereto attached, marked Exhibit "A" and asked to be taken as a party hereof as though herein fully set out;

SECOND:

That the Respondent is a corporation duly organized and existing under the laws of the State of Alabama, with its principal place of business in Robertsdale, in Baldwin County, Alabama;

THIRD:

That the Baldwin County Building and Loan Association, now the Baldwin County Savings and Loan Association, issued to Vina Ward, now deceased, during her

lifetime, membership, and/or, share certificate No. 1171; that said membership, and/or, share certificate has been lost, stolen or destroyed, and that certificate has not been pledged in whole or in part;

FOURTH:

That the Complainant has submitted to and filed with the Respondent, Affidavit to the effect that the said membership, and/or, share certificate has been lost, stolen, or destroyed; that a copy of said affidavit is hereto attached, marked Exhibit "B", and asked to be taken as a part hereof as though herein fully set out;

FIFTH:

That the Complainant, as the executor of the estate of Vina Ward, deceased, is, under the laws of the State of Alabama, Title 5, Paragraph 228, of the Code of Alabama, and other laws governing the same, entitled to have a duplicate membership, and/or, share certificate, as such executor;

SIXTH:

The Complainant offers to do equity and to comply with and abide by any orders and decrees of this Court.

PRAYER FOR PROCESS

WHEREFORE, the premises considered, the Complainant prays that your Honor will by proper process make the said Baldwin County Savings and Loan Association, a corporation, party respondent to this Bill of Complaint requiring it to plead, answer, or demur to the same within the time and under the penalties prescribed by law and the practice of this Honorable Court.

PRAYER

Complainant prays that upon a final hearing hereof your Honor will enter an order and decree requiring the Respondent to issue to him, as executor of the Estate of Vina Ward, deceased, a duplicate membership, and/or, share certificate.

The Complainant prays for such other, further, different and general relief as he may be in equity and good conscience entitled to receive and as in duty bound he will ever pray.

BEEBE & HALL

By: *Shirley*  
Solicitors for Complainant.

Exhibit "A"

LETTERS TESTAMENTARY

The will of Vina Ward having been duly admitted to record in said County, letters testamentary are hereby granted to WALTER C. WARD, the executor named in said will, who has complied with the requisitions of law, and is authorized to take upon himself the execution of such will.

Witness my hand, and dated this 30th day of May, A. D., 1939.

G. W. Robertson

Judge of Probate.

Exhibit "B"

STATE OF ALABAMA

COUNTY OF COVINGTON

Before me, the undersigned authority in and for said County, in said State, personally appeared WALTER C. WARD, who is known to me and who after being by me first duly and legally sworn doth depose and say under oath, as follows:

That his name is Walter C. Ward; that he is over twenty-one years of age and a resident of the State of Alabama; that he is a son of Vina Ward, deceased; that he is the executor of the estate of Vina Ward, deceased, now pending in the Probate Court of Baldwin County, Alabama; that he was duly appointed by, qualified in, and letters testamentary were issued to him on the estate of Vina Ward, deceased, on May 30, 1939;

That the Baldwin County Building and Loan Association of Robertsdale, Alabama, now Baldwin County Savings and Loan Association issued to Vina Ward, now deceased, during her lifetime, membership, and/or, share certificate number 1171; that said membership, and/or, share certificate has been lost, stolen, or destroyed, and that such membership certificate has not been pledged or assigned, in whole or in part;

That the said Walter C. Ward, as executor of the estate of Vina Ward, deceased, is under the laws of the State of Alabama; Title 5, Paragraph 228, of the Code of Alabama, 1940, entitled to have duplicate membership, and/or, share certificate issued to him as such executor.

Walter C. Ward,

Sworn to and subscribed before me on this the 1 day of Jan., 1942.

P. G. Darsey  
Notary Public, Covington Co., Ala.

WALTER C. WARD, as Executor  
of the Estate of Vina Ward,  
Deceased,

Complainant

vs.

BALDWIN COUNTY SAVINGS AND  
LOAN ASSOCIATION, a corporation,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.

In Equity.

This cause coming on to be heard upon Complainant's Bill of Complaint, Answer of Respondent, and the evidence as noted by the Register, the Court is of the opinion that the Complainant is entitled to relief as prayed for.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the Respondent issue and deliver to Walter C. Ward, as Executor of the Estate of Vina Ward, deceased, a certificate of membership in the Baldwin County Savings & Loan Association, a corporation, in lieu of the lost certificate of membership issued to Vina Ward during her life time, of the value of \$2,000.00, and entitled to all dividends declared and unpaid from the date of the lost certificate, and having such priveleges and emoluments as the original certificate, upon Complainant's entering into bond in the sum of \$2,000.00, conditioned to indemnify and protect Respondent from any liability or expense which it or they may incur by reason of the original certificate remaining outstanding, said bond to continue in force and effect for a period of ten years from the date of the death of Vina Ward, deceased, and with corporate surety to be approved by the Register.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Respondent have and recover of the Complainant the sum of \$50.00, as its reasonable attorney's fee in the premises.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Complainant pay the costs of the proceeding, for which let execution issue.

Done at Monroeville, Alabama, this 6th day of June, 1942.

  
Judge

The State of Alabama, }  
BALDWIN COUNTY

CIRCUIT COURT. (Equity)

Term, 194 3

Walter C Ward, as executor of the Estate  
No. 706, vs. of Vina Ward Deceased.

Baldwin County Building and Savings and  
Loan Association, a Corp.,

BILL OF COSTS

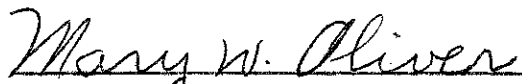
REGISTER'S FEES	AMOUNT	SHERIFF'S FEES:	AMOUNT
Fees, in Circuit Court—		Summoning on Bill, Each Defendant.....	1.50
Docketing Cause, One fee only of.....	1 00	Executing Writ of Injunction, or Ne Exeat, each.....	1.50
Issuing Summons on Bill, each.....	50*	Executing Subpoenas for Witnesses, each.....	.65
Issuing Copies Thereof, each.....	40	Executing Writs of Possession, each.....	5.00
Entering Return of Same, each.....	15	Executing Seire Facias or Notice, each.....	1.50
Orders of Publication to Non-Residents, each.....	1.00*	Taking and Approving Bonds, each.....	1.00
Filing Bill or Other Paper, each.....	10	Impaneling Jury.....	.75
Copies of Same, Per 100 Words.....	15	Collecting Execution for Costs Only, each.....	1.50
Entering Appearances, each.....	25*	Sheriff's Commissions .....	
Issuing Writs of Injunction, Ne Exeat, each.....	1.50		
Issuing Copies Thereof, each.....	50		
Entering Return of Same, each.....	15		
Decrees Pro Confesso, each.....	1.00*		
Order Appointing Guardian Ad Litem, each.....	1.00*		
Issuing Commissions to Take Testimony, each.....	50		
Taking Testimony, Per Day.....	1.50		
Taking Testimony, Per 100 words.....	20		
Receiving and Filing Depositions, each pkg., .....	10		
Indorsing Depositions Published, each pkg.....	10		
All Entries on Commission Docket, Each Cause.....	50		
Entering Order Submitting Cases for Decree, each.....	50		
Other Orders of Court, each.....	25		
Noting Testimony on Hearing of Cause, each.....	50		
Entering Decrees, of 500 Words or Less, each.....	75		
Per 100 words over 500.....	15		
Taking Accounts, etc., on Ref., per Day.....	2.00*		
Taking Testimony on Reference Relating to Trustee, etc., per 100 words.....	15		
Reference and Reports, each.....	2.00*		
Reports of 500 Words or Less.....	2.50		
Per 100 Words over 500.....	15		
Issuing Subpoenas for Witnesses, each.....	25		
Issuing Witness Certificates, each.....	25		
All Entries on Subpoena Docket, each Cause.....	50		
Taking and Approving Bonds, each.....	1.00		
Making Complete Record, per 100 Words.....	15		
Hearing, etc., Regarding Appointment of Re- ceiver or Trustee .....	3.00		
Settlements with Receiver or Trustee, each.....	3.00		
Examining Vouchers in Settlements, each.....	10		
Examining Answers on Exceptions, each Answer .....	3.00		
Removal Disabilities on Non-Age.....			
Commissions on Sales.....			
Making Deeds to Property Sold, each.....	2.00		
Receiving and Paying Out Money Other Than That Arising from Sales .....			
Certificates of Affidavits, with Seal, each.....	50		
Certificates of Affidavits without Seal, each.....	25		
Issuing Seire Facias or other Notice, each.....	50		
Other Orders of Register, except Cont., each.....	50		
Entering Certificates of Supreme Court, each.....	50		
Transcript for Supreme Court, per 100 words, each.....	15		
Additional Copies, per 100 words.....	50		
Appeal Bond, each.....	1.00		
Certificate of Appeal, each.....	50		
Notice of Appeal, each.....	50		
Report to State Board of Health, each case.....	50		
Certificate of Judgment, each.....	25		
Issuing Executions, each.....	75		
Entering Returns Thereof, each.....	15		
<b>Copy Decree</b>			
	1 00		
<b>Total Register's Fees</b>	<b>10 80</b>		
		<b>Total Sheriff's Fees</b>	<b>15 00</b>
		<b>SUMMARY OF FEES, COSTS, AND JUDGMENT</b>	
		<b>Fees in Circuit Court—</b>	
		Register's Fees .....	10 80
		Ex-Register's Fees .....	1 50
		Sheriff's Fees .....	
		Ex-Sheriff's Fees .....	
		Witness Fees .....	
		Commissioner's Fees .....	
		Guardian Ad Litem.....	
		Publisher's Fees .....	
		Solicitor's Fees .....	
		Court Reporter's Fees, Per Day or fraction thereof .....	3 00
		Trial Tax .....	3 00
		<b>Fees and Costs in Inferior Court:</b>	
		Clerk of Inferior Court Fees .....	
		Sheriff's Fees .....	
		Witness Fees .....	
		<b>Total Fees and Costs in Inferior Court</b> .....	<b>15 50</b>
		<b>Total Fees and Costs</b> .....	
		<b>Judgment</b> .....	
		<b>Total Fees, Costs, and Judgment</b> .....	<b>15 50</b>

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority, in and for said County, in said State, personally appeared MARY WARD OLIVER, who is known to me and who having been by me first duly sworn, deposes and says:

That her name is Mary Ward Oliver; that she is a resident of Stapleton, in Baldwin County, Alabama, living on the old Ward home place; that she is a daughter of Vina Ward, deceased; that her mother died on the 23rd day of June, 1937; at her home place near Stapleton, in Baldwin County, Alabama, being the home in which the affiant now lives; that her mother was confined to the house for quite some time before her death; that the affiant some time before the death of her mother, moved into the home with her mother and took care of her during her last illness; that her mother kept all of her papers in a small box which she kept by her side at all times; that on several occasions her mother went through all her papers and destroyed some; that the affiant being right there with her mother knows that she at all times had complete possession of all the papers, and was very careful to see that they did not get out of her sight; that when persons visited in the home, on account of the feeble condition of her mother, the affiant was always near; that immediately after the death of her mother, the affiant took charge of all the belongings of her mother and knows that the certificate of membership, or share certificate in the Baldwin County Savings and Loan Association, now the Baldwin County Savings and Loan Association, was not among the papers; that the affiant has on several occasions made a thorough and complete search of the home and of the effects of her mother and that the said certificate cannot be found; that she is in a position to state and does state that said certificate was not pledged in whole or in part; that her mother could not and did not write and when it was necessary that any papers be signed by her, she always called upon the affiant, her daughter, to execute papers for her and if the affiant did not sign the papers, she was always present when other parties signed for her mother; that she has inquired of all the heirs of her mother and all have stated that they do not have said certificate.

  
Mary W. Oliver

Sworn to and subscribed before me on this the 30 day of March, 1942.

  
Notary Public, Baldwin County, Ala.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, the undersigned authority, in and for said County, in said State, personally appeared P. W. OLIVER, who is known to me and who having been by me first duly sworn, deposes and says:

That his name is P. W. Oliver; that he lives on the old Ward home place near Stapleton, in Baldwin County, Alabama; that he is a son-in-law of Mrs. Vina Ward, now deceased; that he and his wife, prior to the death of Mrs. Vina Ward, moved into the home and took care of her during the last months of her life; that he and his wife were at all times present to care and provide for Mrs. Ward; that Mrs. Ward kept all of her papers near her at all times; that she on several occasions, just prior to her death, examined all of her papers; that she had the certificate of membership in the Baldwin County Building and Loan Association in a small box with her other papers; that immediately after the death of Mrs. Ward, his wife went through the effects and that said certificate was not among the papers; that a careful search has been made and that said certificate cannot be found; that the said certificate is lost or destroyed, and that the affiant being at all times present and assisting in watching after Mrs. Ward is in position to state that the said certificate was not pledged in whole or in part to anyone.

P. W. Oliver.

Sworn to and subscribed before me on this the 30 day of March, 1942.

H. H. H. H.  
Notary Public, Baldwin County, Ala.



WALTER C. WARD, as Executor  
of the Estate of Vina Ward,  
deceased,

Complainant,

-vs-

BALDWIN COUNTY SAVINGS AND  
LOAN ASSOCIATION, A corpor-  
ation,

Respondent,

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA,  
IN EQUITY.

STIPULATION

And now come the parties hereto, acting by and through their respective solicitors of record, and stipulate and agree as follows:

FIRST:

That the only issue between the parties, is whether or not the membership, and/or, share certificate, Number 1171, issued to Vina Ward, deceased, during her lifetime, has been lost, stolen or destroyed, and that said certificate has not been pledged in whole or in part; and whether Complainant is entitled to bond, counsel fees, etc. before issuing a new certificate.

SECOND:

That the Complainant may submit, to prove said fact, testimony in the form of affidavit, or affidavits; that the facts recited in said affidavit or affidavits shall be received and considered by the Court as evidence, the same as if such facts were proved by evidence and testimony taken in strict accordance with the rules and regulations required by the statutes;

THIRD:

That the Respondent expressly waives any and all notices required to be given by law in the matter of taking testimony, and agrees that the cause be submitted to the Court for final decree without further notice;

FOURTH:

That Complainant admits that the Board of Directors of Respondent has required of Complainant a surety bond in the amount

WALTER C. WARD, as Executor  
of the Estate of Vina Ward,  
deceased,

Complainant,

-vs-

Baldwin County Savings &  
Loan Association, a corpor-  
ation,

Respondent,

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
In Equity

ANSWER

Comes now the above named respondent and for answer to  
the Bill of Complaint says:

FIRST

It admits the averments of Paragraph First and Second  
of said Bill of Complaint.

SECOND

It admits that it did issue to Vina Ward, now deceased,  
during her lifetime, its share certificate no. 1171 but respond-  
ent avers that it has no knowledge as to whether or not said cer-  
tificate has been lost, stolen or destroyed or whether the same  
has been pledged in whole or in part, wherefore it denies these  
averments of the Bill of Complaint.

THIRD

Respondent admits the averments of Paragraph Fourth of  
said Bill of Complaint.

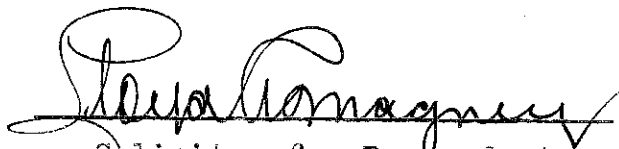
FOURTH

Respondent further admits that the complainant is,  
under the Laws of the State of Alabama, Title Five, Paragraph 228,  
of the Code of Alabama, 1940, entitled to have a duplicate share  
certificate issued to him but respondent avers that the Board of  
Directors of the respondent has required the complainant to fur-  
nish a bond to the Association in an amount sufficient to indem-  
nify it against any loss which might result from the issuance of  
such duplicate certificate, to-wit: A bond in the face amount of  
said certificate being the sum of \$2,000.00.

FIFTH

Respondent further avers that, being an Alabama corporation, it is bound by the Uniform Stock Transfer Act being Title 10, Sections 48 to 69 inclusive, of the Code of Alabama, 1940, and is entitled to have this court, upon satisfactory proof by the Complainant of the loss or destruction of said certificate, require of the complainant the giving of a bond with sufficient surety, to be approved by the court, to protect the Respondent or any person injured by the issue of such new certificate from any liability or expense which it or they may incur by reason of the original certificate remaining outstanding and is also entitled to have this court enter its order for the payment to the Respondent of its reasonable costs and counsel fees and the Respondent avers that the sum of \$50.00 is a reasonable counsel fee and that a bond sufficient to protect the Respondent should be in the penal sum of \$2,000.00 and with corporate surety; and the Respondent hereby offers to issue to the Complainant a new certificate upon the giving of such bond and its approval by the court and upon the payment of its reasonable costs and counsel fees.

Wherefore having fully answered this respondent prays that it be dismissed with its reasonable costs and charges in this behalf sustained.

  
Solicitor for Respondent.

LLOYD A. MAGNEY

LAWYER

FOLEY, ALABAMA

April 9, 1942

Hon. F. W. Hare,  
Judge of the Circuit Court,  
Monroeville, Alabama.

Dear Judge:

I have a copy of your letter of April 7 to Hubert. I thought I made my position clear in the letter I wrote you last week and thought that there was little or no dispute between Hubert and myself as to the proper decree but after reading his letter to you it seems that the amount of the bond which should be required and the length of time it should run are somewhat in dispute.

While it is true that Mrs. Ward died almost 5 years ago, as I read the law there is no statute of limitations which could protect the Association. There is no obligation on the holder of the certificate to present it for payment at any time, and if and when it should be presented the Association would have to pay it or go into court and establish a defense and just what defense could be made I am at a loss to know. The fact that the Association was required to issue a duplicate certificate by your decree would be no defense as the Code expressly states that "The issue of a new certificate under an order of the court as provided in this section, shall not relieve the corporation from liability in damages to a person to whom the original certificate has been or shall be transferred for value without notice of the proceeding or of the issuance of the new certificate." Title 10, paragraph 64, Code 1940.

Consequently the bond is our only protection and if we ever need it at all we will need it to the full amount of the claim which would be at least \$2000.00, the face of the certificate, to say nothing of accumulated dividends or our expense in attempting to defend the claim.

I agree that there is not much probability that the certificate will ever be presented but if it should be nothing less than a bond for the full amount would be protection to the Association and such bond, it seems to me, should run so long as the liability exists.

As to the question of whether the Uniform Stock Transfer Act applies, it seems to me that there can be no question that it does. The shares of a Building and Loan Association or, as now called, Savings & Loan Association, have been held to be shares of corporate stock just as those of ordinary corporations. As you are aware, the Legislature in 1927 passed an act declaring that funds received by such Associations as payments on stock, which payments are withdrawable by the members, are not to be capital stock for purpose of taxation neither as a basis for a franchise tax nor for an ad valorem tax beyond the value of its taxable property.

In the case of State vs Guaranty Savings Building and Loan Association 144 So. 104, the Supreme Court held this act unconstitutional, holding that Building and Loan shares were shares of corporate stock notwithstanding that they were withdrawable which is contrary to the ordinary conception of capital stock in a corporation.

Again in the case of Clardy vs Jefferson County Building and Loan Association 176 So. Page 368 the Supreme Court said:

"While much uncertainty and conflict of view has obtained as to the status of the holder of withdrawable stock whether to be classed as a creditor, or a member of the Association, this court has approved the view that, even after notice of withdrawal, he is a stockholder, not a creditor, in the sense of outside creditors, and on insolvency must take his place with other stockholders. Walker vs Terry, 138 Ala. 428, 35 So. 466; 9 C.J. page 941, #43 (3)."

In the light of these and many other decisions to the same effect I am sure that the Association could never successfully defend a claim against it on the theory that its stock was not corporate stock as contemplated by the Uniform Act and that Act, as you know, provides as follows:

"The indorsement of a certificate by the person appearing by the certificate to be the owner of the shares represented thereby is effectual, except as provided in section 54 of this title, though the indorser or transferor, was induced by fraud, duress or mistake, to make the indorsement or delivery, or has revoked the delivery of the certificate, or the authority given by the indorsement or delivery of the certificate, or has died or become legally incapacitated after

the indorsement, whether before or after the delivery of the certificate, or has received no consideration." Section 53 title 10.

This almost unlimited liability on the corporation to the holders of its certificates makes an adequate bond essential and this of course is recognized by section 64 title 10.

As to the matter of costs I can see no reason at all for taxing the respondent with them. It is admitted that the directors required a bond before issuing a duplicate certificate as they had a right to do either under the Savings and Loan Code or the Stock Transfer Act and if the Complainant had furnished such bond, as he is legally obliged to do, no suit or costs would have been necessary and the Association should not be penalized for standing on its clear legal rights.

It is my contention that your decree should require the Complainant to furnish a bond in the amount of \$2000.00, with corporate surety, conditioned to protect the Association in the event that the certificate should ever be presented for payment and that this bond should run until such time as the original certificate is surrendered for cancellation; that a reasonable attorney's fee should be allowed the Association and that the costs should be taxed to the Complainant.

Respectfully submitted,

  
LLOYD A. MAGNEY

LAM:is

cc: Mr. Hubert M. Hall

W. C. BEEBE  
H. M. HALL

**BEEBE & HALL**  
LAWYERS  
BAY MINETTE, ALABAMA

April 3, 1942

Honorable F. W. Hare  
Monroeville, Alabama.

Dear Judge:

We are requesting Mr. Duck to forward to you the case, together with all papers, of Walter C. Ward, as Executor of the Estate of Vina Ward, deceased, Vs. Baldwin County Savings and Loan Association, a corporation.

You will observe from the stipulation that we have eliminated practically all issues, submitting to you only the question of proof as to whether or not the certificate has been lost, stolen, or destroyed, or pledged in whole or in part, with the understanding that the affidavits noted be accepted as formal proof and given the same probative force as if taken in strict accordance with the statutes. Under these conditions it seems a simple matter for you to establish the fact that the certificate has been lost and that under the statute, the Complainant is entitled to a duplicate certificate.

This question eliminated, then the next is whether or not you will require the Complainant to execute a bond, and if so, in what amount and for what length of time.

Title 5, Section 228 deals with the matter of duplicate membership certificates in Savings and Loan Associations. This section provides that the Board of Directors may in its discretion require a member or his legal representative to furnish a bond to the association in an amount sufficient to indemnify it against any loss which might result from the issuance of such duplicate membership certificate.

Mrs. Ward died on June 23, 1937, practically five years ago, it appeals to us, that there is very little, if any, liability that anyone will ever call upon the corporation to deliver under the original certificate. In addition to the length of time which has expired, the affidavits are most forceful on the question that there was very little, if any, likelihood that anyone had an opportunity to get possession of the certificate. In order to eliminate any question, as much as possible, we have secured the affidavits of Mr. and Mrs. Oliver, who were with Mrs. Ward during her last days, and the only ones that might have had an opportunity to get possession of the certificate. We call your attention to this fact in determining the amount of the bond and the time for which it should run.

Mr. Magney sets up the provisions of Title 10, Section 64, which deals with stocks certificates generally, however, it is our contention that Title 5, Section 228, which deals definitely with Savings and Loan associations determines. However, there is little question as to which prevails in view of the fact of the answer and stipulation, as we most assuredly do not wish to take the position of arguing whether or not Mr. Magney is entitled to attorneys fees, and the amount, but leave the matter strictly to your sound discretion. We do call your attention to the fact,

however, of the Court costs, as we do not feel that under the existing circumstances, the Complainant should be taxed with the Court costs.

We are, as Mr. Magney suggests in his papers leaving the matter strictly to your sound judicial knowledge, as Mr. Magney terms it, however, we would like to request that you not be too strict in requirement of bond and length of time that it shall run.

Yours very truly

BEEBE & HALL

By: 

HMH:B



WALTER C. WARD, as Executor of the  
Estate of Vina Ward, deceased,  
Complainant,  
vs.  
Baldwin County Savings & Loan  
Association, a Corporation,  
Respondent.

**THE STATE OF ALABAMA**  
**Baldwin County**

**IN EQUITY**  
**Circuit Court of Baldwin County**

This cause is submitted in behalf of Complainant upon the original Bill of Complaint, \_\_\_\_\_  
 Answer of Respondent; Stipulation entered into between Complainant and  
 Respondent; Affidavit of Walter C. Ward, attached to original Bill of  
 Complaint; and Affidavit of Mary W. Oliver and P. W. Oliver

and in behalf of Defendant upon \_\_\_\_\_  
 Answer of the Respondent, and Stipulation entered into between the  
 Complainant and the Respondent.

*Resnick*

Register.

REQUEST FOR DECREE IN VACATION

Printed by The Baldwin Times

State of Alabama,  
Baldwin County.

} NO. \_\_\_\_\_ TERM, 194\_\_

WALTER C. WARD, as Executor of Estate of Vina Ward, deceased,  
Complainant—.

VS.

Baldwin County Savings & Loan Association, a Corporation,  
Respondent—.

TO R. S. DUCK, REGISTER:

In the above stated cause at Answer and Waiver  
having been made by \_\_\_\_\_ the Respondent—,  
and evidence having been taken, and the cause being ready for submission for final decree, and  
no defense having been interposed, the complainant—, by Beebe & Hall  
Solicitor—s of record, now files with the Register of this Court this written request to deliver the  
papers in this cause to the Judge for final decree in vacation.

Beebe + Hall  
Solicitor— for Complainant—.

NO. \_\_\_\_\_

WALTER G. WARD, as Executor of  
Estate of Vina Ward, deceased,  
Complainant—

VS.

Baldwin County Savings & Loan  
Association, a Corporation,  
Respondent—

**Request For Decree In Vacation**

Filed mar 31, 1942

R. Duval  
Register.

No. \_\_\_\_\_

**The State of Alabama**  
**BALDWIN COUNTY**

**IN EQUITY**  
**Circuit Court of Baldwin County**

WALTER C. WARD, As Executor

of Estate of Vina Ward, deceased,

Complainant,

**VS.**

Baldwin County Savings & Loan

Association, a Corporation,

Respondent.

**NOTE OF TESTIMONY**

Filed in Open Court this 31

day of March 1932

R. S. [Signature]

REGISTER